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HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION VESTA

Reference: Operation E10/1246

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY, 1 AUGUST 2011

AT 2.20 PM

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THE COMMISSIONER: Mr Korn.

MR KORN: May I just put it briefly on record that as I was walking towards the lift downstairs I was considering in my own mind the question of whether I invited Mr Charif or directed Mr Charif Kazal not to be in court during Mr Hammond's evidence. I knew that wasn't the subject of your Honour's ruling, the Commissioner's ruling. I happened to see your Honour and I very briefly started to mention that and your Honour indicated to me it might be appropriate to keep him out. That was the only conversation we had and that's, and I've done that.

THE COMMISSIONER: Thank you, Mr Korn. Mr Newlinds.

MR NEWLINDS: I call Mr Hammond.

THE COMMISSIONER: Yes, I just need to - - -

MR NEWLINDS: He's not legally represented either as I understand it.

20 THE COMMISSIONER: No. Thank you. Mr Hammond, I need to explain something to you although I don't really think it applies to you, but I'm nevertheless duty bound to explain it to you. As a witness appearing before the Commission you are required to answer all relevant questions and produce any document which you are required to produce and you must do this even though your answer or production may incriminate you or tend to incriminate you. But if you object to answering any question or producing any document, your answer or the document can't be used against you in any civil or criminal proceedings or even any disciplinary proceedings. Although again that doesn't apply to you. This protection does not prevent
30 you from being prosecuted for giving false or misleading evidence or for other offences under the Independent Commission Against Corruption Act. Do you understand all that?

MR HAMMOND: I do, Commissioner, yes.

THE COMMISSIONER: I can, if you wish to obtain that protection I can do so by making one order that gives you a blanket protection and it means you don't have to object to any question with replies generally. Some people take advantage of that, the protection, some don't want it. It's a
40 matter of personal preference. What would you like me to do?

MR HAMMOND: Look a blanket protection will be fine, Commissioner. Even though I don't think it'll be required but - - -

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Hammond 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 accordingly there is no need for him to make objection in respect of any particular answer given or document produced.

10 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR HAMMOND 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 ACCORDINGLY THERE IS NO NEED FOR HIM TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT PRODUCED.**

THE COMMISSIONER: Would you like to give your evidence under oath or affirm the truth of your evidence.

20 MR HAMMOND: Under oath.

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

THE COMMISSIONER: Mr Newlinds.

MR NEWLINDS: Mr Hammond, can you tell us your full name, please?
---Michael Anthony Hammond, H-A-M-M-O-N-D.

10 Thank you. And would you give us an address upon the assumption the
Commission will make an order suppressing that information?---Certainly.
My residential address is, , .

THE COMMISSIONER: Mr Hammond's address will be suppressed.

MR HAMMOND'S ADDRESS WILL BE SUPPRESSED

20 MR NEWLINDS: I wonder if the witness could just be shown a copy of
Exhibit 7 or Exhibit 7 if you've got it there?---Thank you.

For the purpose of this Commission did you make a statement on 1 August,
2011, that is today about events that occurred on Friday last?---I did.

And is that a copy, is that your statement?---Yes, it is.

And as best you can tell us are the contents of that statement true and
correct?---They are.

30 Yes. Thank you. I have no other questions.

MR KORN: (not transcribable) or not?

MR NEWLINDS: Is it already exhibited?

THE COMMISSIONER: I beg your pardon?

40 MR NEWLINDS: It's already an exhibit. It's already Exhibit 7. I have no
other questions.

MR KORN: Well I was just going to ask, would your Honour turn to
paragraph 13. Would your Honour see that part of paragraph 13 which
commences with the, the sentence knowing John.

THE COMMISSIONER: Yes.

MR KORN: Would your Honour consider in fact an objection latterly made by me, I'd raised or latterly made that that be, those two sentences be removed?

MR NEWLINDS: I don't consider them relevant Commissioner, so I don't mind if they're removed.

THE COMMISSIONER: So just, just so that I know, is that the sentence beginning "It appeared"?

10

MR KORN: Knowing John it was apparent to me - - -

THE COMMISSIONER: Yes.

MR KORN: - - - Mr Hammond wouldn't have the faintest clue.

THE COMMISSIONER: No, no, all right. And then the next - I'm just trying to identify - - -

20

MR KORN: And the, and the next one, "However, I observed" down to the words "appeared concerned". Down the words "concerned", "appeared concerned".

THE COMMISSIONER: Yes. The sentences in paragraph 13 commencing "Knowing John" to the phrase "appeared concerned" are to be regarded as deleted and there's a suppression order in any event in respect of what has there been said.

30

THE SENTENCES IN PARAGRAPH 13 COMMENCING "KNOWING JOHN" TO THE PHRASE "APPEARED CONCERNED" ARE TO BE REGARDED AS DELETED AND THERE'S A SUPPRESSION ORDER IN ANY EVENT IN RESPECT OF WHAT HAS THERE BEEN SAID.

MR NEWLINDS: If it pleases I have no further questions of this witness.

THE COMMISSIONER: Yes. Now, Mr Korn?

40

MR KORN: I have a, I have a typed version but it's not yet been signed, that's being attended to now.

THE COMMISSIONER: Well, I mean, I take it that they represent your instructions, I mean, why, why are we concerned with whether it's signed or not?

MR KORN: Well, just to make sure that it does represent my instructions, that's all, as long as - - -

THE COMMISSIONER: All right. No, no, I understand. What would you like me to do, Mr Korn?

MR KORN: Five minutes I'm told at the most.

THE COMMISSIONER: Right.

10

MR KORN: He's downstairs so he didn't come up to this level.

THE COMMISSIONER: Yes. Mr Beech-Jones, I take it you have no questions?

MR BEECH-JONES: No, Commissioner.

THE COMMISSIONER: And neither do you, Ms Williams?

20

MS WILLIAMS: No, I don't, Commissioner.

THE COMMISSIONER: No. Right. Well, we'll adjourn for five minutes.

SHORT ADJOURNMENT

[2.26pm]

MR KORN: Mr Commissioner, I've given you the original plus one copy.

30

THE COMMISSIONER: Yes. Thank you. I think we should just deal with the position of Mr David. I understood that it was agreed that Mr David would give evidence, not give evidence today. Am I, is that a misunderstanding on my part?

MR KORN: No, not certainly for probably 99 per cent of it.

40

MS HOGAN-DORAN: Well, relevantly maybe at the front bar table but I was not aware that that agreed position had been reached. Mr David was anxious to conclude his evidence, given that he wants it to be over and done with as soon as possible.

THE COMMISSIONER: I do understand that, but I, I think in the way things have turned out today, even if he is called this afternoon he won't, his evidence will not finish.

MS HOGAN-DORAN: Yes.

THE COMMISSIONER: And I think that in the light of everything that's been said it might be in his interests to start afresh tomorrow morning.

MS HOGAN-DORAN: In those circumstances, Commissioner, might he be excused from further attendance at the Commission today?

THE COMMISSIONER: Today?

MS HOGAN-DORAN: Yes.

10

THE COMMISSIONER: Yes.

MS HOGAN-DORAN: Thank you, Commissioner.

THE COMMISSIONER: Yes. Thank you. Mr Korn?

MR KORN: Thank you. Mr Hammond, you understand what the nature of cross-examination is. You in fact are a law student, are you not?---I am, Mr Korn.

20

And for the record, Mr Hammond, you and I have known each other for 15 years, have we not?---Thereabouts, yes, sir.

All right. (not transcribable) ideal circumstances I shouldn't cross-examine you but in the limited way this is going to be done we will, we will do it within those limited confines?---Certainly, sir.

30

In fact, what I'm going to do, Mr Hammond, unless the Commissioner, unless the Commissioner otherwise takes a view, what I propose to do, particularly bearing in mind what I've just said, that we have some degree of a personal friendship, I'm going to make available to you a copy of a statement and I'm going to invite you to read through it and I'm going to invite you to in fact consider whether in fact those, that is the truth. Just before you do, just before you do- - -

THE COMMISSIONER: I'm not sure whether that's appropriate, Mr Korn.

MR KORN: All right. I was trying to do this as uncontroversially- - -

40

THE COMMISSIONER: I understand that, but- - -

MR KORN: No, that's all right.

THE COMMISSIONER: - - -it's too general. I don't think that's fair. I mean, this requires a person to go, that question requires Mr Hammond to go through this line-by-line and examine it and I don't think that's appropriate.

MR KORN: I will do it, Your, I will do it, Commissioner. Mr Hammond, you were at court on Friday, were you not?---I was.

In fact you sat in the, in this courtroom whilst the evidence was, was being given?---Ah, yes. Yes, I think I arrived about 10.30, quarter to 11.00, thereabouts.

10 This is where I want to take you, Mr Hammond. At sometime on the morning of 29 July, 2011, at around about 11.00am, were you aware of Charif Kazal being outside there in the, what we'll call inside the two glass doors and before you come in the screening device, were you aware of Charif being out there with his wife, Agnes sometime around 11 o'clock?
---No, I wasn't. I, I, no.

Do you agree with this, that there was an occasion on Friday morning when for the first time you saw Charif Kazal here on this level of the, of the ICAC courtroom system?---There was, yes, yes, I do.

20 And you in fact approached Charif and said, you, you approached Charif, did you not?---Oh, no, I didn't approach him, I came to the reception desk to, I hadn't been to these hearing rooms before and- -?---

All right---?- -asked where the hearing was. I noticed Charif sitting on the chairs by himself over there and I turned and looked and said, "Hello, Charif."

30 Would this be correct, would this be the incorrect, incorrect description? "I was approached by Mike Hammond in the reception area." Would that be generally correct?---Well, no, no, no, I didn't approach him. And you said, "Hi, Charif, how are you going?"---Words, the words I said were, "Hello, Charif."

"We shook hands?"---We didn't shake hands at that stage.

Do you have a firm recollection of that?---I do.

40 Why?---Because Charif was sitting there on his own, I was running late. I was trying to find where the hearing room was not having been here before. I had a discussion with the lady who was sitting on the reception.

That's all very well, but why do you have a firm recollection about not shaking hands?---Because I know I didn't shake hands with him there.

So is there anything else that you call upon to assist your memory that you did not shake hands, anything in particular?---I'm sorry, I don't understand the question.

All right. I'll move on. During the course of the day did you see Charif again and say to him words to the effect, "I'm going to get a coffee do you want one?"---That happened later in the day, yes.

So you in fact did say words to that affect, I'm going to get a coffee, do you want one?---Yes, I did.

And did he say, "No, thank you?"---Yep, he did.

10 At around about 3.45 that afternoon do you recall that occasion around about that time?---Well I recall 3.45 in the afternoon, yes.

Do you recall that in fact it was 20 to 4.00 when the Commission adjourned for the day?---I couldn't tell you precisely what the time was.

Do you recall that the occasion was that I was then cross-examining Mr David?---You, you had been, yes.

20 Yes. And we finished approximately 20 minutes early?---I do recall that the Commission, the Commission finished early, yes.

All right. After you, after the Commission had finished did you in fact go out of the hearing room?---Some time later, I do recall Ms Hogan-Doran was quite ill and she had a coughing fit and nearly passed out. I do recall there was some period of time until I left the hearing room.

Were you seated on the couch at some stage out there in that general area? ---Yes, I was.

30 And did Charif say to you, "Do you have a, do you have a minute?"---Yes, he did, words to that affect, yes.

Did you then, did he then motion to you and did you thereafter did you go towards him and you both went into a room?---Yes.

And Charif at the time that he said to you do you have a minute, he had a person on his left who you thought looked alike, looked sufficiently alike to him to conclude that it was his brother?---I, I assumed that at the time, yes.

40 In fact may I suggest to you, only confirm this if you know it to be the fact that that was his brother, Jimmy, Jimmy Kazal?---I can't confirm that.

But there was a person who was there next to Charif on his left?---Yes.

And that person did not go into the, into that room with you and Charif did he?---No, he did not.

Okay. And he didn't say anything at all did he?---Pardon.

That person standing on Charif's left that you concluded to be a brother didn't say anything at all did he?---Oh, I have no recollection of any conversation with him at all.

Okay. Or with him to you?---Yes.

Do you agree with that?---Yes, I do.

10 Once inside the room, once you and Charif were inside the room, may I suggest the following conversation took place. Charif said, and I'll slow down here Commissioner for people wanting to take notes. And you also Mr Hammond. "I know you are Rodric's mate, but we're also friends and we have been out to dinner before." Did Charif say that?---No, he did not.

Did he say words very similar to that?---Not at all.

Did you make any notes immediately after the conversation that took place?---A statement was made within minutes of the entire event, yes.
20

But you don't suggest that in fact you've got perfect, be word perfectly correct the conversation that took place out there after you went out there and spoke with Charif and afterwards do you?---Mr Korn, I'm not claiming it's word perfect, but I do recall that the words you just put to me there are not words that, in any way resemble words that I recall being said at the beginning of, the interlude between myself and Mr Kazal.

You see that conversation, you had a conversation with me did you not?
---There were a number of conversations between you and I through the
30 day.

No, no, the conversation you had with me after that time you and I had a very short conversation did you not?---As I walked past you at the glass doors to the Commission, yes.

What, what was our precise conversation?---Oh, g'day John.

No, at the time about the movies, what was our precise conversation?
---Well if, sorry, Commission I was about to move on to that. The first
40 thing I said was, "Oh, John, g'day John. I was going to see if you wanted to come to the movies with Sue and I. Sue and I are going to see, Sue is a mutual friend, Sue and I are going to go to the movies tonight, and we wanted to see if you were free or if you wanted to come."

A slightly clumsy version. You in fact said to me, Sue and I are going to the movies tonight - - -

THE COMMISSIONER: Mr Korn, you're making yourself a witness. I must warn you of this.

MR KORN: Right. I'll go back to the conversation with you and Charif. I know you're Rodric's mate, but we're also friends and we've been out to dinner before. What do you say to that?---That's not true.

10 He then said to you, I heard that you and Judi Hausmann, Linton Besser and Greg Moses from the Sydney Morning Herald were behind all the articles to defame my family. Is that a fact?---That's not a fact. The, the name Greg Moses - - -

No, no, is that what he in fact said to you?---That is not what he said.

That is precisely what he said, isn't it, Mr Hammond?---Commissioner, my evidence is he did not say that.

Did he mention the name - he mentioned you?---Yes.

20 He mentioned Judi Hausmann?---Yes.

He mention Linton Besser?---Yes.

And he mentioned Greg Moses, didn't he?---He did not.

And in fact he mentioned the Sydney Morning Herald, didn't he?---He did not.

30 He didn't mention Rod or Rodric or in any way make reference to Mr David, did he?---He did.

In fact, let me, let me have your confirmation of this: apart from your version that he mentioned Rod even on your own version the rest of you, the other three of you, are people who might properly be described as people either in or from the media, correct?---I, I don't think you'd describe Ms Hausmann as being from the media. She has a public relations firm. I guess she deals with the media.

40 Is that not an aspect of being, having an association or being in the media? ---I guess that's a matter of interpretation, sir.

What is abundantly clear is that what Charif was directing his conversation to was the articles in the Sydney Morning Herald, that's clear, isn't it, Mr Hammond?---I made that inference from him mentioning Mr Besser's, yes.

THE COMMISSIONER: Mr Hammond, what is your occupation?---I work in the media, I'm a company director and my company supplies services to radio companies and to television companies.

Services, what's that?---Well, sometimes I, I present, I have presented programmes in the past, I produce and make programmes as well.

I see. Yes, thank you.

10 MR KORN: Mr - not one thing that Charif said to you in any way either directly or indirectly suggested that he was talking about proceedings here at ICAC, do you agree with that?

THE COMMISSIONER: I don't think you can put that to Mr Kazal because his statement - paragraph 4 of his statement which you have given me he says that, he does mention Mr David's name.

MR KORN: I'm sorry, I don't quite understand the Commissioner. Paragraph?

20

THE COMMISSIONER: 4, third, he said, "I know you're Rodric's mate."

MR KORN: Yes.

THE COMMISSIONER: And you said that he didn't mention his name.

MR KORN: No, no, I said he didn't mention not one thing that Charif said directly or indirectly mentioned ICAC.

30 THE COMMISSIONER: I beg your pardon, if I made a mistake, I apologise.

MR KORN: That's what I thought I said. I'll repeat it again.

THE COMMISSIONER: Well, you did say earlier that everything you said
- - -

MR KORN: Yes, I did.

40 THE COMMISSIONER: - - - concerned the media.

MR KORN: Yeah, and, and - - -

THE COMMISSIONER: But that's not correct.

MR KORN: No, no, and I - when I earlier put that I said putting aside the name Rodric which you say was included.

THE COMMISSIONER: All right. I'm sorry.

MR KORN: Let me just do that again, Commissioner, if that's - - -

THE COMMISSIONER: Yes, certainly.

MR KORN: Did you understand that what I earlier put to you, Mr Hammond, was that we know what, I know that your version is you say, do you not, and you still say, that Charif mentioned - amongst the names he mentioned he mentioned the name Rod?---Yes.

And by that you meant Mr - you understood him to be meaning Mr David? ---Mr, Mr David, yes.

All right. Did you understand my question was I was asking you to agree that if you put aside Rod as being part of the version of names that you were given the rest of the names in fact clearly referred to people who might be described as being in the media or having association with the media, you agree with that, don't you?---Well, as we've discussed before, yes, I think - - -

Yeah?--- - - - yes, they were, with the exception of Ms Hausmann but - - -

Who in fact has, is, is employed in what you fairly described as what might be said to be as aspect of the media?---Well, she deals with the media, yes.

All right. And then we got to the proposition where I said it was abundantly clear to you that what Mr Charif Kazal was talking about in the conversation he was then having with you was the - were the articles in the media and I think you agreed with that, correct?---No, no.

No?---No.

You don't agree with that?---Well, I don't because the - my interpretation given the place of where the conversation was taking place, given the fact that he says, "all of this", my interpretation of that was that he was referring to all of this, in fact, where we physically were, the ICAC hearing. That was my interpretation or my understanding of what he meant.

Did he mention at all ICAC?---No, he did not.

No. Did he mention as aspect of Mr David giving evidence?---No, he did not.

All right. To pick it up and put it into context and I know you disagree but I'm going to put it - do it in context again and invite your - what I will suggest will be your continued response. What Charif Kazal said to you was "I've heard that you and Judi Hausmann, Linton Besser and Greg

Moses from the Sydney Morning Herald were behind all the articles to defame my family.” Is that a fact? Do you agree that he said that?---No, he did not.

And I suggest that you in response to that said, “No, it’s not.” You said, “No, it’s not. I don’t want to talk about this. I’m not taking sides.” Did you say that?---No, no, I didn’t say that.

10 Did you say anything like, any part of your conversation, “I don’t want to talk about this?”---My precise words to him were, “This is not an appropriate conversation, I’m ending it now.”

Why do you say they’re your precise words, given the fact that earlier you conceded that you can’t be word-perfect about what was said?---Because on that; point, Mr Korn, I am very clear because I knew at that point that this was a compromising situation and I’m quite aware of, just through my own studies at the moment, I’m quite aware that I needed to extricate myself from that position at that point immediately.

20 Well, what’s the difference, bearing in, bearing in mind that you want to extricate yourself based on your instincts, your studies, your reasoning, what would be wrong with you saying, “I don’t want to talk about this.” Wouldn’t that have the same effect?---Well, you asked me, sir, if they were my words and I’ve given you my answer.

No, no, no, no. You said that because of your training, your study, an inferentially your instincts, that you know precisely what you said, didn’t you?---No.

30 THE COMMISSIONER: No, no, he didn’t say that.

THE WITNESS: That’s not what I said. Sorry, Commissioner.

THE COMMISSIONER: He was explaining why he said what he said.

MR KORN: You’re saying that why you, why you said what you said was based upon the fact of your studies and your training. Correct?---And also just my, my knowledge that it was not a situation to be in.

40 That’s right. So, and so they, all of those factors would make it equally likely that you could say what you wanted to say by using these words, “I don’t want to talk about this.”---Well, I could have used those words, Mr Korn, but I didn’t. I’ve told you the words I used and I recall the words I used.

Do you mean to say you could have because it’s a possibility you did?
---No.

And you're just reconstructing the version you want to now hear?---John,
Mr Korn, no.

Did you then go on to say, "I'm not taking sides?"---Ah, I did say, I'm not
saying, I won't agree with the proposition that I went on to say, but I did say
to Mr Kazal that I'm not taking sides.

10 Did he then say, "That's fair enough, I just needed to know?"---Ah, no.
The, the, the, the way you're laying out the conversation is not the way it
occurred.

I suggest to you that what happened thereafter was you, the two of you
shook hands and walked outside the witness room?---We did shake hands,
yes.

THE COMMISSIONER: So are you saying that you shook hands inside,
are you putting it that Mr Hammond shook hands- - -

20 MR KORN: Yeah, shook hands inside.

THE COMMISSIONER: - - -inside the witness room?

MR KORN: I pick up what the Commissioner says. The shaking of hands
not only in fact took place but it took place inside that witness room, did it
not?---No. It took place as the door was opened and I was leaving the room.
And I believe 'cause I turned and saw you immediately after so I'm
assuming, sir, that you would have seen that perhaps.

30 Not making assumptions?---Okay.

All right. Now you say you made a statement- - -?---Bless you.

Sorry, I was just waiting for the coughing but- - -

MS HOGAN-DORAN: I'm sorry about that, Mr Korn.

40 MR KORN: You say you made a statement contemporaneously. What do
you mean by that, that you went away and made some notes straightaway?
---After I had the short discussion with you about the movies I continued
walking down the hallway in the foyer of the ICAC room and went straight
into the ante room that's just, just behind me here and within a matter of
minutes ah, someone whom I've since learned is, is, is related to the
Commission came in and took a handwritten statement from me.

Which has been produced and signed, produced and signed on today's date?
---I, I don't know if the handwritten statement has been produced, I'm not
aware.

I'm sorry, which has been produced now in typewritten form with today's date. That's correct, isn't it?---No, no, this is a, this is a statement that I prepared last night and then finalised this morning.

So the one that I've got now in my hand typed is one you prepared last night?---Correct.

Is that the same as the handwritten version?---Yes.

10 Precisely?---No, sir.

What is different?---Well, there's, there's, there's more detail around events that took place around, around the matter to put it into perspective. I haven't seen the- - -

Where is the, to your knowledge, where is the handwritten statement?
---I don't know.

20 Pardon me, Commissioner? May I call, I call for it?

THE COMMISSIONER: Have you got it?

MR KORN: Thank you.

THE COMMISSIONER: I think we'd better just, just to regularise things, I take it you're tendering the statement that you've been putting of Mr Kazal?

MR KORN: I was going to do that at the end, yes.

30 THE COMMISSIONER: Well, I think it should be done now.

MR KORN: All right. I tender that.

THE COMMISSIONER: The statement of Mr Charif Kazal which is not dated but to which Mr Hammond is being referred is Exhibit 8.

**#EXHIBIT 8 - STATEMENT OF MR CHARIF KAZAL DATED 1
AUGUST 2011**

40

MR KORN: I hadn't noticed it wasn't dated, Commissioner.

THE COMMISSIONER: That's all right. I take it that it was signed today?

MR KORN: As, as I said to you, when (not transcribable) it was downstairs being signed. It was signed in that interval of time, so this afternoon about 2.30-ish.

THE COMMISSIONER: Well, Mr Korn, with your consent I will date it 1 August.

MR KORN: I'm happy for that to happen. I will do the same. Commissioner, just pardon me for a moment.

THE COMMISSIONER: Mr Hammond, while Mr Korn is looking at that, were you given a copy of the handwritten statement?---No, no,
10 Commissioner, I haven't been.

So from the time it was taken until the time you made your statement, you didn't see it?---No, I didn't, Commissioner.

Did you see it after it was taken?---No. I know it was- - -

The handwritten one?---No, I haven't, I didn't see it. I saw it being taken as I was giving the detail, I know it's written in red ink and it's in a book of some sort. That's my recollection.
20

MR KORN: May I invite the tender of this handwritten statement as well, Commissioner?

THE COMMISSIONER: Yes.

MR NEWLINDS: No objection. We might get a photocopy taken and distribute it later.

THE COMMISSIONER: Yes. I think let's do it now.
30

MR KORN: I'd like to proceed, if that's all right, Commissioner.

THE COMMISSIONER: Yes, except if you want to ask Mr Hammond about the handwritten statement, well, I don't think you should ask him about the handwritten statement till I have a copy of it, but you may proceed on other aspects if you wish.

MR KORN: I can do this much. While I was reading it I think I heard the Commissioner ask you the question whether in fact you'd seen that
40 handwritten statement since and I think you told him that you have not?
---That's correct.

And so the net effect is, you made that statement on- - -?---Friday afternoon.

- - -Friday afternoon?---Yes, sir.

And that statement was your best recollection of the events which you say had occurred very shortly there before?---Yes.

And that was your best attempt to give it word-for-word then?

THE COMMISSIONER: Well, rephrase that question.

MR KORN: Was it your, was it your, I'll rephrase it. Was it your best attempt to give it word-for-word then?---No. It was done very hurriedly and it was given to someone who was trying to write it in, in freehand and it was given in circumstances where ah, there was some concern about what had occurred, so it was all quite frantic, to be quite, to be honest, my recollection of it at the time.

THE COMMISSIONER: How, how was the statement given, were you asked a series of questions or were you asked a general question?---The questions were general.

A series of questions or one question?---Commissioner, I - - -

Were you asked to say what happened and then proceed to write or- - -Yes.

- - -were you asked a series of questions?---No, no, no, Commissioner. It was more, tell me what happened and I sort of tried to step through what was going on. I had to stop a number of times because the person taking the statement was, was, was writing by hand.

MR KORN: The only thing I'm going to take you, oh, I can't do that till it comes back. Sorry, Commissioner, I'll have to wait. There's only one aspect I want to take to the extent, apart from, apart from this one aspect, apart from one aspect of a difference between the two statements.

THE COMMISSIONER: It's coming.

MR KORN: The other aspects I will leave for submission in terms of differences.

THE COMMISSIONER: Well, if there are differences that you say are important you might want I think- - -

MR KORN: Yeah. No, no, that's, that's what I say, there's one aspect at least I am going to take- - -

THE COMMISSIONER: I mean other, yes, sorry, this is, this is not, what I'm reading doesn't seem to be a statement by Mr Hammond.

MR KORN: Notes, as I understand it - - -

THE COMMISSIONER: It's notes by somebody else, but it's not, it doesn't purport to be a statement by Mr Hammond.

MR KORN: Not in that sense, but it purports to be a rendition of what Mr Hammond told that person. Do you want to ask whether there was a series of questions and whether in fact you were asked and in effect tell us what happened? And he said, the latter. And I had to pause from time to time.

THE COMMISSIONER: All right. I understand that. But I think it's incorrect to describe it as a statement by Mr Hammond. It's not.

10 MR KORN: Well it is, but it may not have the full melody of a, of a court statement, but it's still a, it's still a statement as such.

THE COMMISSIONER: No, it is not a statement by Mr Hammond.

MR KORN: All right.

THE COMMISSIONER: Mr Korn, it is, it's notes taken by somebody else who records what Mr Hammond said to him about questions, in answer to questions that are not recorded.

20

MR KORN: Thank you. I accept that. But to the extent, to the extent that it's, may the witness have a copy, you Honour, please, Commissioner, if you please. Now that's not, you can't take it from us that the one that was taken and photocopied was in red?---Well I have the red copy here.

Oh, you have the red copy?---Yes, Mr Korn.

All right. Do you in fact see that if you go to the words, I think it's something, something - - -

30

THE COMMISSIONER: Sorry Mr Korn, I think, just read it from the beginning to end, Mr Korn. I think in fairness - - -

MR KORN: I have no problems if he reads it out aloud, in fact, Commissioner.

THE COMMISSIONER: No, I don't want him to read it out aloud then. I've had to endure many things, I don't have to endure that. Just read it to yourself, please?---Thank you, Commissioner.

40

Yes. And I think we should tender that. Can I, who took the statement Mr Newlinds?

MR NEWLINDS: Ms Rallis took the statement. But can I just say this, on my instructions the portion of the statement being about the first third of the first page starts at 335.

THE COMMISSIONER: Yes, the top is 335.

MR NEWLINDS: Yes, where it says, I actually saw and following, that's not based on anything that Mr Hammond told - - -

MR KORN: Down to the words and told Hogan-Doran.

MR NEWLINDS: Correct. So really the document that was called for starts at the, at the number 330.

10 THE COMMISSIONER: Yes. All right. Well a handwritten note by the Commission's solicitor is Exhibit 9.

#EXHIBIT 9 - NOTES MADE BY COMMISSION SOLICITOR ON 29 JULY 2011

THE WITNESS: Commissioner, for the record that's the first time I've seen this, this statement.

20

THE COMMISSIONER: No, I understand that?---Yes.

MR KORN: May I?

THE COMMISSIONER: Yes.

MR KORN: Is that, there's two aspects Mr Hammond that I want to take you to in terms of that, what I call the red document, that's Exhibit 9. You see the first thing I want to take you to is did you understand and did you intend, I'll withdraw that. Do you see that that, the way in which that document has been recorded, and I'm not calling it a statement in line with what the Commissioner properly says, I'll refer to it as a document, in the way in which that document is recorded, do you see that there is recording on it before and after what is clearly conversation in quotation marks?---I can see there are parenthesis used, quotation marks used, yes.

30

All right. And you understood that that was to mean, to indicate direct speech as you were then giving it?---Well sir, as I've said, you probably would have to speak to the recorder about that. But I would understand that normally that would be what parenthesis or you know, inverted commas would indicate, yes.

40

If you go to the bottom three lines which starts with the word, or fourth line, my informants tell me that there is you, Judi Hausmann and Linton Besser and that you're all part of this. Do you see that?---That's what this says, yes.

It makes no reference to Rod does it?---No, it doesn't.

The one that you did last night, which you say is a more complete version does and for the first time. Correct?---Correct.

So before I, in fact it's clear is it not that before this document was produced to me I put to you did I not that you had not used the word Rod, I'm sorry that Charif had not used the word Rod as part of the conversation you had? ---He did.

10 And you disagreed with that?---I did.

But as it now turns out the document you made, I'm sorry, the document that was made closest in time to the events does not include by the person taking down what appears to be your words the name Rod does it?---Well sir, if I'd had a chance - - -

Do you agree with that or disagree with that?---Sorry?

20 Is that correct or not?---Please put the proposition to me again, sir.

The document that was produced as a result of, of what you were being asked to do to tell what happened does not include a reference to the name Rod does it?

THE COMMISSIONER: I beg your pardon?

MR KORN: No, no, no, here. He said you, Judi Hausmann - - -

30 THE COMMISSIONER: Are you talking about the passage in quotation marks?

MR KORN: Yes I am, yes.

THE COMMISSIONER: Well it obviously doesn't.

40 MR KORN: Thank you. Now did you want to say something about why it doesn't?---I can't really say why. You'd have to speak to the person who was recording it. My, my recollection is clear that Rod's name was used. As I've said to the Commissioner, this is the first time I've seen it, if I'd had a chance to review this document or if it had of been turned into an official statement, it would have been corrected. That's all I can offer the Commission.

Okay. Thank you. The other aspect I want to take you is this part here. Just let me pick it up. Would you go to the third, it's not numbered as such, but the third page, the last page. Again that's a portion of the conversation which appears to be or to relate to a part that I had put to you earlier before

we had the advantage of this document?---Sorry Mr Korn, which part is that?

All right. The part which is in quotation, look, I'm not having this conversation W-Y, which I take to be with you?---Well I would have to say that, yes, I'm aware of where you're at on the page.

Is that what it says? It's recorded as saying - - -?---Well it says, yeah, converse W-Y.

10

Look I'm not having this conversation with you?---Yes.

I'm not involved in anything other than to support Rod?---Yes, that's what it says.

I put it to you earlier that the conversation Charif said to you was, I don't want to talk about this. And you denied that that was a proper version of what Charif had said didn't you?---Well you said to me is that Charif said that, and he didn't say that. I said to him that I'm not having this conversation. So you've attributed my words to, to Mr Kazal.

20

May I suggest to you the words that are recorded in that document, look I'm not having this conversation with you, is very much closer to what I put to you as being Charif's version when I put to you that he said, I don't want to talk about this. What do you say about that?---Well Mr Korn, your client (not transcribable) back at the end of the room to have a conversation with me.

30

What do you say about the proposition that the version which is recorded in the red document is very much closer to the version that I put to you earlier as coming from my client, where I put to you he said, I don't want to talk about this?---I disagree with it strongly, sir.

And it's certainly a lot closer than the more sanitised version that appears in the type written document you did last night where you say, look Charif, this s not an appropriate conversation and I'm ending it now?---I've answered you sir, I disagree with that you're putting to me.

40

No further questions, Commissioner.

THE COMMISSIONER: Ms Hogan-Doran?

MS HOGAN-DORAN: No questions.

THE COMMISSIONER: Mr - - -

MR NEWLINDS: One question. Do you know a person called Greg Moses?---No. And have never heard of him.

All right. Thank you.

THE COMMISSIONER: Thank you. Thank you, Mr Hammond. Thank you for your - - -?---Thanks Commissioner.

THE COMMISSIONER: That means you're excused?---Thanks.

10 **THE WITNESS EXCUSED**

[3:09pm]

THE COMMISSIONER: Mr Newlinds.

MR NEWLINDS: Mr Kelly is waiting, your Honour. Can I recall Mr Kelly, please.

MR NEWLINDS: Did the not have an exhibit number?

20 THE COMMISSIONER: It was Exhibit 9. And I think we should swear Mr Kelly in again. Did you give your, did you, are you giving your evidence under oath or - - -

MR KELLY: Yes, I did.

THE COMMISSIONER: - - - affirming the evidence. Yes. Would you swear Mr Kelly in.

THE COMMISSIONER: Yes. The section order that I previously made continues to apply to Mr Kelly.

**THE SECTION 38 ORDER THAT I PREVIOUSLY MADE
CONTINUES TO APPLY TO MR KELLY**

10

THE COMMISSIONER: Mr Newlinds.

MR NEWLINDS: Sir, did you ever give Mr David either your credit card or your credit card details in or around the middle of 2007?---It's, it's not a specific recollection that I have, I may have but I don't recall specifically giving him those.

20 So you don't have a recollection, you may have but you don't recall?
---That's right, I, again, I can make assumptions based on evidence but I don't specifically recall it, I think I would have but I can't say for sure.

Well, why do you think you would have?---Well, in order to get reimbursed the money.

Well, why do you say that? What's the logic in that thought process?
---Because it would have been the simplest process for getting the money repaid to me.

30 Just, just remind me, didn't you say the way the money was repaid to you was by getting some cash in an envelope from Mr David?---Yes, yes, I did, that's correct.

Well, he didn't need your credit card details if he was going to pay you cash, did he?---I'm not saying that's, that's the case, I'm simply saying that I would have given it when I gave the airline information, it may well have been something that I would given to speed up the process of getting the money back.

40 But that's mere speculation?---It's, it's speculation and it's, you know, I don't know whether it's a recollection or it's just me making assumptions but - - -

Well, can you remember when he gave you the cash thinking to yourself well, why is he doing this, he's already got my credit card details?---Not specifically, no.

THE COMMISSIONER: Didn't you say to him transfer the money?

---Well, I would say that's very much what I think I would have done because that would have been the logical way to get the money repaid the quickest but, you know, it's just something I can't say, you know, is exactly what happened.

MR NEWLINDS: You have no recollection at all of ever giving Mr David either your credit card or your credit card details?---I'm saying I, I feel like I may have but it's just one of those things that it may be that I'm construing that because of what's happened or it is what happened, I just don't have a
10 strong recollection either way.

Now in relation to the first trip to Dubai that we've talked about - - -?---Yes.

- - - you're aware that the documentary, the document trail demonstrates that Mr David's credit card was used to purchase your airline ticket?---Not for the first trip, the second.

I withdraw that. Now, can I just ask you on a completely different topic and remind you that your letter of offer, which I don't think is in evidence, I
20 might show it to you, the letter of offer that Mr David wrote you on IPS' letterhead to offer you a job is dated 7 March, 2008, there's a couple of copies, a copy for you guys?---Yes.

Now, do you recall receiving this offer?---Yes, I do.

And if you look at the second page you've accepted it on 10 March, 2008?
---That's correct.

And you were to start work on 1 April?---That was what was initially
30 proposed at that time but it was later changed.

Yeah. And some time after 7 March you wrote Dr Lang a letter resigning your position from SHFA?---That's correct.

Now, can you offer any explanation or do you have any recollection of prior to 7 March doing any work for IPS?

MR BEECH-JONES: I object because IPS - I don't think it existed (not
40 transcribable) it may have that name but there was no company formed at that time.

MR NEWLINDS: All right. Well, do you have any recollection prior to 7 March purporting to do any activities as an officer or employee of IPS?---I have no recollection of doing anything as IPS. My recollection in assisting in Mr David as it was Parkview and then later Davids Group.

Do you think you ever held yourself out to anyone as being general manager of IPS prior to resigning from SHFA?---It, it's not a specific recollection I

had but it, it may have been in the context of talking about the company that went over to Abu Dhabi, that it was suggested that it was my role.

All right. Do you remember offering James Frawley a job on behalf of IPS?
---Yes.

And do you remember you did that in writing on 3 March, 2008?---No, I did not.

10 Can I show you a copy of a letter which I think we've only got one of, I'm sorry. There are copies coming I'm told?---I'm aware of this letter but this isn't his true letter of offer. His true letter of offer is dated July 2008 from recollection.

All right. Well, what is the letter I've just shown you?---This was a letter prepared in relation to the work that was going on for IPS over the course of the period July '08 onwards and it was in relation to Mr Frawley's employment and it was put in at this date as Mr David wanted to charge costs in relation to his services for the period prior to when he commenced
20 with IPS.

Are you saying this is a backdated letter?---Yes, I am.

Commissioner, I (not transcribable)?---There's also one for myself that's signed by Mr David.

Well, this one's signed by you?---I'm aware of that.

30 Right. So is this the position: you say that that letter, even though it purports to have been created on 3 March was not?---That's correct.

But it is your signature on it, isn't it?---It is.

And when you signed it did you understand it was being backdated?---I did.

And did you understand that that was for some purpose so as to create a false impression in the minds of at least someone as to what Mr Frawley's position was?---Yes.

40 THE COMMISSIONER: The tax authorities?---No, no, it's nothing to do with that, it's to do with the costing of salaries for Mr Frawley in the UAE. It's all part of my affidavit, Commissioner, which the Commissioner's already received.

The affidavit in the Cayman Island proceedings?---For the UAE proceedings, it was also referred to in the Cayman Island proceedings, I've given evidence against Mr David in both continents.

MR NEWLINDS: And in that affidavit you've explained that this letter is -
- -?---Yes, I have.

- - - at least in part a forgery?---I've explained that, yes.

And you were the forger?---I've personally signed it and I admitted to that,
yes.

10 Yes, thank you. Might I tender the 7 March letter and also the 3 March
letter, we don't have copies of the 3 March letter but if Mr Beech-Jones
could see the one the witness has got we'll distribute copies in a few
minutes.

THE COMMISSIONER: Yes. The letter of 3 March, Mr Newlinds, is that
from whom to whom? IPS to Mr Frawley is it?

MR NEWLINDS: That's correct.

20 THE COMMISSIONER: Letter of 7 March, 2008 from IPS to Mr Kelly is
Exhibit 10 and the letter dated 3 March, 2008 from IPS to Mr Frawley is
Exhibit 11.

**#EXHIBIT 10 - LETTER DATED 7 MARCH, 2008 FROM IPS TO
MR KELLY**

**#EXHIBIT 11 - LETTER DATED 3 MARCH, 2008 FROM IPS TO
MR FRAWLEY**

30

MR NEWLINDS: Can I just go back to the topic I started with, going back
to the middle of 2007 at the time of the trip to Dubai or shortly thereafter, do
you remember ever giving Mr Charif Kazal either your credit card or your
credit card details?---No, I don't.

Is that something that also might have possibly happened in the run of
things?---No, I don't believe so because it was nothing to do with Charif
Kazal, my arrangement for being over there.

40

Thank you.

THE COMMISSIONER: Mr Beech-Jones?

MR BEECH-JONES: Ah - - -

THE COMMISSIONER: I'll take it, well, I'll see if there's anyone else
who wants to question - Mr, Mr Korn, do you want to question Mr Kelly?

MR KORN: Can I just think about that for a moment, there's one document I have, I just (not transcribable) I've just got to get that (not transcribable)

THE COMMISSIONER: Ms Williams, I take it you have no questions?

MS WILLIAMS: No, Commissioner.

THE COMMISSIONER: Ms Hogan-Doran?

10

MS HOGAN-DORAN: Mr Commissioner, could I just indicate one matter before I ask the questions I propose to ask of Mr Kelly. At the commencement of this inquiry, Commissioner, you made what I understood to be a direction to Counsel that you didn't require them to put all matters and Browne and Dunn every witness that was called in this Commission.

THE COMMISSIONER: Yes.

MS HOGAN-DORAN: But only to put serious matters- - -

20

THE COMMISSIONER: The, the more important matters.

MS HOGAN-DORAN: Yes. And I have communicated this with Counsel Assisting over the weekend because two matters in particular were raised by Mr Beech-Jones on Friday with my client as being matters that I had not put to Mr Kelly.

THE COMMISSIONER: Yes.

30 MS HOGAN-DORAN: I propose to deal with over (not transcribable)

THE COMMISSIONER: Yes, very well.

MS HOGAN-DORAN: But could I indicate in respect of that that the reason I had not traversed those matters previously is that my understanding was that I, it was required for Mr David just to rebut those allegations put directly as against him?

40 THE COMMISSIONER: Well, it's a matter of judgement and that's what I said and I understand what you're saying.

MS HOGAN-DORAN: Thank you.

MR BEECH-JONES: Commissioner (not transcribable) perhaps reflects my recent inexperience down here. The result of this process will be that Ms Hogan-Doran gets two opportunities to cross-examine my client and I only get one opportunity to cross-examine hers. I must say I was under the impression that the only person who'd get the change to have another go, as

it were, at Mr Kelly as Mr Newlinds and the rest of us would just have to live with it, bearing in mind there is a big contest between the two of us and now Ms Hogan-Doran gets a second chance. The second aspect is, the, the, one of the points I – the one that I can remember from last Friday concerned an allegation about a business card. Now, that was put, Mr, the first time Mr David said Mr Kelly handed out a business card with AWT on it while he was in Dubai. And I put effectively that that is a recent invention. With the greatest respect to my friend, I will be submitting the Commissioner should not act upon a statement from the bar table that wasn't put. There's
10 a way to rebut recent invention and it's open for her to do that. But I must -
-

THE COMMISSIONER: I'm not sure what you mean.

MR BEECH-JONES: By calling her solicitor to say (not transcribable) from him and he told us there. That's, that's the way you rebut recent invention in that circumstance because it's a direct conflict between the two of them. But coming back to it, I mean at the moment she's going to get
20 twice at Mr Kelly and I only get once for hers.

THE COMMISSIONER: Mr Beech-Jones, what you say in general is quite correct but the questions, what has happened here is that some of the questions that have been asked by Mr Newlinds were not strictly in rebuttal, they contained fresh material and my invitation to Ms Hogan-Doran and Mr Korn related in essence to the fresh material, even though I didn't say it, I took it for granted that that was so. Ms Hogan-Doran however has raised this issue of Browne and Dunn and wishes to deal with it. Once this is a matter that comes from Counsel and the solicitor representing, I would
30 allow it as long as it is appropriately couched. This not being a trial I do not insist on MS Hogan-Doran's solicitor taking the stand, but I think that it would be appropriate to hear the question, I'm not making a ruling, if you want to make another object once you hear the question you're free to do so. But because the question, although not arising out of any of the fresh questions asked by Mr Newlinds there's a matter of explaining either her conduct or the conduct of her solicitors. I think that is fair to allow her to do so.

MR BEECH-JONES: O.K. Commissioner. Just so I understand, firstly her
40 questioning is restricted to the matters raised by Mr Newlinds?

Secondly, irrespective of- - -

THE COMMISSIONER: (not transcribable)

MR BEECH-JONES: Yes. But on that, how, with respect, how could her questions now rebut the suggestion of recent invention last Friday? How could anything she, a question now?

THE COMMISSIONER: Well, if the, if the question was, if, if there was a, do you want me to give the evidence?

MR BEECH-JONES: I don't, I don't know (not transcribable)

THE COMMISSIONER: Can we ask here the question?

MR BEECH-JONES: If the Commission pleases.

10 THE COMMISSIONER: And you can stand up again immediately after the question has been put.

MR KORN: And Your Honour, in that vein I have no further questions. Thank you.

THE COMMISSIONER: Ms Hogan Doran?

MS HOGAN-DORAN: Mr Kelly, in the trip in May 2007 I put it to you that you had in your possession and you distributed at a meeting, a business
20 card with your name on it and with the company name AWT Pty Limited?
---I don't agree.

And that in the, I apologise, Commissioner.

THE COMMISSIONER: Yes, thank you. While you're looking there Mr Frawley's address which appears on Exhibit 11 is suppressed.

30 **MR FRAWLEY'S ADDRESS WHICH APPEARS ON EXHIBIT 11 IS SUPPRESSED**

MS HOGAN-DORAN: And could the witness be shown page 372 of the bundle of Exhibit 6. Mr Kelly, do you have that document?---Yes, I can see it.

Right. On page 2 of that document there's a diagram?---Yes.

40 Do you see that?---Yes, I do.

And it's the position, isn't it, that the five per cent shareholder, there are two five per cent shareholdings identified in that diagram. Do you see that?
---I can see that, yes.

And that one of them is UAE Resident Individual?---Yes.

And one of them is Australian Resident Company?---Yes.

And you see that they are both indicated by that diagram to have percentage shareholdings in a company called Parkview UAE Holdings LLC?---Yes.

Right. It's the position, isn't it, that that diagram represents in representing that a UAE resident individual with five per cent of the company described as Parkview UAE Holdings LLC is your proposed share of the ownership structure for the Seba joint venture?---No, its not. I'd never seen this document prior to reading the evidence of this hearing and it was never discussed with me that I would be taking equity.

10

And, Mr Kelly, just drawing your attention to my question and not your commentary- - -

MR BEECH-JONES: I object. That answer was perfectly responsive.

MS HOGAN-DORAN: In respect of paragraph, in respect of the second five per cent shareholding identifying an Australian resident company, you agree, don't you, that that five per cent represented the proposed interest of a company associated with Mr Clint Willoughby?---I have no idea.

20

And I put it to you that those, those equity participation of you in that proposed company was discussed in Abu Dhabi in your presence?---I had no discussion with anyone about equity involving myself in or related to Parkview or any of the companies that went to the UAE.

And that this document represents, and that that structure was the subject of a discussion at a meeting on about 18 June, 2007 that you attended?---No, I never attended a meeting where this was discussed.

30 Those are the only matters.

THE COMMISSIONER: Yes. I should say, Ms Hogan-Doran, just so that there's no misunderstanding, I understand from Mr Beech-Jones that he's going to submit certain evidence by Mr David or certain propositions you are advancing based on his evidence are results of recent invention. There mere fact that you now put it is not an answer to that proposition.

MS HOGAN-DORAN: I accept that.

40 THE COMMISSIONER: That's all I want to say. I'm not saying anything about the merits of his submission and there may be more than one answer to it, but I simply think, wish to make it clear that what my attitude is to that.

MS HOGAN-DORAN: Yes. I wanted to give Mr Kelly the opportunity to -
- -

THE COMMISSIONER: Very well.

MS HOGAN-DORAN: - - - give the response that I anticipated.

THE COMMISSIONER: Yes. All right.

MS HOGAN-DORAN: But I should foreshadow that when Mr David is giving his evidence that I will be putting a document in re-examination and I anticipate putting the further document to him for re-examination in relation to the Commission's inquiries by (not transcribable)

10

THE COMMISSIONER: I beg your pardon?

MS HOGAN-DORAN: I propose to give, to put to Mr David a statement he made to this Commission at an earlier point prior to the commencement of these public hearings in respect of the allegation.

THE COMMISSIONER: Yes, I understand that.

MS HOGAN-DORAN: That (not transcribable) was distributed by Mr Kelly with the AWT.

20

THE COMMISSIONER: Yes. I understand that. Mr Beech-Jones, you didn't object to any of those questions.

MR BEECH-JONES: I'm sorry, I should stand up, no, I think, I thought we may as well hear what the questions were and what the answers were.

THE COMMISSIONER: Well, I commend you on your restraint. But that's not an invitation to you to do the same thing again at any other time. Do you understand what I mean?

30

MR BEECH-JONES: No, I don't.

THE COMMISSIONER: All right. I'll put it to you in, in school ground terms. Because I let somebody else do something, it doesn't mean that you're entitled to it.

MR BEECH-JONES: I understand that. I didn't think I had any other witnesses to ask questions of. The next two that I've got to ask (not transcribable)

40

THE COMMISSIONER: All right. Never mind. I'm just trying to make it clear what my position is.

MR BEECH-JONES: Mr Kelly, I just want to ask you just about one matter raised with you by Mr Newlinds, can I just show you the letter concerning Mr Frawley which I believe was marked Exhibit 11. And I just want to ask you do you see in the second paragraph there's a reference in that letter to a,

to IPS being a start up property facilities management company joint venture as being a company from the Cayman Islands owned by Mr Rodric David and Four N' Property LLC. Do you see that?---Yes.

And if you could accept from me that there is no similar reference in the letter that you signed on or about 10 March, which was signed by Mr David. Do you accept that from me?---That would be correct because it didn't exist at that time.

10 Right. When did that, when, when to your knowledge was that joint venture referred to in the second paragraph commence?---Depending on which one you're talking about. The joint venture between Davids Group and the UAE partners was 10 July, '08. And the joint venture between Rodric David and the Kazal family was executed in September of 2008.

All right. Now we're referring to the first one between Davids Group and Four N' Property LLC?---Yes.

20 When in relation to that date 10 July, 2008 did you in fact sign the letter that it bears the date 3 March, 2008?---It would have been somewhere in the vicinity of November, 2008.

Right. And under that joint venture was there some cost sharing arrangements as between Davids and Four N' Property LLC?---Yes. It involved, Rodric David was providing the funding for the venture from 10 July, '08. Anything before 10 July, '08, the individual parties had to wear themselves. After 10 July, '08, it formed part of costs associated with the joint venture. Both parties had to come up with start up capital, so Mr David's start up capital was in the form of costs, so the initial, you know
30 six, seven months in which case his costs were spent during that period, paying wages and other operating costs of the new entity. And so by having these letters saying employees started earlier than they did, Mr David was able to charge costs to the venture, which meant he was able to then put in less cash than was otherwise required. And that's subject to the UAE legal action that's underway.

Thank you. That was the only matter.

40 THE COMMISSIONER: Yes, thank you. Mr Newlinds?

MR NEWLINDS: Nothing arising (not transcribable)

THE COMMISSIONER: No. May Mr Kelly be excused?

MR NEWLINDS: I think he, yes, I think he can be.

THE COMMISSIONER: Mr Kelly, you're excused?---Thank you.

THE WITNESS EXCUSED

[3.35pm]

MR NEWLINDS: Now to close things, today weren't exactly what we planned. I've run out of witnesses.

THE COMMISSIONER: Yes.

10 MR NEWLINDS: But what we have for tomorrow, just so everyone understands, I've got someone coming from, a bank manager from the relevant branch of the ANZ Bank. He's going to give evidence about how the deposits which are recorded in the documents that are already in evidence might have been made. There is an internal bank document that my learned friend's haven't seen and I'll arrange for them to see that this afternoon. It's about that document this man will give evidence. We'll then recall, if I can call him at 10 o'clock, because he was here this morning and then we sent him away and he shouldn't be very long. Then we'll recall Mr David, then we will have Karl Kazal and perhaps even Charif Kazal.
20 whilst I'm not really able to say how long Mr David will take, all the others I would expect will be reasonably short.

THE COMMISSIONER: Yes, so we should finish on Wednesday?

MR NEWLINDS: We should certainly finish on Wednesday, yes.

THE COMMISSIONER: We will adjourn until 10.00am tomorrow morning.

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AT 3.36 PM THE MATTER WAS ADJOURNED ACCORDINGLY
[3.36pm]