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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION VESTA

Reference: Operation E10/1246

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 27 JULY 2011

AT 10.09AM

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

THE COMMISSIONER: Mr Newlinds.

MR NEWLINDS: Mr Commissioner, can I ask to ask some further questions of Mr Kazal on some topics which were not touched on yesterday?

10 THE COMMISSIONER: Yes. I take it there's no objection from anyone?

MR KORN: No.

MR NEWLINDS: Now, Mr Kazal, is it the position that when you spoke to your wife about the evidence you have given in the private session last week or the week before that your firstly told your wife that you had been called to the Commission and been asked some questions?---She was aware I was being called to the Commission.

20 She was aware because you told her?---No, she was aware there was some investigation going on.

All right. She was aware that you gave evidence in the Commission on the day you gave the evidence which was I think 26 July, 2011 and also 15 July?---Sorry?

Sorry, I'll start again. It was 15 July, 2011, wasn't it?---The 15th, yeah.

30 All right. You told your wife that you were going to the Commission that day to give, to answer questions, didn't you?---Not that day, no.

You told her after you had answered questions that day that you had been to the Commission that day and been asked questions and given answers, didn't you?---As I said, it was just bed talk, it wasn't - - -

Could you just answer the question?---Yes, yes.

40 And you told her that one of the topics you had been asked about concerned a payment of cash money to Mr Kelly and the banking of that money, yes?
---Yes, I said I was asked a lot of questions about a payment being made and I - - -

THE COMMISSIONER: A payment being made to whom?---To, sorry?

A payment to whom?---I said I was being asked about a payment being made numerous time to, to Mr Kelly and, and I didn't know anything about it.

MR NEWLINDS: And she then told you what she thought she knew about that topic?---Yes, she mentioned she recalled an event that took place with respect to her being - - -

MR KORN: I'm sorry, sorry, Commissioner, it's just come to my attention, my instructing solicitor that actually the wife is in the room.

THE COMMISSIONER: That's all right.

10 MR NEWLINDS: I don't have a problem with that.

MR KORN: Oh, okay, sorry, I didn't - - -

MR NEWLINDS: That doesn't - - -

THE COMMISSIONER: It's the practice of the Commission generally to allow witnesses to be in the room.

20 MR KORN: Oh, that's all right. I'm sorry, I call her the wife, I didn't mean - - -

MR NEWLINDS: Mrs Kazal. Now, Mr Kazal, you remember don't you that at the conclusion of you being asked and answering questions on 15 July the Commissioner said these words in your presence, "Pursuant to section 112 of the Independent Commission Against Corruption Act, I direct that the evidence given by Mr Kazal, that is Mr Charif Kazal, the contents of any exhibits tendered, any information that might enable Mr Kazal to be identified and the fact that Mr Kazal has given evidence today shall not be published or otherwise communicated to anyone except by Commission officers for statutory purposes or pursuant to further order of the Commission. It is a criminal offence for any person to contravene this direction. This suppression order may be varied or lifted by the Commission without previous notification if the Commission is satisfied that it is necessary or desirable to do so in the public interest." The Commissioner said those words in your presence, did he not?---I recall, yeah.

40 And immediately after he said those words he said to you, "Now, do you understand all that, Mr Kazal," do you remember that?---Yeah.

And you said, "Yes." Do you remember that?---Yeah.

And you did understand what the Commissioner had said, didn't you? ---Yeah.

And the Commissioner then said to you, "You understand that it means in effect that you must not tell anybody that you gave evidence here today. You must not tell anybody about any of the questions you've been asked

and you must not tell anybody about your replies to the questions you were asked. You may tell your legal advisers but no one else. Do you understand that?" Do you remember that?---Yeah.

And you said, "Yes," indicating that you did understand that, yes?---Yes.

10 And that very night you went home and told your wife about some questions you'd been asked, didn't you?---As, as I said, I did not discuss any of the evidence with her. It was a question that was bugging me and it was worrying me why I was asked so, so many, so many times about a payment which I knew nothing about and it was just a bed talk thing. I was not there to tell her anything about the evidence I gave. I did not discuss it.

But you told her about some questions you were asked?---A question, not
- - -

A question?---Yeah.

20 And in fact you told her you were asked a lot of questions on a particular topic. That's what you told her. Correct?---Yeah.

Right. And when you did that you knew that that was one of the things that the Commissioner had directed you not to do, didn't you?---I didn't think of it at the time and it was something that was worrying me and it was just a bed talk, as I said. I had no intention to break any, any laws or do anything wrong against what the Commissioner has said.

30 Now, can I ask you this, do you remember that I've asked you a number of questions about Mr Kelly having an AWT email address?---(NO AUDIBLE REPLY)

Do you remember those, those questions?---Yeah.

I think a technical name for what it is that allows people to be given email addresses with a particular @ at the end of it is a domain name. Does that mean anything to you?---I'm not a technical person when it comes to emails, no.

40 And do you accept this – at sometime in February 2008, so this is very shortly after the second trip to Dubai- -?---Ah hmm.

- - -you instructed Nadine Burch to take what steps were necessary to delete any reference from yours or AWT's computer relating to Mr Kelly's email, emails emanating from or to that AWT address? You did that, didn't you?
---I can't recall.

Do you, do you deny doing that?---No, I, I, I can't recall removing emails from my computer or AWT.

THE COMMISSIONER: It's instructing Nadine Burch to do it, Mr Charif?
---I, I didn't instruct Nadine Burch to, to, to delete emails, no.

MR NEWLINDS: Did you instruct her to do something concerning emails?
---Maybe an email address that keeps on coming up because it was no longer in use.

10 All right. Are you saying that when you, that when you were trying to send group emails Mr Kelly's name would pop up as part of a group and that was annoying you?---Look, I can't recall why I would have done that but, I honestly can't recall.

And do you remember, see if this jogs your memory. I'm asking you to consider whether when you told Nadine Burch to delete Andrew Kelly's forwarding email address from the system, you asked her to do that urgently?---As I said, I recall asking her to do something but I can't recall the circumstances.

20 Can you think of any reason why you might have wanted to remove references from Andrew Kelly from your computer in February 2008?---As I said, I can't recall the reason why and as I said, I've asked her to remove the email address because it was not being used but I don't recall the circumstances surrounding that.

Now, can I ask for document number 372 to be brought up, please. Okay. Just open up your folder there, Mr Kazal, and find page 372?---Yeah.

30 Now this is a letter to MGI Boyd Chartered Accountants and Taxation Advisors in O'Connell Street, Sydney. And if you go all the way through to page 375, it's signed by a man called Vince Freeman and it's addressed to Rodric David. Do you see that?---Yep.

And it's concerning the proposed joint venture with Seba. Do you see that?
---Yep.

40 Now you were aware at least shortly after the trip to Dubai that if the business was to go forward it would probably be some sort of joint venture with Seba. That was what was being looked at at the time wasn't it?---Yep.

And do you see, I'll just read to you the first sentence of the letter, we refer to last week's meeting between you, Emile Tabet, Paul Karantonis of Parkview and Charif Kazal of Australian World Trading Pty Limited, Vince Hourigan and Penny (not transcribable) of the accountant office in relation to the joint venture?---Yeah.

Now the question is do you recall going to such a meeting?---I could have, yeah.

I know you could have, the question is do you remember going to such a meeting?---Yeah.

And were you involved in that meeting in providing instructions to the accountants?---No.

Well do you remember this meeting or not?---As I said I recall being at the meeting, but I did not give instructions to anybody.

10

All right. Did you sit there while other people gave instructions to the accountants?---It was a meeting and a discussion I recall.

Did you sit there while other people - - -?---I was at the meeting.

And other people were giving instructions to the accountant?---They were discussing a situation. It was a discussion meeting.

And did you listen to what was being said?---Yeah.

20

And was anything that was said not accurate at least in so far as you understood things at the time?---This meeting was called by Rodric David - - -

Just answer the question will you?---I'm happy to answer the question Mr Newlinds, but - - -

I didn't ask you who called the meeting. I asked you whether anything that was said at the meeting was not accurate by reference to what you understood was happening at the time?---I could not recall the full contents of the meeting. I remember being there and there were discussion about a joint venture in the UAE and stuff like that. But I can't remember the full extent of discussions.

30

But don't you think that if someone had said something that you didn't agree with or thought was wrong that's something you might remember?---I wasn't, I wasn't driving this to start with. So if I was there I would only be there to assist.

Can we go to page 465, please?---Sorry?

40

465, it's in the same folder I hope. Now I think I asked you some questions about whether you were aware of any legal advice of the second half of 2007 yesterday. But just to, and I think you said you weren't or you couldn't remember. Can I just show you this letter, it's from Hugh Fraser International who are some lawyers - - -?---Yep.

- - - in the, in Dubai?---Yep.

And they are writing to Mr David on 23 July, 2007 regarding a proposed joint venture with Seba. Do you see that?---Yeah.

The question is firstly did you have anything to do with instructing those solicitors?---No.

10 Did you know that solicitors, even if you didn't know their names were being retained to give advice?---I was asked by Rodric to recommend some lawyers and through a consultant to my brother, Tony, Mr John Yudal, I believe he referred this firm to Rodric in terms of giving him advice on what structures would have, would have been, would be set up if there was something to be set up.

And was the proposal at that time to use the Kazals' family company in Australia to establish the joint venture company in the UAE?---No.

20 All right. Can I show you an email. Right. Can I show you an email. We've got copies for the rest and we'll just distribute these slowly. It's 26 July 2007. I've got one for the Commissioner. This is the last copy so you'll have to share it. Sorry, it's 6 July. Just have a look at this document. Now, can I go to a new topic, please. And, Commissioner, this, this falls into a different category, this is something that ordinarily I would have asked at the end of all the other counsel but as I'm on my feet may I have your permission to do it now?

THE COMMISSIONER: Yes.

30 MR NEWLINDS: Mr Kazal, yesterday at transcript page 212 Mr Beech-Jones was asking you some questions about a company that is called KTC? ---Yeah.

And that's, is that the Cayman Islands company?---Yeah.

And that company was incorporated by you and others for the purpose of the joint venture business?---Yeah.

And that was the Kazal family business that became one part of the joint venture?---It was Tony and mine business, yes.

40 Ah hmm. And you said at about line 23 on page 212 that KTC stood for Kazal Tony and Charif. Do you remember that?---Yeah.

Do you remember saying that?---I would, probably, yeah.

Well, you probably said that?---Yeah.

Well, is it true?---Sorry?

Is it true that KTC as far as you know stood for- - -?---No, not initially, no.

Right. So let's just take this step-by-step?---Sure.

Did you say yesterday in relation to KTC that those initials stood for Kazal Tony and Charif?---I did not make the reference that the initials stood for Kazal Tony Charif but I said that was a Kazal interest of Tony and Charif. That was my meaning.

10 Because in fact at the time KTC was intended to stand for Karl, Tony and Charif?---Initially, yes, that's how it was set up.

And initially shares were issued in that company to each of Karl, Tony and Charif Kazal. Correct?---And, that's right.

Yes?---Yes.

20 And at that point in time you intended that Karl would be a shareholder in that company. Yes?---That was the intention but immediately he asked us to remove that.

Did he, did you tell him before the shares were issued that they were going to be issued to him?---There was discussions about setting up the companies 'cause it was being set up through Rodric's right-hand man, one of his people, and initially this guy, I just can't recall his name, Jefford Hilder was sort of doing the liaisons in terms of setting the companies up and for some reason he put Karl Tony Charif and as soon as Karl found out he wanted nothing to do with this 'cause that was what he wanted all along and I immediately asked for that to be corrected.

30 And the reason it was initially set up that was is because you told the people who were setting it up to set it up that way. Correct?---As I said, I can't recall. There must have been, whether a miscommunication or crossing of the line or whatever it is, but it was not intended to be initially set up that
- - -

I wonder if you could go to page 398 of the bundle. Okay. Have you got that?---Yeah.

40 I'm sorry, has the operator got that? Yeah. All right. Now, this is an email from Rodric David to Hugh Fraser at Fraser Legal?---Yeah.

We've just looked at a letter from that firm of lawyers - - -?---Ah hmm.

- - - in Dubai and its cc'd in to you. Do you see that?---Yeah.

Can you just run your eye over it quickly and tell me whether you recall receiving and looking at this email in or about early July 2007?---Yeah.

Do you remember, do you remember - - -?---Look, I could have, yeah.

All right. And is it the case that throughout June, July, August, September 2007 you were very much kept in the loop if I can use that phrase by Mr David as to what steps he was taking to obtain legal and accounting advice in the United Arab Emirates as to what was, would be involved in setting up a joint venture?---He was keeping me abreast of what's happening, yeah.

10

And you understood that, as Mr Beech-Jones said yesterday, there were really two joint ventures. There was a joint venture between the Australian interests and the Dubai interests and within the Australian interests there was going to be a joint venture between the Kazals and Mr David?---Just repeat that question again, sorry.

There were really two arrangements. There was an arrangement between the Kazals and Mr David which might be called a joint venture?---The only joint venture was - - -

20

All right?--- - - - was what was to be with the UAE partner.

All right. But there was also to be a arrangement between Mr David and one of his companies and the Kazals as to how one half of that joint venture would be organised, correct?---Yeah, AWT Dubai, yeah.

All right. Okay. Thank you. Nothing further, thank you.

30 THE COMMISSIONER: Yes. At that time in June 2007, Mr Kazal, did a company called AWT already exist in the UAE?---Yes.

When was it first established?---I don't know but I can get the question.

I beg your pardon?---I don't know but I can get the answer for you. It's my brother Tony's company.

But you are saying that in June 2007 it already existed?---Yes.

40 Can you just look at page 398 in the third paragraph?---Yeah.

Can you just read the third paragraph please and tell me when you've finished reading it?---Yeah.

And when you, first received this letter from Mr David did you tell him that you thought the third paragraph was wrong or did you say nothing or did you tell him it was right?---Commissioner, I don't recall if I had discussion with him. At times I would get emails to be kept of what he was doing but I, I wouldn't go into details reading every email I received.

If something was wrong I take it you would tell him?---Sorry?

If something was wrong, if he had set out something that was wrong, you would tell him?---Commissioner, I, I wouldn't have, I mean, you know, read most, some or most emails he would have sent because we were in phone contact most of the time as well. He would send me things and sometime honestly I would not read every email I got from him.

10 Mr Kazal, is the third paragraph on page 398 right or is it wrong?---It's right in one sense but it's wrong in another because it has the wrong business in it.

Did you tell Mr Kazal that, Mr David that?---Mr David always knew it wasn't that- - -

Did you tell him?---I can't recall, Commissioner.

20 So by June 2007 the Kazal family and Mr David were going to do business as a joint venture in the UAE, they were hoping to do so?---That was what Rodric wanted.

No, you were hoping to do so, weren't you?---Well, Mr Commissioner, that was what was being discussed and that's what Rodric wanted.

That was being discussed and you were part of the discussions?---I was trying to be involved to improve my own situation, Commissioner.

30 I know that, Mr Kazal, but you were trying to improve your own position by entering into a joint venture with Mr David in the UAE?---With my brother, Tony, who already lives in UAE.

That's right. Is that not right?---There was a discussion but there was nothing concrete that was- - -

I didn't say it was concrete?---It was, people discuss things but not necessarily things happen, Commissioner.

40 That was your hope?---Everyone would hope to improve their situation.

It was your hope?---As I said, Commissioner- - -

Was it your hope?---Yes. Can I just say one more thing, Commissioner?

No. Mr Beech-Jones, I can't remember, I think you go first?

MR BEECH-JONES: I've already been, sorry, Commissioner. I don't- - -

THE COMMISSIONER: You've already been. I'm sorry. I beg your pardon.

MR BEECH-JONES: Yeah, I don't have any further questions.

THE COMMISSIONER: We've got Mr Korn.

MR KORN: I thought we got through to the stage where I was- - -

10 THE COMMISSIONER: We did, Mr Korn. I apologise. You're quite right. Do you wish to re-examine?

MR KORN: Yes, I do. Mr Kazal, yesterday you were asked some topic, some questions on the topic of your, you taking responsibility for events that occurred and the word that was used to you and it was part of my learned friend to my right's question was, did you, did you agree to accept or agree to take responsibility. Was there ever a conversation between you and your brother, Karl, on the topic of you taking responsibility and at the same time excluding him from responsibility?---Never.

20

Did you ever have a conversation with your brother, Tony, where the topic of you and/or you and him would take responsibility and exclude Karl, did anything like that ever take place between you and- -?---None, none, sir.

When you answered the questions yesterday and said that you agreed to take responsibility, what did you mean by that?---It means I accepted responsibility.

Were you born in Australia?---No.

30

Is English your first language?---No.

Yes. I have no further questions.

THE COMMISSIONER: What is the position with Mr Kazal, Mr Newlinds, should he be excused?

MR NEWLINDS: Can he not be formally excused but if- - -

40 THE COMMISSIONER: We may call him back?

MR NEWLINDS: We may call him back but we'll be in a position to give our learned friend some notice.

THE COMMISSIONER: As with Mr Kelly?

MR NEWLINDS: Yes.

THE COMMISSIONER: Mr Kazal, you may be recalled so you're not released from the summons but you will be given reasonable notice of when you will be recalled. You will not be recalled for at least a couple of days, if not more?---Thank you.

Mr Korn?

10 MR KORN: Your Honour, Commissioner, your practice about witnesses being present in court I completely understand, but I, may I request that before, when we start the next witness that in fact Mr Kazal not be in court?

THE COMMISSIONER: Yes.

MR KORN: He can wait around and go- - -

THE COMMISSIONER: Yes, I understand. Mr Kazal, when the next witness is called would you mind staying outside the hearing room?
---Thank you, Commissioner.

20 If you wouldn't mind waiting in the reception area, please?---Thank you, Commissioner.

You will be advised as soon as that witness has concluded the evidence that is given. You may now leave the witness box, Mr Kazal?---Thank you.

Thank you.

30 **THE WITNESS WITHDREW** **[10.40]**

MR KORN: Just after he leaves there's something I'd like, want to say to you.

THE COMMISSIONER: Yes, Mr Korn? Do you wish Mr Kazal to be out of the hearing room?

40 MR KORN: Yes, please. If you just go outside. Mr Commissioner, can I just make this clear on the record and it's partly in response to your assistant asking me this morning whether in fact I propose to appear for Mrs Kazal, the answer formally is no. I want to say this publicly so that you understand, when Mr Kazal came to see me on the Monday following the occasion when he was here in private session, he saw me late in the day, had a conversation with me. I immediately wrote that conversation down in my book. And I made a file note of it which I intended and did make available to those to my right. I deliberately did not, and at no stage have I ever indicated I would act for Mrs Kazal. Indeed, my expectation was that she would probably be sought to have a statement taken, so from that purpose I

stood back so that there would be an opportunity for a complete statement without any prior rehearsal or taking of notes or anything like that. When I learned yesterday that she was going to be called today, again I did not suggest and never have suggested that she get representation. I didn't exclude her from that, I simply didn't raise it. What I did say to her, and I made a point of saying three things. Mrs Kazal, tomorrow when you are going to be called listen to the question. Now your Honour, Mr Commissioner, she again was not born in this country and I said listen to the question and make sure you understand it and hear it. And once you
10 understand and hear it answer only the question which is asked. That's the extent to which she's been given any legal advice.

THE COMMISSIONER: Thank you Mr Korn. And may I say your assistance is appreciated and as far as I am concerned you've acted most appropriately.

MR KORN: And the, those who are to my right have a copy of that file note, if your Honour, if the Commissioner wanted it.

20 THE COMMISSIONER: Yes, thank you. Mr Newlinds.

MR NEWLINDS: I think that having been said Mr Commissioner, I might, I will add to the bundle at some stage the file note. I don't know if you've seen it but I'll hand it up at this stage. And when it's convenient I call Mrs Kazal.

THE COMMISSIONER: Perhaps you should call Mrs Kazal. I will read this in time.

30 MR NEWLINDS: I call Mrs Kazal.

THE COMMISSIONER: Mrs Kazal, please be seated. Mrs Kazal, I understand that you're not legally represented.

MRS KAZAL: Yes, that's correct.

THE COMMISSIONER: That's correct. I need to explain something to you. I am able to make an order to the effect that any evidence you may give cannot be used against you in any civil or criminal proceedings. Do
40 you understand that?

MRS KAZAL: Yes.

THE COMMISSIONER: The order that I so make, if I make that order only operates if you object to, to answering particular questions. If you do object the protection will be available to you, but you're still required to answer the question. Do you understand that?

MRS KAZAL: Yes, I understand.

THE COMMISSIONER: And you are required to tell the truth.

MRS KAZAL: Yes.

10 THE COMMISSIONER: And I at this stage of the information I am giving you, I should point out to you that this is a very serious occasion and you are obliged to answer all questions asked of you. And it is a serious criminal offence either to refuse to answer or to give false answers. Do you understand that?

MRS KAZAL: Yes.

THE COMMISSIONER: And I emphasise that because the penalty for giving false evidence in a public inquiry is a gaol term of up to five years.

MRS KAZAL: Yes.

20 THE COMMISSIONER: Now it is probably convenient to you if I make a general order that all your evidence is to be regarded as having been given on objection so then there is no need for you to make objection again and the proceedings don't have to be interrupted and you don't have to think about whether you should make objection, because I will make an order to the effect that all your evidence is given under objection. Do you understand that?

MRS KAZAL: Yeah, I understand that.

30 THE COMMISSIONER: Do you wish me to make an order of that kind?

MRS KAZAL: Yes, please.

40 THE COMMISSIONER: Yes. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mrs Kazal and all documents and things produced by her during the course of her evidence at this public examination are to be regarded as having been given or produced on objection and accordingly there is no need for her to make objection in respect of any particular answer given or document produced.

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MRS KAZAL AND ALL DOCUMENTS AND THINGS PRODUCED BY HER DURING THE COURSE OF HER EVIDENCE AT THIS PUBLIC EXAMINATION ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON

OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HER TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT PRODUCED.

THE COMMISSIONER: Now Mrs Kazal, would you like to give your evidence under oath or would you simply like to affirm the truth of your evidence? It makes no difference in law, it's just a matter for your conscience.

10

MRS KAZAL: Oath please.

THE COMMISSIONER: Mr Newlinds.

MR NEWLINDS: Mrs Kazal, my name is Robert Newlinds. I am the barrister who is assisting the Commissioner in conducting this inquiry. Do you understand that?---Yes.

10 Now Friday, 15 July was not last Friday but the Friday before. Do you remember that day your husband coming home and having a conversation with you?---That's correct.

All right. And doing the best you can can you tell the Commissioner what your husband said to you about this inquiry?---Yeah, he said that he had a tough day. And he said that he was asked a lot of questions. And there was one that is on his mind. He said that he's being asked about money and he doesn't know why he's being asked so much about one subject. That was his concern.

20

All right. And what did you say?---Initially nothing. We just kept talking about, he said it a few times, why would they ask me about this.

All right. And did he say what money he was asked about?---No.

All right?---He was talking about cash.

All right. Some cash money?---Cash, yes.

30 Did he tell you anything about anything else about the cash money?---No.

All right. Well what did you say or do?---I was just talking and that's, talking to him.

Well what were you saying?---Think about it, did anything happen, I was actually encouraging him to think more if there's, to think, you know, if he remembers anything. And then I recollected something that's occurred a long time ago.

40 Ah hmm?---But I never, at first I never associated this with, with the case. And when I started thinking about it, with Charif, he was next to me I was thinking about it more and more and more and then I came to conclusion that yes, it did happen during, it is relevant because it did happen during the period that is being discussed here during this inquiry.

Okay. And what did you say to your husband?---I remember that Rodric David came to the office and gave me an envelope and asked me to put it into an account.

And did you say when you remembered that happening?---What do you mean?

What year? Did you tell him when this happened?---Yeah, I specifically to him now I remember the time. And I also told him why.

10 All right. Well just, why don't you tell us as best you can what you told him?---Yes. I told him that I remember that it was during, it would have to be during the period of June or July, 2007 specifically because at that time I was made redundant and I was off work for a few weeks. And this was specifically the time when I had visited Charif in his office a few times during the day.

Right. Now which office are we, this is Charif's office where?---That was in AWT office in Circular Quay.

In Circular Quay?---Yes.

20 And may you just tell me a bit more then about what you remember happening in that period? You were at the AWT office one day, is that right?---Yes. I went to meet with Charif.

And is this daytime or night-time?---No, this is during the day.

All right. Was it a work day?---Yes.

And what happened? Was Charif there?---No, he wasn't.

30 Was anyone else there?---I don't recall.

Well, who usually to your observation works in the office?---The office has got, it's got a few parts.

Yeah?---And there was no one at the reception area, I remember that very well because I took a seat at the front of the office but there are three rooms that are locked up room, four rooms, excuse me, that are locked up so I wouldn't know if there was anyone else in those rooms.

40 All right. So you were sitting in the reception area?---Yes.

Had you told anyone within the office that you were there?---No, because no one, when I went inside the office there was no one there.

Right. And did Charif have a particular office within the office at the time? ---He had his own space, yes.

And did you know where that was?---Yes.

So had you gone to look and see if he was there?---No, I actually knew that he was not there.

How did you know he wasn't there?---Because no one answered the, the, when I first rang the door, no one answered and I sort of assumed that he's not there.

10 All right?---He was expecting me, he asked me to come and see him.

Okay. And so - - ?---If he heard the bell he would have answered.

And you are, so we've got you sitting in an empty reception area?---Yes.

And what happens next?---I, I'm not sure how long I was sitting there for but I remember that Rodric David came to the office, he rang the bell and I answered, I let him in.

20 Now, just pause there. Did you know Rodric David at the time?---Yes.

In what circumstances had you met him?---I in fact remember meeting Rodric David, being introduced to him on a few occasions. I don't recall specifically what times but it was a few times.

And you say you had to unlock the door to let him in. Do I take it from that that the door was locked?---No, it's a button that I have to press at the reception area that opens the door.

30 All right. So Mr David then comes in and what happens next?---Yeah, he asks if Charif is there.

And what do you say?---And I say no.

Based on the fact that you pressed the buzzer and no one had answered?---Yes.

And if we just go back a step, how did you get through the door?---I had my key.

40 All right. Okay. And what, what does Mr David say to you?---Nothing, I don't recall having a conversation with him.

Right. Well, what happened?---As much as I remember he was at reception waiting for Charif.

So you're both in the reception area?---Yes.

Are you - - -?---It's just that I'm on the other side of the desk and he is more in the waiting area.

Right. So you, are you sitting where the receptionist would ordinarily sit?
---Yes.

10 All right. And what happens next?---I don't remember how long it, that's, that's, that's unfortunate, I don't remember the details, I don't remember how long he was there and I don't remember talking to Mr David at all during that time. I think he might have been on the phone but I'm not certain.

What were you doing?---I was sitting at reception and as far as I remember I was looking at the magazine, flicking through a magazine.

But you were sitting behind the reception desk?---Yes.

20 And where had you got that magazine from, do you remember?---It was just there.

Okay. And, and then what happened?---And then Mr David asked me do I know when Charif's going to be there.

And what did you say?---And I said I don't know.

So you do remember that conversation with Mr David?---Yes.

30 And then what happened?---And then he said that he's running late, he's going to go and I said okay. He turned and then he came back, he said, Can you do me a favour, and I said, Yes. He said, I'm really running late, can you please put this money into an account for me.

Please put this money into an account. And what did he do - - -?---I'm not sure if this is the exact words.

All right. Words to that effect?---Yes.

Can you please put this money into an account for me?---Yes.

40 Now what money was he talking about, did he show you some money?
---No, I did not see the money.

Well, when he said this money did he indicate anything?---Yes.

What did he - - -?---He indicated that there was money.

In what?---In an envelope.

All right. What did the envelope look like?---It was yellow.

How big was it?---I don't remember.

Well, can you give us a hint? Was it as big as a - - -?---I think it was A5 size but I'm not a hundred per cent sure.

10 All right?---I don't remember it being very big. I'm, I'm almost certain it wasn't A4 but I'm not sure if it was this size or smaller.

All right. Now, you're holding up a pad which is - - -?---A5.

A5. All right. Now, do you recall whether the envelope, did he hand the envelope to you?---Yes.

All right. And did it seem heavy or light or what did you notice about it? ---I wouldn't remember at all.

20 You wouldn't remember at all?---No, he just gave me an envelope, I - - -

And he said in relation to the envelope that it was money, did he?---Yes.

All right. So can you put this money in any account for me?---Yes.

Did you think that that was a strange request?---No.

Did you think it was a usual request?---Sorry, did you say usual?

30 Did you think - it wasn't an ordinary thing for someone to ask you to do was it?---It wasn't ordinary, no.

Because you didn't know Mr David very well, did you?---No, I didn't know him very well.

THE COMMISSIONER: And you weren't working for him?---I was not working for him.

And you weren't working for Charif?---I was not working for Charif.

40 MR NEWLINDS: And did the envelope have anything written on it? ---Yes.

What did it have written on it?---I remember last name Kelly - - -

Mmm?--- - - - and I think, like I think it was, that, that's the best, I can't recall it very well. I think the details of the bank account were written on it because I do not remember any other document with, with the envelope.

All right. Did you open - - -?---It was just the envelope.

At, at the time when you're having the conversation with Mr Kelly did you open the envelope?---No - with Mr David?

Oh, sorry, Mr, Mr David, did you open the envelope?---No, I did not. I just took it off him.

10 And what did you do, and what did you say to Mr Kelly, Mr David I'm so sorry?---Nothing. I said okay.

You said okay and what, he then leaves?---Yes.

And what do you do next?---I sat down in the office and waited for Charif. He didn't come.

Did anyone come?---No and I didn't stay for very long.

20 All right. Can you help us with what time of day it was? Was it morning, afternoon, lunchtime?---I don't remember specifically but going back I think it was, it would have been around lunchtime, possibly morning, towards morning or lunchtime at the latest. I do not think it was the afternoon but I'm not a hundred per cent sure.

And what did you do next?---After I left the office?

Well, so you left the office and where - - -?---Yeah.

30 - - - did you go?---I'm not sure if I went, where I went straightaway, I don't, I don't recall.

All right. At some point did you go to a bank with that envelope?---I think so but again, I'm not a hundred per cent sure it happened on the same day. I remember going to a bank and in fact - - -

Go on, go on?---I remember going to two banks.

Two banks?---Yes, on that day.

40 On that day?---To ANZ - yes. I'm not sure if it was - no, sorry, no, I'm not sure if that was the day but I remember going to ANZ and St George Bank on one occasion, one after another.

THE COMMISSIONER: To which one did you go first?---ANZ.

MR NEWLINDS: Which branch?---In Pitt Street.

Which number Pitt Street?---In the city. Now, I, I think it was the old one but I'm not sure. It was, but it was definitely Pitt Street.

Well, there's one, well, was it near Australia Square?---I don't recall.

Was it closer to Martin Place do you think?---No, not Martin Place.

All right. Well, what it near Circular Quay or at the other - - -?---Yes, near, near, near Circular Quay.

10

So would it have been somewhere between Martin Place and Circular Quay?---Yes, yes.

Not further up than Martin Place?---No, definitely not.

And definitely Pitt Street?---Yes, definitely Pitt Street.

How, how is it that you have a clear memory that it was Pitt Street?---
Because I remember going to St George Bank better than going to ANZ and
20 I remember going through Pitt Street with a back, like there's a small street
connecting Pitt Street and George Street and I remember that, I don't
remember exactly ANZ visit but I remember going later and it was my way,
on my way back home. That's how I remember it.

Okay. And what did you do at the ANZ Bank?---What do you mean what
did I do at the ANZ Bank?

Well, you've got an envelope?---Yeah.

30 THE COMMISSIONER: What did you do at, what did you do at the ANZ
Bank?---Yeah. I took the envelope with me- - -

MR NEWLINDS: Yeah---?- - -and I deposited the money.

What, all the money?---Yes.

Then what did you do at the St George Bank?---Well, that was, I don't think
it had, had anything to do with the case, I don't think it had anything to do
with Mr Rodric David. I'm just giving you recollection of what happened
40 that day.

Did you at the time have an account at the St George Bank?---No. I think,
but I think it was a private transaction that I just did on the same day.

Well, what sort of private transaction?---Oh, just buying something myself
and paying for it in direct deposit.

But why wouldn't you have done that at the ANZ Bank?---Because maybe the, the only time, I've only been to, first of all let me say I don't remember very well, second of all I remember my whole life going to St George Bank maybe three or four times - that's why I remember that day - and it would only be in an instance when someone is holding an account with that particular bank and asks for direct deposit so you make the direct deposit in that branch.

10 Oh, I see. So paying a debt of someone who has an account?---Well, I bought something. I could have potentially bought something over the phone, even a service for kids for a birthday party and go and deposit the money into that account.

Right. Well, then- -?---I do not think it had anything to do with Mr Kelly, I just, I'm just telling you what's happened that day.

20 Now, do you actually remember depositing the money at the ANZ Bank? ---I don't remember it very well, I don't remember the details, but I remember that I did deposit it on that day, yes.

Did you opened the envelope, do you remember doing that?---Yes.

And did you have a look at what was inside it?---Money.

How much?---And I've done it, I would have done it at the counter because I do not remember doing it at any other stage.

30 Right. So you're at the counter and you open the envelope?---Yes. And I say I would like to make a deposit into this account.

And you show the person behind the teller- -?---Yes.

- - -the envelope?---Yes.

Did you fill in any form?---There would have been a form, I would have to. I don't recall specifically but knowing that I deposited the money I would have to.

40 Well, that's the usual procedure?---Yes.

But do you remember doing it?---No, I don't remember very well, no.

And do you remember getting a receipt with a bank stamp on it confirming - - -?---I don't remember, but I would have, yes.

Well, that's, you know that's the usual procedure as well, don't you?---Yes, yes.

Can you remember getting some sort of receipt from the bank?---I don't remember specifically.

Can you remember ever doing anything with a receipt from the bank?---No, I don't remember.

Can you remember having any discussion with Mr David after- - -?---No.

- - -to tell him that you had done it?---No.

10

Do you remember telling your husband at the time that you had done this - - -?---No.

- - -favour for Mr David?---No.

Why not?---Because I didn't consider it anything significant.

Was it a lot of money, did it look like a lot of money?---Yes.

20

Are we, what sort of notes are we looking at, hundreds or- - -?---I don't remember.

But it looked like a lot of money to you?---Yeah. However, I do not remember how much. It wasn't like, I don't remember.

But it was certainly more than \$10?---Yes, it was.

Was it more than \$100?---No, I know it would have been more, but I don't remember this as something so important I would have told Charif.

30

Well, did it seem like thousands of dollars?---When I remember, like, now in the, based on the- - -

Well, don't worry about what you thought later- - -?---Yeah, yeah.

- - -just from your memory?---From my memory, no, I didn't remember this, I didn't remember the amount. I did not put a big significance on this at all.

40

But it didn't look like millions of dollars, did it?---Didn't, no, it didn't. I didn't remember this event very well.

It didn't look like \$10?---No.

It didn't look like \$100?---No.

Didn't look like \$1,000,000?---No.

You're confident of all those. Why?---Because if it was \$1,000,000 I think I would have remembered.

But if it was \$100, why would, why can you confidently say it wasn't \$100?
---I cannot confidently say it was not \$100.

So it might have been \$100?---It might have been.

It might have been \$10?---Yes.

10

It might have been \$10?---Might have been.

Well, was it a pile of notes?---I think it was, it was a pile of notes, my apologies.

All right, well- - -?---It would have been- - -

All right. So it was a pile of notes?---Yes, it was a pile of- - -

20 There weren't, were there coins involved?---I don't think so.

Do you remember any coins being involved?---No, I don't remember.

All right. Well, how thick was the pile of notes, that high, that high?
---I don't remember.

Well, if you remember- - -?---I don't even remember the envelope exactly.
I- - -

30 Madam, if you remember there was a pile of notes- - -?---Ah hmm.

- - -do you actually have a memory of a pile of notes in your mind at the moment?---Yes.

Right. How thick is the pile of notes that's in your memory?---How would you like me to describe this?

Yeah, well, use your fingers. Right. So that's not very thick?---A few millimetres, yes.

40

THE COMMISSIONER: Was there one pile?---Yeah, I think so. I remember, I remember- - -

When you say one pile, it was, the notes were all stacked on one?---Yes.

They weren't spread about?---No, they were not.

MR NEWLINDS: And was there something that held them together like a rubber band or a - -?---I don't remember.

Did you, do you remember watching as the teller counted it, well, I'm assuming the teller counted it?---No, I'm assuming.

But you can't remember?---No, I can't.

10 THE COMMISSIONER: Did you count it?---No. I don't remember. I don't remember this practical event very well.

Wasn't, didn't you regard it as a matter of considerable responsibility on your part?---To put the money into the account?

Yes, and to put the right amount?---Yes.

Didn't you think you might be called into question about it if it wasn't right?---No. No. I was never in this situation before in my life.

20 MR NEWLINDS: Did it strike you that Mr Kelly was, or Mr David was placing a great deal of trust in you?---I don't think I would have thought about this that way.

But looking back at it now, it was quite a responsibility for you to do this? ---Yeah, looking, looking back at it now, of course, but- - -

Because if you---?- - -at that time it was a gentleman that asked me to put money into an account and I did. And I knew of the gentleman, of who he is, I have met him. I didn't pay much attention to this at all.

30 Did you know a Mr Kelly at the time?---No.

So when you saw the name Kelly written on the envelope it didn't mean anything to you?---Had any, no, it had no meaning to me.

It must have struck you that this was a matter of great trust that Mr David had placed in you, didn't it?---I don't, I don't remember it as that way.

40 Because assuming that you weren't going to put the money in your pocket and steal it, which of course Mr David must have assumed you wouldn't do, correct?---Yes.

Right. So he must have trusted you enough- -?---Yes.

- - -that you wouldn't steal the money?---Yes.

Yeah. You might have got it wrong and ended up putting the money in the wrong account. It was an important matter, wasn't it?---Yes.

And didn't you think it was appropriate for you to report back to Mr David and just tell him, well, I've done it?---He never asked me for it, just put the money into this account.

And you knew at the time that your husband had some sort of business relationship with Mr David, didn't you?---Yes.

10 Well, didn't you think it was appropriate to tell your husband that Mr David had asked you to put some money into an account and that you'd done it and that perhaps your husband should tell him that it was all okay?---Now that we're discussing this, I thought so, but at that time I did not pay, I didn't think it was anything significant.

Are you sure you remember this all happening- -?---Yes.

- - -Mrs Kazal?---Yes.

20 Are you sure you haven't been put up to this by your husband?---Yes, I'm sure.

Are you sure?---Yes, I'm sure.

Have you ever been asked by someone such as Mr David before or after this event to bank money into a, to bank cash money into a bank account for them?---Any person you mean?

Yeah, any person other than someone you've worked for?---Family, yes.

30 Family, yes. No doubt you've done it for people you've worked for?---Ah hmm.

Yes. But anyone other than family and employers, have you ever gone to the bank and put cash into a bank for them?---I don't recall at this stage.

And may I suggest to you that that being the case you would have regarded this as quite a significant matter at the time?---Yes, but I also knew that my husband is involved in business with this man and I also- - -

40 THE COMMISSIONER: Which man?---With Mr David. I knew Mr David, I knew of him, I knew that he came from a very good family and that's why I never questioned it. He wasn't a complete stranger.

MR NEWLINDS: But isn't that all the more reason, thinking about it now, why you would have been keen to send a message back to Mr David that the favour that he had asked you to do, you had done?---I wouldn't have, I wouldn't know him to that extent. I would not have had his telephone number.

No, no, but you knew that your husband knew him and dealt with him regularly?---Yes. Yes.

So it was very easy to tell your husband that you'd done it?---Yes.

And because you knew you were doing more than putting the money into Mr David's own bank account didn't you?---Yes.

10 You knew you were banking into someone else's bank account?---Yes.

So you knew that Mr David would not be able to tell by looking at his bank statement whether you had deposited this money or not didn't you?---Yes.

And doesn't that suggest all the more that you would have been very keen to tell Mr David that you had done precisely what he had asked you to do with the money?---I didn't.

20 I know you didn't, but do you agree with me that that fact amongst others really does tend to suggest that at the time you ought to have considered sending a message back to Mr David saying, you asked me to do a favour and I've done it.

MR WIGNEY: I object. The question that says is that a fact amongst others without telling the witness what the other facts is is unfair in my submission.

30 MR NEWLINDS: Well just looking at it now don't you think you would have wanted to send a message back to Mr David that the favour he had asked you to do had been completed without incident?---Looking at it now I wish I had done it.

No, don't worry about what you wish you had done. Don't you think that that's what you would have thought at the time?---I can't, honestly I don't remember what I was thinking exactly at that time.

40 All right. You said that, but I'm asking you to consider in light of the fact that you don't remember what you thought at the time, don't you think that that's what you would have thought at the time?---Possibly.

Probably?---Probably.

You said possibly, I'm asking you to consider probably?

THE COMMISSIONER: The witness replied probably.

MR NEWLINDS: Oh, I see. Thank you.

MR KORN: Initially, possibly and probably.

THE COMMISSIONER: Correct.

MR NEWLINDS: Thank you. Now in light of the fact that you probably would have thought that that was an appropriate thing to do, to send a message back to Mr David, is there any explanation you can give as to why you didn't send an explanation back to Mr David?---No. I can only go back to what I said before, I just didn't think about this too much.

10 You sure you're not making this up to try and help your husband out in this inquiry?---Yes, I'm sure.

Are you sure of that?---Yes.

All right. Well I feel it's my duty to ask you to consider this proposition, you are making this up and you're doing it because you are trying to assist your husband in what you believe is a very difficult situation?---I am not making this up.

20 Yes, thank you. Oh, I should introduce you, I'm sorry, I think I forgot to ask your name and address. Just for the record can you tell us your name and your residential address?---Sure. My full name is Agnieszka Kazal also known as Agnes.

Agnes, thank you?---And I live at , in .

Thank you very much.

MR KORN: Can you spell the - - -
30

MR NEWLINDS: Can you perhaps spell the, the - - -?---The name?

Yes?---A-G-N-I-E-S-Z-K-A Kazal also known as Agnes A-G-N-E-S.

I think we can spell Agnes, yes. Thank you Mr Commissioner.

THE COMMISSIONER: Mrs Kazal, I just have a few questions which I'll ask before anyone else asks you. When Mr David handed you the envelope he told you that there was some money in it?---Yes.
40

Did it, he didn't tell you how much there was?---No, I don't remember him saying that.

You didn't know how much money there was in the envelope when you received it?---I wouldn't know.

And he didn't ask you for a receipt?---No, he didn't.

And you didn't think that to protect yourself you should count the money and give him a receipt and keep a copy for yourself?---No.

I mean because you were then placed in a position where you were accepting what you were told was an envelope containing money, asked to do something with it, but you had no evidence other than your own word as to how much you were being given?---That's correct.

10 And you did nothing about that?---No, I didn't.

And you were happy to accept the task you were given?---Yes.

Why?---Because the task, I didn't think of the task as anything difficult, so I accepted it.

Did you not think that it was fraught with risk?---Going back now I wish I thought so, but I didn't. I was never, I never experience anything, so - - -

20 Yes. Isn't that all the more reason to make sure how much money you were being given and get an acknowledgement for that?---Yeah, it would have been a wise thing to do.

What, what is your working background Mrs Kazal?---Human Resources and recruitment specifically.

Where did you work before?---Hayes, Hayes Recruitment.

For how long?---Three years.

30 And before that?---That was my first long time job after finishing university.

And when you left what position were you holding?---Also recruitment, also and human resources position.

What qualifications do you have?---I have Masters degree in Marketing.

What university?---University of Gdansk in Poland.

40 And if I may ask how old are you?---32.

When you saw this envelope you said that it had the name Kelly on it?---I think so.

That's all?---I don't remember, I don't remember the exact, what else was on it, but - - -

But when you gave your evidence to Mr Newlinds you said the name Kelly was on it?---Yes.

You didn't say anything else was on it?---I said I'm not sure. I remember the name Kelly.

The first time you'd heard of this particular person whose name was Kelly? ---I don't remember exactly when I would have heard of Mr Kelly. I remember meeting him the first time.

10

When? When?---At Mr Rodric David's party.

Was that before or after you deposited the money?---After, way after.

And did you say that the bank account number was on the envelope?---I can't recall exactly what was written on the envelope.

20

Well how did you know that you were to go to the ANZ Bank?---That's how I think it was written on the envelope. But I do not specifically remember it. Also I do not remember anything else from Mr David but that envelope.

So when you were depositing the money you didn't know Mr Kelly's first name?---(NO AUDIBLE REPLY)

Your answer is no?---My answer is I don't remember.

30

Well how could you have known it?---If it was written on the envelope it would have been there. That was the only way, but I do not specifically remember his name written there. I remember that it was Kelly.

So just take us through what happened when you went to the bank, please? You went to the bank, you had the envelope, you had no idea what was in the envelope, how much money there was?---Yes.

You go to the teller?---Yes.

40

And you open the envelope there for the very first time?---Yes. Mr Commissioner, I really do not remember this very well. It was a long time ago.

Well, just tell us - - -?---I, I go to ANZ Banks, Bank very often. I do not remember this specifically. I'm just telling what would have happened and I agree with Mr Commissioner, I would have went to the teller and I would have opened the envelope or given the envelope there.

You had no other means with you at the time of identifying Mr Kelly other than the envelope itself?---No.

You had no other documents relating to this deposit with you?---I don't remember. I don't remember anything but the envelope.

Mr David didn't give you anything else but the envelope?---That's correct.

And in the envelope there was only money?---I think so.

10 You don't remember there being anything else in the envelope, only money?---I don't remember exactly, I don't remember anything else.

So are you saying that the man who you hardly knew came into an office where you were not employed, hands you an envelope, asks you to deposit it for somebody else and you agreed?---Yes.

You make no note of how much money there is, you don't obtain, you don't give a receipt, there is no written record of the amount of money but you're quite happy to take this and deposit it?---Yes.

20 And you go and you deposit it and you have no recollection of what actually happened when you deposited it?---Yes.

And you didn't tell anybody about it once you had done that?---Yes.

That's your evidence?---Yes.

We'll adjourn for five minutes.

30 SHORT ADJOURNMENT [11.22am]

THE COMMISSIONER: Any further questions. I propose to make, I now make an order that Mrs Kazal's address is subject to a Suppression Order.

I NOW MAKE AN ORDER THAT MRS KAZAL'S ADDRESS IS SUBJECT TO A SUPPRESSION ORDER.

40 THE COMMISSIONER: Mr Korn, as you are not representing Mrs Kazal, is there any reason why you shouldn't go first, would you prefer to go later?

MR KORN: Commissioner, I wasn't proposing to ask any questions.

THE COMMISSIONER: All right.

MR BEECH-JONES: I wasn't proposing to ask any questions.

THE COMMISSIONER: Yes. Ms Hogan-Doran?

MS HOGAN-DORAN: Commissioner, I was going to seek your leave to take instructions in respect of the allegations made for the first time today?

THE COMMISSIONER: Yes. How long do you need?

MS HOGAN-DORAN: Should be able to have them after lunch.

10

THE COMMISSIONER: Are you sure? I ask that seriously because if we, I will ask Mrs Kazal to return after lunch and if you are not going to be ready that would be inappropriate, so, but if you are going to be ready it would be appropriate. That's why I ask you.

20

MS HOGAN-DORAN: Commissioner, in respect of one part of the instructions, I can have them by lunchtime, but considering the second part that I would seek to make instruction, to seek instructions about would involve a third party to my client through my instructing solicitor, it would have to be not by, won't be by the end of today.

THE COMMISSIONER: Tell me when, Ms Hogan-Doran?

MS HOGAN-DORAN: Friday. All right.

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

MS WILLIAMS: I have no questions, Commissioner.

30

THE COMMISSIONER: Right. Well, you may leave the witness box, Mrs Kazal, but you will be recalled probably on Friday. The Commission will, if you could leave a telephone number with the Commission solicitor or in
- - -

MR KORN: If it's convenient, Commissioner, I can assist in that regards.

THE COMMISSIONER: Right.

40

MR KORN: I'm spending time down there and if someone contacts me I'll make sure.

THE COMMISSIONER: Thank you. Mr Korn will be informed precisely when you're to give evidence and if you could please make yourself available then?---That's fine.

Yes. Thank you?---You're welcome.

Yes. You may leave the witness box?---Thank you.

THE WITNESS WITHDREW

[11.33am]

THE COMMISSIONER: Mr Newlinds?

MR NEWLINDS: May I call Karl Kazal. Ring the mobile.

10 THE COMMISSIONER: Apparently I'm told Mr Kazal is not presently available.

MR KORN: I know he was out there. It may well be, I've told people to sit out past the scanner to the left.

THE COMMISSIONER: Well, we'll adjourn till he is ready.

SHORT ADJOURNMENT

[11.35am]

20 THE COMMISSIONER: Yes. Mr Korn, do you wish me to make a section 38 order?

MR KORN: Yes, thank you, Commissioner.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Karl Kazal 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
30 objection in respect of any particular answer given or document produced.

**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR KARL KAZAL 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
40 TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT PRODUCED.**

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

MR KAZAL: I'll affirm the truth.

<KARL KAZAL, affirmed

[11.41am]

THE COMMISSIONER: Mr Newlinds.

MR NEWLINDS: Sir, what is your full name?---Karl Kazal.

And your work address?---Suite 5, Building 3, Macquarie Street, Sydney.

10 And your current occupation?---CEO.

Of what organisation?---Australian World Trading.

And what does Australian World Trading do?---It's a consultancy company.

What sort of consultancy services does it provide?---Introductions of businesses and other things.

20 Well, what other things?---Like we consult to people who's interested in setting up businesses, opportunities.

Generally or in any particular geographical area?---Generally.

And what sort of businesses do you specialise in, any sort?---Across the board, anything from mining to agriculture to whatever.

And how many employees does AWT have at the moment?---At the moment about three.

30 Okay. And who are they?---Myself, a PA and a couple of other just part-time.

All right. So you're the brains of the organisation?---At the moment.

And the consultancy services that are provided are your services are they? ---Some mine, some others, we depend on other expertise if we need to.

So do you get people in on a job by job basis?---Yes, yes, yes.

40 And what - well, what are your qualifications? Have you got a university degree?---Yes.

What is it?---International marketing.

From what university?---In Dubai, the International University in Dubai.

And did you grow up in Dubai or Australia?---To a certain age and then came to Australia nearly 27 years ago.

And how old were you when you came to Australia?---20.

All right. And when you did the university degree in Dubai - - -?---This was back, went back in the '90's.

What, before you came to Australia?---No, no, while I was here.

Right?---I came here and then went back and then came back.

10

And prior to providing consultancy services what work did you do or have you done?---Well, before that I, you know, prior to do that we, I worked in various, you know, professions.

And what professions?---Here and in Dubai in like I worked in the sector of business, you know, worked for various companies and - - -

Doing what sort of thing?---Mainly public relation businesses, like, you know, opportunities, something like that.

20

Now, you have lots of brothers and sisters I think?---Yes.

Two of them are Tony and Charif?---Yes.

They are involved, as I understand it, in a series of restaurant and entertainment businesses in The Rocks precinct in Sydney?---No, Tony is not involved. He was in the early days but - - -

All right?--- - - - but 10 years ago he got out.

30

Okay. Well, sitting here today what does Tony do? He's based in Dubai? ---He's based in Dubai.

And what does he do?---He's also a consultant. He operates a company that provides services across the board.

And what's his company called?---Australian World Trading.

Right. And how does one differentiate between - - -?---One is set up in Dubai, solely operating, operating in Dubai, the other one's set up in here and - - -

40

All right. So yours, yours is Australian World Trading Pty Limited? ---Sydney, Sydney, he's Australian World Trading LLC whatever with a local partner in Dubai.

All right. And yours is a pty limited company?---That's right.

And who are the shareholders of the Australian AWT?---Myself.

And who are the directors?---Myself.

And do you hold any shares in the Dubai - - -?---No.

As far as you know who is the shareholder or shareholders of the Dubai AWT?---My brother Tony and other local partners, I don't know who they are.

10

And does AWT Australia and AWT Dubai have a business relationship? ---Not a business relationship but we basically feed each other's, we work together sometimes on a particular project.

All right. And do you refer each other work?---Yeah.

And your brother Charif, what does he do now?---Well, at the moment he works as a, just a PR person for one of the companies that I've got in Sydney which is Kazal Brothers.

20

And what does Kazal Brothers do?---Kazal Brothers is a company that own the lease for a couple of restaurant and operate hospitality.

All right. And there's a series of Kazal controlled companies - - -?---Yes.

- - - that are involved with various properties in The Rocks, correct?---Yes.

We don't need to get into the details of that companies but the common denominator is that they're owned and controlled by various members of the Kazal family?---Only by myself.

30

You're the ultimate owner of all of them are you?---That's right and except in one which I have another brother who's a partner in.

Which brother is that, Jimmy?---Francois.

Was Jimmy ever involved?---No.

All right. Okay. So you own all those, all the shares - - -?---That's right.

40

- - - in those companies. Are you a director of all those companies?---That's right.

Are there other directors of any of those companies?---Yes, in La Mela Pty Limited, my brother Francois is a, a co-director.

All right. Now, going back to 2007 were you the shareholder of all those companies that operated within The Rocks?---Yes.

And - - -?---Except, except for La Mela.

Right. Was the position the same then as it is today?---Yes.

And, and wearing your hat as a director of those companies are you the person that controls the various businesses that are conducted at The Rocks or in The Rocks?---Yes.

10 And do you run those businesses on a day to day basis or do you employ people to do that? I'm sorry, I'll ask that question tense, I'm really directing your mind to 2007. Did you run those business on a day to day basis?
---Between me and my other brothers.

Right. Which other brothers?---Jimmy, Oscar, Abraham.

All right. And was this position - - -?---Francois.

20 - - - each brother was - - -?---Had a responsibility to run a particular restaurant.

All right. And the common theme of the businesses, whether they were either restaurants, food outlets or entertainment?---That's right.

And where did Charif fit in to the organisation, if I can call it that, in 2007?
---Well, basically he was just doing the back of house sometimes things.

30 What does that mean?---Sometimes liaison with legal representatives and asking him to do things. I used to do that myself but I assigned the work to him because I was being fed up.

Dealing with lawyers?---With everybody.

Oh, right. Well, what about dealing with the landlord, SHFA?---That's worse.

Even worse?---Ten times worse than lawyers.

40 Okay. That's bad. Well, it was Charif's role to deal with SHFA and the issues that came up from time to time between the Kazals on the one hand and SHFA on the other?---Sometimes but it was always under my direction.

Always under your direction?---To a point, sometimes he would go and do things but I used to say do this, do that.

All right. And was he paid a wage?---Yes.

Do you remember how much he was paid in 2007?---No.

Did he have entitlements other than a wage?---Yes.

Like what, car?---Yeah.

Accommodation?---Yeah.

Did you pay for his house?---I think the company did, yeah.

10 And what other entitlements did he have over and above his wage?---I can't tell you, I can't tell you.

Sorry?---I can't tell you what they are.

Did he have an expense account?---Excuse me?

Did he have an expense account? Was he allowed to charge things?---No, no, no.

20 No?---No.

What about for expenses involved with work? Was he allowed to - - -?---It was referred, referred to the account and it was paid by account.

And as far as you were concerned in relation to his dealings with SHFA everything he did was under your control and direction?---To, to a point.

Well, there were some things that you'd let him deal with without reporting to you?---Yes.

30

Can you describe the sort of thing that he'd be allowed to deal with, would he be allowed to, as far as you're concerned, negotiate a new lease without reporting back to you?---Negotiating a new lease, I always was being kept up.

But he would do the day-to-day dealings?---He would do the day-to-day dealings to, to a point. I, I always look at the, like, the important part of the lease, what this, what that.

40 Sure. But insofar as dealing with the people at SHFA, talking to them, you'd leave that up to him, wouldn't you?---To a point, you know.

THE COMMISSIONER: What do you mean, to a point?---Like, sometimes if it needed to just go and have a meeting about The Rocks or the, the, the, the lightings or the ah, the signage or all these issues, he would deal with them just on his own. Sometimes if it was a minor issue which we are fed up with, he'll go and deal with them, but something to do with leases and this and that, he'd have to have my approval.

MR NEWLINDS: All right. Well, do you remember in 2007 there was dealings between SHFA on the one hand and one of the Kazal companies on the other in relation to The Rocks Café premises- -?---Yes.

- - -at 99 George Street and some work that had been done and whether or not SHFA should reimburse the Kazal company for improvements to the base building and if so, how much? Do you remember that?---Yeah.

10 Now, insofar as the dealings with SHFA were concerned on that topic, were you involved?---Yes, I was kept up to date.

Right. But Charif was the person who did the day-to-day dealing?---Yes.

And you knew around that time, and the actual decision was made in January 2007, you can accept that from me, and around that time you knew that the person Charif dealt with reasonably regularly at SHFA was Mr Kelly, Andrew Kelly?---There was Mr Kelly and many others. Mr Kelly wasn't the, the only one.

20

I'm not suggesting he was the only one?---One, one of them, of course, yes.

And he was one, he was one that was dealt with often. He might not have been dealt with the most but he was certainly one of the people Mr Charif Kazal dealt with regularly?---I, I wouldn't say often. He was dealing with him, he was dealing with Barbara Dawson, he was dealing with Shane Watson, he was dealing with many people in the authority, including the CEO's at the time, Rob Lang, Robert Domm.

30 You knew that Mr Kelly's role at SHFA was that he was the person in charge as at early 2007 of leases?---Yes, he was.

I think he was the director of the tenant, tenancy, tenancy TAMS, Tenancy and Asset Management Services?---Possibly.

Right. And you understood at the time that Andrew Kelly's opinion as to things like the debate between the Kazals on the one hand and SHFA on the other about the base works at The Rocks Café- -?---Ah hmm.

40 - - -would carry and did carry significant weight within SHFA when it came for them to make a decision?---Dealing with The Rocks Café, it was never originally being dealt with Andrew Kelly, we were dealing directly with the CEO, Mr Lang.

That may be so. But you understood that Mr Kelly's opinion- -?---No.

- - -on the matter- -?---No.

- - -would have input, would have significant input?---To be quite honest I wasn't aware of the details of Mr Kelly's role, to what effect that he could play.

THE COMMISSIONER: You knew that he was a senior official in the, in SHFA?---I, I knew he was in property but I- - -

He was a senior official dealing with your leases. You knew that?---Mine and others, yes, yeah.

10

MR NEWLINDS: Now, you may not remember this, but also in January 2007 there was an issue concerning an electrical upgrade and whether it was required or not relating to the Amo Roma Restaurant at the 135 George Street property?---Yes.

And in the end I think SHFA allowed, either paid or gave a credit of \$20,000?---Finally. They should have done that many years ago.

20 All right. Now, were you involved in those dealings in relation to that topic at the time or was that something that Charif was- - -?---I, I was being briefed.

By Charif?---Yes.

And you knew that a person in a senior role that he was dealing with at SHFA was Mr Kelly?---To be quite honest I wasn't sure whether he was dealing with Mr Kelly on this particular issue or other, other people.

30 Once again in relation to that matter you understood that Mr Kelly's opinion on what it was that the Kazal company was seeking would carry significant weight within SHFA when a decision came to be made?---As I said, I wasn't aware that Mr Kelly's opinion was crucial and important to anything that the Kazal wants.

40 All right?---Because I understand and people in SHFA will tell you, for anybody to think that one person in SHFA can basically make influential decision, they'll be fooling you and fooling themselves. SHFA is a very complicated authority. They can do anything in any other authority in one week, it takes you one year in SHFA.

All right. Now, if you just focus on what I put to you?---Yes, yes.

I didn't suggest that he could make the decision?---Ah hmm.

But what I suggested to you was that you understood that when it came for SHFA as an organisation to make a decision, Mr Kelly's opinion on the topic, if it concerned a leasehold, was given significant weight. It may not

carry the day- -?---I wasn't aware of that. I wasn't aware his decision would have carried significant weight.

THE COMMISSIONER: Are you serious?---I am, honestly.

You know that he is a senior official?---Yes.

You know that he is, his job is to be in charge of leasing at The Rocks?
---Yes.

10

And you're saying you didn't think that his opinion would carry weight?
---But my, my dealings with SHFA, Mr Commissioner, sometimes the, the, the CEO promise you that something would be done and it never gets done.

That's not an answer?---I'll tell you my understanding of the role of Mr Kelly, there was a property, somewhere in property but I didn't know that his decision would be extremely- - -

20

You knew more than he was somewhere in property, you knew that he was in charge of leasing in The Rocks, didn't you?---Yes, yes, yes.

MR NEWLINDS: Well, that's more than he was somewhere involved in property, that's in charge of property, isn't it?---Yeah. Okay. If you want to put it this way.

All right. You're the one who wants to say somewhere in property?---Yeah.

30

That's not right, is it, he's in charge of property?---Okay, he was in charge of property.

And no doubt SHFA to your knowledge was full of all sorts of people who had different areas of expertise?---Ah hmm.

Yes?---Yes.

40

And it was obvious to you at the time that if SHFA was seeking, was thinking of making a decision concerning a lease, it would take into, it would seek and take into account the opinion of the person who was in charge of the leasehold interests held by SHFA. Yes?---I don't know how the politics works at SHFA.

But what I put to you is that it was obvious to you?---As I told you, my experience with SHFA, nothing is obvious, okay, so it could be, it wasn't obvious to me, to be quite honest.

THE COMMISSIONER: Did you say it could be?---It could be, yeah.

Well, I'm not sure what could be. What, what do you mean?---I mean- - -

When you say it could be, I'm just trying to understand what you're saying. What could be?---Mr Newlinds suggesting that I knew at the time that Mr Kelly had the ultimate say when it comes to- - -

No, he's not saying that at all?---Okay.

He's saying that Mr Kelly's opinion would carry weight?---Possibly.

10 It doesn't mean that it would be final?---Okay.

They could disagree?---Possibly.

And he might be overruled, but it would be thought about at the very least with serious- - -?---Possibly. I can't discuss the politics of SHFA.

I'm not asking you to discuss the politics. I'm asking you whether you knew that Mr Kelly's opinion about leasing matters, particularly concerning your leases, was something that would be given due consideration, serious
20 consideration by SHFA in making decisions?---I didn't know that.

You did know that?---No.

But you knew that he was in charge of leasing?---I knew he was in leasing but I didn't know- - -

No, no, you knew he was in charge of leasing. You keep, you keep avoiding that?---I'm not avoiding, Mr Commissioner.

30 Well- - -?---I'll tell you my understanding of Mr Kelly position what it is. I knew he was in leasing, I knew he was in property, but I didn't know the terms of his employment, what it was, whether senior something or this. I wasn't dealing with him.

MR NEWLINDS: I thought you said a few minutes ago that you knew he was in charge of, of leases?---Based on your question, you asked me the question and I said yes. I didn't, I didn't say that.

40 THE COMMISSIONER: I don't understand that answer?---Okay.

You have taken an affirmation that you will tell the truth?---Absolutely I'm telling the truth.

You've been asked a question. You were asked a question whether you knew that Mr Kelly was in charge of leasing and you said yes. Is that true or not?---Well, if his, if his position in SHFA makes him in charge of leasing, yes, well, what can I say?

No, that's not the question. I'm sorry Mr Kazal, you are not actually answering the question. And I, the question was did you know that he was in charge of leasing, in charge of leasing at The Rocks?---Yes.

MR NEWLINDS: Right. Are you sure about that this time?---Yeah.

It's not because the Commissioner has asked you the question that you've agreed is it?---(NO AUDIBLE REPLY)

10 You knew at the time he was in charge of leasing didn't you?---Sort of yes, possibly.

What does sort of mean?---I wasn't dealing with Mr Kelly on a day to day basis to know - - -

What does sort of mean?---Okay, yes.

Sort of means yes does it?---No, but yes.

20 MR KORN: See you should let him finish his answer (not transcribable)

MR NEWLINDS: I don't want to spend too long on this because it shouldn't really matter. You knew at the time that Mr Kelly was the person within SHFA who was in charge of leases didn't you?---Yes, yes.

No doubt about that?---No.

I haven't confused you into saying yes?---You have, but I'm saying yes.

30 You are required to be honest?---I am honest, I'm telling you. I'm not, why would I - - -

I've got no idea?---Like I'm just - - -

It doesn't matter, so - - -?---I know, but yes, yes.

- - - it's going to take a long time today but - - -

40 MR KORN: Mr Commissioner, could we not have repartee and comments?

THE COMMISSIONER: Well there is a temptation there Mr Korn.

MR NEWLINDS: I'll withdraw the repartee and comments. If at any time you feel that I am pushing you into an answer that you don't want to give, feel free to say so?---Sure, absolutely.

THE COMMISSIONER: And any time you're confused - - -?---Yes.

- - - by question, you should say so?---Sure.

But I, can you tell me if there's anything confusing about a question which is as follows, did you know that Mr Kelly was in charge of leasing at The Rocks? Is there something confusing about that question?---No.

What is the answer to the question?--- Yes.

10 MR NEWLINDS: Now in relation to the electrical upgrade issue?---Ah
hmm.

An answer you gave a few moments ago suggested a degree of frustration in your mind about dealing with SHFA on that topic?---On many topics, not particular on that one.

Is it fair to say that as at early 2007 you found it frustrating and difficult to deal with SHFA?---Always, not only 2007.

20 Because they didn't react or behave like organisations in the private sector?
---Or the public sector maybe.

You found them what difficult, bureaucratic and slow did you?---Yes.

And that frustrated you did it?---Not only me, everybody in The Rocks.

All right. Well it certainly frustrated you?---Yes. Yeah.

And you understood it frustrated Charif didn't you?---Maybe.

30 Well he told you that didn't he?---Yes.

And he told you about the personalities within SHFA who he had to deal with didn't he?---He didn't have to tell me, I was dealing with them before.

All right. So you'd dealt with Mr Kelly had you?---No, others.

And Charif in 2007 or by 2007 had told you about Mr Kelly hadn't he?
---Yes.

40 And he, did he tell you that he found him easy or difficult to deal with?---He was as bad as everybody there.

And you were looking for any way you could to make it easier for the Kazal group to deal with SHFA weren't you?---No.

You weren't?---No.

Well it would have been to your benefit to make it easier - - -?---All I wanted to be was fair and transparent, not easier. I wanted everybody to be treated equally.

And there were rumblings, and I'm not suggesting what people were saying was true or not at the time, but certainly there were people, other tenants within The Rocks area who were prepared to suggest at the time that the Kazal's got favourable treatment from SHFA. You know that don't you?
---Yes.

10

And you thought that was wrong?---Absolutely.

And you thought it was unfair?---Absolutely.

But you acknowledge that there was at least within some peoples mind that perception?---Yes.

20

And to get things done with SHFA one needed, as you understood it, to exert as much commercial pressure as you could on SHFA in relation to any particular decision. Correct?---Yes.

The way to get them to make a decision was to get to a point where they had to make a decision?---Yes.

And you with Charif would strategise to identify ways to force SHFA to make decisions firstly quicker than they might otherwise do and secondly decisions more favourable to the Kazal's?---No, that's not true.

30

I'm not suggesting there's anything wrong with that - - -?---No, that's not true.

Now in relation to the fit out at 99 George Street, The Rocks Café?---Yes.

It's true isn't it that a large amount of the work that had been done by the Kazal's at the premises - - -?---Yeah.

- - - was done without the approval of SHFA?---No, that's not true.

40

You know that a large amount of the work that was done was not the subject of the DA that had been obtained don't you?---It was modified throughout the process. This was a building that needed an extensive base building works and as we were doing the extensive base building works there were things that just came up and they were done with SHFA's approval.

With SHFA's approval?---Yes.

You say there were conversations with people at SHFA do you?---Yes.

But it wasn't formalised was it? There was no amended DA issued?---I'm not aware of the, of the process. But I believe everything was done, that it was done with SHFA's approval.

Wasn't this really a part of a strategy that you and Charif devised that went like this. We'll just do the work, not worry about going through all the bureaucratic process that SHFA requires and when it's finished we'll sort out who pays what and that way things will get done quicker than they otherwise would get done?---No. No. Not at all.

10

There must have been a temptation to just go ahead and do things rather than - - -?---Not at all. Not at all.

Not at all?---No.

Can you give any examples or any promises that were made by people at SHFA to you or the Kazal organisation that you think weren't delivered on?---Many promises.

20

Well just give me an example?---For example The Rocks Café, going back to The Rocks Café, we wanted to renovate The Rocks Café three years before it got approved. And we got shafted around and around and around and finally it got approved. When it came to do the works, they didn't have the money to pay for the base building works so they asked if we pay the money and we get reimbursed. And that's what we did. But that simple approval which should take no longer than maybe ten weeks, 12 weeks took three years.

30

And you found that frustrating?---What do you think? I think that's enjoyable to some people.

And isn't that why when it came to doing the work you determined that the best strategy was just to get ahead, go ahead - - -?---No.

- - - do what you thought had to be done and sort out - - -?---No.

- - - what fell from that after it was up and running?---Not at all.

40

Well can I ask you about the premises that is now the Guylian Chocolate shop, which I think is 91 George Street?---Yes.

Now once again there's a history of, well there was a history of the shop being closed - - -?---Yes.

- - - whilst it was under the control of the Kazal's?---Yes.

It had been a seafood restaurant with Mr Costi?---Yes.

And they had not been successful?---Yes.

As you understand it?---Yes.

It had then been a Thai restaurant or a Thai fish restaurant?---No, no. It was never, it was never anything else. There was a suggestion that we could have put Thai there.

10 All right. The, Mr Costi then transferred the lease to the Kazal's?---No. We bought the lease from the administrator.

Okay?---Like because they failing, then we got approached by the administrator where we bought the lease for over \$1 million. And then operated seafood concept which failed because it wasn't done right. And then we thought why not change (not transcribable)

All right. And there was a period when the premises were lying vacant?
---Ah hmm.

20 And that obviously is not good business?---Not at all.

And you were very anxious were you not to put in place a plant that had been formulated by, amongst others, you and Charif to make that a chocolate shop under the name of Guylian?---This came at a later stage. It basically stayed closed for a while and then at a later stage we were thinking of a concept and then I think in late '07 the concept evolved for the franchise of Guylian Belgian Chocolate Café in Australia. And then we were able to secure the concept. And as a result we thought we had this empty shop, we'll put the concept there.

30

And during the whole period that the shop was empty each month an obligation to pay rent fell on the Kazal company that held the lease?---Yes.

And if we can use the jargon, that's just dead money, isn't it, paying rent for a premises that you're not using?---Yes.

And there came a point in time when the Kazal company stopped paying rent?---Yes.

40 And the amount of rental that was due and owing to the landlord built up to a figure approaching \$100,000?---I can't, I can't remember that figure. There was an amount, yes.

And that was a deliberate decision by you - - -?---No.

- - - and Charif to not pay rent so as to put commercial pressure on SHFA to - - -?---That's not true.

Well, I haven't finished. How do you know it's not true?---Okay.

That was a deliberate strategy of you and Charif on behalf of the Kazal company to exert commercial pressure on SHFA to deal with the property in a way that was favourable to the Kazals?---No.

And to deal with it quickly?---No.

10 Was the company controlled by Mr Costi that subsequently went into administration called Austar or something like that? Do you remember?
---To my understanding it was Costi's Seafood.

All right. Are you aware with any, of any dispute with a company called Austar in relation to payments?---No.

20 All right. Well, if it wasn't a deliberate decision not to pay the rent as and when, when it fell due why didn't the company that owed the rent pay, pay it?---Well, at the time things were tough and we were looking for a way to reopen the, the shop as something that would work because that building was vacant for a long time before Costi's was able to obtain the lease and then we thought of the Thai concept which we wanted to do and then we didn't think it would work so we were looking for something else. You know, at times we were going to do a retail shop there.

But why didn't you pay the rent?---We paid the rent but it was, it was tough, I'm telling you, you know, financially it was tough and we asked if we, while we're thinking of a concept to revise the building if we could have some delayed rental payment.

30 THE COMMISSIONER: But you had plenty of money elsewhere didn't you, Mr Kazal?---Yes.

But you chose not to use that money, you chose not to take that money and put it into the company listed as the tenant?---Cashflow, Mr Commissioner, when you're in business, cashflow is always a difficulty.

40 So you decided that SHFA would not be the beneficiary of your cashflow?
---Not really, no, but it was, I'm getting, at that particular time things were tough.

MR NEWLINDS: But it was a deliberate decision not to pay that particular bill, wasn't it?---It wasn't a deliberate decision. There was, at the time things were tough.

It wasn't a mistake?---No, it wasn't a mistake.

It was a deliberate decision not to pay the rent as and when it fell due?---For a reason, 'cause financially things were tough.

A decision could have been made to pay that rent, perhaps resulting in not paying other bills but a decision could have been made to that effect so it was a deliberate decision not to pay that rent?---It's not a, I wouldn't say it was deliberate. It was a shortage of, of cashflow. The building was sitting vacant.

No, no, but the Commissioner has just been through this?---Okay.

- 10 Each business was operated, as I understand it, by a standalone company?
---Yes.

Is that right?---Yes.

And so no doubt the company that held the lease for the Costi's premises had a very poor cashflow?---Yes.

Because it wasn't bringing in any cash, correct?---Yes.

- 20 On - but it had obligations to pay money on a regular basis, the most significant of which was rent?---Ah hmm.

Right?---Yeah.

So that company had a negative cashflow?---Ah hmm.

But the group of companies that you controlled down at The Rocks had plenty of cashflow, correct?---Yeah, but - - -

- 30 And they had loan arrangements between each other - - -?---Yeah.

- - - and it was perfectly possible for one company if it had a short of cash at any particular time to borrow money from one of the other Kazal companies so it could pay its debts?---This wasn't a deliberate decision to put any pressure on anybody.

THE COMMISSIONER: Just answer the question, Mr Kazal.

- 40 MR NEWLINDS: Just answer the question. You had loan accounts in place between - - -?---Yes, yes.

- - - the various companies, yes. Commonplace, correct?---Yes.

And you shifted cash around between the companies, there's nothing wrong with this, so that there was cash available if needed?---If there was cash available at the time I would have paid the rent. It was tough - - -

That is not, that is not (not transcribable)?---Yes, it is true, across the board there was tough times, there was a lot of obligations and there wasn't enough cash to move around to pay the rent.

Now, you'd been dealing with SHFA for some, some years before 2007. Are you able to say for how long, when was the first property (not transcribable)?---1994.

10 All right. And that was when SHFA was - - -?---Sydney Cove Authority.

Now, did you consider that there was any risk that in not paying the rent that SHFA might take steps to assert its legal rights, for example, retaking possession of the premises?---Yes.

And did you assess the likelihood by virtue of your experience in dealing with SHFA as to whether they might do that or not?---Well, the Authority, they'd been accommodating in a way that if you were to set up a new concept they'd give you some leniency.

20 So you were assessed that it was unlikely that SHFA would do anything to assert their legal rights that would cause you long-term damage, yeah?
---Yeah.

And that was based on your experience in dealing with them over the years?
---Yeah.

30 Because one thing they could do, and I'm assuming this and tell me if I'm wrong, all these leases were supported by personal guarantees at least from you?---Mmm.

Correct. So one they could do - - -

THE COMMISSIONER: Just say yes, please, Mr Kazal?---Yes.

MR NEWLINDS: So one thing they could easily do was just put a demand on you - - -?---Yes.

40 - - - which you understood would then trigger a personal liability of you to put your own hand in your own pocket and pay it?---Yes.

Did you assess the likelihood of SHFA taking that sort of step in circumstances where the rent wasn't paid for a period of time?---Yes.

And did you think that that, the prospect of them doing something like that was low?---Not really now, it could happen.

But obviously you thought that was a risk worth taking?---At the time, yes.

And may we take it that if they had demanded from you personally pursuant to the guarantee you were perfectly capable from your own resources to pay up on the demand?---Yes.

And indeed you were perfectly capable if you want to of lending your own money to the company so that it could pay its debts?---Yes.

But you chose not to do so?---For a reason.

10 And may I suggest to you, without suggesting there's anything particularly wrong with this, that that reason was so that you could building up commercial pressure on SHFA to assist you in what your goal was, which was to get the usage change and to get a decision made quicker than might otherwise happen?---No.

THE COMMISSIONER: Mr Kazal, was anyone objecting to the change of lease? Was there other tenants there who didn't like the usage?

20 ---Mr Commissioner, change, change of use in the, in the, in The Rocks or I believe anywhere else in the precinct, if you operating a food outlet and you want to change from chocolate to, to cakes or to seafood, that should be just a normal process.

No, that's what I asked you, Mr Kazal. I asked you whether there were other tenants, other tenants or one other tenant in the area who objected to your change of use to a chocolate outlet?---I'm not aware of anybody.

MR NEWLINDS: There was no other chocolate shop nearby?---No.

30 All right. Did you perceive at some point in time that it was going, that there might be difficulties in getting a change of use decision through?
---No.

You didn't think it would ever be a problem?---As I said, it should be a normal practice. Why would it be a problem to change it from, if they approved seafood to Thai to, you're still in the food profession.

40 You know and you knew then in May 2007 that the application for change of use, albeit it hadn't been formally refused, had not gone to the Board of SHFA because those within SHFA did not think it was an appropriate thing to do at that time, correct?---I can't recall that at the time.

Well, do you remember becoming frustrated - - -?---Yes.

- - - that the process was taking longer than you would have liked?---Yes.

Then may we take it from your earlier answer that as far as you were concerned it should been a very simple decision?---Yes.

A no-brainer?---You're not, you're not changing a retail shop into - - -

So you were frustrated?---Not frustrated but - - -

Exasperated?---Okay.

Well, no, don't - - ?---Yeah, frustrated, I was frustrated. Okay.

10 And when did you first know that Mr Kelly and your brother were planning to go on a trip to Dubai together with Mr David to explore a potential new business opportunity?---I only knew about it after it happened.

You, are you saying you didn't know about it at all before it happened?
---No.

20 Did you give your brother or anyone else permission to use your name in either the United Arab Emirates or Australia or anywhere else in relation to a proposed new business venture involving Mr David and your brother and others?---No.

Did any person ever ask you, and I'm talking prior to the trip, if your name could be used for such purposes?---Yes, they asked me.

Can you tell me the circumstances under which they asked you and tell me who the they were?---I recall there was a discussion took place between Rodric David and my brother and he wanted to use my name and ah- - -

THE COMMISSIONER: He being Rodric David?---Sorry?

30 He being Rodric David?---Yes, yes. And then they wanted to go and do this venture which I wasn't supportive of.

MR NEWLINDS: You say again they. Who told you this?---Rodric David and my brother, Charif, both of them.

Before the trip?---Yeah, they were discussing something about using my name and my contacts and- - -

40 THE COMMISSIONER: What was the venture?---They just wanted to go to the Middle East and look for opportunities.

MR NEWLINDS: What sort of opportunities?---They were talking about many things.

Well, can we have an example?---Property development, property management, many things.

Restaurants?---Yeah, we discussed (not transcribable) but that was later, but no.

And did you know Mr David at the time?---I just met him briefly.

Before these discussions you'd met him?---Before the, no, before the discussion I didn't know him.

That was the first time you met him. Who introduced you to him?

10 ---My brother, Charif.

THE COMMISSIONER: That's before the trip?---Yes.

MR NEWLINDS: And there was a discussion about some sort of plan or idea for business to be done in the Middle East?---Yes.

Did your brother tell you that he was going to take a holiday in the latter part of May/early part of June 2007?---Yes.

20 Did you ask him where he was going to go?---He said he was going to Dubai with Mr David.

And did you put two and two together and think to yourself, well, that's probably got something to do with the business venture they've been talking about?---Yes, yes.

All right. So when did you first become aware that your brother was planning to go to Dubai with Mr David on that trip, is it weeks before, months before, days before the trip?---I can't recall.

30

And before the trip did you, were you, did anyone tell you that Mr Kelly was going to go along?---No.

After the trip did anyone tell you that Mr Kelly had been there?---Yes.

Who told you?---My brother, Tony.

Right. How long after the trip did he tell you?---I can't remember. It was during the trip, after the, no, during the trip, sorry, during the trip.

40

So by telephone?---Yeah.

And what did he say, do you remember?---We were talking about Charif and they'd brought in, came in with Mr David and they had the team and the name came up.

And did he say to you something like, Andrew Kelly's part of the team?
---Yes, he told me the teams, who they were.

Ah hmm. And did he say Andrew Kelly was part of the team?---Yeah.

And what did you say to him?---Well I was surprised that, why would Andrew Kelly be there.

Well, what did you say to him?---I can't remember the conversation exactly but- - -

10 Doing the best you can, what, give us the gist of what you said?

MR KORN: Can I suggest you tell him that he doesn't have to be worried about being rude because I think he's worried about saying something rude.

MR NEWLINDS: If it involves being rude, feel free. It doesn't stop me. So just doing the best you can, I know you can't remember the actual words.

20 THE COMMISSIONER: What was the effect of what was said?---That I didn't like that idea. I didn't like the idea.

MR NEWLINDS: Now, you didn't like the idea of business being done with Mr David. Was that it?---I didn't like the idea about Mr Kelly being part of the team.

Right. And did you say why you didn't like that idea?---Because I knew he was working for SHFA at the time.

Did you say that to your brother?---Yes.

30 What did you say, doing the best you can?---Well, I, I told him off and I said this shouldn't happen and, you know, why would Mr David bring, you know, people from SHFA and this and that.

Did you consider it was inappropriate for Mr Kelly to be going with your brother on this trip?---Well, if this was a holiday, I don't know, it is inappropriate.

Well, obviously it wasn't a holiday, was it?---Yeah.

40 And why did you consider it to be inappropriate?---Because Mr Kelly works for SHFA.

And why would it be inappropriate for he and your brother, Charif, to go on the trip with Mr David and others to Dubai in those circumstances?
---Because we have dealings with SHFA.

Right. And- -?---And what?

Mr Kelly was the man in charge of leases at SHFA. That's part of your thinking, isn't it?---It wasn't part of my thinking but just the principle of it was wrong.

And did you say that to your brother?---Yes.

THE COMMISSIONER: That's your brother, Tony?---Yes.

10 MR NEWLINDS: And your brother, Charif?---When he came back I gave it to him.

Right. And did you explain to him why you thought it was inappropriate? ---He, he told me, yes, I did.

20 What did you say?---I said, "This wasn't right. Why would Mr Kelly be on the trip, why would he go with youse?" And he said that it was all suggested by Mr David, Mr David knows Mr Kelly through the days of Mr David father in Darling Harbour when Mr Kelly used to work in Darling Harbour and that's what it was.

And were you satisfied with that explanation?---I wasn't.

Did you say so?---Yes.

What did you say?---Well, I told him, you know, it's not right.

30 Did you mention the fact that the application concerning De Costi's Seafood premises was still under consideration at SHFA at the time?---I can't recall if it was still under consideration.

Did Mr, did your brother or Mr David or anyone else tell you that they proposed to use your name in letters, in letters to an organisation known as Seba, S-E-B-A?---Yeah, I told you in the earlier discussion- - -

They asked you?---They put it in front of me, they asked me and I said I don't want my name to be used. They were doing this together.

What did they put in front of you?---I can't remember.

40 Did they put a piece of paper in front of you?---Possibly.

Can we look at page 213, please, which is in volume 1 I think. Right. Can you see the document at 213 and 214? It's an unsigned letter bearing the name of your brother as general manager?---Ah hmm.

It's addressed to Mr Karam at Seba and it's dated 27 April, 2007. Do you see all that?---Yeah.

Did you know Mr Karam at Seba at the time?---No.

Did you know of him?---Yeah, I know of him.

Did you know what Seba was at the time?---Just briefly.

Who did you understand Mr Karam was at the time?---I remember discussions with my brother, Tony, he brought his name up a couple of times.

10

Were you shown this letter or a draft of it or any letters in similar form in the early part of 2007?---No.

You can see that two-thirds of the way down the page that's got 213 on it there's a reference to, "Our team of professionals." Do you see that?
---Yeah.

And then another two paragraphs down there's another reference to the team and you're the first person mentioned?---Yep.

20

Did you ever see any document prior to the first trip that held you out as being part of the team as this letter does?---Look, they might have copied me on emails but I was never interested in reading any of the emails.

All right. But they might have copied you in with emails, might they, that contained such documents?---Yeah, possibly.

And would your answer be if I showed you any emails where you were copied into such documents that you didn't read them?---Yes.

30

Why would it be that you chose not to read emails of that nature?---Because I was never asked to be copied.

Sorry?---I was never asked to be copied so it wasn't of interest.

But you didn't think it was a great idea for your brother to be involved in this venture did you?---No.

40 So weren't you interested if you were being copied in on emails for seeing what he was up to?---No.

If you just go to page 203 which is in the same folder?---203?

203, yes. This one's in fact not copied into you it's actually from Rodric David to Charif and yourself copied into a Tony Touma, do you see that?
---Yes.

Do you think you read this email?---No.

Are you sure you didn't?---Yes.

Why are you sure you didn't read this email?---Because I wasn't interested in any of the emails or the correspondence.

Did you ever write by email back to either Mr David or your brother saying, "Please don't send me anymore emails about this, I'm not interested."?---I don't remember if I did that.

10

THE COMMISSIONER: Why do you think Mr David sent you (not transcribable) the proposed dealings in Abu Dhabi?---Mr Commissioner, if Mr David gave himself the right to use my name - - -

That's not the question?---Okay. I don't know.

MR NEWLINDS: Did you ever ring him up and ask him?---To be quite honest the whole thing wasn't of an interest to me. I was busy doing other things.

20

Could you look at page 210 please, 210. Have you got it?---Yes.

Did you know Clint Willoughby as at April 2007?---I believe I met him once briefly.

And who did you think he was?---Somebody from Rodric's David team.

And here we've got him copying you into an email to a person called Richard Fiddes on 23 April and if you look about two-thirds of the way down that email there's a reference to you being part of the team, do you see that?---It's the same thing, yes.

30

Right. Well, do you accept that you received that email?---Look, if there was copy sent to me sure, I've received the email but I assure you that I didn't read it.

You assure me that you didn't read it?---Yes.

THE COMMISSIONER: If the people sending you these emails – I withdraw that. Had you done anything which could have caused the people sending you the emails to think you would be interested in them?---Mr Commissioner, these emails were only being generated as a result of Mr David's instructions. This was to do with his possible new venture.

40

Did you do anything which would've caused Mr David to believe that you would be interested in these emails?---There was earlier discussions as I said, Mr Commissioner, and I expressed my views, probably my brother Charif told him that I was interested or he assumed that I was interested.

But if the emails give the impression that Mr David was, Mr Willoughby were under the impression not only that you were interested in what was happening but that you were part of what was happening?---Well, obviously he's been fed by Mr David so, and it was Mr David's intention to use anybody.

Can you bring up page 220 please. Were you ever shown some business cards that had been prepared for you - - -?---Yes.

10

- - - as a Parkview person? See the second paragraph, "He", that is Charif, "also requested a Parkview business card be produced for Karl Kazal ASAP", it should read Karl Kazal, MBA Marketing, do you see that?
---Yes.

Now, were you ever given a packet of business cards suggesting that you were involved with Parkview?---I think I saw something delivered to our office.

20 So what do you mean something was delivered to your office?---Business cards.

So business cards that had Parkview's name and logo on it?---Yes.

And had your name and qualifications on it?---Yes.

Thus suggesting to anyone that you had something to do with Parkview?
---Yes.

30 Did the business card identify you as holding any particular position?
---Can't remember.

All right. It didn't suggest for example that you were a Director?
---Honestly I can't remember, there - - -

Did you look at them?---I looked at them briefly, yes, and I think somebody put them in my cupboard, my brother Charif or something. Never used it, never used one, never used - - -

40 Did you ask anyone why it was that someone was arranging for business cards to be - - -?---I asked Charif and he said this is part of things to help them doing what they want to do in the Middle East.

And what did you say?---Told him that I wasn't interested, that's why I never went on any trip with them to the Middle East.

But isn't this right, Mr Kazal, you were perfectly content for your brother and Mr David to use your name to assist them in doing what they were doing in the Middle East?---Yes, in the early days, yes.

And that's why you didn't protest when you saw that the card had been made up?---They explained that it was just in case, they made the business card because they put my name on, on things.

10 But just in case what?---Just because they use my name in the correspondence that they thought it was - - -

So you knew as at - - -

THE COMMISSIONER: Sorry, Mr Newlinds, I just don't understand that answer?---Sure. What is it that can make you understand, Mr Commissioner?

20 Well, I don't understand what, why were you content for them to use your name?---Well, in the early days there was discussion and then I didn't like the concept and they assumed that I wanted to continue to be part of this while I didn't and they went ahead and did some letters and did business cards and they even made Mr Rodric David part of AWT. It was, Mr David was doing everything in his capacity to achieve his objective.

I still don't understand why you were content for them to do this. Can you just explain why you were content for them to do this because I think you've said that you weren't?---Yes, I objected to it but it was already done.

30 MR NEWLINDS: Sorry, Mr Commissioner, can I take that up. I thought your evidence has been, and just tell me if I'm getting this wrong, that originally you objected - - -?---Yes.

- - - but there came a point in time when you were content to let them use your name in correspondence and other documents, is that what you've said?---As I said, what you mean by content, my approval?

40 Well, you didn't, let's take it step by step. You certainly didn't tell them that they could not do that, use your name?---In the early days they, that was a suggestion but then I told them not to.

And was there a point in time when you knew regardless of whether you saw the actual documents or not that they were producing documents that did suggest you were involved as part of the team?---Yes. I knew and I told them not to.

And when this packet of business cards arrived what period of time is that, is that in the period when you do object or you don't object to them using your name?---It was earlier I think, can't remember the time but - - -

THE COMMISSIONER: Look at the date of the email, 11 May?---Yes. It certainly was at a time when I, I was objecting to them use my name.

MR NEWLINDS: Right. And yet you say that it was a time when you were objecting to them using your name, the business cards arrive in a box or packet at your office and you put them in your cupboard and do nothing about it, is that your position?---I didn't put them in the cupboard, somebody else did but - - -

10

Right. But you understood that they had been placed in a cupboard?---Yes.

And then what did you do?---Well, I told them, I told Charif I wasn't really having much to do with Mr David at the time, I told my brother not to, not to use mine.

THE COMMISSIONER: Why did you let them stay in the cupboard?---I didn't see them in the cupboard till later, Mr Commissioner, I don't go in the cupboard quite often.

20

When you saw them in the cupboard what did you do?---I think I told one of the girls to throw them out.

MR NEWLINDS: Can I ask please that we bring up the Parkview profile. All right. Pause there. Can we just go to 273, please. Have you got that? ---Yeah.

It's now 30 May, which to place you in time is during the period of the first trip to Dubai. Do you understand that?---273?

30

273, it's an email from Clint Willoughby to your brother?---Yeah.

Dated 30 May?---Yep.

If you look at 274, it's got attached to it what's described in the email as Andrew's spreadsheet?---Ah hmm.

Now there's nothing on this document that suggests you did see it, but I wanted to ask you, did your brother ever show you a spreadsheet or budget of that sort at or around the middle of 2007?---No.

40

Did you know that sometime in the middle of 2007 Andrew Kelly had been allocated an email address or a domain name that allowed him to receive emails at the address andrew@AWTrading.biz?---I wasn't aware of it.

You were not aware of that?---No.

Were you ever copied into emails where Mr Kelly was also copied in at that address?---I can't, I can't recall.

Can you go forward please to 301? Now we think the front page is probably missing from this document, but can you see from page 301 that it's a corporate profile of the Parkview Property Group?---Ah hmm.

10 I think it's reasonable to say it's a draft. And there are a number of versions of this document, but if you can go through to page 311, can you see there's a page which identifies the board of that company as at the time this document was prepared as including yourself? Do you see that?---Yeah.

Did you ever understand that documents were being prepared say in May or June 2007 that suggested that you are a director of Parkview?---No. No.

Did anyone ever ask you permission to do that?---No.

20 When did you first find out, assuming today is not the first time that that had happened?---Honestly I would have, I would have seen it at a later stage, but nobody got my permission.

When did you, when - - -?---I can't recall. I would have seen it, but I can't recall the timing when it was presented or when I looked at it.

Well do you remember there were two trips that your brother went on to Dubai?---Yeah.

30 One was in the middle of 2007 and one was at the very start of 2008?---Ah hmm.

By reference to those two events, can you tell us when - - -?---In between I think.

All right. So in between the two trips, and I'll show you some more versions of that document?---Ah hmm.

40 And I'm not suggesting you should be able to remember which version you saw, there's another one at 326, which is another version of the corporate profile of Parkview and relevantly at page 338, do you see that the Board of Directors in this version of the document is said to include you and amongst other people, Andrew Kelly. Do you see that?---Yes.

Is the version, did the version of the document that you saw between the two trips identify that only you were a director of Parkview but that Andrew Kelly also held that position?---I just notice now, I - - -

I'm sorry?---I just notice now the people.

Are you saying you don't remember?---I don't remember seeing the details of who was what.

Now can you go please to page 290, so we're back on 4 June. Now 4 June is just after your brother returns to Australia from the first trip. Just let me know when you've found it?---Yep.

10 Now this is an email sent from Rodric David. The subject is Parkview/Seba. It's been sent to Mr Karam in the UAE and copied in to a series of people including we can see yourself and Mr Kelly?---Yep.

Now am I right in assuming that if I ask you whether you remember reading this email you will say you didn't because you simply ignored all such emails?---That's right.

Do you think you would have paid any attention to who the emails were also being sent to at the time?---If I wasn't interested in the contents of the email I wouldn't see it was what would have been attached to it.

20 THE COMMISSIONER: Well you would have to read the email to see to whom it was sent at least?---Honestly Mr Commissioner - - -

But it would come on to your screen?---Yes, but I, just anything that came through David from, I just either filed them away or just delete them. I can't remember what I did with them. There was something like 100 unread emails in my, in my folders which I never read. Anything to do with this venture.

30 MR NEWLINDS: Accepting for the moment that that's the truth, why didn't you take the trouble, and it would have been a very easy matter to simply press reply all to one of these emails and say, I am not interested in this matter will you please stop bombarding me with emails?---Well I was saying that to my brother at all times.

No, but you hadn't said it to Mr David who's the writer of this email?
---Yeah.

40 And a lot of these emails we can see in the folder, what happens is people in that irritating way that they do, do reply by pressing reply all - - - ---I just took it up with my brother, I didn't do that.

Are you sure you're not deliberately seeking to distance yourself from any involvement in the early stages of this project Mr Kazal?---Mr Counsel, if I wanted to be a part of this I could have been a part of this. I don't need to distance myself. And the result speaks for itself. I never took any part of any trips, meetings, arrangements in any of this.

The result doesn't speak for itself. Isn't this what really happened. You were interested - - -?---In the beginning.

- - - in the beginning?---Yeah.

And you did receive information and email correspondence which you did run your eye over and there came a point in time when you lost interest and you didn't want to be part of the final deal. That's what really happened isn't it?---No. No, no.

10 And the point that you're seeking to avoid is that from at least May or June 2007 you knew that Mr Kelly was involved in what your brother was doing, not just as a consultant going on a trip to Dubai, but in a way that justified him being copied in on all of the important emails didn't you?---No. No.

And you're trying to avoid that fact to distance yourself from any knowledge that your brother had a business arrangement relationship with Mr Kelly from as early as May or June 2007 aren't you?---That's not true.

20 Because as you say now you understood at the time that that would have been entirely inappropriate having regard to Mr Kelly's position at SHFA?
---That's not true.

You said it was, you thought it was inappropriate they went on the trip to Dubai earlier?---Yeah, yeah. But I'm not trying to distance myself. Of course I did.

But you do say - - -?---At the time, yes.

- - - that you would have thought it was very inappropriate - - -?---Yes.

30 - - - for them to be working together on some business deal which would result with them in some way being involved in the same business?---It was a business, from my understanding, yes, it was inappropriate.

And that's why you're pretending now that you didn't read any of these emails?---No, I don't pretend and I'm not pretending and I wasn't interested and I wasn't part of the process.

40 THE COMMISSIONER: Mr Kazal, sometimes did you read emails?
---Yes.

So you've got a computer on your desk?---You mean, you mean in general?

Yes?---Yeah, I read emails every day.

Have you got a computer on your desk?---Yes.

So an email comes in, how do you decide whether you're going to read it or not?---By the sender.

So you've got to read the sender?---Yeah. Well, it comes up with the sender, you know, who the sender is.

Yes?---You know, what relation to.

It says, "From?"---Exactly.

And you don't read anything else?---No.

10

But if you read the sender, I mean for example, this email at page 290, you can see Mr Kelly's name pretty easily 'cause it's very close to the sender's name?---It, it says from- - -

Yes---?- - -Rodric David.

CC?---Yeah, but I just- - -

You don't read the CC?---No.

20

So you can keep your eyes on the sender's name without letting your eyes stray down to see- - -?---To decide whether it's an email that I want to read or not.

MR NEWLINDS: All right. Well, there's a lot of, there's a, there's a, a series of documents that all fall into the same category, Mr Kazal. I can take you through them, but is your position going to be if they were from Rodric David and if the title said they were something to do with the venture, you wouldn't have looked not only at the body of the email but you also wouldn't have looked at who else might have received it?---That's correct.

30

No matter how interesting or enticing the title might have been?---No matter how, what.

What about one that the title said, "Updated Parkview UAE Shareholders' Agreement?"---Wasn't interested in all of that.

THE COMMISSIONER: Even though, were you interested in your brothers' position?---No, because my brothers were doing what they were doing so- - -

40

MR NEWLINDS: Well, you were the older brother and you had business experience?---Yes.

And things like shareholders' agreement no doubt were grist to the mill for you at the time?---It was something not of importance to me.

But this was obviously considered by your brother to be of importance to him?---To him, not to me.

Right. And you knew he was not as experienced as you in the business world. Correct?---Yes.

And at various points of time you are very opposed to what he's doing with Mr David?---Yes.

10 Weren't you interested to see what he was up to?---No, because I never liked the partner from day one.

THE COMMISSIONER: Had he given you trouble before, Charif?
---Always.

So when you saw shareholders' agreement, didn't you want to see whether he was getting himself into trouble again?---I wasn't interested, Mr Commissioner.

20 MR NEWLINDS: For the record, just for the transcript, the email I just was referring to is at 292.

THE COMMISSIONER: Sorry, just one other question.

MR NEWLINDS: Yes, please. I thought what I'd do at this point, Commissioner, rather than- - -

THE COMMISSIONER: Yeah.

30 MR NEWLINDS: - - -I'll just read onto the transcript the various emails that we think fall into the same category and I won't go through the process of putting each of them to the witness.

THE COMMISSIONER: Yes. Mr Kazal, when Charif had got into trouble so often, were you the one who was called in to bail him out?---Sometimes.

Did that involve paying money sometimes?---Yes.

40 And when you saw shareholders' agreement, didn't it worry you that maybe he was getting into more trouble that you'd have to bail him out again?
---The reason why I didn't pay much attention, because it was between him and my brother Tony in Dubai and I thought they were both dealing with it.

Did you speak to Tony about this?---Not in details.

What did you say to him?---Oh, they know what they were doing, they were excited, so just kept to what I know best.

MR NEWLINDS: Did you ever ask Charif as to whether he would be required to put any money into the business?---Yep, there was discussions about money and this and that but they asked me for money many times.

But if Charif was going to get any money the obvious place he'd get it from was you, wasn't it?---Me or Tony.

THE COMMISSIONER: This joint venture would involve Charif putting money in or Tony putting money in?---Both of them, yeah.

10

So where was Charif going to get his money from?---Tony.

MR NEWLINDS: Or you?---If, if Tony would have asked me at some stage to lend him the money later on I would have lent him the money.

All right. So that was at least a possibility, that you might lend some money for the purpose of this project?---To Tony, not to the venture.

All right?---To Tony.

20

To Tony for the purpose of the venture?---Not for the venture, he can do whatever he wants with it.

All right. Well, there's similar documents at 292, 293, 322 - but we should look at 322 please. Between the two trips you were sent in that strange that computers do these days, invitations to meetings, weren't you, by Mr David?

THE COMMISSIONER: Is that the right page number, Mr Newlinds?

30

THE WITNESS: 323 or 322.

MR NEWLINDS: 322, have I got this right?---Just the cover.

Yeah, that's right. And isn't this an invitation to a meeting?---No. It says MGI, re tax structure.

40 That's right and it says location path you start Thursday, 7 June, 1500 end 1600 tentative recurrence, none, meeting status not yet responded, the organiser Rodric David. I mean, is that one of these really irritating things that people can now send you a thing through the computer and it ends up in your diary without you knowing about it? It happens to me all the time? ---No, it didn't, didn't end up in my diary, it - - -

Then people turn up at your office - - -?---No, no, but this didn't end up in diary.

Sorry?---It didn't end up in my diary, that's for sure.

MS HOGAN-DORAN: It appears in your diary if you accept.

MR NEWLINDS: Okay. Well, it's a meeting request Ms Hogan-Doran tells me?---I can't recall that.

All right. Well, do you remember that you were receiving meeting requests?---I can't recall (not transcribable).

10 But would you say if I pressed you well, I'd just take absolutely no notice of it?---Yes.

And not write to Mr David by email and say listen, will you stop bugging me?---I can't recall, I can't recall receiving anything.

But isn't that the natural thing you do when someone's harassing you by email?---Are you asking me?

20 I am asking you?---Sorry. What was the question?

If someone keeps bombarding you with emails and meeting requests on a topic that you don't want to have anything to do with isn't the natural thing you do is to press the button on your machine and just say stop sending me this stuff?---I wasn't just paying attention to what, to any of this.

Just weren't paying attention.

30 THE COMMISSIONER: So, Mr Kazal, was it - the emails you wouldn't read where those that you got from, from Mr David?---Yeah.

Is that right?---Yes.

I take it if Charif sent to an email you would read it?---Not necessarily. If it

Sometimes?---If it's in regards to the same venture I wouldn't. If it's in regards to other things concerning other things, yes.

40 Now, Mr Karam - - -?---Ah hmm.

- - - is he a respected figure in the UAE?---Mr Karam, I don't know, I don't know him well, I've only met him once.

Is he a respected figure?---No, no, he's just an employee of Seba.

He's not a director?---No, I wouldn't think.

And he's not a, he's not a respected figure in the UAE?---I think, I don't know about his status but I think he's of Lebanese background, he's not a UAE citizen and he could have been a respected figure, I don't know.

And would you not bother to read his emails?---Anything to do with the venture then I wasn't interested.

All right. Mr Newlinds, is this a convenient time?

10 MR NEWLINDS: Yes, well, just before we adjourn can I just read onto the record 369, 371 and 401, 371 and 401. And that would be a convenient time, yes.

THE COMMISSIONER: Yes, thank you.

LUNCHEON ADJOURNMENT

[12.59pm]