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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

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OPERATION VESTA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY, 3 AUGUST 2011

AT 10.08 AM

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

MR KORN: Just for record - good morning, Commissioner. Just for the record, your assistant was kind enough to give me a disc yesterday, unfortunately I wasn't able to access it because my - I don't know whether it's part of the proprietary programme that the Commission uses but my Mac said that I had to download additional software so I don't know.

THE COMMISSIONER: Well, I'm not sure, I don't know what the disc is so - - -

10 MR KORN: Usually Mac's look past - - -

THE COMMISSIONER: So I don't what the disc is - is in the disc so - - -

MR KORN: Just the camera footage that was played in court, that's all.

THE COMMISSIONER: Yes.

MR KORN: I was going to go through in some detail and make a chronology of it.

20

THE COMMISSIONER: Yes. Mr Newlinds?

MR NEWLINDS: Can I recall Charif Kazal.

THE COMMISSIONER: Yes. Mr Kazal, do you wish to give your evidence under oath or affirm?

MR KAZAL: Affirm.

30 THE COMMISSIONER: Would you administer the affirmation please

MR NEWLINDS: Might Mr Kazal be shown Exhibit 33, please. Can we bring that up on the screen if we've got it there yet. I'm showing you Exhibit 33 which is a share transfer form relating to shares in the company KTC, do you see that?---Yes.

10 Is there anything you can tell us about the circumstances under which that document, including the signatures on it, was created?---I can't recall exactly but I remember the document.

All right. Did, did your hand make any of those signatures? Did you write any of those signatures?---Yes.

Which particular signature do you say you wrote?---The one down the bottom.

20 The one over the name transferee?---Yeah.

And that's not your usual signature, is it?---No.

And if we look at the document it's between a Mr Helsloot and your brother Karl Kazal, do you see that? On the top line?---Yes.

And your brother Karl Kazal is the person described as the transferee, do you see that?---Yes.

30 And so the squiggles over the word transferee when you wrote then, did you intend to purport to be signing your brother's signature?---I can't recall.

You can't recall?---I can't recall the exact situation.

Well, what were you thinking when you made those lines and squiggles above the word transferee?

THE COMMISSIONER: What were you trying to do?---I know the company was being set up.

40 MR NEWLINDS: What were you trying to do when you made those marks above the word transferee?---Can I explain, please.

What I'd prefer you to do would be to answer the question?---I can help you if you will allow. I recall I was asked to get this document signed and back and I wanted, I want Karl to have shares in the company so it was Rodric - -

Yeah?---I signed it to issue shares to Karl so he could be in the company.

Right. Did you forge your brother's signature?---No, I did not forge it.

Did you pretend to write your brother's signature?---I did it in person to give him shares, to gift him shares.

Did you have his permission to sign his signature?---I was hoping - - -

10 Did you have his permission to sign his signature?---I did it in the hope to - - -

THE COMMISSIONER: Did you have his permission?---No.

Mr Kazal, a number of questions that Mr Newlinds has asked you, especially one when he asked you is that - did you write the - it was your hand that put the writing above the word transferee, you took a long time before you answered. Why is that?---I was just thinking, going back in time, just to remember.

20 MR NEWLINDS: You thought about this yesterday, didn't you?---(NO AUDIBLE REPLY)

You thought about this very topic yesterday afternoon, didn't you?---I didn't see that document yesterday afternoon.

And as of yesterday afternoon you were telling people that in fact you had signed that signature on that document, weren't you?---I didn't tell people I signed that document.

30 Didn't you?---Who did I tell?

Did you tell Mr Korn?---My, my, my, my lawyer yes, but not people.

All right. So yesterday you were able to tell your lawyer that you signed that signature, correct?---I said I recollect signing, yes.

So why did it take you so long when I asked you today whether you'd signed that signature?---Just, I just (not transcribable) with myself, that's all.

40 THE COMMISSIONER: Well, were you pretending that you were looking at that document for the first time?---No, I wasn't.

Well, why didn't you answer immediately because you knew the answer? ---I'm kind of embarrassed about it, Commissioner.

MR NEWLINDS: Before the occasion that you signed your brother's signature on this document had you ever signed his signature on documents before?---I could have.

Did you or didn't you?---I said I could have, I can't recall.

And may we take it you've seen many documents with his signature on it?
---Yeah.

Yes. So that's examples of his real signature?---Yeah.

10 Did you have a copy of his signature or an original of his signature with you
when you signed this document in his name?---I can't recall if I had a copy.

Do you remember copying it, copying his signature from any other example
of his signature or did you do it from memory?---I would have - - -

Sorry?---I can't recall. I can't recall.

20 THE COMMISSIONER: I thought you said you remember signing it?---I
remember signing, but I can't recall if I copied it or, I remember signing it
but I can't recall if I copied it or I just did it myself.

MR NEWLINDS: Do you remember whether you traced it? Do you know
what tracing means? Put one bit of paper over another?---No.

No?---No.

All right. Have you ever signed your brother's signature since you say you
signed this document in 2008?---I can't recall.

30 All right. I wonder if Exhibit 33 could be returned to the court officer,
please. And could I hand you a piece of paper and a pen perhaps. Can you
take it off the screen, please Ron?---What would you like me to do?

I would like you to sign your brother's signature, please. Okay. Thank you.
Can you return that?---Can I just try one more time?

40 Sure. Can you just write 1 against the one you've just done. Have another
go. Can you write 2 against the second one. Can you hand them back
please. I tender that document. And I wonder if I could ask for Mr Kazal
just to stand down for a few moments and to wait at the back of the court.

THE COMMISSIONER: Yes, would you stand down for a few moments
and wait in the back of the court.

THE WITNESS STOOD DOWN

[10.17am]

THE COMMISSIONER: I think (not transcribable) Exhibit (not transcribable)

MR NEWLINDS: Well I wonder if we could - - -

THE COMMISSIONER: The document, sorry, Mr Newlinds, Exhibit 35 will be the document containing two signatures of Karl Kazal made by Charif Kazal.

10

#EXHIBIT 35 - SIGNATURE OF KARL KAZAL (x2) WRITTEN BY CHARIF KAZAL

MR NEWLINDS: And may I then call Jefford Hilder. Just before the Commissioner does anything, can I just hand, that is the new exhibit to your associate. I don't think Mr Hilder is represented.

20 THE COMMISSIONER: No. Mr Hilder you're not legally represented here are you?

MR HILDER: No.

THE COMMISSIONER: Won't you sit down, please. Mr Hilder, I need to explain something to you. I'm not, it's certainly not clear to me whether this has any application to you but I'm duty bound to explain this to you. Do you understand that?

30 MR HILDER: Yes.

THE COMMISSIONER: As a witness appearing before this 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. However, if you object to answering any question or producing any document, your answer or the document produced cannot be used against you in any civil or criminal proceedings, but this protection does not prevent you from being prosecuted for giving false or misleading evidence or other offences under the Independent Commission Against Corruption Act. Do
40 you understand all that?

MR HILDER: I do.

THE COMMISSIONER: You do. The protection may be attained by you objecting to any particular question or production. If this particular procedure is followed and you wish to avail yourself of that protection, it's pretty cumbersome as you can imagine because you have to object each time. But you, we may overcome this if you want me to if I make an order

that all answers which may give and anything, any document which you produce will be regarded as having been given or produced on objection. And if you do this there's no need for you to make objection in respect of each particular answer or document. In other words I make, that order serves as an (not transcribable) protection for you. Now not everybody wants to have that protection, but it's something that I can do for you if you want it. It's a matter entirely up to you.

10 MR HILDER: I'd appreciate it.

THE COMMISSIONER: Is that what you would like?

MR HILDER: Yes, please.

20 THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Hilder and all documents 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.

30 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR HILDER AND ALL DOCUMENTS 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: Now, do you wish to give your evidence under oath or do you wish to affirm the truth of your - - -

MR HILDER: Under oath, Mr Commissioner.

40 THE COMMISSIONER: Would you administer the oath, please.

<JEFFORD LEIGH HILDER, sworn

[10.20am]

THE COMMISSIONER: I understand that there's a mobile telephone, it's Mr Charif Kazal's, in the witness box, it should be returned to him.

MR KORN: Your Honour, can I - may I suggest I'll put it in my bag.

10 THE COMMISSIONER: It's been given to (not transcribable).
Mr Newlinds.

MR NEWLINDS: Sir, what is your name?---My name is Jefford Leigh Hilder.

And can you tell us, please, your address on the assumption that it will not be available for public consumption?---

20 THE COMMISSIONER: There is a suppression order made in respect of Mr Hilder's address.

THERE IS A SUPPRESSION ORDER MADE IN RESPECT OF MR HILDER'S ADDRESS

MR NEWLINDS: And what is your occupation?---I'm a consultant, business consultant.

30 Can I show, ask the witness to have a look please at Exhibit 33. I'm showing you Exhibit 33, does your signature appear on that page?---It does.

Do you have any memory of any circumstance under which your signature came to be on that page?---I do.

40 Would you tell us please as best you can step by step how is it that you came to sign that document?---This document which I'm being shown appears to be a copy of the KTC share transfer form. This would be the original document here for the establishment of KTC or one thereof. My - to the best of my recollection the signing of this document occurred at what was our temporary office in the mezzanine level of the Meridian Hotel in or around October of 2009.

In which city?

THE COMMISSIONER: In what city?---Oh, sorry, Abu Dhabi, UAE.

MR NEWLINDS: And when you say our, who are you referring to?---To the joint venture group which was called Emergent Capital.

MR KORN: I just missed the date, October?

MR NEWLINDS: 2008. And what was the joint venture group called Emergent Capital and what was your role in it?---Specifically my role, I was at that time and at all times still always the executive - sorry, the executive general manager of Davids Group. It was intended that I would go across to Emergent Capital once it was established on shore in the UAE which didn't occur during my tenure.

10

THE COMMISSIONER: Are you saying Merger Capital or Emergent Capital?---Emergent, yes.

MR NEWLINDS: And may we take it from your previous answer that you knew Rodric David as at 2008?---Yes.

Did you know him well?---Yes.

How long had you known him for?---I first met Mr David in 1976.

20

At school?---Yes.

And so you were school friends?---We were through our teenage years and then once he went to university in the United States we lost contact for many years up until late 2006, early 2007.

And then you got a job with his company?---No, initially the reconnection between he and I was my brother was - happened to be in touch through business with someone that knew him and he got the mobile number for me and I rang him and so we initially reconnected on a social level.

30

Now, may we take it that the signature you identify as yours on the document is the one in the bottom left-hand corner?---Yes.

And the words are Jefford Hilder I take it?---That is correct.

Right. Now, you, you, you were purporting to witness a signature on this document?---Yes.

40

Can I ask you this question: did you as at the time the document was signed by you know a person who you understood was called Karl Kazal?---I did.

Did you also know a person called Charif Kazal?---Yes, I did.

How long had you known Karl Kazal by the time this document came to be signed? Are we talking years, months, weeks?---Oh, months.

And for how long had you known Charif Kazal at that point?---A similar period.

All right. Now, can I just point out to you that Charif Kazal is sitting in the back of the court?---Yes.

Do you recognise him as such?---That's correct, I do.

10 And would, would you have any difficulty identifying between Charif and Karl, some people say they look similar?---No.

All right. All right. Now, just tell us as best you can the circumstances under which you wrote your name over the word witness on, on Exhibit 33? ---Now, as I say, I, to the best of my recollection believe that the signing of this document took place in October of 2008 and that it took place during a trip when Karl, Charif and, as I say to the best of my recollection, Tony Kazal were all present in Abu Dhabi.

20 All right. And let me ask - - -?---Now, specifically with regard to the signing, that, they were there, rather busy. They - I believe that we'd only just set up that office and so whether or not it was coming through for the first time or whatever, having seeing them there I took the opportunity to be able to get them to execute these documents.

All right. Now, was there similar documents executed in favour of Tony and Charif?---There would have been, yes.

30 All right. Now, focussing specifically on the execution of this document? ---Yes.

Do you have a memory of witnessing Mr Kazal's signature?---Yes.

40 All right. Tell us about that in as much detail as you can?---As I say, they were in the offices. My recollection is is that it was afternoon. Everyone was moving around seeing whether or not - and I believe they were preparing to go out again and so it was a matter of catching them before they left. So I had all of these documents on file in a compendium on top of my desk and so whilst they were there I took the documents out that needed to be executed and said to them that I need them to execute them and particularly seeing as they're here now and so that we don't miss it and I then proceeded to, proceeded to sign and hand the documents around.

All right. Now, you signed and handed the documents over you say?---To him, yes.

Does that mean you signed your name as witness before he signed his name as the transferee?---I, I believe so, only for the simple reason that he was

there in my presence and I needed to get it down quickly because they were potentially going to move on (not transcribable)

All right. Now, when I asked you the question a few moments ago I referred to you witnessing Mr Kazal's signature - - -?---Yeah.

- - - and you've referred to a person as him?---Yes, Mr Karl Kazal.

10 Now, are you confident of that because there were three Kazals around at the time?---Yes.

Are you sure that in some way it didn't get tangled up so that perhaps Karl Kazal didn't sign the document and you've mistakenly thought that he did and someone else has pretended to put his signature on it?---No.

And why are you sure of that?---Because I would not have signed the document otherwise.

20 Do you believe - do you have a memory of seeing Karl Kazal physically sign this document?---I do.

You can see that in your mind's eye?---Yes, I can.

Where was he? Was he sitting, standing, what was he doing?---We were by the desk which was rather just like a large conference table type set up that we were using as a temporary office and he would have been adjacent to where my position was where I sat, my recollection is of him standing.

30 Right. And did you - do you recall explaining to Mr Kazal or saying anything to him about what this document would do?

THE COMMISSIONER: Mr Karl Kazal.

MR NEWLINDS: Mr Karl Kazal, what it's legal effect would be?---Not specifically other than just to say that these are the share transfer forms.

And Tony and Charif were also around at the time you say?---Yes.

40 Were they in the room standing at that same desk at the same time?---They - I, I don't recall specifically.

Thank you.

THE COMMISSIONER: Mr Newlinds, is there, is the purpose for which this form was signed, is that of any relevance?

MR NEWLINDS: Perhaps I'll ask the witness what he understood.

I think the Commissioner understands that the effect this document has when signed is that a share in the new company KTC was issued to Mr Kazal, Karl Kazal?---Ah hmm, that is my understanding.

Now why did you understand that that purpose needed to be achieved? Did someone tell you that?---Well it was part of the establishment of this particular holding company for the Kazals.

10 THE COMMISSIONER: How do you know that?---Because I was asked to arrange it.

By whom?---By Mr Charif Kazal.

MR NEWLINDS: Now some time shortly, well some time, now were other documents signed on the same day, let me withdraw that. This document if effective would transfer one share to Karl. Correct?---Yes. That's my understanding from the reading of this, is that would be the share that was originally held by Andre Helsloot.

20 Who was?---I understand him to be employed by what was Corporate Services in the Cayman Islands.

So he's a shelf company, he's a shelf company person?---Yes.

All right. Perhaps I should show you another document, now did Karl receive other shares on that same day from others and perhaps to jog your memory can I show you another document, it's another share transfer certificate. Do you see that?---I do.

30 And this is Karl Kazal transferring shares, 25 ordinary shares in KTC to Tarek Kazal, Tony?---Tarek, yes.

Is that Tony?---Yes, that's correct.

On the same day?---In terms of the actual execution it may well have been.

40 All right. But this document was intended to operate at a later date do you think?---No. It was, any, any late signing of the previous document would have occurred for the fact that they weren't available to do so. I was based in Abu Dhabi and wasn't returning - - -

THE COMMISSIONER: Can you just explain the transaction? I don't understand it.

MR NEWLINDS: I don't understand it at all?---My recollection is that both documents were signed on or around the one day.

But just explain the transaction?---Oh, sorry.

So Tarey, Tony's already got 25 shares has he?---Tony would have had 50 shares.

Right. So Karl's getting one new share issued from the company to him?
---Yes.

And, no I withdraw that. He's getting one share transferred to him from the shelf company holder of an original share?---Correct.

10

And he's also getting 25 shares transferred to him from Tony. Is that right?
--In the original transaction one share came from Mr Helsloot from the shelf company. In the same set up documents he was then also issued an additional 49 shares. So that all three Kazal brothers held 50 shares. That being - - -

THE COMMISSIONER: This is issuing, you're talking about issuing - - -?
---In the original, in the original documentation.

20 So can we just start at the beginning. This is KTC?---Correct.

And that is, what's that, a Cayman Island company?---Yes it is.

And it's, it's acquired from, it's acquired through the agency of Mr Helsloot?---Correct.

It's bought from him I take it?---Yes.

30 And how, how is it bought? I mean how many shares are bought (not transcribable) shares?---That's nominated by the parties as to how many shares are then going to be allocated. The company itself - - -

How many were issued? When it's bought how many, the shares are already issued?---No. Under Canadian law you purchase a shelf company, it's established by the people that do it for you. They will hold one share in that company.

One share only?---One share only.

40 So Mr, and that's why Mr Helsloot would have one share?---Correct.

And then?---And then you provide the necessary details of the other directors and a transfer is done of that share and a new member register, register of members, ie, the directors of that company is then established.

So that's the first member. He's the first member of the company?---He is.

MR NEWLINDS: That's Exhibit 33. Got that share to him. The first document we looked at?---Yes.

From the shelf, from the shelf company owner - - -?---Yes.

- - - to Karl?---Correct.

10 And then what happens? In a step by step, step us through the transaction?
---As part of the same set of documents that you receive, there is that document, there is then also transfer documents for the other shares.

THE COMMISSIONER: But transfer from whom?---Well they're established - - -

Are they issued or are they, are they issued for the first time or are you they transferred from somebody else?---They're, they're issued for the first time.

20 MR NEWLINDS: Well they've probably been, haven't they been allocated so the company has 100,000 shares allocated but not issued - - -?---Yes.

-- - other than the one that the shelf company person held. Is that how it works?---There was an allocated capital in it.

Yes, that's right. Yes?---Under Canadian Law it's US\$50,000.

Okay. So it can have shares worth US\$1 up to 50,000 of them or it can have less?---That is correct.

30 But may I take it that generally a shelf company has allocated quite a lot of shares at the time that it is sold?---There was an authorised level of shares, 50,000, then it is determined by those that wish to take up the shareholding into that, as to how many shares they wish to have issued to themselves.

THE COMMISSIONER: All right. So what was the arrangement here?
---The arrangement here was that each of Karl, Tony and Charif would get 50 shares in the first arrangement to establish the company.

You say a first arrangement. Was there more than one arrangement?

40 MR NEWLINDS: I think I can help you Commissioner. I think I've worked it out. Can you just go to the document I just showed you which was the transfer of shares from Tony to Karl. If you pick up that bundle of documents and go back to page 1 and I'll give the Commissioner a copy and I think we can work this out. Well can I just step us through it and I'll see if I get it right and you tell me if you don't agree?---Yes.

The first thing that happens is that a share, the one share held by the shelf company owner is transferred to a person nominated by the purchaser?

---Correct.

And in this case that was Karl Kazal?---That's correct.

Karl Kazal is then the holder of all the shares in the company?---The one - -
-

All the issued shares in the company?---Yes.

10 THE COMMISSIONER: There being only one?---At that time.

MR NEWLINDS: Yes. He then nominates, he then has a meeting. I'll withdraw that. He then, he then has control of the company, but the shelf company people are still directors, so they need to resign - - -?---Correct.

- - - as directors or director. And so what happens, if we go to the second page of this little bundle, is on 4 September, Mr Helsloot has resigned as a director?---Sorry, I'm - -

20 Have you got a different bundle? Can you - - -?---I may have a different bundle.

Can you just hand it back to me, please. Hand that back and I better give the Commissioner (not transcribable) confused as well.

THE COMMISSIONER: I have one where the second page is - - -

MR NEWLINDS: The resignation.

30 THE COMMISSIONER: - - - the resignation.

MR NEWLINDS: Good. Okay. Good. So have I and so has the witness now. And on 4 September, you can see that Mr Helsloot has resigned?
---Correct.

Now may we infer that that was actually the day that the shelf company purchase happened?---Yes.

40 And in the packet of documents that you get with the company register there is already, you're given a signed resignation?---That is correct.

And you're given a signed transfer of shares in blank so that you can decide who wants to hold the one issued share?---Well no.

All right.

THE COMMISSIONER: Well, but just have a look at Exhibit 33, the shares transfer form?---Ah hmm.

Mr Helsloot signs it on 4 September, which is the same date as this letter?
---That is, that is correct.

MR NEWLINDS: So don't you get with the packet of documents you get when you buy the shelf company already on the file a resignation of director by Mr Helsloot and a transfer of his share from him probably in blank so that the purchaser can decide who he wants to be the holder of that share?
---In my experience and as was the case in this particular instance,
10 information is provided in advance of all of that happening.

Okay. So it's not in blank, it's got - would have had Karl Kazal's name in it?---It did.

But it wouldn't of course be signed by Karl Kazal yet?---No.

So you get it signed by Mr Helsloot in favour of Karl Kazal?---Yes, and I believe the copy was witnessed by his (not transcribable)

20 Yeah. And to become operative as a transfer the person receiving it has to sign it to accept the transfer of the share?---That is correct.

Okay. So all that happens on 4 September?---Yes.

And if we then turn to the next page in the little bundle we can see that in fact there was another director, Helen Tse, T-S-E?---Ah hmm.

No doubt she's Mr Helsloot's partner and involved in the shelf company company, correct?---Yes.
30

So she resigns as well, does that seem reasonable?---I see her resignation here.

The next thing that we see if we turn over to the next page is I'd also suggest to you in the packet of documents you get when you buy the shelf company is you get a, the minutes of a meeting of the directors of the shelf company, that is Mr Helsloot and Ms Tse which records that they have done various things including approving the issue of a company seal, they've appointed it seems Tony Kazal as a director, do you see that?---Yes, I do.
40

No doubt that was in conformity with instructions they'd received when the request to the buy the company was made?---It was.

They then make a declaration about the annual return and the registered office, do you see that?---Yes, I do.

They create a register of member by the next resolution?---Correct.

They make a resolution about the one share that had been issued dealing with whether it was fully paid or not?---Ah hmm, that's correct.

Then they approve over the page a share transfer between Mr Helsloot and Mr Kazal of the one share that was then issued?---Yes, I see that.

And then they make a resolution issuing further shares?---That's correct.

10 And they are allocated to Karl Kazal being 49, Tony 50 and Charif 50?
---Correct.

And so what that means is by this point in the transaction each of the Kazal brothers holds 50 shares because Tony and Charif got theirs by the issue Karl got 49 by the issue and one by the transfer?---Yes.

All right. And then there is an appointment of the directors?---Yes, I see that.

20 Right. And no doubt in chronological order what the shelf company people do is they have that meeting and then they resign, then they execute their resignation of directors?---That's my understanding of the process.

Which is the last thing recorded in the meeting?---Yes.

So the shelf company people have a last meeting where they organise and allocate shares in the way that the people buying the company want them allocated?---That's correct.

30 All right. And I think we all - well, I understand that, so far so good. Then if we go to the next page you're looking at another copy of Exhibit 33, are you not, which is the transfer of the one shares from - - -

THE COMMISSIONER: No.

MR NEWLINDS: No.

THE COMMISSIONER: Sorry, I beg your pardon, I'm looking at a different document.

40 MR NEWLINDS: Is the next document in your pile, sir, another version of Exhibit 33?---Yes, yes, it is. It appears to be a copy.

Yes. And then if you go to the next document - - -?---Yes.

- - - what we seem to have happening apparently on a date in October, so after the original arrangement, we have a transfer of some shares from Tony to Karl and Tony seems to be transferring 25 shares to Karl, do you see that?---I see the document, my understanding is somewhat different.

Can you tell me your understanding?---Well, my understanding of this document is that Karl Kazal is the transferor - - -

Oh, I'm so sorry?--- - - - and he's received consideration for the (not transcribable)

You're, you're quite right. So he now has given 25 of his shares to Tony for consideration?---Yes, that is correct.

10

Now, is that your signature witnessing each of their signatures?---It is.

Do you have a recollection of witnessing that document?---Not specifically, I don't.

All right. But I think, I think that you can assume the Commissioner lives in the real world?---Yes.

20 It's the case isn't it that what happened is when you got them all together all of these documents were actually signed on the same day so far as they have Kazals' and your signatures on them?---Yes, that would be correct.

Even though that was catching up events that had, had - - -?---Yes.

Yes, all right. Do you recall Karl Kazal signing a series of documents on the day that I've already asked you about when you witnessed his signature? ---There was more than one.

30 All right. And then we go over the page and we can see that what also happens is that Karl has transferred 25 of his shares to Charif?---That's what I see here.

And then if you go to the very next page which should be the last page if we're looking at the same little bundle, on a date, undated but in October 2008 Charif consents to become a director of the company?---That's what I see.

All right. Now, all those documents were signed at the same time?---Yes.

40 And am I right that this is the effect, originally when the company was set up the three Kazal brothers received 50 shares each?---Yes.

But shortly thereafter Karl Kazal transferred half of his shares, 25 to Tony and the other half to Sharif?---That is correct.

So there was a short period when Karl was a shareholder?---Yes.

But then he, he offloaded his shares?---Yes.

Right. Can you tell us how that came about? Was, was there a change in heart?---Not a change in heart to my understanding. My, the understanding that was given to me was that Mr Karl Kazal wanted to avoid any overlapping of tax issues with regards to the, his businesses here and a (not transcribable) company.

THE COMMISSIONER: And therefore?

10 MR NEWLINDS: All right. Now, you say - - - ?---Sorry?

THE COMMISSIONER: And therefore?---That was the limited explanation.

No, but and therefore he didn't want to be a shareholder in the company? ---Oh, that was the request I was asked at that point also to transfer, to arrange for - - -

Asked by whom?---By Mr Charif Kazal.

20

And where was Karl Kazal?---At this stage I, I wouldn't know.

So when, at what date were you asked this by Charif?---My recollection is also again October of 2008.

Well, what, before or after Exhibit 33 is signed?---I'm sorry, I don't recall specifically.

30 But your evidence is that all three of them were in your offices in Abu Dhabi, is it?---Yes.

To sign?---To sign.

And they must have all signed - all these documents where there are signatures purport to appear all on the same day?---The, the, the instruction from Mr Charif Kazal probably came some time closer to that. I would need to look at - - -

40 Just answer my question please. They were all three, that's Tony, Charif and Karl were in your office in this hotel - - -?---Yes.

- - - in Abu Dhabi - - -?---Yes.

- - - on the day that these documents were signed, that is 8 October?---I, I recall October and yes, they were all present.

So they're dated 8 October, or some of them?

MR NEWLINDS: As a matter of logic it has to be a date in October because that's the, the latest, the latest dated - - -?---Yes

- - - documents are October. Some are September but some are October?
---Yes.

THE COMMISSIONER: Yes.

10 THE WITNESS: I would agree with that.

THE COMMISSIONER: Not necessarily the 8th but October. Some date in October?---Yes.

The point though that I want to know whether you're absolutely clear about is that all three of them were there in your office when they were signed, each signed in accordance with the tenor of the signatures that appears, each signature as it appears?---Yes.

20 MR NEWLINDS: Did you have any discussion with Karl Kazal about his concerns relating to being taxed in two different jurisdictions?---Not directly.

Where did you understand it come from? Something Charif told you?
---Yes.

All right. Did you have any discussions that you can recall with Karl Kazal concerning the issue and transfer of shares that we looked at other than here are the documents you have to sign?---No.

30 Yes, could I tender that bundle as a bundle, please Commissioner.

THE COMMISSIONER: Yes.

MR NEWLINDS: I'm hoping yours is, well I'm assuming it's the same.

THE COMMISSIONER: Yes, it is. Exhibit 36 is a bundle of documents relating to the initial transactions of KTC about which Mr Hilder has given evidence.

40

#EXHIBIT 36 - BUNDLE OF DOCUMENTS RELATING TO THE INITIAL TRANSACTIONS OF KTC ABOUT WHICH MR HILDER HAS GIVEN EVIDENCE

MR NEWLINDS: I have no further questions.

THE COMMISSIONER: Yes, thank you. Mr Hilder, my impression is that all of these documents in this bundle were signed on the same day, at least, let me start that again, I'll withdraw that. All the documents which, to which you attested as a witness were signed on the same day, that is all the documents in this bundle in front of you?---To the best of my recollection that is correct.

10 Well if that's right, it means that, no, sorry, I'll withdraw that. My understanding the 50 shares were issued to Karl Kazal as appears from the minutes of this meeting that was held by Mr Helsloot and Ms Tse?---Yes.

And it looks as if this meeting was held in September?---Correct.

Now are you aware who gave the instructions to Mr Helsloot to effect the transactions that are recorded in the minutes of the meeting of the Board which is in the bundle?---To Mr Helsloot that would have come via the company lawyers Denton Wilde Sapte in Abu Dhabi.

20 But for example, the resolution that one share, that, the resolution concerning the transfer of shares?---Yes.

One share from Mr Helsloot to Mr Karl Kazal, 49 shares to Karl, issued to Karl Kazal and 50 shares issued to each of Tarek Kazal and Charif Kazal. Who gave instructions for that do you know?---There was a questionnaire that was provided to me that I forwarded on included that information as to how many shares they wished to have issued to - - -

30 And who did you forward the questionnaire to?---To Mr Dean Alderton at Denton Wilde Sapte.

And he had to deal with that?---Yes.

And you don't know what he did with it?---Except that I know that it went to (not transcribable) Corporate Services.

Yes, I understand that. And then weeks later Karl Kazal disposes of his shares in the way we've seen in this bundle?---Yes.

40 Yes, thank you.

MR KORN: Did you say weeks later, Commissioner?

THE COMMISSIONER: Yes.

MR KORN: May?

THE COMMISSIONER: Yes.

MR KORN: Mr, I've forgotten your name?---Hilder, Jefford Hilder.

Mr Hilder, I'm sorry, and you'll have to forgive me I'm genuinely a little confused to the extent - - -

THE COMMISSIONER: Can you just say who you are. You're not confused about that.

10 MR KORN: I'm sorry, you're right. Korn, K-O-R-N, and I appear in the interests of both Mr Charif Kazal and Mr Karl Kazal. I see on the documents, and we'll call it the bundle, Exhibit 36, I see documents which have got two different dates. One date is 4 September?---Yes.

And that date appears in terms of for example the resignation of Mr, is it Helsloot, is that the right way to say it, Helsloot? That's how I'm going to say it. I see a document dated 4 September, 2008 which appears to have a signature of somebody, well above the word, the name Andre Helsloot. I next see a document also dated 4 September, 2008 with a signature above the printed name Helen Tse, T-S-E. There are - - -
20

THE COMMISSIONER: Which document are you referring to?

MR KORN: In my, in the bundle I have it is the second and the third documents in.

THE COMMISSIONER: The two letters?

MR KORN: Yes, the two letters.

30 THE COMMISSIONER: Yes.

MR KORN: The next document in that same order and I think we've all got the same order are the minutes of the meeting.

THE COMMISSIONER: On 4 September, of 4 September?

MR KORN: That's what I was next going to get to. And that also has the date 4 September. Is that, do you see that document?---Yes, I do.

40 All right. Then we go documents which have a date and I see now one, I'm sorry, which have a date where an individual day is not specified but the month of October 2008 - - -

THE COMMISSIONER: Well the first document has no month at all.

MR KORN: Well - - -

THE COMMISSIONER: Exhibit 33 has no date, it has a date of 4 September where it's signed by the transferor and has no date where it's signed by the transferee except 2008.

MR KORN: Yes, I accept that. But what I was, the point I'm trying to clarify in my mind is that the next document where I see a date is a document which has got on the top of it KTC, the company share transfer certificate and that's a document which has, although not an individual day, it has October 2008 printed on it?---Yes.

10

Do you see that one?---I do.

And that's the one in which Karl Kazal is the transferor or purports to transfer 25 ordinary shares - - -?---Ah hmm.

- - - to Tarek, T-A-R-E-K Kazal. Do you see that?---I do.

20 Sir, is your, is your evidence that there were two separate occasions when these documents were signed, putting aside who signed them, were there two separate physical occasions when these documents were signed or is your evidence that in fact to the extent that everything in this bundle has a signature on it, all signatures were done on the one occasion? Do you understand the difference?---Yes, I do.

Is it, is it either, which of those positions is correct?---My recollection that it happened all at once.

And is that a date in - - -

30 THE COMMISSIONER: Sorry, I didn't hear the answer?---My recollection is that, to the best of my recollection it happened all at once, all at one time.

What happened all at one time?---The signatures.

Yes, but, I - - -

MR NEWLINDS: (not transcribable) wasn't a fair question.

40 THE COMMISSIONER: That's right. The question is confusing. The, well what signatures happened all at the same time?---Well the - - -

But can you see that there are a number of signatures here?---Yes.

The signatures include the signatures of Mr Helsloot and Ms Tse. Were they present at this meeting?---No. They were already on there.

So when did they sign?---To my knowledge 4 September.

Yes, Mr Korn.

MR KORN: Putting aside the signatures of Mr Helsloot and Ms Tse, T-S-E, putting aside those two signatures from here on in, in terms of signatures what I'm concerned with is particularly signatures - - -

THE COMMISSIONER: Well I think, just go to the documents so that we don't misunderstand you. If you want to ask about when the signatures were put on documents Mr Korn, why don't you just say, ask what date was,
10 when a particular document was signed.

MR KORN: Commissioner, I actually thought I was moving on from that because I thought your questions before I arose in fact on one view established that all such Kazal signatures were all done on the one occasion.

THE COMMISSIONER: Yes, that's correct?---That's right.

MR KORN: That's what I thought - - -

20 THE COMMISSIONER: Yes. I wasn't sure whether you accepted that or not.

MR KORN: (not transcribable) I wasn't sure if that was the purport of the evidence.

THE COMMISSIONER: Yes.

MR KORN: And that's what I'm trying to - - -

30 THE COMMISSIONER: All right.

MR KORN: That's what I'm trying to, can I make myself clear. I thought that what you said in answer to the Commissioner's questions before I arose was that to the extent that Kazal signatures or what purport to be Kazal signatures were put on documents in this bundle that all such Kazal signatures were made on literally the one day. Is that what you're saying?
---To the best of my recollection.

40 Is that a date, are you able to say even what month and in what year that was?---My recollection is that it was in October 2008.

At the temporary officers that you've described in Abu Dhabi?---Yes.

At that hotel?---Correct.

And that's the occasion, if we work on that assumption that's the occasion you're saying when all three Kazal brothers were in attendance at the same time?---To the best of my recollection.

Do you actually have an unequivocal, do you understand the unequivocal, do you have an unequivocal recollection about that or not?---During October I recall that all three brothers were in Abu Dhabi.

Is that all you really remember?---No. I remember asking to have these documents signed.

That's right.

10

THE COMMISSIONER: Well, do you remember them in your office?---I - - -

That is the individual Kazals, the three individual Kazal brothers?---That is my recollection.

MR KORN: Do you know whether it was late or early - early or late October?---I would need to look through my records to be more specific but my recollection at this time is late in October.

20

And, sir, what, how quickly if the Commission were mind to enable you to do so without otherwise interrupting proceedings, how quickly would you need to be able to check such a record as might be able to assist you to answer that question?---Reasonably so.

Within half an hour or an hour or so?---Half an hour to an hour.

30

But, all right. I might, if the Commissioner permits that at an appropriate time ask for that. But your recollection as you sit there now is it is in what, what part of October?---The latter half of October.

Say what, from the middle, 15th onwards or from the 22nd onwards, can you, can you give us a week for example in terms of approximately there being four weeks to each month, can you give us which quarter of the month it was in?---Not at this time.

40

Sir, you don't actually have a clear recollection that in fact all three brothers were there at the same time when the documents you had requested be signed were in fact signed, do you?---Sorry, could you repeat the question.

You don't have an actual recollection that all three brothers were there at the same time - - -

THE COMMISSIONER: Were in your office.

MR KORN: Were there in your office at the same time signing the documents which you had requested to be signed, you don't have an actual recollection of that as an event, do you?---I do.

May I respectfully suggest that the recollection you have is that you, that you requested that the documents be signed, that's as far as your recollection goes, isn't it?---No.

And that you either saw or believed that the three Kazal brothers were in Abu Dhabi at that time but not necessarily that they were all at your office at the same time, what do you say to that?---No.

10 You don't agree?---No.

You see, I suggest to you - in fact I put it to you that Karl Kazal, the undated document - does that sufficiently identify it, your Honour, Mr Commissioner?

THE COMMISSIONER: Just a minute.

MR KORN: The undated, the undated - - -

20 THE COMMISSIONER: In Exhibit 33?

MR KORN: Yes. The undated document which is - - -

THE COMMISSIONER: The share transfer form from Mr Helsloot to Karl Kazal?

MR KORN: That's right.

30 The undated document which is now Exhibit 33 in this Commission which otherwise appears as part of this bundle - - -

THE COMMISSIONER: Do you see that, Mr Hilder?

MR KORN: - - - which effects, which effects - - -?---I have those copies, yes.

Just, just, I'll make it clear, which on its face effects a transfer from Mr Andre Helsloot of one share to Karl Kazal, does that identify the document for you?---It does identify it.

40

Sir, I put it to you that in fact Karl Kazal did not sign that document in your presence, he did not sign that document, certainly not in your presence. What do you say to that?---I would not have signed the document otherwise.

But didn't you say to the Commissioner in any event you had already signed the document at the time that you handed it over for it to be signed?---What I believe I said to the Commissioner is that I signed it and I passed it to him and that I did that only because he was in my immediate presence.

So the fact of the matter is, putting aside the latter part of the question which we'll come back to, you first signed the document before any signature above the line transferee was, was made, that is correct, isn't it?---Yes.

And do you say that on your, on your evidence all three Kazal brothers were in that location with you at the same time in your offices at Abu Dhabi?

THE COMMISSIONER: In that room.

10

MR KORN: In that room, right in that very same room at the - right at the time that you in fact handed, having signed the document handed it over? ---They were all present during a period of time in which these documents were signed.

But you are - do I take it from that you are unable to say whether all three were in that precise room - - -

THE COMMISSIONER: At the same time.

20

MR KORN: - - - at the same time as the occasion was when you having signed the document then passed it over for it to be signed by the transferee? ---At that time I was focussed on getting the signature of the transferee.

THE COMMISSIONER: Who was present?---Over the course of a short period of time they were all present. People, however, were coming and going as I said earlier, I believe in preparation to head out again for meetings and it was a matter of catching them as I could.

30 Yes.

MR KORN: So you're not actually certain that in fact Karl was there at the time that you signed the document in preparation for the transferee to sign it, are you?---I would have signed it immediately before giving it to him, I am not in the habit of signing documents that I know are not going to be countersigned.

I suggest that what you probably did, assuming you're correct that Karl was even there, you probably - you made an assumption that the right person would sign it and that's all you did. What do you say to that?

40

THE COMMISSIONER: You mean without - and you handed it, you signed it and, and what?

MR KORN: Well, you haven't actually said who you handed it to. Do you have any recollection of who it was you actually - - -

THE COMMISSIONER: He has.

MR KORN: Did you hand it physically to a person or did you put it on a table?

THE COMMISSIONER: Can you remember?---Oh, sorry, I would have called Mr Kazal and asked him to sign the document and placed it on the table in front of him.

10 MR KORN: I would have done so, that means in fact that's relying upon your practice rather than an actual recollection, that's so, isn't it?---No, that's what I recall.

And you would have been going about the business of in fact attending to all of these various stages of the documents in that bundle, correct?---Yes.

And you wouldn't have, you wouldn't have sat there and watched who it was that actually signed the document, would you?---My recollection is that I had them in one file, I took them out and they were, they were done individually.

20

But that doesn't answer my question.

THE COMMISSIONER: That was done individually in what way? Can you just explain what you mean?---Well, there were a number of documents
- - -

Yes?--- - - - so as I got each - - -

30 Each one related to a different person?---Correct. So as I got the attention of each person I would have them sign the documents.

MR KORN: And may I suggest that you equally would have been going through in the order in which you knew things had to be done, you would have been going through that, those documents, you having handed over what you believed to be a document for a particular person, you would then focus upon looking in your bundle for the next document and see to whom that would next go? May I suggest that's how you would have done it?

40 THE COMMISSIONER: Do you mind putting that again, Mr - - -

MR KORN: Thank you, I will.

You had a bundle of documents which required a number of different steps to be effected, correct?---A small number.

A small number, yes. Well, I'm only referring to it as a bundle because that's what we've got here today. You had a small number of documents which had to be attended - - -

THE COMMISSIONER: A file.

MR KORN: In a file which had to be attended to, correct?---Yes.

You took out one document at a time you tell the Commissioner, correct?
---I may have removed all of the documents at one time and had them all in front of me.

10 May I respectfully suggest in the ordinary course, all of us being human, that what you would have done is simply passed the document across for signature expecting, hoping, that it would be signed by the right person and your attention would then be on another document which was going to be next in line whether that document was still in the file or already on the table, what do you say to that as a possibility?---I don't agree.

But it is possible, isn't it?---My recollection is that I needed to get the attention of each person individually.

20 THE COMMISSIONER: And did you watch that person sign?---I believe I did.

MR KORN: Do you have an actual recollection of watching document - Exhibit 33 actually signed by the person that you knew to be Karl Kazal?
---I know Karl Kazal and I recall him signing the documents.

You see, I suggest to you that Karl Kazal did not sign that document. What do you say to that?---I don't agree.

30 Thank you.

THE COMMISSIONER: Mr Andronos?

MR ANDRONOS: Thank you Mr Commissioner. Mr Hilder, my name is Kevin Andronos. I appear for Andrew Kelly. Now Mr Hilder, you gave evidence earlier that you were an old school friend of Mr David.

THE COMMISSIONER: Mr Andronos, I, you're representing Mr Kelly.

40 MR ANDRONOS: Yes.

THE COMMISSIONER: None of this evidence relates to Mr Kelly.

MR ANDRONOS: That's true. The questions I will ask are - - -

THE COMMISSIONER: Well at the moment they don't, but I'll let you go, but just be aware that the questions that you ask have to be relevant to the interests of Mr Kelly alone.

MR ANDRONOS: They are your Honour, they are.

THE COMMISSIONER: Yes. Very well.

MR ANDRONOS: You're old school friends with Mr - - -?---That's where I know him from originally, yes.

10 When did you renew contact with him? You said that you renewed contact with him socially, when was that?---Late 2006, 2007.

And that developed into a professional relationship. About when, about when was that?---I had some initial discussions with regards to a business he had similar to one of a family business that I was involved in at the time in or around, I recall being March/April 2007.

What actually is your line of work Mr Hilder?---I'm a business consultant.

20 A business consultant. Now it was Mr David who invited you to participate in a business he was involved in setting up in Abu Dhabi wasn't it?---Yes, yeah.

About when was that?---My recollection, to the best of my recollection that would have been some time during the course of March/April 2008 that he specifically started having any discussions with me about it, yes.

And you went to work for the Davids group in Sydney shortly thereafter didn't you?---I did so after a trip that we did to Abu Dhabi during the course of May of 2008.

30 In May of 2008 or 2007?---2008.

2008. In what capacity were you working at Davids Group?---My official title was Executive General Manager.

40 And what did your responsibilities actually involve?---Looking after the general management of the, of the business that was not related to property development. So essentially with regards to dealing with the company general managers that were involved in this start up entity that because known as Emergent Capital.

THE COMMISSIONER: Sorry, when you say property development what do you mean?---Davids Group - - -

Do you mean construction?---Property development management, your Honour, Mr Commissioner.

Well what does that mean, sorry?---Mr David had previously been involved in construction and property development and when he left he retained the

development side of things, which involves, as I understand it, not being a property person myself, doing the feasibility studies and working through the issues with regards to development sites.

So what, what side of business were you involved in?---I was involved in the, the businesses that were going to be established in the Cayman Islands and in the UAE.

10 MR ANDRONOS: And it's fair to say that was a senior executive role?
---Yes.

Now you went to Abu Dhabi as part of, as part of the work for this new business, you moved to Abu Dhabi?---I relocated.

You relocated in July 2008?---Yes, that would be correct.

20 And how long were you resident in Abu Dhabi?---I was in Abu Dhabi between late July and I would put that in the last few days of July, because I left shortly after my wife's birthday which is on the 26th. And I was there until November 7.

Of 2008?---Of 2008.

And what role did you have, sorry, which, which entity did you work for when you were in Abu Dhabi?---My contract was with Davids Group.

30 With Davids Group. But you understood your role was to be working for a Parkview entity or Emergent Capital as it later became?---No, not a Parkview entity.

What was the, what was the nature of, firstly what was your role in Abu Dhabi?---To assist with the establishment and incorporation of the businesses.

And who did you report to?---To Rodric David and to Charif Kazal.

And who were you paid by?---I was paid by Davids Group.

40 Paid by Davids Group. When you say you - - -

THE COMMISSIONER: I'm getting no closer to understanding what this has to do with Mr Kelly.

MR ANDRONOS: About four or five questions Mr Commissioner. Were you there on secondment from Davids Group to any other entity?---That was essentially my role, yes.

And IPS is that, is that (not transcribable)?---I assisted with IPS, but Emergent Capital - - -

You were paid a salary presumably. Do you recall what your salary was?

MS HOGAN-DORAN: I object.

THE COMMISSIONER: Yes, it's irrelevant.

10

MR ANDRONOS: All right. Well I'll (not transcribable)

THE COMMISSIONER: It is irrelevant isn't it? What has it got to do with this case?

MR ANDRONOS: Well perhaps if I could just ask a different question. Were you ever promised any equity in the Abu Dhabi business?

MS HOGAN-DORAN: I object. How is this relevant?

20

THE COMMISSIONER: What does it have to do with Mr Kelly?

MR ANDRONOS: Because it's been put that Mr Kelly had been promised a five per cent stake.

THE COMMISSIONER: Yes.

MR ANDRONOS: And a certain charge related to an entity, to an interest that he was going to have.

30

THE COMMISSIONER: All right. Proceed.

MR ANDRONOS: Were you ever promised any equity in the business? ---Which business?

In any of the Abu Dhabi related businesses?---I have had discussions with Mr David about potentially receiving some profit sharing from Emergent Capital.

40

From Emergent Capital. Was that, this is Mr Rodric David?---(not transcribable)

MS HOGAN-DORAN: Objection.

THE COMMISSIONER: Why?

MS HOGAN-DORAN: With respect Commissioner, one of the issues in the Cayman Islands is, the Cayman Islands litigation is identification of the

contributions, the financial contributions behind the relevant partners and shareholders in the company Emergent Capital. With respect to Mr Andronos, whose client is a witness in those proceedings on behalf of KTC, this is an expedition, a fishing expedition into, having a trial run of that litigation.

THE COMMISSIONER: I don't see it in that light. And I'll allow the question.

10 MR ANDRONOS: Thank you Commissioner. Is it Mr Rodric David you had these discussions with?---Yes.

Yes. And I'll come back to the question of your salary, you had agreed in negotiating what your salary would be to take into account your expected profit share in the business. That's correct isn't it?---

MS HOGAN-DORAN: Objection.

20 THE COMMISSIONER: In the business you mean, well you better identify the business because the businesses - - -

MR ANDRONOS: Yes, sorry, I (not transcribable) Commissioner. You had discussions with Mr David in relation to a profit share, of which business was that?---Emergent.

Emergent Capital?---Emergent Capital, yes.

30 And what was the, and what was the business of Emergent Capital at the time you were having these discussions with Mr David?---It was to be established, but it was intended to be a private equity fund.

A private equity fund. And that was going to have interests in property and facilities management in the UAE?---Yes, it was one of its businesses.

So indirectly through IPS it was going to have, it was going to have that interest in the UAE?---Sorry, could you repeat the question, what was going have the interest?

40 Emergent Capital was going to hold an interest in IPS which itself had an interest in a joint venture with Four N in the UAE. Is that correct?--- Emergent Capital had a subsidiary called IPS Limited also Cayman's Island which did enter into a joint venture with Four N Properties to form IPS LLC and it was a minority 49% partner.

And it follows doesn't it, that if you had a profit share in Emergent Capital you would stand to benefit from profit derived from that minority interest in the UAE. That's correct isn't it?---If it eventuated, yes.

And part of your discussion with Mr David about how much you would be paid involved you accepting a figure of \$10,000 Australian per month - - -?--At my suggestion.

At your suggestion because you were going to receive a profit share from the business?---That was ultimately the intent but there was nothing contractually arranged between us.

10 And you were aware that other Australians who were working for the same business that you were and by that I mean, Mr Kelly and Mr Ashley Palm were being paid substantially more than you. That's correct isn't it?---

THE COMMISSIONER: In what business, what business?

MR ANDRONOS: Well, this is in IPS, it's all the same business your Honour because - - -

THE COMMISSIONER: Well, I don't know what business it is - - -

20 THE WITNESS: I'm sorry, could you repeat the question.

MR ANDRONOS: Well, you were aware that Mr Kelly was being paid \$25,000 a month weren't you?---Yes.

And you were aware that Mr Palm was being paid \$25,000 a month?---I don't believe Mr Palm was being paid such a significant amount, he was junior.

30 Oh sorry, I'm corrected. Mr Palm was being paid \$16,660 Australian dollars per month.---Just doing the math quickly, that sounds right.

Yes. And the reason you accepted a lower figure is because you were expecting a profit share?---I'd had some loose discussions with Mr David about let's get it started and see where it takes us.

And was the figure of 5% mentioned?---No, there was no fixed amount.

Thank you Commissioner.

40 THE COMMISSIONER: Ms Hogan-Doran.

MS HOGAN-DORAN: In respect of the discussions that you've just been asked about can you place a bare minimum time?---Sorry, the discussions with Mr David?

Yes.

THE COMMISSIONER: The discussions in which you had a loose arrangement about interest in Emergent Capital as I understand you – you had a loose arrangement that you would get some undefined interest in Emergent Capital at some future time should things pan out favourable?--- That would have been after our return from the May trip.

10 May what year?---Sorry, 2008. I returned to Sydney the 20th, Mr David had stayed on with Mr Charif Kazal for I believe two more days from memory and he arrived back in on 22nd so it would have been shortly thereafter and prior to the preparation of my contract on 1 June.

MS HOGAN-DORAN: And was the May 2008 trip your first involvement in this venture in the UAE?---Yes.

No other questions.

THE COMMISSIONER: Mr Newlinds.

20 MR NEWLINDS: I wonder, Commissioner, I think what Mr Korn is after is for the witness to identify with more precision the time in October - - -

THE COMMISSIONER: Well, I don't see the relevance of that.

MR NEWLINDS: I actually can. Sorry?

MR KORN: Yes.

30 THE COMMISSIONER: I don't see the relevance of that because it hasn't been put, nothing has been put that justifies any closer investigation of the time.

MR NEWLINDS: Well, I'm not so sure about that.

THE COMMISSIONER: Well, tell me what it is and then I'll decide.

MR NEWLINDS: Well, because Mr Korn might have made a point, produced Mr Karl Kazal's passport.

40 THE COMMISSIONER: Well, he must do that now.

MR NEWLINDS: Well, obviously, he doesn't have it now (not transcribable) I don't want to have a fight with you, if you don't want to, don't.

MR KORN: Well, I am going to have inquiries about that and Mr Commissioner, in the context I have no idea this evidence is coming.

THE COMMISSIONER: I understand that, but is Mr Karl Kazal here?

MR KORN: No.

THE COMMISSIONER: Well, this is pure speculation.

MR KORN: On who's part?

THE COMMISSIONER: Yours.

10 MR KORN: No it's not.

THE COMMISSIONER: You have no instructions that he was there or not there at any particular time.

MR KORN: You are quite right because - - -

THE COMMISSIONER: It's all pure speculation.

20 MR KORN: No, but it's relevant to deal with this issue, I would have thought it was equally relevant to the Commission wanting to know.

THE COMMISSIONER: I do not regard it as relevant unless there is going to be evidence that what Mr Hilder says is not true.

MR KORN: And I've put there in fact that he didn't sign the document, I can't take the matter any I carefully - - -

THE COMMISSIONER: I understand.

30 MR KORN: - - -I carefully and deliberately because the issue was not made known to me, I can't, as you say, I can't speculate and assume, so I need to find out.

THE COMMISSIONER: Well, Mr Hilder, are you going to be in Sydney for the rest of today?---Yes, Mr Commissioner.

Yes, well, will you be able to return to the Commission at 2 o'clock if necessary if you're given advice before 1 o'clock.

40 MR KORN: I don't want to do that, I don't want to recall him at 2 o'clock I just want him to produce his passport.

MR NEWLINDS: If you want to recall him at 2 o'clock, you can.

THE COMMISSIONER: If Mr Korn has got any evidence.

MR NEWLINDS: In my submission, to be fair to Mr Korn and his client, Mr Korn is entitled to ask for any documents that help place the (not

transcribable) and then he can decide whether he wants to take it further. At the moment, it's general October but if the witness can place it to a particular date or week, that might narrow things but I don't know - - -

THE COMMISSIONER: Mr Korn is perfectly able to call Mr Kazal to say, if your case at the moment there is nothing to refute Mr Hilder's evidence. If you tell me that you are going to call evidence to refute his evidence and you need to know for that reason what date he was there, I will recall him.

10 MR KORN: I'm having an inquiry made to see whether in fact his passport is available and then I'm told it should take much more than ten minutes.

THE COMMISSIONER: Right. Now Mr Hilder I think what everybody seems to want is for you to try and find out, as you said, in the next half hour when you were, when the signing took place in October 2008. How will find that out?---I believe my reliance there would be on the emails sent to the lawyers with the signed copies of these documents.

20 I beg your pardon, say that again.---I would have, I'm sorry, my recollection is that once the documents were signed that I scanned them and forwarded them to our lawyers.

I see.---Yes.

MR KORN: What he said was my reliance would be upon the emails that I forwarded to the lawyers.

30 THE COMMISSIONER: Yes, I understand that. All right. So you need to get those emails and have a look at them and if you would print them out please and would you hand them to Ms Rallis of the Commission. Can you do that - how long will it take you to do that?---I'll know once I can pull the emails up and get access to the - - -

And how long should that take?---Mr Commissioner, I shouldn't think that should take more than about half an hour.

All right. So if you can try, it's now 11.30 and if you could try and get Ms Rallis before 12.15. Is that possible?---That's possible.

40 You're excused from the witness box for the moment and for your turn. ---Thank you Mr Commissioner.

THE WITNESS WITHDREW

[11.29am]

MR NEWLINDS: Now, can I recall Karl Kazal, Charif Kazal.

THE COMMISSIONER: Could Charif Kazal be found. You are still under the same oath Mr Kazal under Section 38 Order continues to apply.

MR NEWLINDS: Mr Kazal, were you in the Commission's hearing room during Mr Hilder's evidence?---Yes.

And did you hear his evidence?---Yes.

10 Do you wish to change your evidence in so far as you had suggested that you forged your brother's Karl signature on the share transfer document?---I did not forge, I signed in person.

THE COMMISSIONER: What's the difference between forging and signing it as you say?---I was doing it to give him shares in the company, I was not forging anything.

You were, you had no authority for him to do what you were doing, is that right?---Yes.

20 You were representing to the Cayman Island Registry that Karl Kazal had signed the document?---Yes.

You knew that he hadn't signed it?---Yes.

And you had signed it?---Yes.

To make a false representation to the Cayman Islands authority?---It was done to give - - -

30 Was it for that purpose?---No, but to give him the shares.

You knew that by doing that you would make a false representation to the Cayman Island Registry?---I did not.

You were representing by signing that that Karl Kazal was signing it, not so?---Yes, but - - -

And you knew that wasn't true, of course?---I wanted to give him shares.

40 But you knew that it wasn't true?---I said, Commissioner, I wanted - - -

I am asking you to please answer the question?---Yeah.

Your answer is yes, you knew it wasn't true?---Yeah.

Mr Newlinds.

MR NEWLINDS: So why do you say it wasn't a forgery?---Because I was gifting him shares in the company.

So what, it's still a forgery, you still forged his signature?---I did not do it with the intention to forge, I wanted him and I had hoped that he can be in the company.

Right. You, you know that there other documents signed on the same day, correct?---As I said, yes.

10

Right. Well, did you, did you forge your brother's signature on those documents as well?---Can I please see them?

Sure. Well, before looking at them, was your brother there on the day?
---No.

20

On the assumption that all the documents to do with these shares were signed on the same day, did you forge - and on the assumption that they have your, what appears to be your brother's signature on them, did you forge that, those signatures?---I did not forge signatures.

All right. Did you write his name pretending it to be his signature?---Yes.

Now, the explanation for some of the later documents that were signed to the effect that you were giving shares to your brother doesn't hold water in relation to what happened next, does it, because the later documents give shares away?---Because he did not want to be in the company. When I told him I did it he was not happy, he didn't want, not to be in the company.

30

But you didn't tell him you did it after you signed the first document giving him the one share, did you?---No.

No. In any event, let's not quibble about the word forging, do you want to change your evidence when you - to the effect that you say that you wrote your brother's signature so as to make it look like he had signed documents when in fact he had not ?---Can you please repeat that?

40

Do you want to change your evidence and accept that in fact your brother signed the share transfer document?---He didn't.

And you know your brother signed the share transfer document, don't you?
---(NO AUDIBLE REPLY)

You know he signed the share transfer document, don't you?---Which share transfer document?

The one you've already seen, Exhibit 33?---The one I signed, he didn't, that was my signature I said, I wrote his name.

And the, the reason you know he signed it is he was there at the same time, wasn't he?---He wasn't.

Where did you sign that document, was it - - -?---I - - -

You can't remember at all, can you?---I cannot recall where I signed it but I recall signing the document. I can - - -

10 But how does that work as a memory? How does work? What, what in fact do you remember? You can remember signing the piece of paper - - -?---I just - - -

- - - but you can't remember anything else, is that it?---I was just making inquiries to confirm if I was in UAE around - - -

Well, who were you asking?---The travel agent.

20 And what's the answer, were you?---Oh, he, I was on hold when you called me back in. I'll get it next time.

Can we just the witness to look at Exhibit 36, please. Okay. There's a bundle of documents here, what I want to ask you is this: if you go, just count from the front, one, two, three, four, five, six, seven, eight which is two from the back, have you got that one?---Sorry.

Have you got the document - - -?---Yeah.

30 - - - which is eight from the front and it's a transfer from Karl Kazal to Charif Kazal dated October 2008, do you see that?---Yeah.

All right. Now, the signature that appears to be yours, that is the one above the word transferee, that is your signature, isn't it?---(NO AUDIBLE REPLY)

Isn't it?---(NO AUDIBLE REPLY)

40 THE COMMISSIONER: I don't know why you're turning the pages, Mr Kazal, just look at the one page and just answer the question, please? ---(not transcribable)

MR NEWLINDS: Is that your signature or not?---(NO AUDIBLE REPLY)

THE COMMISSIONER: Why are you having such difficulty in answering that question?---I'm just looking at the signature.

Well, just answer - why are you having such difficulty?---It's a bit different to the one on the first page.

MR NEWLINDS: Well, it might be but everyone's signature looks different each time they sign it.

THE COMMISSIONER: You're being asked about your own signature not Karl's signature?---It looks like it, yeah.

MR NEWLINDS: Well, it is, isn't it?---As I said it looks like it.

10 Right. Well, do you remember writing your own signature on some of these documents?---I said yes.

Well, I know you said yes but was that the truth when you said that?---Of course.

Right. Well, is that you signature or not?---Definitely the first one, yes, but the ones - they look, they look like it.

20 THE COMMISSIONER: So when you say the first one - - -

MR NEWLINDS: When you say the first one - - -

THE COMMISSIONER: - - - what do you mean? What's the first one? ---The one you showed me first time, dated 4 September.

Mr Newlinds, I'm not sure whether Mr Kazal is actually looking at Karl Kazal's signature or he's - - -

30 MR NEWLINDS: Right. You're looking at Karl Kazal's signature on the document handed - dated 4 September, are you?---Yeah.

All right. And you say that's your signature even though it's you pretending to be Karl's?---Yeah.

Right. I wonder if the court officer would just give me the bundle of documents please and I'm going to open this bundle which is Exhibit 36 at a page which is a share transfer certificate from Karl Kazal to Charif Kazal of the 25 ordinary shares. Do you have that page in front of you?---Yeah.

40 Now look at the signature above the word transferee in the bottom right-hand corner. Do you see that?---Yeah.

That is your signature, isn't it?---The transferee, yes.

Right. Were you looking at that document a few moments ago when I was asking, when I was asking you questions?---I was looking at the last, last - - -

Right, and you were comparing the two were you? Because the last document is another example of your signature, isn't it?---Yeah.

Yeah. That is your signature, isn't it?---Yeah.

And the one on the share transfer certificate for 25 shares between Karl and you, that's your signature as well, isn't it?---Yeah.

10 And do you say that the signature on that same page above the word transferor is Karl's signature written by you, what I would call a forgery?
---It wasn't a forgery, no.

All right. But you wrote that signature, is that it?---Yeah.

All right. So do you remember signing a document where you signed on the one hand for yourself and on the other hand pretending to be your brother?
---I - - -

20 Do you remember that?---I've explained because he did not - - -

THE COMMISSIONER: Do you remember that?---I recall.

MR NEWLINDS: Right. And you recall signing all these documents on the one day, don't you?---It could have, yes.

Yes. Well, when you say it could have?---I'm going back four years, I mean (not transcribable)

30 And it was in Jeff Hilder's office, wasn't it, in the UAE?---I can't recall signing it in Jeff Hilder's office, no.

No. But you actually, when you say you remember signing these documents other than remembering signing the documents there's nothing else in your memory, is there?---No.

Can I suggest to you it's impossible for you to be telling the truth about that and let me explain. If it be true that you remember signing the document, the documents we've looked at - - -?---Ah hmm.

40 - - - if that's true you must remember something about the circumstances under which you signed them. You must remember if you did it at a desk or standing up?---They, they, they could have been emailed to me, they could have been given to me to sign, I can't recall the circumstances which, where I signed them but I know I've signed them.

Well just explain to the Commissioner how that works in terms of what you see in your memory. Are you really saying you remember signing these documents for yourself and also pretending to sign them for Karl, but you

remember nothing about the circumstances. Is that what you're saying?---
Mr Newlinds, it was some time ago. I can't recall - - -

THE COMMISSIONER: Is that what you're saying?---Technically yes.

MR NEWLINDS: That's ridiculous. Just think about it?---Mr Newlinds - - -
-

10 So what we are understanding, just let me make this clear to you, is that in
your memory you actually remember signing squiggles on documents, you
remember that so you say, but you don't remember anything else?---As I
said - - -

Is that what you say?---As I said Mr Newlinds, it could have been emailed
to me, I could have been there where I've signed - - -

20 No, no, and Santa Clause could have given them to you. Anything's
possible, but you're the one saying you remember it, right?---I'm saying I
recall signing the documents. I do not recall the circumstances.

You're lying about that aren't you?---No, I do not lie.

You do recall the circumstances of these documents being signed don't
you?---No, I don't.

And you know that Karl Kazal signed his signature on these documents?
---I'm telling you as to the best of my recollection what happened with
respect to these documents.

30 And you know it happened in Mr Hilder's office don't you?---No, I can't
recall that situation, no.

THE COMMISSIONER: Were you and your two brothers in Abu Dhabi
together in 2008?---Mr Commissioner, I've just made a call - - -

No were you, I'm asking about your memory?---I can't recall if I was or
not. I'm just finding out. If I give you an answer I cannot guarantee is the
correct answer.

40 Have you got your passport?---I have it in my office, actually at home,
home office.

MR NEWLINDS: But you were in Abu Dhabi a lot in 2008 weren't you?
---I was travelling but I cannot remember I was there in October. That's
what I'm trying to say.

And undoubtedly Tony was there a lot?---Tony travels.

But he lives in Abu Dhabi?---Yeah, but he's always in and out. I can't, I'm finding out - - -

So it's reasonable for you to say you can't remember about yourself and Tony. But what about this, are you able to say categorically that your brother Karl was not in Abu Dhabi in the second half of 2008?---I'm not going speculate Mr Newlinds. I'm about to find out.

10 Well what about from your memory?---As I said, if I give you an answer I cannot guarantee it's the correct answer. I'm finding out.

THE COMMISSIONER: I take it you're finding out from the passport? ---I'm finding out from the travel agent.

Well that won't satisfy - - -?---We will get the, I can get the passports, but it will take me an hour to be able to do that, at least. And then we can find out.

20 MR NEWLINDS: Okay. All right. And what would you say if confronted with the three passports, that is Tony's, yours and Karl's, and they demonstrate that sometime in October 2008 the three of you were all in Abu Dhabi, would that make you change your evidence?---No.

Right. So what you're hoping is that they'll show that at no time in October 2008 were the three of you there?

MR KORN: Your Honour, I object to that.

30 MR NEWLINDS: All right. I'll withdraw that question?---I'm not hoping - - -

Now can I move to a different topic, please?---Yeah.

And this is a completely different topic, so you can hand that exhibit back. Now in February 2008 did you give some instructions to Nadine Burch about deleting some emails concerning Andrew Kelly and his email address?---I recall.

40 Yes. All right. And did you ask Nadine Burch to urgently delete from the global address listings amongst the AWT computers Andrew Kelly's email address with AWT on it and the mechanism in the computer that diverted those emails to his home email? Did you do that?---I can't recall the exact items to be deleted, but it was, it was, it was a request to not have any of, an of his global email address on other computers except on my PC.

All right. And did you ask Nadine Burch to attend to that urgently?---I can't recall if I said urgent or not.

But you certainly asked her to delete all references to Andrew Kelly from all the other AWT computers other than your computer?---I didn't say references, I said the email address to be only on my computer, nobody else's, so I mean, because as you would, I'm not a technical person, but if you're on the network everyone sort of can see other people, and I didn't want, I just wanted stuff that I have on my computer.

Why?---Just for privacy reasons.

10 Why? Who did you want to keep it private from?---Just, what I do is what I do myself.

Who did you want to keep it private from? Obviously not Nadine Burch, she already knew about it?---No. No, but we had other people - - -

Like who?---Other consultants who were coming to the office.

For example?---I can't recall. But other consultants were coming to the office and I just wanted to, whatever I was working with kept on my PC. I
20 didn't want it to be shared to other computers.

But no doubt the other consultants saw all sorts of confidential information?---Not really.

Well they had access to the computers?---Not to all the information on the computers.

All right?---They had limited access.

30 All right. Okay. So they had limited access?---Yeah. And that's why I was exactly trying to achieve.

And did you also instruct Nadine Burch to urgently remove from her computer the file that she had created relating to the project to get a business up and running in the United Arab Emirates?---I can't recall that.

Do you deny that?---I said I can't recall.

40 Do you deny that? I understand you don't recall it, but are you prepared to say you didn't tell her to do that?---I said I can't recall Mr Newlinds.

Would you please just confront the question and answer it please?---I am. We understand that you're saying you can't recall giving Nadine Burch those instructions. We understand that. What I'm asking you know is are you prepared to say that you did not give her those instructions?---I'm not going to say I did not because I can't recall.

All right. And you also know that she's given evidence that you did. Correct?---If I did, I could have, but I can't recall.

Now if you did can you offer an explanation as to why you would have given that explanation?

THE COMMISSIONER: Instruction.

10 MR NEWLINDS: I'm sorry, that instruction. I know it would be speculating, but just have a go. Can you think of any reason why you would instruct Nadine Burch to do that?---Not specifically.

Sorry?---Not specifically, no.

Well let's try non-specifically, any explanation at all?---I couldn't tell you Mr Newlinds.

20 No, come on, this is your chance. I'm going to suggest one to you in a moment. I just want to see if you have another one?---I couldn't tell you Mr Newlinds.

None at all?---I can't recall.

All right. Well what about this for an explanation, you wanted to keep your dealings with Andrew Kelly and the project secret because you knew that it was important that Andrew Kelly's employer, SHFA did not get wind of the fact that he was involved in a business venture with you?---No.

30 That's not the explanation?---No, not at all.

All right. That would be an explanation though wouldn't it?---But it's not.

Yes, but it's an explanation isn't it? Isn't it?---For someone else not - - -

And I'm just offering you the opportunity to see if you can dream up any other explanation.

MR KORN: I object to that.

40 THE WITNESS: I'm not going to make things up.

MR NEWLINDS: I'm offering you the opportunity to see, to suggest any other explanation?---I don't make things up.

But well speculate, what might it be?---I don't believe this Commission works on speculation.

THE COMMISSIONER: What you're saying is that you have no explanation?---I can't recall asking her to do that, Commissioner.

MR NEWLINDS: You know I haven't asked you to, whether you recall or not. We've dealt with that and you say you don't. And you understand at the moment I'm asking you to offer an explanation for why, if you did ask her that, you might have done so?---I don't remember. I can't recall.

10 That's because you know that the true explanation does not reflect well on you don't you?---That's not true.

You know that the true explanation involves you trying to cover up your dealings with Andrew Kelly because you knew that if his employer found out about it he'd get in a lot of trouble. Agree?---I don't cover and it's not true.

20 And you also knew that if his employer found out about it, he would no longer be the person at SHFA who you had to deal with when dealing with lease matters. Correct?---That's not true.

And that would have been bad for you and the Kazal organisation. Am I right?---That is not true.

Well it is true that if he stopped being the person who you were dealing with at SHFA that that would be bad for you and the Kazal organisation. That is true isn't it?---That is not true.

MR KORN: I object to that. I object.

30 MR NEWLINDS: It's all right. I'll move on. Now was there a day file, a day file or a day folder kept in the Kazal offices?---I think Mr Hillier would have taken appointment, the day, the day appointment, so that would have been (not transcribable)

So there's the day appointment - - -?---Yes.

- - -folder?---Yes.

40 I think Mr Hillier did collect that.---Yes.

Were you in court when, sorry, were you in the Commission when Nadine Birch gave her evidence?---No.

All right. Thank you. Did you pay for the helicopter that was hired so that the six people could go for a flight over Abu Dhabi?---No.

Do you know who paid for it?---I was asked to organise it for Mr David, I did so and I don't know who paid for it.

Well, how did you organise it without telling the person - - -?---Because I went - - -

Please let me finish. How did you organise it without being able to tell the people you were organising it with how it was going to be paid?---I went to the concierge and I arranged it with the concierge.

10 Now I wonder if we could be shown 543 please Roland, it should be a heinous colour version of the email. Okay. Now we looked at this document a number of days ago when I was asking you questions and do you remember that I got all confused about who's, who's piece, who was writing what. Do you don't remember that?---No.

Well, that's an unusual (not transcribable) for me to get confused.

MR KORN: You were doing this with Mr David not - - -

20 MR NEWLINDS: Oh, was I?

MR KORN: Yes.

MR NEWLINDS: All right.

MR KORN: Is this the green writing?

MR NEWLINDS: Yes.

30 MR KORN: That was with Mr David.

MR NEWLINDS: Oh was it, all right. Do you remember this, let's just have a look at this email Mr Kazal and have you got a photo or a colour version of it?---I don't have a folder.

Okay. Has the folder got a colour version?

THE COMMISSIONER: It's on the screen.

40 MR NEWLINDS: I know. Have you got a hard copy of the colour version. It's not going to help by looking at the folder version, can you look at the one on the screen because I all I want to do is try and identify who's writing what?---Yep.

Can you just go up a bit Roland to the start. So it's an email from – keep going up – so it's from Mr Kelly to Mr David and Mr Frawley and - - -

MR KORN: Sorry, (not transcribable) page Mr Commissioner. Didn't say from?

THE WITNESS: It's from Mr David.

MR NEWLINDS: There's an email at the top that's from Mr David to a series of people saying thanks. If you could move down to the next email – what he's saying thanks about is he's being copied in to an email from Mr Kelly at his home computer to Mr David, Mr Frawley, cc'd into you. DO you see that?---Yep.

10 Now, is this your understanding of how the email works, is the writing that is in black Mr Kelly's original email?---I was copied on a lot of emails, I haven't read this one before.

Haven't you?

THE COMMISSIONER: Where's the original?---It's hard to look at it on the screen.

MR NEWLINDS: Can you just go down to the paragraph towards the
20 bottom that starts with main thing in black, can you see that?---Yes.

Now can I suggest that this is what's happening, Mr Kelly is saying I've got a hard copy of the colour version.---Thank you.

The main thing to be done and we're talking about the second trip to Dubai is to access property databases et cetera and then in the next sentence he's saying up to you Rodric but it may be appropriate to update the previous Parkview (not transcribable) with the David's equivalent to highlight things are largely unchanged from service delivery perspective and incorporating
30 change into this new brochure et cetera. I also assume that Charif has his laptop over there already for any work to be done off site from Seba offices otherwise a laptop would be handy if someone had ready access to one. Do you remember reading this email, in particular, that aspect of it?---I was probably done a lot of emails - - -

Just answer the question will you?---I could have.

And as you read the email now, what is being said in those black words in that paragraph were written by Mr Kelly, correct?---Seems like it.
40

And then does it say this, that Mr David has responded in red, may be I don't know whether it was important or not to Seba, Charif should advise. James suggested he look at to bring a property manager with us as well which would mean that we have a number of experts sitting across the table to impress upon them importantly, how important we take the opportunity? Can you see that?---Yes.

That's Mr David's response, isn't it?---Ah hmm.

Now you understood that what was being discussed was this, it was the Parkview profile that had been prepared around the time of the first trip right?---Yes.

And he'd said to anyone who read it that people like Mr Kelly, yourself and your brother Karl were all involved in the Parkview company. Correct?---Yes.

10 And that that wasn't true, of course we've been through that.---Yes.

And what's been suggested here is that because by the time of the second trip Parkview was no longer going to be company it was going to be a David's company that perhaps someone should prepare a similar document for the new company so that the people at Seba would know that it was essentially the same people they were dealing with. Correct?---Yes.

20 And Mr David has suggested in his response to Mr Kelly about that is that you should advise whether you thought it would be important to Seba to get an up to date profile from the new company. Do you see that?---Yes.

Now do you remember anyone asking you whether you thought it was important to prepare a profile for the David company?---I can't recall.

There's no doubt that at this point in time which is I think about December 2007, that you and Mr Kelly were very much involved in the project that was now leading towards a second trip to Dubai. Correct?---I was involved with Rodric David, yes.

30 And Mr Kelly was involved with you and Rodric David?---I was involved with Mr David, I was involved with Mr David.

And you just draw a line there, don't you? You're not prepared to acknowledged that Mr Kelly was involved with you working towards a common goal in getting this business up and running are you?---It is coincidental that we're there at the same time, I agree.

That is preposterous Mr Kazal.---I disagree.

40 It is not a coincidence that you were there at the same it was it?---Mr Newlinds - - -

It was not a coincidence was it?---As I said, if he was there with Mr David, I happen to be there with Mr David it's coincidental, it's not something, you know I had planned or anything it just happened, that's the nature of the time.

Let's assume that's true in relation to the first trip. By the time you got to December 2007 there's no coincidence is there? You know he's involved, he knows your involved, you're cc'd into emails with each other?---Okay.

Yes. You're going to meetings together, you're involved with each other, aren't you?---I'm involved with Mr David.

You're going to stick to that whatever I - - -

10 THE COMMISSIONER: I thought you said, Okay.---I said we go to meetings but I'm involved with Mr David, I'm working with Mr David.

I'm sorry to disturb Mr Kazal, why Mr Newlinds was asking you the last question you said okay didn't you?---He was saying that you go to meetings, you do this I said - - -

But weren't you intending to agree with what he was putting to you?---If we were working, yes, I agree that I was working with Mr David at the time, yes.

20

MR NEWLINDS: You agree that you were working with Mr Kelly and Mr David and the others?---If they happened to be there at the same time, yes.

Now did you put your wife up to giving false evidence to this Commission about her depositing some cash money into a bank?---Never.

30 When you spoke to her about your evidence after I think the first time you gave it to this inquiry when I asked you questions, you told her that there appeared to be a real question as to who banked the cash and when and how, didn't you?---Not into that detail, I said I was asked about a particular question about a payment which was about (not transcribable)

And she out of the blue said, Oh, I remember something that might help. Is that it?---As I said on previous occasion, she recalled a situation - - -

We went through that?---Yes.

40 I'm just asking you to deal with this proposition, it's a serious matter. I'm suggesting that you put her up to giving false evidence to this Commission? ---I did not.

THE COMMISSIONER: Do you say that you didn't tell her which payment it was that you were concerned about?---No.

You didn't tell her that?---No, I said I was asked about a payment.

Just a payment in general?---No, a payment to, to Mr Kelly which Mr Newlinds was asking me about and she recalled situation and I immediately informed my barrister John Korn.

Did you tell her that it was a cash payment?---I didn't specifically say whether - I said about a payment that was made by me or someone else.

Did you tell her it was a cash payment?---No.

10 Did you tell her that there was one payment that you were being asked about?---I said about a payment.

All right. And did you tell her that it was a payment that was a deposit into a bank account?---I said about a payment.

Yeah, but a, one?---A payment.

Yeah, one payment?---That was your question to me, Mr Newlinds.

20 And did you say it was about one payment that could be identified by people like me because it was deposited into a particular bank account. Did you tell her that?---I said about a payment that was made on my behalf that you were asking about and I said I was concerned that that question was put to me.

A payment that was made on your behalf to who? What did you tell her?
---You were asking me - - -

I know, I want to know what you told your wife?
30

MR KORN: He said, I object to that.

MR NEWLINDS: That was not responsive.

MR KORN: No, no (not transcribable)

MR NEWLINDS: What did you tell your wife?---I - - -

MR KORN: I object that.
40

THE COMMISSIONER: All right. Just let's calm down.

THE WITNESS: I am telling you, you ask me, put questions to me if I knew about a payment that was made to Mr Kelly.

MR NEWLINDS: That's a question. My question now is what did you tell your wife about those questions?---And that's exactly what I said. I was about repeatedly about a payment to Mr Kelly.

Right. A payment from who to Mr Kelly?---I didn't specify from who but I said (not transcribable)

You said a few moments ago that you told her that you were asked about a payment on your behalf to Mr Kelly, didn't you?---Your questions - - -

Didn't you say that?---Let me say this, Mr - - -

10 Didn't you say that?---No, Mr Newlinds.

Didn't you say that?---(not transcribable)

Do you say you didn't say that?---Mr Newlinds, I was saying that I was asked questions about a payment to Mr Kelly repeatedly.

THE COMMISSIONER: Did you not say on your behalf?---No, I did not.

20 MR NEWLINDS: Do you deny saying in the last couple of minutes - - -?
---I could have said the word now on my behalf but - - -

Well, you did say the word on your behalf, didn't you? That was a mistake by you, wasn't it?---No, it's not a mistake. I'm, I'm, I'm telling you honestly and sincerely about this.

THE COMMISSIONER: Did you tell your wife that the payment was a payment made, said to have been a payment on your behalf?---No, I did not say a payment on my behalf.

30 But you accept that a couple of minutes ago when I was asking you about what you told your wife about the payment you said that your were asked questions about a payment made on your behalf, you said that, didn't you?
---Not, not specifically.

You said that - - -?---Mr Newlinds - - -

Please, just question, answer. You said the words a few moments ago, "I told my wife about a payment that was made on my behalf", you said those words?---I said about, questions about a payment made.

40 On your behalf?---Repeatedly.

On your behalf?---Me or others.

No, just focus, focus, a few minutes ago - - -

MR KORN: Well, I object, I object to that.

MR NEWLINDS: A few minutes ago - - -

MR KORN: He can't tell the witness how to give his evidence.

MR NEWLINDS: A few minutes ago - - -?---Mr Newlinds - - -

Please answer the question when I finish it.

MR KORN: And I'd object to the (not transcribable)

10

THE WITNESS: Mr Newlinds, I can hear you better if you talk to me.

MR NEWLINDS: Good. Well, then wait 'til I finish and then answer the question. Would you do the Commissioner the courtesy of that please?
---Yes.

20

A few minutes ago when I asking you about you told your wife concerning the evidence you had given to this Commission you said, did you not, "I was asked questions about a payment that was made on my behalf," didn't you?---I said I was asked questions repeatedly about a payment to Mr Kelly, me and others.

THE COMMISSIONER: You deny that, you deny that?---I'm not - - -

You deny that you said a few moments ago that you, that you spoke about a payment that had been made on your behalf?---I don't, I don't deny it, no.

MR NEWLINDS: That's because it's true, isn't it?---It's not true.

30

No, no, that's because it's true that you said those words, yes?---I, I could have said them, yes.

Well, you did say them, didn't you, didn't you?---Yes.

And the reason you're having so much difficulty coming to grips with the fact that you said those words is that those words were actually very close to the truth, aren't they?---It's not. It is not.

40

What in fact happened is you did pay Mr Kelly to reimburse him for his expenses?---I had nothing to do with payment to Mr Kelly.

And perhaps even your wife did make the deposits into his bank account but the fact is you paid Mr Kelly for those expenses, didn't you?---No, I did not.

And the reason you did is that Mr Kelly was there to help you as much as Mr David, wasn't he?---That's not correct.

And anyway, you were anxious to do things for Mr Kelly's benefit because that resulted in a benefit to you and the Kazal companies in their dealings with SHFA, correct?---Absolutely wrong.

And when you did that you knew it was the wrong thing to do and that's why you went out of your way to delete references to your dealings from the computer system at AWT?---All the dealings were on my computer and they were on my server.

10 Can I just ask you about an AWT business card, I can't remember if we covered this or not with you. Do you accept that an AWT business card was made up for Mr Kelly prior to the first trip to Dubai?---It could have, yes.

Do you accept that it was?---Yes.

And you accept that one was also made up for Mr David?---Yes, and Clint Willoughby and - - -

20 Everyone had an AWT card?---Yes.

That is a fact, isn't it?---That is correct.

And you had no doubt that at at least one of the meetings that Mr Kelly attended he handed that card across to the people on the other side?---I can't recall if he handed it to me.

It's inevitable that he would have?---He could have.

30 Isn't that what people do in that part of the world?---He could have.

They give cards to each other?---He could have.

Well, he did, didn't he?---I can't recall but he could have.

And you knew that that was all part of the same pretence that you were arranging with Mr Kelly so that he could pretend when it suited him and you to be AWT?---It was no arrangements with Mr Kelly, my arrangements were with Mr Rodric David.

40 And those arrangements included arming Mr Kelly with false documents, is that it?---At the request of Mr Rodric David.

And you knew, didn't you, consistent with Mr Kelly having an AWT card that Chesterton's in Sydney would have been told that Mr Kelly was involved with AWT?---At the request of Mr David.

But you knew it?---As I said, at the request of Mr David.

But you knew it?---Yes.

Now, can I just ask you about your arrangements for employment with Mr David from the time when you stopped working for AWT and can we just try and get some dates right? When do you stop working for AWT?---I can't recall.

Some time in 2007, is it?---I can't recall it.

10 And did you really stop working for AWT?---There was a period but I can't recall the time.

But was it all just a put up job so that you could pretend to the Child Support Agency people that you didn't have a job any more?---That's not right.

All right. So you really did stop working for AWT?---I said there was a time.

20 Whose idea was that? Was that yours or Karl's or someone else's?---There was a situation.

What was the situation?---There was some tense family situations and it resulted in - - -

I know it's embarrassing but tell us?---I've said enough. There was a tense family situation and - - -

30 Was it to do with your new Russian girlfriend?---It was not.

MR KORN: I object to that? That's derogatory.

THE WITNESS: She's not Russian.

MR KORN: You know better than that.

THE COMMISSIONER: Yes.

40 MR KORN: Now, stop that.

THE WITNESS: And she's my wife.

MR NEWLINDS: But what were the tense family matters that you're refusing to answer about?---It's personal.

Between you and your brother?---It's personal.

Between you and your brother Karl?---It is personal.

Are you refusing to answer my question?---I'm not refusing, I'm answering the question. As I said, it's personal.

THE COMMISSIONER: You're obliged to answer all questions, Mr Kazal, otherwise - - -?---I am.

- - - an offence is committed?---I am, Commissioner, but it was a personal family matter.

10

Well, I understand it's personal and I understand it's family but can you tell us to what it relates please?---Will you make a suppression order for it not to leave?

Yes, I will?---Thank you.

[, , SUPPRESSED , ,]

20

THE COMMISSIONER: I will make a suppression order in relation to the entire answer that Mr Kazal has now given.

THE ENTIRE ANSWER THAT MR KAZAL HAS NOW GIVEN IS SUPPRESSED

30

MR NEWLINDS: And one of the things that was causing tension is that you were lying to the Child Support Agency about your ability to provide money so that your children could be looked after, correct?---I look after my children better than any man in this room. I know what I do for my children.

All right. Can you just explain to me what you understood your arrangement with Mr David or whatever the company was that was pursuing the ventures in the UAE was, did you have a success fee in place, were you just a consultant, were you going to get a salary were you going to be shareholder, what was it?---It was working to achieve a structure that would be put in place there to have something solid - - -

40

THE COMMISSIONER: Were you going to get, were you going to get a success fee if the venture was successful?---Initially, Commissioner, on the first trip there was, I would get an employment, I get a fee of being involved in the venture, nothing happened, then towards the end part of 2007 I became a direct consultant while I was being remunerated for the amount of time I put into it and when the hope to move forward to try and establish something.

You did not answer my question. My question was when, let me put it again to perhaps make it more specific at the time you went to Abu Dhabi in the first trip to Dubai, I beg your pardon I beg your pardon - - -?---Abu Dhabi.

- - -Abu Dhabi on the first trip were you going to get a success fee if the venture if a venture was concluded as a result of what you were going to do in Abu Dubai?---The first trip Commissioner was - - -

10 Just say yes or no?---We didn't go into a lot of details about it.

Were you going – did you – was there an understanding between you and Mr David at the time of the first trip that should you there be a venture arrived at which made a profit as a result of what happened, not necessarily even made a profit, as a result of what happened in Dubai you'd get a success fee in an amount that you would discuss?---I would get, I would be getting a payment, yes.

20 So you were, you did go there to Dubai on the understanding that if the trip was successful you would get a success fee?---I would have a role in the joint venture.

No, you would get a success fee, is that right or wrong, it's not a difficult question, just answer it, were you going to get a success fee if the venture, if the trip to Dubai was successful?---Commissioner, we spoke about different things at the time, different options.

30 I'm just asking you if this was an agreement that you had in principle with Mr David that if you were, the trip to Dubai was successful you would get a success fee, can you just say yes or no please.---No.

No. All right.

40 MR NEWLINDS: Now I just want to ask you, what I want to do Mr Kazal is show you two other camera angles of the incidence that we've already looked at on the video. I'm sorry, I don't have too many questions about them, but I do want you to agree with me once we've watched them that they both represent the same incident and that the person that is obviously you is you and then I'll ask you a couple of questions. So can we play them, we'll play two videos after another. One I think is camera one and one I think is camera eight.

CCTV FOOTAGE PLAYED

[12.13]

MR NEWLINDS: Just stop there Roland. Now did you see your brother Jimmy come through the security door at the point that we're just showing on the video, just play it again.---Yes.

All right. Just have a look there, pause, you saw your brother Jimmy wave to Mr Hammond at that point, didn't you? Just play it again Roland - - -

MR KORN: Can we just say he saw it at the time or saw it now?

10 MR NEWLINDS: Saw it at the time I'm asking you?---I was looking in the other direction.

Thank you.

THE COMMISSIONER: The second video tape is Exhibit 37, just. You have no more questions Mr Newlinds.

MR NEWLINDS: I don't, there's another angle but I think it's on the one call it tape.

20

THE COMMISSIONER: Well, the video, the second video.

MR KORN: Can we play the second video.

MR NEWLINDS: No, we haven't played the whole lot.

THE COMMISSIONER: Sorry, what do I call it?

MR NEWLINDS: I think we just call it camera eight and camera three.

30

THE COMMISSIONER: Exhibit 37 is a video from camera eight and the Exhibit 12 is the video from camera three.

**#EXHIBIT 37 - VIDEO FOOTAGE FROM CAMERA 8 TAKEN ON
29 JULY 2011**

THE COMMISSIONER: Oh no, that's next, I beg your pardon. All right.

40

MR NEWLINDS: We might as well play it right through so that everyone sees it. I don't have any questions about it.

CCTV FOOTAGE PLAYED

[12.17pm]

MR NEWLINDS: That was camera 18 as I understand it, eight.

THE COMMISSIONER: So Exhibit 37, 38 is the video from camera eight, sorry, is that three?

MS RALLIS: 37 is eight.

THE COMMISSIONER: Yes, but we've seen, is that eight?

MR RALLIS: (not transcribable)

10

THE COMMISSIONER: We've not yet seen three.

MR NEWLINDS: We're about to see three.

THE COMMISSIONER: So the video is, you've seen the video from camera eight and that's Exhibit 37.

MR KORN: All of that is just one camera.

20

THE COMMISSIONER: There's not much point to watching any more is there?

MR NEWLINDS: No, Commissioner, that's it.

THE COMMISSIONER: All right. Well, Exhibit 38 is the video from camera three.

#EXHIBIT 38 – STATEMENTS OF MR GRAEME STEVENS

30

MR NEWLINDS: And just one final question if I may.

THE COMMISSIONER: Well before you do Mr Newlinds, sorry I would like to adjourn for ten minutes.

SHORT ADJOURNMENT

[12.20pm]

40

MR NEWLINDS: New topic, the incident last Friday. I know we've done it to death, but just one matter. You don't deny that there was a point in time when you and Mr Hammond were in the interview room when Mr Hammond went to try and leave the room and you put your hand on the door handle and prevented him from opening the door do you?---No.

You don't deny that do you?---I said I did not do it.

You did not do that?---No.

Are you sure of that?---Absolutely.

You're making that up aren't you?---I don't make things up Mr Newlinds.

You did, whatever else did or didn't happen in that room, you did put your hand on the doorhandle and seek to stop Mr Hammond leaving until you had finished saying to him whatever it was you wanted to say. Right?

10 ---That's not right.

Now Mr Commissioner, my application would be, well, that's all the questions I have for the moment. But I think you know there's one topic I want to cover with Mr Kazal after lunch. And it would be inappropriate for Mr Korn to ask his questions in that circumstance, but I don't think that topic will have any interest to anyone else. So there'll be no reason why other couldn't ask their questions if they have any.

20 THE COMMISSIONER: Yes. Mr Korn, I, you will of course have an opportunity to question Mr Charif Kazal after lunch. But - - -

MR KORN: On the matters only, only on the matters and in the context of today, that's right isn't it?

THE COMMISSIONER: Yes. You've already, any new material?

30 MR KORN: The reason I say that is I asked Mr Newlinds whether in fact, whether in fact I can ask Mr Kazal anything about the incident last Friday, and to use the words he repeated a moment ago, he said, I think we've done that to death. But then he got up and asked one question, so - - -

THE COMMISSIONER: Well it's on that, on that issue that I need to speak to you about.

MR KORN: Oh, he needs to speak to - - -

THE COMMISSIONER: No, I do.

40 MR KORN: Oh, O.K.

THE COMMISSIONER: All right. The, Mr Hammond was not, it was put to Mr Hammond by you consistent with his last answer.

MR KORN: Consistent with whose? Mr Charif Kazal's last answer?

THE COMMISSIONER: Yes. I will allow you to examine on that question because the failure to question Mr Hammond on that issue is highly relevant.

MR KORN: Thank you, Commissioner. You would understand that matter took us all by, on the run last week.

THE COMMISSIONER: Well you can put whatever submissions you want. I'm just pointing this out to you that there were no questions asked about that. The statement of Mr Hammond placed on record was made available to you before you cross-examined.

10 MR KORN: Thank you.

THE COMMISSIONER: And there was no request for any more time.

MR KORN: Thank you.

THE COMMISSIONER: But I'm giving you the opportunity now in re-examination in dealing with that if you wish.

20 MR KORN: I will, thank you.

THE COMMISSIONER: Yes, very well. Now Mr Newlinds, I need to find out - - -

MR NEWLINDS: I wonder if you should inquire of the others - - -

THE COMMISSIONER: Yes. Do you - - -

MR ANDRONOS: No questions, Commissioner.

30 THE COMMISSIONER: Ms Hogan-Doran?

MS HOGAN-DORAN: No, Commissioner.

THE COMMISSIONER: No, no.

MR NEWLINDS: Well I've got a couple of housekeeping matters.

THE COMMISSIONER: Yes.

40 MR NEWLINDS: Mr Kazal can stand down.

THE COMMISSIONER: Yes, Mr Kazal, you may, we will continue with you later after lunch, if you wouldn't mind taking your seat, please.

THE WITNESS STOOD DOWN

[12.46pm]

MR NEWLINDS: The first thing I want to raise Commissioner, is obviously the events of last Friday happened about ten feet from where we are at the moment in a room that you are very familiar with. My submission would be we should have something called a view or we should or you should be invited by me simply to have a look around that area and form your own views. But if you're going to do that obviously the other parties would need to know that.

THE COMMISSIONER: Yes, quite so.

10

MR NEWLINDS: And that's something we could do today at some stage if the others want to be - - -

THE COMMISSIONER: There's only one issue that I think is important for all, all persons who have an interest in this to agree upon and that is the visibility both to the left and to the right of a person standing where Mr Jimmy Kazal stood while Mr Hammond and Mr Charif Kazal were in the witness room.

20 MR NEWLINDS: The best way for you to find that fact would be if you go and stand there yourself in my submission. It's a classic case of review.

THE COMMISSIONER: Yes, but I think that it's important that the others be there and I express out loud what I'm saying so that if there's a disagreement submissions can be made to me on that.

MR NEWLINDS: And Mr Korn perhaps could play himself. Sorry, I was being facetious.

30 MR KORN: (not transcribable) signature. The facsimile won't be the same (not transcribable)

MR NEWLINDS: Anyway, I just raised that. Others can think about what they want to do, and indeed you can think about what you want to do about that Mr Commissioner. You might be prepared to act on the videos alone. My submission would be it would be best to have a look in real life at the area.

THE COMMISSIONER: Yes. I think that that is, that would be preferable.

40

MR KORN: Yes, thank you, because, yes, there's a definite reason (not transcribable)

MR NEWLINDS: And then finally can I hand up a list of statements which I have now distributed. Now do you Commissioner and your staff have a copy of Ms Debra Dawson's statement of 22 July? I am hoping you do.

THE COMMISSIONER: I have no idea.

MR NEWLINDS: All right. Can I do this, by reference to the document entitled Operation Vesta Statements that I've just handed up, what we have is a list of statements, some of which have against them the word tendered and the date. The ones that haven't been tendered yet I'm now proposing to tender. So what I'm doing is tendering the three statements of Graeme Stevens, made 23 March, 2011, 9 June, 2011 and 20 July, 2011.

THE COMMISSIONER: Well can I just deal with those.

10

MR NEWLINDS: Yes.

THE COMMISSIONER: The statements of Graeme, the three statements of Graeme Stevens reflected in the index which were, I think should also be tendered will be Exhibits 39 A, B and C respectively.

#EXHIBIT 39A-C - STATEMENTS OF MR GRAEME STEVENS

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MR NEWLINDS: And then if we can move forward through that document. The next one that hasn't been tendered is Elizabeth Walsh made 2 June, 2011.

THE COMMISSIONER: Yes, the statement of Elizabeth Walsh will be Exhibit 40.

#EXHIBIT 40 - STATEMENT OF MS ELIZABETH WALSH

30

MR NEWLINDS: Over the page there's a statement of Debra Dawson made 22 July, 2011. I have a spare one of it's not there, but - - -

THE COMMISSIONER: We can deal with that administratively.

MR NEWLINDS: That will be 41.

THE COMMISSIONER: Exhibit 41 is the statement of Debra Dawson.

40

#EXHIBIT 41 - STATEMENT OF MS DEBRA DAWSON

MR NEWLINDS: And then finally Andrew Peters.

THE COMMISSIONER: Andrew Peters, Andrew Peters' statement is Exhibit 42.

#EXHIBIT 42 - STATEMENT OF MR ANDREW PETERS

MR NEWLINDS: 42. And if I can suggest that the index be Exhibit 43.

THE COMMISSIONER: Yes, Exhibit 43 is the index of statements.

10

#EXHIBIT 43 - INDEX TO DOCUMENTS

MR NEWLINDS: And we tendered the two, the second and third videos?

THE COMMISSIONER: Yes.

MR KORN: I'm sorry I missed, what was 43, Commissioner?

20 THE COMMISSIONER: The index. The two videos, the three videos are Exhibit 12, Exhibit 37 and Exhibit 38.

MR NEWLINDS: There is another, all right, these are not all the statements (not transcribable) the one of Mr Champion. I'm now comfortable that I have tendered all the bits of paper that I wish to tender in this matter other than anything that arises after lunch.

THE COMMISSIONER: So this index of statements is not a complete index?

30

MR NEWLINDS: No. But I'm going to make sure it is.

THE COMMISSIONER: All right.

MR NEWLINDS: There might be a revised version of the statements, of the index at some stage.

THE COMMISSIONER: All right. So shall we adjourn until 2.00pm.

40 MR NEWLINDS: Yes, please.

MR KORN: Commissioner, sorry, if you're proposing to have that view today, I'm proposing to ask if you could give me the time because I'm proposing, my suggestion is that my client, Mr Kazal should not be anywhere near that, when that occasion occurs, so - - -

THE COMMISSIONER: We'll do it at the close of play.

MR KORN: Thank you.

LUNCHEON ADJOURNMENT

[12.51pm]