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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION VESTA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY, 2 AUGUST 2011

AT 2.05 PM

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MS WILLIAMS: Commissioner, I simply sought to raise one thing in relation the corruption prevent recommendations.

THE COMMISSIONER: Yes.

MS WILLIAMS: I have liaised with Mr Newlinds about the tender of three documents that I would request be tendered that are relevant to those recommendations that aren't otherwise in evidence. Mr Newlinds agrees (not transcribable) documents.

10

THE COMMISSIONER: Very well.

MS WILLIAMS: Thank you, Commissioner.

MR NEWLINDS: I have them now, I can put them in now if that's convenient to you, Commissioner.

THE COMMISSIONER: Yes.

20

MR NEWLINDS: So what I'm tendering is the three documents Ms Williams has provided to us, the first is Schedule A of the Heritage Act 1977, the second is A Fit Out Guide for Commercial and Retail Premises in the - - -

THE COMMISSIONER: I'll just make a note of them.

MR NEWLINDS: I'm sorry.

THE COMMISSIONER: Schedule A?

30

MR NEWLINDS: To the Heritage Act, 1977. I don't know you suppose you know what date that is effective as?

MS WILLIAMS: As at 12 November, 2006.

MR NEWLINDS: Ms Williams tells me that's as, as at 12 November, 2006.

THE COMMISSIONER: Yes.

40

MR NEWLINDS: The next is a - - -

THE COMMISSIONER: That'll be Exhibit 23.

#EXHIBIT 23 - COPY OF HERITAGE ACT 1988 (NSW)

MR NEWLINDS: A Fit Out Guide for Commercial and Retail Premises in The Rocks, published by SHFA

THE COMMISSIONER: So a Fit Out Guide for Retail and Commercial Premises.

MR NEWLINDS: In The Rocks, published by SHFA and this is the 2010 revision. Is the other one different?

10 MS WILLIAMS: Yes, the other one's 2007/2008.

MR NEWLINDS: And the other one is the same document - - -

THE COMMISSIONER: Well, the 2010 edition will be Exhibit 24.

#EXHIBIT 24 - FITOUT FOR COMMERCIAL AND RETAIL PREMISES IN THE ROCKS 2007/2008

20

MR NEWLINDS: And the next, the final one is the same document but for 2007/2008.

THE COMMISSIONER: Exhibit 25 will be the 2007/2008 Fit Out Guide.

#EXHIBIT 25 - FITOUT GUIDE FOR COMMERCIAL AND RETAIL PREMISES 2007/2012

30

MR NEWLINDS: And I've got one bundle for you, Commissioner, and one for your staff.

MS WILLIAMS: Thank you, Commissioner. May I seek leave to withdraw again now?

THE COMMISSIONER: Yes, certainly.

MS WILLIAMS: Thank you.

40

THE COMMISSIONER: Ms Hogan-Doran.

MS HOGAN-DORAN: Thank you, Commissioner.

Mr David, you have produced a number of bank statements to the Commission in answer to inquiries of it in respect of your banking records for the period of May and June 2007?---I did.

10 I provide a copy to you of some documents to identify, could both those be provided to the witness. Could you identify those bank statements as the documents you produced to the Commission?---They are.

And are they all of the bank statements - sorry, are they, are they all of the bank statements issued to you in respect of your accounts, either yours solely or yours with your wife, for the period of May and June 2007?---I believe so.

I tender those.

20

THE COMMISSIONER: They are both - well, I think the last question's a bit, is misleading isn't it? It was - well, I think - you, you don't have any other accounts apart from the accounts pursuant to which these two bank statements have been issued, is that the case, Mr David?---At the time I believe so, yes.

Well, the ANZ Bank statement for the period 28 May to 28 June, 2007 is Exhibit 26.

30 THE COMMISSIONER: Exhibit 27 is the bank statement of Mr and Mrs David for the period 21 May to 21 June, 2007.

MS HOGAN-DORAN: Commissioner, I apologise for this but I would draw your attention to the subsequent pages which are additional accounts.

THE COMMISSIONER: Oh, I see. But they, well, they are in a, they're in a, they appear to be in a haphazard order. I just don't understand it.

MS HOGAN-DORAN: (not transcribable) this one I have, I could have- - -

40

THE COMMISSIONER: Well, it doesn't make, there's one account which is ANZ 1, then there's, and I see that there's another one which is home loan, another one is residential investment loan, so there are four banks and the top one is Premium Cash Management Cheque Statement. So that bundle of four statements are all for different dates and all for different accounts. I don't know what, by what logic they are put together. And then there's another bundle, that appears to be all for the same account, which is

the account for Mr and Mrs David. So we've got bank statements from five different accounts now it seems. Is that right?

MS HOGAN-DORAN: Yes, Commissioner.

THE COMMISSIONER: Right. I see. All right. Let me try again.

MR NEWLINDS: I don't know whether it's worth the effort.

10 THE COMMISSIONER: I think, I think that, all right. Exhibit 26 is, comprises pages 149 to 152 of the bank statements, of the ANZ bank statements of Mr and Mrs David. Right. That's Exhibit 26.

#EXHIBIT 26 - COMPRISES PAGES 149-152 OF BANK STATEMENT OF MR AND MRS DAVID

20 THE COMMISSIONER: Exhibit 27 comprises four bank statements. Now, have I, it comprises the following bank statements – page 56 of a bank statement of Mr and Mrs David which is apparently, which is headed Premium Cash Management Cheque Statement. It also comprises page 2 of a bank statement in the name of Mr David at the ANZ Bank entitled RIL Variable. The third page is a bank statement of Mr and Mrs David entitled, page number 14, entitled Home Loan. And the final page is a bank statement of Mr David, the ANZ Bank with an account entitled ANZ 1 page 97. So those are now exhibits in the inquiry.

30 **#EXHIBIT 27 - BUNDLE OF STATEMENTS COMMENCING WITH PAGE TITLED "PREMIUM CASH MGMT CHEQUE STATEMENT"**

THE COMMISSIONER: Yes, Ms Hogan-Doran?

MS HOGAN-DORAN: Thank you, Commissioner, I'm grateful for your indulgence but I had not taken that in a step-by-step way, I had attempted to shortcut and in the inevitable way of shortcuts, come up short.

40

THE COMMISSIONER: No, that's all right.

MS HOGAN-DORAN: Commissioner, would you make a Suppression Order in respect of the accounts and addresses?

THE COMMISSIONER: Yes, the details of the accounts in Exhibits 26 and 27 and the addresses contained in those documents are suppressed.

THE DETAILS OF THE ACCOUNTS IN EXHIBITS 26 AND 27 AND THE ADDRESSES CONTAINED IN THOSE DOCUMENTS ARE SUPPRESSED

MS HOGAN-DORAN: Commissioner, I'm also instructed to make a further application and that application is that the details of each of the accounts not be disclosed to members of the Kazal family. That is the
10 representatives would be restricted to, the publication be restricted to their representative.

THE COMMISSIONER: Well let me just start again. When you say the details of bank statements which I suppressed - - -

MS HOGAN-DORAN: Not the bank details (not transcribable)

THE COMMISSIONER: I understood you, I understood that what was
20 being suppressed was the account type and number.

MS HOGAN-DORAN: That is all, yes. But as I understand it that suppression order would not preclude the persons whom Mr Korn represents having access to the account details.

THE COMMISSIONER: Well I would have to justify that because it is not apparent to me why.

MS HOGAN-DORAN: My instructions are that my client is concerned that
30 if those details are made available to either persons whom Mr Korn represents that they may have access to that and have access to his personal information.

THE COMMISSIONER: I'll (not transcribable) what is said about that. Mr Korn?

MR KORN: I'm, I'm in your hands, Commissioner. I have nothing further to say, nothing to add.

THE COMMISSIONER: Well what I'm inclined to do Mr Korn, I don't
40 want to, I'm inclined to make a suppression order relating to all the entire bank statements, a general suppression order relating to the entire bank statements, certainly counsel may see them and counsel solicitors may see them but no one else. Mr Beech-Jones do you have any objection to that?

MR BEECH-JONES: No.

THE COMMISSIONER: No. Well the suppression order that I have made will be changed and there'll be a general suppression order in relation to

Exhibits 26 and 27 save that counsel for the parties and their instructing solicitors may have access to them.

GENERAL SUPPRESSION ORDER IN RELATION TO EXHIBITS 26 AND 27 SAVE THAT COUNSEL FOR THE PARTIES AND THEIR INSTRUCTING SOLICITORS MAY HAVE ACCESS TO THEM.

10

MS HOGAN-DORAN: If the Commission please. Mr David, in respect of Exhibits 26 and 27, I think I led you into error earlier, would you look at Exhibit 27, please which is the second bundle, in respect of the first page, you will see Mr David that that document commences at 21 May, do you have or do you have in your possession a copy of the statement for the May 2007 period, that is the entirety of May 2007 period?---I don't know. Certainly the bank would.

20

If requested by this Commission would you make, would be prepared to make those inquiries and provide a copy to the Commission?---Certainly.

THE COMMISSIONER: Ms Hogan-Doran this is your, your case as I were and you're putting these in.

MS HOGAN-DORAN: Well Commissioner, with respect my client doesn't have a case as such. My client's (not transcribable)

THE COMMISSIONER: No, no, I put "your case".

30

MS HOGAN-DORAN: Yes.

THE COMMISSIONER: Your answer, this is evidence you want to adduce, it's not evidence that the Commission has adduced?

MS HOGAN-DORAN: Yes.

40

THE COMMISSIONER: So I don't actually understand why you're having the adduced, if you think that the bank statement for May 2007 is relevant and I can understand, well I'm not sure why it's relevant really, because we're not, the question doesn't apply in May, so, but if, if you think that the bank statement for May is relevant than why don't you produce it and it will be admitted.

MS HOGAN-DORAN: Commissioner, if we would have leave to do that, I might be able to do it through the witness today, that's all.

THE COMMISSIONER: Well, I don't think you can do it when the other parties haven't had an opportunity to deal with it by way of questioning witnesses.

MS HOGAN-DORAN: It would only be provided in, Commissioner- - -

THE COMMISSIONER: I'm going to, I think it's up to you to proceed as you wish.

10 MS HOGAN-DORAN: Thank you, Commissioner. Mr David, each of the accounts that have been identified in Exhibit 26 and 27, are they all of the personal accounts that you or your wife had in June 2007?---To the best of my recollection, yes.

And to the extent that you had a business account, that is an account, a credit card account, is, is the only account the account that has been, which is the credit card statements that are included in the Exhibit 6?---I'm not aware of Exhibit 6 so I don't know. I don't know what we're talking about my accounts for.

20

THE COMMISSIONER: Well, I think you just show Mr David Exhibit, do you want to do that, Ms- - -

MS HOGAN-DORAN: I do. Could the witness be shown page 239? ---Thank you.

Mr David, is that the, that gold, that's a gold business card statement of account?---It is.

30 Ah hmm. Is that the Parkview company business card that was in, that you had access to?---I believe so.

And is that the only card to which you had access?---Company card, yes.

Yes.

THE COMMISSIONER: What about a Parkview bank account?---Yes.

Is there such a thing?---Yes.

40

And you had access to that, I take it?---No.

No?---No.

So how was it operated?---The chief financial officer of the company.

You weren't a signatory to the cheques?---No.

MS HOGAN-DORAN: Just moving from that- -?---Actually I may have been one of signatories to the cheques.

MR NEWLINDS: We've got a statement- - -

THE WITNESS: We had dual signatory requirements I believe.

THE COMMISSIONER: I beg your pardon, did someone say something?

10 MR NEWLINDS: We have a statement that deals with this topic from a person who actually does know.

MS HOGAN-DORAN: I think Mr Newlinds is referring, who was the chief financial officer at that time?---Cameron Champion.

Could, have you tendered that?

MR NEWLINDS: I haven't tendered it yet.

20 MS HOGAN-DORAN: I'm proposing to show an annexure at- - -

MR NEWLINDS: I have a statement, Commissioner, I think his name is Cameron Michael Champion who is the chief financial officer for the Parkview Group. Everyone's got copies. It's dated 25 July, 2011 and he's not required for cross-examination.

THE COMMISSIONER: Yeah. All right. Mr Champion's statement is Exhibit 28.

30

#EXHIBIT 28 - STATEMENT OF MR CAMERON MICHAEL CHAMPION DATED 25 JULY 2011

THE COMMISSIONER: I take it you don't then need to ask any questions on this issue, Ms Hogan-Doran?

40 MS HOGAN-DORAN: No, not in respect of Mr Champion, only in respect of an annexure to that exhibit. So my answer is yes, but only in respect of an annexure to that exhibit.

THE COMMISSIONER: Right. Proceed, please.

MS HOGAN-DORAN: Could Mr David be provided with a copy of that? ---I have.

You have it. Mr David, would you go to annexure D to that affidavit, to that statement?

THE COMMISSIONER: This is not numbered.

MS HOGAN-DORAN: Annexure D is a cheque with the heading WZ International.

THE COMMISSIONER: Well, if you find it so Mr David- - -

MS HOGAN-DORAN: Yes.

10

THE COMMISSIONER: It's a blank page, is it?

MS HOGAN-DORAN: The next page.

THE COMMISSIONER: Yes.

MS HOGAN-DORAN: Mr David, have you seen that cheque before?
--- No, I have not.

20 Do you identify that signature?---Yes, I do.

Whose signature is that?---Karl Kazal.

Do you have - do you have - do you know anything of WZ International?
---I've never heard of it before.

Again, could I ask if the witness be taken back to annexure B. Annexure B, Mr David, annotations to the transaction report that are included in the bundle?---Yes.

30

Could I ask you to look at the annotations that are made to the travel and accommodation journal entries?---Yes. They say "Rodric accommodation, Emile accommodation, Clint accommodation, Tony accommodation, Rodric travel including Shanghai trip, Clint travel including Shanghai trip, Tony airfare, Emile airfare."

Looking at those do you have any reason to dispute or doubt those annotations?---No, I do not.

40 Mr David, you gave some evidence concerning the preparation of the Parkview profile for the purpose of a meeting with the Secretary-General of the GCC?---Yes.

Can I show you a document. Do you identify this document?---Yes, that's a facsimile to me from Abdul Rahman Al Atiyyah, the Secretary-General of the Gulf Corporation Council.

And what can you tell the Commission about this document?---It's thanking me for meeting me during his official visit in June of '07.

And did you meet with Mr Al Atiyyah alone or with others?---No, it was at the Parkview offices with Charif and Tony Kazal and members of Parkview, amongst delegates with Mr Al Atiyyah.

And could I ask do you recall whether a Parkview Property profile was distributed at that meeting?---Yes, one was.

10

And are you able to identify what - which one it was?---I would be able to, yes. It's the one that denotes Karl Kazal as chairman of Parkview Property.

And who's, and are you able to indicate how that reference to him as non-executive chairman was included in that document?---It was requested by Karl so he could present it to Mr Al Atiyyah.

Do you have a recollection of whether that document was distributed to other, other persons?---I believe it would have been emailed to Rabih Karam of Seba.

20

And what's the basis of that belief?---Because there's communications between myself and Sargan Door of Seba on the, on the file.

THE COMMISSIONER: Is your evidence that Mr Karl Kazal asked you to distribute it or are you saying someone else asked you to distribute it?---No, the profile - - -

At his request?---No, the profile was specifically for the purpose of presenting to Al Atiyyah at the meeting.

30

I understand that but who - - -?---It was Charif who requested it.

Yes, that's what I - - -

MR KORN: I missed the last question because - - -

THE COMMISSIONER: It was Charif who, who requested it.

40 MR KORN: Thank you, Commissioner.

MS HOGAN-DORAN: Now can I show you an additional document - - -

THE COMMISSIONER: Well are you tendering this letter?

MS HOGAN-DORAN: I apologise, yes, I tender that.

THE COMMISSIONER: Yes, the, well I'll describe it as the GCC, Exhibit 29 is the GCC undated letter.

**#EXHIBIT 29 - LETTER FROM THE COOPERATION COUNCIL
FOR THE ARAB STATES OF THE GULF SECRETARIAT
GENERAL TO PARKVIEW UNDATED**

10 MS HOGAN-DORAN: Mr David, Exhibit 29, the letter from the Secretary General has fax imprint on the top?---It does.

Are you able to explain that?---It's 27 June '07 from a fax denoted as the GCC Secretary Gen office.

And did you receive that fax?---I believe so, at the Parkview offices, yes.

20 What was the purpose of this meeting?---Mr Al Atiyyah I believe was on a tour of Australia and Mr Al Atiyyah to my understanding is a friend of the Kazal family and as we had returned from the UAE to present to Aldar and Seba that the Kazal's thought that Mr Al Atiyyah would be a good potential partner to our venture that we were seeking to create in the Middle East.

Was Mr Alatier ever a participant or an official associated with any of the ventures that took place in the Middle East?---No.

30 Now I'll show you, a moment ago you, I'll show you another document you referred to some communications with Seba. Do you recall this is an email you received?---Yes, I do.

Of 5 July 2007?---Yes, it is.

And you see that it attaches two documents?---Three I think, two, yes two.

Yes. Looking at the second document, the Parkview profile - - -?---Yes.

40 - - - is it this or any other document that you were referring to before as being a version of the Parkview profile that came from Seba?---This is, this is the document.

THE COMMISSIONER: This is the document that what?

MS HOGAN-DORAN: That came from Seba.

MR KORN: There's a version of this document in the bundle.

MS HOGAN-DORAN: There is.

THE COMMISSIONER: It came from Seba.

MS HOGAN-DORAN: Yes. This version was attached to this email and in your evidence when you said you received a version from Seba - - -?---Yes.

- - - is this this version?---Yes.

Could the witness be shown - - -

10 THE COMMISSIONER: So are you tendering that?

MS HOGAN-DORAN: Yes.

THE COMMISSIONER: The, Exhibit 30 is an email from Mr Gander to Mr David attaching three documents including a version of the Parkview profile.

20 **#EXHIBIT 30 - EMAIL FROM SEBA TO RODRIC DAVID DATED 5 JULY 2007**

MS HOGAN-DORAN: And Mr David would you look at page 382 of the bundle?---Yes.

Sorry, and would you go over to page, yes, is that a document that you produced to this Commission, as best you understand?---I believe so, yes.

30 And it has handwriting on it, notation of 29 June, '07. Do you know whose handwriting that is?---That is my handwriting.

THE COMMISSIONER: Where is that? Page?

MS HOGAN-DORAN: There should be a handwritten notation on my copy.

THE COMMISSIONER: On page?

40 MS HOGAN-DORAN: On the top of page 382, it's quite faint. Can you see it, Commissioner?

THE COMMISSIONER: Yes.

MS HOGAN-DORAN: And do you have occasion to recall why you made that notation?---No, I do not.

Do you recall in your evidence you told the Commission that at some point the board of Parkview, that is the board of Parkview Ceberus Pty Limited, made a decision not to participate in the proposed Seba joint venture?
---That's correct.

And do you remember attending a meeting of the board?---I remember a couple of board meetings where the item was discussed, yes.

10 And, Mr Commissioner (not transcribable) And are those the minutes of that meeting?---Minutes of 31 July, '07.

Right. And looking at those minutes, are they a true and accurate, they're an extract of the meeting but are they, insofar as the matters that are recording in those minute, is that a true and accurate record of the, those matters there recorded?---It is, yes.

I tender that.

20 THE COMMISSIONER: Yes. Exhibit 31 is an extract of the minutes of a board meeting of Parkview Ceberus Pty Limited of 31 July, 2007.

#EXHIBIT 31 - MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS OF PARKVIEW CERBERUS HELD ON 31 JULY 2007

30 MS HOGAN-DORAN: Could the witness be shown page 372. Mr David, can you tell the Commission as best you can when you believe you first received this document?---I received it on 18 June.

Do you, can you tell the Commission approximately about what time?
---Around about midday.

And what's the basis of that estimation?---It's when I've saved it to my files.

40 Can you recall, do you have an actual recollection of what you were doing earlier that day?---In part I do, yes. I had a meeting that morning with my father and I then did some interviews with some development personnel. And then I did employment reviews. And then I did a profile or an information profile for Seba in regards to a project that they showed interest in that we were tendering on for development in Main Beach, Queensland.

When you received this document what did you do with it?---This document?

Yes, the, when I say this document I say page 372?---I read it in detail.

When you read it did you see on the first page it sets out under background a number of matters?---It records a meeting we had I believe on or around 7 June.

And when you refer to a meeting is that the meeting referred in the first part of the first paragraph?---Yes.

Were there any other persons at that meeting?---Those recorded.

10 On the second page there is a diagram, are you able to inform the Commission as to whether instructions were given in respect of the creation of this illustration or this diagram?---Well you should go back to the first page, MGI have set out a review of the discussions and instructions provided in a meeting on 7 June, as they understood them to be. That's why they've listed the area called background. Okay. They have then diagrammatically represented their understanding with that meeting. They then go in and provide a summary of advice as to both tax and structural advice as to the items in the background.

20 Now just pausing there, (not transcribable) that it was, page 2 represents what MGI understood were the instructions of that meeting?---Yeah.

Did you have any reason to dispute or, the diagram as set out on page 2?
---No, that's how it was instructed to them at the meeting of 7 June.

30 Could you explain to the Commission the proposed, the way in which the, what it is intend to reflect in respect of the, each of the percentage shareholdings in the company known as Parkview UAE Holdings LLC? And just before you answer that question, is Parkview UAE Holdings LLC, what is that or what was that intended to be?---This, the letter is, is an advice of structure and taxation purposes from MGI. Parkview Holdings is, is referenced - - -

THE COMMISSIONER: Was it an existing company or was it - - -?---No, no, no.

40 - - - a company intended to be formed?---It's a, it's a proposed company by MGI. MGI are the ones that are proposing it so that it could adequately deal with the instructions as to who would be the shareholders of that company.

MS HOGAN-DORAN: And you say that at the meeting, so those instructions as to who would be the shareholders of that company, were those instructions given?---The, I mean, I think I need to probably explain it a top down, or go, or bottom up, either or. You can see the proposed joint venture with Seba. You can see Seba marked down the bottom, you can see Parkview - - -

MR BEECH-JONES: I object. Could the witness be asked to answer the question?---Well I don't understand - - -

MR BEECH-JONES: (not transcribable)

MS HOGAN-DORAN: Mr David - - -?---Yes.

I'll just take it a step at a time?---Okay.

10 On 7 June, to the best of your recollection were instructions given as to the, the percentage shareholdings, that is the shareholdings in the proposed company Parkview UAE Holdings LLC?---Yes.

And does page 2 - - -

THE COMMISSIONER: Who gave the instructions?

MS HOGAN-DORAN: Yes, who gave those instructions?---It would have been me at the meeting.

20

And was there, when you gave those instructions was there any dispute raised in respect of them, if there was any correction made?---No, there was not.

Looking at page 2, does page 2 then accurately reflect the instructions that you gave?---Yes.

30 Right. In respect of the instructions that you gave, would you tell the Commission the, the, were your instructions given at the meeting on 7 June as to who or what were the UAE resident individual and the Australian resident company that are identified as being this five per cent shareholding?

THE COMMISSIONER: So are you saying did Mr David instruct MGI Boyd as to who was to be the UAE resident individual, is that the question?

MS HOGAN-DORAN: Thank you, Commissioner.

THE COMMISSIONER: Is it?

40

MS HOGAN-DORAN: Yes.

THE COMMISSIONER: And do you, well, what's the answer to that question?---Yes.

MS HOGAN-DORAN: Right. And what was, what do, what was that instruction?---The Australian resident company is to represent the interests

of Clint Willoughby and the UAE resident individual is to represent the interests of Andrew Kelly.

And what was the basis if that instruction?

THE COMMISSIONER: What do you mean?

10 MS HOGAN-DORAN: What was, what was the first occasion on which, sorry, what was the first occasion, was that the first occasion, that is on 7 June, in which you made a statement or gave an instruction that it was proposed that there be a five per cent shareholding for Mr Kelly and a five per cent shareholding for Mr Willoughby's interests?

THE COMMISSIONER: I don't think that that is what he said. He said that the UAE resident individual was to represent the interests of Mr Kelly and the Australian resident company was to represent the interests of Mr Willoughby.

20 MS HOGAN-DORAN: Commissioner, I may be in error but I think, and I may be in error but I thought Mr David only used the language represent in respect of the Australian resident company.

THE COMMISSIONER: Right.

MS HOGAN-DORAN: He used them both, I am in error. I apologise. Could you tell the Commissioner what was the source or the reason why you gave that instruction on 7 June?

30 MR BEECH-JONES: Well, I object if this is going to be some other discussion of Mr Kelly 'cause that, all that was put to him was, I'm sorry, there were no details of any other meetings that were put to Mr Kelly on either time he came into the witness box to say it was suggested to you you were going to get five per cent or you had a discussion where Mr David was going to get five per cent. That's where this is leading.

THE COMMISSIONER: What's your answer to that?

40 MS HOGAN-DORAN: Well, it's no dispute that Mr Kelly wasn't, wasn't at the meeting on 7 June, but I did put, either I had put it to - - -

THE COMMISSIONER: But you're asking a different question. The idea, the question that you're asking appears to me to be intended to elicit something which is, a discussion with Mr Kelly where it was agreed that he was to get some form of interest representing five per cent of the company.

MS HOGAN-DORAN: Well, I'll, I'll cut it short and I'll put that and I imagine Mr Beech-Jones would make the objection and he will.

THE COMMISSIONER: Well, I mean, if that's, if you're going to put that, do you say that that was put to Mr Kelly?

MS HOGAN-DORAN: I had thought I had put to Mr Kelly that he was, he was aware of, he, he, he was aware at a subsequent meeting of this structure and that he would have an equity participation, that it was proposed and that (not transcribable) proposed in the UAE.

10 THE COMMISSIONER: Yes, I think you did do that.

MS HOGAN-DORAN: Yes.

THE COMMISSIONER: But you did not, as far as I can recall, put to him that before 7 June he had a discussion with anybody which resulted in, in a promise being made to him that he would get five per cent interest in the company.

MS HOGAN-DORAN: I, I can't put it as high as it was.

20 THE COMMISSIONER: Sorry?

MS HOGAN-DORAN: I don't have those instructions.

THE COMMISSIONER: Well, I thought that the - - -

MS HOGAN-DORAN: I'm trying to go backwards, perhaps I ought to have gone forward.

30 THE COMMISSIONER: I thought that the question that you asked was intended to elicit that. Are you, if you identify the question by reference to time it might be helpful.

MS HOGAN-DORAN: It might be helpful.

Mr David, at any time prior to 7 June, 2007 did you have a discussion with Mr Kelly concerning a proposal that he have an equity participation in the ownership structure for the Seba joint venture?---Yes.

40 When did - - -?---The instructions - - -

When did you have that discussion?---In the UAE.

And you say in the UAE, when in the UAE?---To the best of my recollection the night before we departed.

THE COMMISSIONER: On the first trip?---On the first trip, yes.

MS HOGAN-DORAN: And you departed on 31 May so from that do we deduce 30 May?---Yes.

And doing the best that you can - so were there other, were there other persons present at that discussion?---I believe the whole group was there.

In that discussion was there any specific discussion in respect of or concerning the allocation of participation or the - - -?---There was, yes.

10 And could you describe that to the Commissioner?---If you look at the MOU with the documents - - -

THE COMMISSIONER: No, just describe the discussion?---The requirement to capitalise the company was believed at the time to have been coming from the local partner and so because it's an intellectually capital - intellectual capital that's required for this business it wasn't balance sheet capital, it was used to remunerate those that would - - -

20 MR BEECH-JONES: I object, Commissioner. It's not an answer to the question, a question (not transcribable) in any way was said to be at that meeting but we're in that territory I suppose but on these types of bases the witness is not at least answering that question.

THE COMMISSIONER: Yes, Ms Hogan-Doran.

MS HOGAN-DORAN: Mr, Mr - - -

30 THE COMMISSIONER: I do not recall - I think this being put, I mean my memory may be faulty, I acknowledge that but I just don't recall, was it put?

MS HOGAN-DORAN: It's only been put as if there were, that he understood that - I can't remember, I can't remember what I put to Mr Kelly yesterday afternoon.

40 MR BEECH-JONES: I assist in that, Commissioner, which takes a bit of it away. What was put, the (not transcribable) that was put to Mr Kelly, Mr Kelly this morning was that those equity participation of you in that proposed company was discussed in Abu Dhabi in your presence, that's at page 574 - - -

THE COMMISSIONER: Yes, I remember that.

MR BEECH-JONES: - - - line 21 which is bit higher than what I recall but this is well beyond that but I've made my speeches so I'll sit down.

THE COMMISSIONER: Well, I think in fairness, Ms Hogan-Doran, that's as far as you can go and not only in fairness, the fact is that I will not attach any weight to anything beyond that so you may consider that you put that

already or you may not, if you do not you may put what Mr Beech-Jones has noted was put to Mr Kelly again in some form, it's entirely up to you.

MS HOGAN-DORAN: Mr David, in respect of the diagram on page 4, was that subsequently - sorry, was that the subject of a discussion at a meeting subsequent to the meeting on 7 June?---Yes.

And to the best of your recollection what meeting was that?---The meeting of 18 June.

10

And at that meeting what was decided in respect of the corporate structure of having - in respect of the proposed companies to be incorporated in the UAE?---At that meeting - - -

MR BEECH-JONES: I object. That - twofold, I don't know again if this meant to be a meeting involving Mr Kelly.

THE COMMISSIONER: Well, it's the one referred to in the letter, Mr Beech-Jones. It's the one referred to at page - - -

20

MS HOGAN-DORAN: No.

THE COMMISSIONER: It's not?

MS HOGAN-DORAN: At the meeting on 18 June?

THE COMMISSIONER: That's correct, I'm sorry.

MR BEECH-JONES: I don't think it was put to any - to Mr Kelly about what was decided and equally the form of the - and I have objections to the form generally make it too much - but in this context a conclusion about what was decided that, in my submission, would be of little weight.

30

THE COMMISSIONER: Ms Hogan-Doran.

MS HOGAN-DORAN: What did you understand, Mr David, was the effect of the advice received by MGI, received from MGI Boyd in respect of - - -

THE COMMISSIONER: I'm not sure how that's relevant. I don't think it's relevant unless you can tell me why it's relevant but I - Mr David's understanding on its own is not relevant.

40

MS HOGAN-DORAN: Mr David, just put that to one side. You gave some evidence about having had two opportunities brought to you by Mr Charif Kazal, one of which you identified as a Tower Estate project and the other as a Wolgan Valley project, can you remember that?---I remember those projects, yes.

In your evidence you identified that - your belief that you had sent him a letter confirming how a success fee would be quantified?

THE COMMISSIONER: For what?---For the Tower Estate.

MS HOGAN-DORAN: In respect of the Tower Estate.

THE COMMISSIONER: Why is that relevant?

10 MS HOGAN-DORAN: I just wanted to - - -

THE COMMISSIONER: I won't take it.

MS HOGAN-DORAN: It's relevant in this way - - -

THE COMMISSIONER: I mean, could you tell me how it's relevant I - - -

MS HOGAN-DORAN: Yes. It's relevant in two ways, Commissioner.
The first is, the first is that I apprehend there'll be a submission made by
20 Counsel Assisting that - concerning a statement - evidence given by each of
the principal witnesses looking to corroborative contemporaneous
documentary records to support statements they made and the second aspect
of that is that Mr David's dealings with Mr Kazal, Mr Charif Kazal in the
period prior to the Seba venture has relevance because that is the
characterisation or the nature of those dealings because as it's advanced or
as I understand it's advanced by Mr Korn, Mr Korn puts it that it was
merely a consulting arrangement and it was merely an introduction to
persons and that it was not quantified or would not be quantified in anything
30 other than a, than a consulting fee.

THE COMMISSIONER: I understand that but how does an arrangement
involving a success fee on an entirely separate transaction establish anything
about a subsequent transaction?

MS HOGAN-DORAN: It only goes to establishing the nature of their
relationship prior to May 2007.

THE COMMISSIONER: I think I will allow it then, I'm taking the line of
least resistance.

40 MS HOGAN-DORAN: Well, Commissioner, could I indicate in this way,
I'm proceeding in a way that is an awkward way - - -

THE COMMISSIONER: I understand, you've made your point, I said I'd
allow it, Ms Hogan-Doran, let's just put it.

MS HOGAN-DORAN: Excuse me, Madam Associate. Commissioner, I know that this is a slightly painstaking way that I'm (not transcribable) the documents - - -

THE COMMISSIONER: No, no, I - - -

MS HOGAN-DORAN: - - - but it is difficult because Mr, Mr, Mr David has not been called, is not a party per se. His evidence was led by Counsel Assisting in a way that there are matters that I would have otherwise taken
10 with Mr David in chief and so I am having to deal with them in the way that I am attempting to.

THE COMMISSIONER: I have no complaint, no criticism. So the letter dated 26 October, 2006 from David to Mr Charif Kazal is Exhibit 32. I think that, I better make that Exhibit 33, because logically the other one comes first. Exhibit 32 is the letter dated 16 October.

**#EXHIBIT 32 - LETTER FROM MR RODRIC DAVID TO MR
20 CHARIF KAZAL DATED 26 OCTOBER 2008**

MS HOGAN-DORAN: Commissioner - - -

THE COMMISSIONER: Is that right?

MS HOGAN-DORAN: Yes.

THE COMMISSIONER: I don't know what, what is there on there on 16
30 October that's relevant?

MS HOGAN-DORAN: It's only - - -

THE COMMISSIONER: And I haven't read these, I'm taking you at face value, I can see a sales commission referred to in Exhibit 32. I don't see anything at the moment, and I don't pretend to have read it carefully, the letter of 16 October, which deals with a success fee.

MS HOGAN-DORAN: Commissioner, could I oppress the success fee?
40

THE COMMISSIONER: I beg your pardon?

MS HOGAN-DORAN: Oppress the, the one of, with (not transcribable)

THE COMMISSIONER: Well I've admitted, I've admitted the letter of 26 October as Exhibit 33.

MS HOGAN-DORAN: I don't, I don't press the second one.

THE COMMISSIONER: All right. Exhibit 33 will have its number changed to Exhibit 32.

MS HOGAN-DORAN: Commissioner, could I just pause and seek your leave that in a number of the documents that I had proposed to put to Mr David are merely matters of identification and it would be, if it was convenient to you, I could seek your leave to tender them as a bundle of documents simply as business records at the conclusion, subject to any (not
10 transcribable) you have on relevance.

THE COMMISSIONER: I have no objection to that course of conduct provided the other parties see them and don't have any objection to that - - -

MS HOGAN-DORAN: Yes.

THE COMMISSIONER: - - - to that course of conduct. So we're obviously not going to finish today, so I, can you please arrange for that to be done before the end of tomorrow so that we know how it's going.
20

MS HOGAN-DORAN: Yes.

THE COMMISSIONER: Because I'm sure nobody wants to compel everyone to reassemble again at a later date. So if that's to be done, please do it before the end of business tomorrow.

MS HOGAN-DORAN: Mr David, in your evidence you answered Mr Korn in respect of meetings you had with Karl Kazal after the date on which he ceased to be a shareholder for KTC. Do you recall that?---Yes, I do.
30

I'm going to show you a bundle of documents which I'll ask my friends to deal with as a group, but, and I don't anticipate it to be disputed.

THE COMMISSIONER: Well can I not deal with that as part of this bundle or do you want to ask particular questions about it then Ms Hogan-Doran?

MS HOGAN-DORAN: Yes.

THE COMMISSIONER: I think we have at least one witness who has been waiting to give evidence since 10 o'clock this morning and I would rather
40 he finished his evidence today. I'm just trying to speed things along.

MS HOGAN-DORAN: I'm sorry, it's just painstaking moving through the different numbers of documents and providing them to the Commission.

THE COMMISSIONER: Well what about, the course of conduct that you suggested sounds amicably sensible, is that not a way of doing it?

MS HOGAN-DORAN: Yes. I think I can deal with a number of those, a number of those, a number of those issues in that way. But I just ask Mr David in respect of, you used a couple of questions ago in answer to one of my questions the phrase, "Intellectual capital." Could you just describe or explain to the Commissioner what you mean by that?

THE COMMISSIONER: Do you mean know-how?---Yes.

10 MS HOGAN-DORAN: And in respect of the meeting in January 2008 being described as a due diligence trip- - -?---Yes.

- - -what, what did you mean to just, mean to confer by that?---Due diligence is the detailed investigation of all facets before decisions are made as to whether to proceed or not.

And how was that different to the first trip if at all?---The first trip's an exploration, it's, you know.

20 THE COMMISSIONER: There was no due diligence on the first one? ---Nothing.

MS HOGAN-DORAN: And understanding that the second trip was a due diligence trip- - -?---Yes.

- - -what effect if any did that have on the make-up of the participants selected by you to attend that trip?---Considered thought was put to who should attend, what structure should be put around it, the length of time it would take, the expense behind it.

30 THE COMMISSIONER: Did you take the experts with you who would be involved in the due diligence?---Yes.

MS HOGAN-DORAN: And who were, one of those experts are we to understand was Mr Frawley?---Yes.

Right. And another one of those are we to understand was Mr Kelly?---Yes.

40 Both Mr Kelly and Mr Frawley are described in the documents as being experts in facilities management?---That's correct, they are.

Why did you take two?---I didn't have the faith in Andrew Kelly's capabilities to be the entrepreneurial person to be the leader of the business.

But why did Mr Kelly come as well?---Charif Kazal and he were very close and Charif was pushing that Andrew Kelly should be the man for the job.

Commissioner, I think in respect of all of the other, all of the other bundles of documents that we have we can proceed in the way.

THE COMMISSIONER: All right. Ms Hogan-Doran, I know that you've been rushed here. If there's a problem we'll, you can recall Mr David and (not transcribable)

MS HOGAN-DORAN: Thank you, Commissioner.

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

10 MR NEWLINDS: No, thank you.

THE COMMISSIONER: You are excused unless Ms Hogan-Doran wants you to return?---Thank you.

THE WITNESS WITHDREW

[3.08pm]

20 THE COMMISSIONER: Okay. Mr Newlinds?

MR NEWLINDS: May I call Karl Kazal, please.

THE COMMISSIONER: Did you, do you give your evidence under oath, Mr Kazal, or do you affirm the truth of your evidence?

MR KAZAL: I'll take an affirmation.

THE COMMISSIONER: Would you administer the affirmation.

<KARL KAZAL, affirmed

[3.09pm]

THE COMMISSIONER: Yes. The Section 38 order previous made applicable to Mr Kazal's evidence applies again?---Yes.

SECTION 38 ORDER PREVIOUS MADE APPLICABLE TO MR KAZAL'S EVIDENCE APPLIES AGAIN

10

THE COMMISSIONER: Yes. Would you sit down, Mr Kazal.

Yes Mr Newlinds.

MR NEWLINDS: Mr Kazal, remember last Wednesday I think it was I was asking you some questions about the company KTC.---Yes.

20 I think you agreed those initials as you understood it were intended to stand for Karl, Tony and Charif.---Yes.

Now that company as at September 2008 was a company that, as I understand your evidence, you did not want to have anything to do with?---Yes.

And you had told Charif that?---Yes.

And you had told Tony that?---Yes.

30 In clear and unequivocal terms?---Yes.

You know that as a matter of fact – somehow some shares in that company were issued to you.---Yes, at the time.

How did you find out about that?---They told me when I knew about it, they told me that they included me in the company and there was shares issued.

40 And is, I recall your evidence tell me if I've got this wrong, you immediately told them that that was something they should not have done - - -?---Yes.

- - -that you did not want any shares - - -?---Yes.

- - -had never wanted any shares - - -?---Yes.

- - -and you told them to do whatever had to be done to get those shares out of your name?---That's right.

Now are you sure about that evidence?---Yes.

Now do you think that you might have executed or signed some documents in relation to that company in September 2008?---I'm not sure if I did.

Well, consistent with the evidence you're giving to this Commission - - -?---Yes.

10 - - -you would not have consciously signed any document that had anything to do with that company would you?---Not to my knowledge, no.

No.

THE COMMISSIONER: Well, not to your knowledge, you wouldn't have signed any document because you wanted to distance yourself from the company, as I understood you – you wanted to have nothing to do with it?---That's right.

20 MR NEWLINDS: And your experience as at 2008, you had lots of experience in the way companies work?---Yes.

And you understood what things such as shares transfer forms, company minutes, company registers were all about?---Yes.

You had no doubt that you were able to read such documents and understand them?---Words to that affect, I wasn't interested so that therefore I didn't pay any attention to anything to do with that company or that arrangement.

30 All right. But any document that had as some part of it's title the name of that company you would have immediately taken no notice of?---To the great honest I don't, I don't recall that documents were brought for me to sign to get me out of the company or I just - - -

No. One, one would infer or expect that in the ordinary way to get you out of the company you probably did have to sign a document transferring your share to someone else.---Possibly.

40 You don't remember doing that? I'm more focusing on whether you might have signed any documents that were required to be signed so as to get shares into your name. Do you remember signing any such document?---No, I don't recall.

And if you were to be believed today - - -?---Yes.

- - -as to your state of mind in relation to that company you would not have signed any such documents. Correct?---Possibly.

Well, what do you mean possibly?---Honestly, I can't recall because at the time they were talking about something, they asked me, I can't remember exactly the effect - - -

Well, just focus on (not transcribable) - - -?---Yes, I am, I am focusing.

My question is this, if you are telling the truth today - - -?---Yes.

10 - - -about what your state of mind was in relation to that company you would not have signed any documents that had the affect of transferring shares in that company into your name, would you?---I shouldn't.

You shouldn't have.---Yes, I shouldn't have.

Well, have a look at this document – now the document is dated 4 September 2008, do you see that?---Yes.

Do you recognise the signature of the person described as transferor?---Yes.

20 All right. That's transferor, that's the fist signature we see. Do you recognise that signature, presumably it's Andrea Helsuit the transferor? ---I don't recall seeing this document.

No, well, I didn't ask you that did I?---No, I didn't.

The question was, do you recognise the signature over the word transferor?--No.

30 And do you recognise the signature over the name transferee?---Yes.

That's your signature isn't it? Isn't it?---I can't recall signing this document.

Did I ask you if you recall signing that document?---No.

What I asked you was do you agree with me that that is your signature over the word transferee. You understand that don't you?---Yes, yes, I do.

40 Now would you please answer that question?---It looks like my signature.

It looks exactly like your signature doesn't it?---Do you want me to sign something? It looks like my signature.

All right. Do you recognise the signature of the witness?---No.

Now just look at the top of the document you can read the letters KTC can't you?---Yes.

And you have no doubt that if you looked at this document in 2008 the thing that you would immediately notice was that it was a document that had something to do with the company KTC?---Ah hmm.

And if you were to be believed you would have stopped at that point and not done anything in relation to the document. Correct?

THE COMMISSIONER: Just answer the question. It doesn't help you to go on reading?---Yes, yes, yes, sure.

10

MR NEWLINDS: That's right isn't it? You would have seen that this is KTC, that's the company I don't want anything to do with - - -?---Yeah.

- - - and I'm not going to sign this document whatever it is?---Yeah.

That's what you would have done?---Yeah.

If you're telling the truth today?---I am telling the truth.

20

All right. And if you'd read the document further you would have worked out very quickly that what it was was a document that if signed by you would have the affect of you accepting the transfer of one share in the company into your name wouldn't you?---Yes.

Right. You wouldn't need to see a lawyer or someone to explain that to you, it's obvious to you isn't it?---It is obvious.

And it would have been obvious to you in 2008?---Yes.

30

Now do you accept this proposition, unless the signature purporting to be yours on that document is a forgery, the fact that you signed this document is wholly inconsistent with the evidence you've given to this Commission to the affect that as at September 2008 you didn't want to have anything to do with the company and certainly didn't want to have any shares in it. Do you accept that?---Yes.

Now of course it's possible that the signature is a forgery isn't it?
---Possible.

40

All right. Does it look like a forgery to you?---It certainly does.

It certainly does do you say. I was going to suggest to you it certainly does not. We've got plenty of examples of your signature throughout the papers, do you want to have a look at a few of them?---Yes, please, yeah.

Are you familiar with your own signature?---Yeah.

Now I'll just show you Exhibit 28, open at Annexure D, which is a copy of a cheque. Does that look like your signature on the cheque? It's Annexure D to Exhibit 28?---That's right.

That is your signature?---Yeah.

They're exactly aren't they?---No they're not the same.

I'm sorry?---They are not the same. They're not exactly the same.

10

All right.

THE COMMISSIONER: Do you deny signing this share transfer form Mr Kazal?---Yeah, I can't recall signing this share - - -

Do you deny signing it?---Yes, yes.

MR NEWLINDS: Are you sure you didn't sign it?---Yeah.

20

And what happened is that some time after signing it you did have a change in heart and you decided you didn't want shares at that point?---They formed the company at the time, they were talking about the company as I explained. I said I didn't have any, want anything to do with it.

THE COMMISSIONER: Do you, do you know the name of this, the person who witnesses the signatory of the transferee of the document?---No.

MR NEWLINDS: Can I show you another example of your signature?
---Sure.

30

This is one of the many leases that you've signed on behalf of Kazal companies. Just have a look at that one?---Ah hmm.

You've now got three signatures before you, the cheque and the one I'm showing you now you accept are your signature, don't you?---Yes.

Are you able to identify any particular difference- - -?---Yes (not transcribable)

40

- - -that makes you think that the one on the share transfer form is not your signature?---If you have a look at the K, I normally sign with the K one line down. This has two lines K. I never sign with two, two lines K. If you have (not transcribable) it has, sorry, it has the same one line K down and that's my signature.

Okay. Can I tender just the one page that I showed Mr Kazal a moment ago. It's a- - -

THE COMMISSIONER: The share transfer form is Exhibit 33.

#EXHIBIT 33 – SHARE TRANSFER FORM

MR NEWLINDS: And the other document I'd like to tender is the one-page execution page from the lease. I don't know which lease it is but it doesn't matter.

10

MR KORN: It's the 100 George Street lease.

MR NEWLINDS: Mr Kazal, can I finish this topic by asking you this?

THE COMMISSIONER: But is it a, sorry, Mr Newlinds.

MR NEWLINDS: I'm so sorry, Your Honour.

20

THE COMMISSIONER: Exhibit 34 is the execution page for the lease of 100 George Street.

#EXHIBIT 34 - EXECUTION PAGE FOR THE LEASE OF 100 GEORGE STREET

MR NEWLINDS: Is your explanation for the share transfer form nothing more or nothing, or nothing less than the signature of the transferee is a forgery of your signature?---I believe so.

30

THE COMMISSIONER: You have no other explanation for your signature being there?---No, I don't recall seeing this document, Mr Commissioner.

MR NEWLINDS: Right. Yes. Thank you.

THE COMMISSIONER: Yes. Mr Beech-Jones, do you have any questions?

40

MR BEECH-JONES: No, Commissioner.

THE COMMISSIONER: Ms Hogan-Doran, do you have any questions?

MS HOGAN-DORAN: Commissioner, I'm assuming it's restricted in respect of- - -

THE COMMISSIONER: Yes.

MS HOGAN-DORAN: Yes. No.

THE COMMISSIONER: Mr Korn?

MR KORN: No, thank you. Thank you, Commissioner.

THE COMMISSIONER: Yes. You may be excused, Mr- -?---Thank you.

THE WITNESS EXCUSED

[3.22pm]

10

MR NEWLINDS: I'll call Jimmy Kazal.

THE COMMISSIONER: Mr Korn, are you representing Mr Jimmy Kazal?

MR KORN: Yes, Your Honour.

THE COMMISSIONER: He's 10 minutes away from here. I thought he was going to be ready for us when we were ready for him?

20

MR KORN: Well, so did I. So maybe- - -

THE COMMISSIONER: Well, we can do nothing but adjourn.

MR NEWLINDS: Or, yes. I was going to suggest we could do Charif but it's probably best to (not transcribable)

THE COMMISSIONER: Yes. We'll wait for him. We'll adjourn.

30

SHORT ADJOURNMENT

[3.24pm]

MR KORN: Mr Commissioner, may I just say this, Mr Kazal has per my instructions been sitting in AWT since midday. I didn't realise that my instructing solicitor hadn't returned to court after lunch, I knew he was away for a little while. I was expecting that he would just give the progress of the matter. I didn't look around to see he wasn't here.

40 THE COMMISSIONER: Yes. Do you want a section 38 order?

MR KORN: Yes, please, Commissioner.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Kazal 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 KAZAL 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: Mr Kazal, do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

20 MR KAZAL: I give my evidence.

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

MR KAZAL: The truth, thank you.

MR KORN: His English is not good, your Honour.

THE COMMISSIONER: Well - - -

30 MR KAZAL: Sorry, sorry, I don't understand.

THE COMMISSIONER: Just administer the affirmation.

<JIMMY KAZAL, affirmed

[3.37pm]

THE COMMISSIONER: Yes, please sit down?---Thanks.

MR NEWLINDS: Mr Kazal, what is your full name?---Jimmy Kazal.

And can you give us an address where we can contact you?---Number
.....,,,.....

10

Should we suppress that address?

THE COMMISSIONER: Yes. There will be a suppression order in relation to that address.

THERE WILL BE A SUPPRESSION ORDER IN RELATION TO MR J KAZAL'S ADDRESS

20

MR NEWLINDS: And you are, you are the brother of, amongst other people, Charif, Tony and Karl Kazal?---Yes.

I wonder if the witness, if we could all be played Exhibit 12 please, Commissioner.

Can I just ask you, Mr Kazal, to watch this tape.

THE COMMISSIONER: 12?

30

MR NEWLINDS: Oh, Exhibit 12, is it?

THE COMMISSIONER: No. What, what did - it's, sorry, yes, you're quite right, we've advanced so quickly today.

MR NEWLINDS: This is, this perhaps not a video, Mr Kazal, I think these days they're called DVDs, can we just watch it through. It's on your own screen too if you - - -

40

CCTV FOOTAGE PLAYED

[3.39pm]

MR NEWLINDS: Now can I just ask you some questions about the pictures we just saw on Exhibit 12?---Yes.

Firstly, you are the man that we see in those pictures, you start off with the bag with the strap over your shoulder?---That's right.

The fellow who you are speaking to early on in the video is your brother, Charif?---Yes, that's right.

The man that you and Charif are talking to in the first short segment of the video is the solicitor acting then for Charif and Kazal and I think now for you?---Mr Korn you mean?

10 No, early on there was a solicitor you were speaking to, all right, can you tell us, and the man who at the start of the film is sitting over in the corner and then walks over into the room and later comes out of the room with Charif, that man's name is Michael Hammond. Do you know that?---I don't know him.

Had you ever met him before?---No.

All right. And you know that that video depicts what happened outside this Commission hearing room last Friday don't you?---Yes, I know.

20 Now what we can see in the video is at the start you and Charif are having a chat?---I was waiting for Mr Korn, yeah, that's right.

And what were you and, what were you and Charif talking about?---Just waiting for Mr Korn (not transcribable)

What were you talking about?---I don't remember.

30 Did it have anything to do with speaking to Mr Hammond?---Never, I don't Mr Hammond at all.

Did Charif point out to you Mr Hammond on that occasion and tell you something about him?---Not at all.

Are you sure?---Yes, perfectly.

40 Now there's a point early on again the video where Charif and the other person go back inside through the security gate and you follow them?---I, I surprise why he went there, I really surprise why he went there for the room, but usually, I don't know, I don't know this guy.

Just stick with me, there's a point and we can show it again if you get confused, there's a point when Charif and one other go inside and you follow. And perhaps if we can just play it again and I'll stop it just after that portion.

THE COMMISSIONER: Start it again.

MR NEWLINDS: So from the start please. All right. You're following Charif through that security door?---No.

What are you doing?---I was just standing aside.

What are you doing when you're walking - - -?---That was, going after my brother, yeah.

That's right?---It's just because I'm with him.

10

All right. Okay. Well let's just play it on a bit, please. What we see next I think is Charif comes out first, just wait, that's your brother Charif isn't it? ---Yeah.

And you come out?---Yeah.

Now, just pause it there. Did you, do you see in the film that you have beckoned the man sitting over in the corner to come over towards you? ---No.

20

Right. Can we just reverse it about three seconds and play that bit again, please and keep it in reverse? I don't think reverse is the right word.

CCTV FOOTAGE PLAYED

[3.45pm]

THE COMMISSIONER: Yes, watch carefully.

30 MR NEWLINDS: There. Do you see that?---No, I say hello or something, I don't know.

Oh. Just, can we just do, can we just do it one more time? Just have a look? ---I don't- - -

CCTV FOOTAGE PLAYED

[3.45pm]

40 MR NEWLINDS: Just have a look. Right. Now what are you doing, what do you say you're doing there?---I didn't, I don't realise what I did.

No, what do you say. You can see you do something with your arm?---I didn't said anything (not transcribable)

THE COMMISSIONER: What were you doing, Mr Kazal?---I don't, I don't remember, what I was doing was walking outside.

Well, one can see what you were doing, you were calling that man- - -?
---No, no.

- - -telling him to come to you?---No.

What were you doing?---I was just walking outside.

And what were you doing with your hand?---I don't, maybe my bags, my
jacket, 'cause I always grab my jacket, my hand- - -

10

THE COMMISSIONER: Just play it again.

MR NEWLINDS: We'll have another look at it. Have a look?---Yeah.

CCTV FOOTAGE PLAYED

[3.46pm]

MR NEWLINDS: There. Now, what do you say you're doing?---(NO
20 AUDIBLE REPLY)

You've suggested you might have been waving to him, but that's not true, is
it, because you say you didn't know him?---I don't know him, no.

Right. So you weren't waving to him, were you?---I don't remember what
one, which movement I've done.

Well, let's accept you don't remember. Just have a look?---Yeah, I look.

30 What are you doing?---Maybe I'm pulling that jacket 'cause I had a
handbag, I always walk with my handbag, I'm not, definitely, yeah,
definitely.

THE COMMISSIONER: You're not pulling a handbag there. You can see
that. Just tell the truth, Mr Kazal?---The truth, I don't know him and I
didn't, you can, I don't even say a word to him, I don't know him, honest. I
had the handbag, I move with my handbag because all the time (not
transcribable) but that's what happened (not transcribable) different
movement.

40

MR NEWLINDS: Okay. Well, let's just go on. Let's have a look at it one
more time. All right.

CCTV FOOTAGE PLAYED

[3.47pm]

MR NEWLINDS: So you say that's you somehow adjusting your bag, do you?---Adjusting, if you want to see that point maybe you can look at different view of me on the video, maybe you'll realise I'm doing the same things definitely, 'cause the bag's always, I can, definitely I'm doing nothing and I don't know anything about this guy.

I want to suggest to you that what you are doing is looking directly at the man over in the corner and using your hand, making a gesture inviting him to come over towards you?---No, no.

10

Do you deny that?---No, yeah, I deny it. Well, I'm not denying but I didn't do it, I didn't.

Do you accept that that's what it look like you're doing?---(not transcribable) but (not transcribable) haven't done, this is not the meaning at all.

That is what it looks like, isn't it?---Mmm, I don't know.

20

You don't know?---I don't know.

Do you want another look?---Different, I mean, I don't know.

You don't know if that's what it looks like?---It looks like it but I didn't mean, I didn't- - -

It does look like it though?---It looks, but I haven't done anything like that.

30

Now, can we play on, just keep it going this time, Ron.

CCTV FOOTAGE PLAYED

[3.48pm]

MR NEWLINDS: Now, do you see you're now standing next to your brother, Charif. Correct?---Yes.

And you're both looking at the man over at the corner, aren't you?---No, we're looking straight up, not to him.

40

Okay. You're both looking straight up, are you?---We're standing.

Sorry?---We're looking just down, we're standing, we're not, we're not looking for any vision. We're finishing at the court.

(not transcribable) two or three seconds.

CCTV FOOTAGE PLAYED

[3.48pm]

MR NEWLINDS: Now, just have a look at this. Your brother then beckons the man over, doesn't he?---Yes, my brother call him now, that's right.

All right. Now- -?---Yes, this is when (not transcribable) my brother.

All right. Now, let's run the tape, please.

10

CCTV FOOTAGE PLAYED

[3.49pm]

MR NEWLINDS: Now, what are you doing there, you're having a look around, are you?---Yeah, there's people walking behind me, I want to stay away for people pass.

And Charif walks into the room?---Yes, he's, I don't know what he was doing.

20

You didn't know, you've got no idea what he's doing?---No, not no idea at all.

CCTV FOOTAGE PLAYED

[3.49pm]

Then the man goes in there?---I swear, no idea at all.

30

And now the door shuts. Can we just stop it there, Ron?---I don't know. 'Cause he's a friend maybe.

Now, Charif didn't introduce you to the man, did he?---He did after.

No, but at that point they walked straight past you and you make no attempt to meet the man and he is not introduced to you by Charif?---No, Charif has introduced him to me, he said it's Mr, after I think (not transcribable)

40

After?---Yeah.

(not transcribable)?---Yeah.

Now, we're now in the room. Sorry, we've got Charif and the man in the room?---Yeah.

Now, I want you to tell the Commissioner precisely what you are doing from this point on until I tell you to stop?---I was waiting for Mr Korn.

No, no, just watch it first?---Yeah.

CCTV FOOTAGE PLAYED

[3.50pm]

MR NEWLINDS: Now you say you were waiting for Mr Korn?---That's right.

10

Now the minute Mr Korn comes into vision you immediately go to the door and knock on the door. Why did you do that?---Because I have to tell Charif Mr Korn his here.

Why?---Because we (not transcribable) is here, we going. Because we going together, we waiting for Mr Korn. I have to knock on the door and say we here, Mr Korn his here, we going.

20

And did you not think Mr Korn was capable of waiting a couple of moments?---Yeah, because it's (not transcribable)

Sorry about that?---I was (not transcribable)

Just stop. Just testing. Can you just say something?---Yeah, hello.

Okay. Just sit away a bit. Can I ask you to consider this, during the period your brother and that man were in the room, you were keeping a lookout to make sure that no one noticed that your brother and the man were in the room. Do you agree with that?---No.

30

And the minute some people came towards you before Mr Korn came out, you moved towards the door with a view to - - -

MR KORN: I object to that. In fact he moved the other way, away from the door, towards this door here.

THE COMMISSIONER: Can we just play it again?

40

MR NEWLINDS: Play it again. I'll show you when it happened.

THE COMMISSIONER: I would also like to draw attention, to ask a question about something there as well. Can you just stop it there please? You saw that woman coming through the door?---The door.

Yes, you see there's - - -?---Yeah, yeah.

- - - there's a woman with a pink jumper?---Yeah.

You saw her coming through the door?---Yes.

You then moved to the, to the door where your brother was with Mr Hammond. We can see you doing that?---But this is, I move because it's just no meaning for any, any intention for anything.

Weren't you moving to the door?---Just waiting for him next, next to the door.

10 Just in case the woman came along and then you could - - -?---No.

- - - warn them that they were inside, that someone was coming?---No, no.

All right.

MR NEWLINDS: Play it on.

THE COMMISSIONER: You turn around and look at her again?---No, I'm just looking normal.

20

MR NEWLINDS: You were standing lookout outside that room weren't you?---I'm standing normal.

And you understood that your role was to indicate to your brother by tapping on the door if anyone came near the door, near the room?---Not true.

That is, I want you to consider this, that's the only rational explanation - - -

30 MR KORN: I object to that.

MR NEWLINDS: Well I haven't finished.

MR KORN: That's enough.

MR NEWLINDS: Can you - - -

MR KORN: That's the only rational explanation - - -

40 THE COMMISSIONER: For what?

MR NEWLINDS: Is your, I haven't finished the question, but I'll withdraw it anyway. Is your explanation for what we can see in that last portion of the film that you are simply pacing around the room waiting for Mr Korn. Is that what you say you're doing?---Yes.

That's a lie isn't it, sir?---No, it's definite. I don't lie.

You see the lady come through the door and you move towards the room?
---It's natural movement, as part of standing, I just, just natural for me I was moving. No intention for any, for any purpose. Is not, not here to, not at all. I swear not at all. I spend the whole day here, just supporting my brother and no intention, we not, we don't operate like that. We're not people like that.

And the man who we saw in the video, the man you say you don't know?---
I don't know.

10

He'd been here all day as well, hadn't it?---He was in court, yes, that's right but I don't know him, I don't know who he is, there's many people down here, I don't know the people who are there, I would never know who, who.

THE COMMISSIONER: So it was a big surprise to you when your brother called him?---I didn't call him at all.

20

Was it a big surprise to you when your brother called him?---No, because I thought he is a friend of my brother 'cause my brother had a lot of friends. I don't know who, who is a lawyer or, or support, I don't know if he is a writer or any, I don't know. Honestly, I don't know. I wouldn't know who that person that was sitting all day here and he sit in front of me, back of me but I wouldn't know even my brother introduced me to him and he said - - -

MR NEWLINDS: And in the - - -?--- - - - this is Mr, this is Jimmy Kazal's my brother, this is Michael, I wouldn't know who it is even still.

30

And in the portion of the film where I suggested to you that you were staring with your brother at the man, your explanation is it - - -?---No, because - - -

- - - was that you were both looking - - -?---No, no.

- - - down the corridor?---No, while we standing we looking just at our face view that, that vision because no point, you can't see my eyes if they look at him or not, he's just talking about a vision off the video cameras because we not, we haven't even staring at him, I don't even, it's not me - - -

40

You're standing - - -?--- - - - just I was standing and looking.

You're standing side by side both looking in the same direction?---It's normal, we can be standing and looking normal.

And there's nothing interesting to see in that direction, is there?---No, because if we - I mean, if we talk to him (not transcribable) he will come up and talk to us but we didn't, we didn't look at him, honest, we didn't even look at him. I was talking to my brother, I don't remember but I was talking

about the court finish, we going, Mr Korn coming, that's what the whole talking of the conversation about.

Charif hadn't given, had, and not given on that day, had he?---What's that, sorry?

Charif had not given evidence before the inquiry on that day, had he?---He was here all day, yes, he was (not transcribable) all day.

10 Yes.

THE COMMISSIONER: Did you know - when you saw that man coming towards you when you were standing next to your brother did you know that Charif was going to talk to him?---I, I, I don't know what he was going to talk to him about.

Did you know that he was going to talk to him I asked you?---No, no, I didn't know.

20 So when he, when he walked away into the room was that a big surprise to you?---Yeah, I was just looking away, I was not surprised they were coming, I don't know what he's talking about.

Why weren't you surprised? There you were standing with your brother - - -?---No.

- - - and suddenly he walks away with a man you've never seen before?
---No, not surprised, he's talking, I don't know, he's (not transcribable) he's a friend, someone he knows, I wouldn't know who it is.

30

So weren't you surprised he went into that room and closed the door?---It is - maybe it's just that when we could be friends, relationship, I don't know, I mean it's not, I don't get involved with his business.

Can we just look and see how that happens please, again.

CCTV FOOTAGE PLAYED

[3.58pm]

40

MR KORN: Commissioner, can I ask you to note that in fact Mr Kazal appears to walk away and he's got his - before that door opens and in fact he's got his (not transcribable) when that person comes - - -

THE COMMISSIONER: He's not walking away, he's walking towards, he's walking so that he's got a good lookout of the woman with the pink blouse and the door.

MR KORN: No, in fact - - -

THE COMMISSIONER: Well, that's my observation, Mr Korn. We'll have to wait until it starts again. Yes, thank you.

MR NEWLINDS: Did your brother say anything when he beckoned the man over?---Not at all.

Either to you or the man?---No.

10

Yes, thank you.

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

THE WITNESS: Maybe when I - - -

MR BEECH-JONES: I have no questions, Commissioner.

20 THE COMMISSIONER: Ms Hogan-Doran?

MS HOGAN-DORAN: No, Commissioner. No, Commissioner.

THE COMMISSIONER: No. Mr Korn?

MR KORN: Commissioner, could I just ask, I'm sorry to do this, could I just ask, I want to be absolutely fair about something in case I've made a mistake. Can we just play on a little bit, particularly that part where the door opens, the lady in the red.

30

CCTV FOOTAGE PLAYED

[4.01pm]

MR KORN: If it could just be stopped there. The point I was seeking to make, I don't know if Commissioner, I still maintain that in fact he started to walk away and has his back before that double door opens. It may be that Your Honour meant the other lady in red who first came out?

40 THE COMMISSIONER: No, no, I meant this one. From where he was standing looks to me as if he could see the person about to come through the door. The door's a glass door.

MR KORN: Commissioner, I don't want to give evidence but I don't believe that to be the case, from my own going in and out of that door every day.

MR BEECH-JONES: We can have a view.

MR KORN: We can have a view, that's right. There are slits, there are tiny
- - -

MR NEWLINDS: Can I, can I just make an observation, it being 2 minutes
past 4.00. Mr Korn has been given the opportunity as I understand it to ask
some questions, not to make submissions.

MR KORN: Before we get to that we need to- - -

10

THE COMMISSIONER: No, just ask your questions, Mr Korn.

MR KORN: Do you understand, Mr Kazal, do you understand the
suggestion is being made that you saw a lady coming through the double
door and you saw her coming through those doors before you began to
walk, do you have any recollection of that?---No, no.

Who were you here waiting for?---Mr Korn, it was for you.

20

Thank you.

THE COMMISSIONER: I take it you have no questions?

MR NEWLINDS: No, thank you.

THE COMMISSIONER: You may leave the witness box.

30

THE WITNESS WITHDREW

[4.02pm]

MR NEWLINDS: And might I suggest we adjourn and commence it
tomorrow morning with Charif Kazal?

MR KORN: Yes. Mr Commissioner, just before you go, sorry, can I, only
for purely selfish professional reasons, get some idea of roughly how long
we might be here tomorrow, because Mr Kazal obviously is a person I have
to be here for, but obviously- - -

40

THE COMMISSIONER: You can speak to Mr Newlinds, I'm sure he'll tell
you.

MR NEWLINDS: Not very long. It's up to you.

MR KORN: I've just got to stand something down, that's all.

MR BEECH-JONES: Commissioner, could you excuse my attendance
tomorrow?

THE COMMISSIONER: Yeah. Certainly. As far as I understand it, Mr Korn, it should not be long tomorrow morning.

MR KORN: Thank you.

At 4.03pm THE MATTER WAS ADJOURNED ACCORDINGLY

10

[4.03pm]