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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION VESTA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 27 JULY 2011

AT 2.07PM

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THE COMMISSIONER: Mr Newlinds.

MR NEWLINDS: Is this the position, Mr Kazal, some time between the two trips to Dubai, so some time from the middle of 2007 to the beginning of 2008 you were aware that it was quite likely that people including your brother and Mr David were putting documents about in the United Arab Emirates which represented that you had some relationship with the Parkview company?---Yes, I knew about it earlier.

And you knew that they might be dealing with serious people in the United Arab Emirates who might take seriously the fact that your name was attached to the project?---They were mainly dealing with my brother Tony so I wasn't aware of how far they were going to go there.

Well, they didn't need a piece of paper that falsely said that you were a director of Parkview to show to your brother Tony because he knew that it wasn't true?---Yeah, exactly.

Right. So it must follow that you knew that they were going to show these documents to someone else?---I don't know what they were doing.

And it was part of their sales pitch to make them look important and experienced, correct?---I think so.

And they were trading on your good name?---I think so.

Well, you knew so at the time, didn't you?---In the early piece I knew but when they were down there they were acting independently, they were not taking my advice.

And you didn't do anything to stop them doing that, did you?---Well, it happened that after they came back I knew that they had my name and I made sure that I wasn't going to be part of this so I distanced myself.

The way you say you distanced yourself was by telling your brother Charif? ---Yes.

You didn't tell Mr David directly, did you?---I didn't, I didn't have much dealing with him.

You didn't pick up the phone to Mr David and say, Will you please stop using my name?---No.

You didn't tell Tony to stop using your name, did you?---I didn't think Tony was - - -

You didn't tell Tony - - -?---No, no.

- - - to stop using your name, did you?---No, no.

And the reason you didn't tell anyone to stop is because at that time you were happy to go along with being part of the team, weren't you?---No, no.

10 Because you wanted to keep your options open that if what happened was at a, what looked to you to be a good business got up and running that you might be able to be part of it, correct?---No, because - - -

And what really happened was that some time towards the end of the project you did form the view that it wasn't a good prospect and you did say that you didn't want to a part of it?---Mr Counsel, I didn't want a part of it, I didn't want to be part of it from day 1.

20 And you know that the company that was formed in the Cayman Islands called KTC LLD or something like that - LLC I think - - -?---I don't know what it - - -

But the initials were KTC?---Yes.

Karl, Tony and Charif?---Yes.

And you know when that company was initially incorporated - - -?---Yes.

30 - - - or purchased firstly the initials of the name were intended to reflect not just the initials of your two brothers but your initials as well?---Yes.

And secondly that the shares were issued in the company originally - - -?
---Ah hmm.

A third in your name?---Yes.

And when you found out about that you said you didn't want those shares and you didn't want to be a part of it?---That's right.

40 But it was only at that last minute that you didn't want to be a part of it. Isn't that the truth?---No, I never ask them to include me in that company, they did it on their accord.

Everything you did in relation to what they were saying and doing towards you indicated that you were prepared to go along with what they were doing, didn't it?---No.

They sent you emails to keep you in the loop and you didn't respond and say I'm not interested, correct?---I didn't respond but I told them I wasn't interested.

THE COMMISSIONER: You told only one, didn't you tell only Charif?
---Well, I, I think I even told them both once, both of them, both Charif and Rodric.

MR NEWLINDS: You think you did?---Yes.

10

You told no one when they went to all the trouble of producing business cards with your name on it as a Parkview person that you didn't want them to do that, correct?---I told Charif I didn't want him to do that, yeah.

And by the way, those cards identified you as the chairman of Parkview, didn't they?---Well, that shows you what Mr David was capable of doing.

Listen, will you just answer the question?---I don't know, I can't remember what was said on the card.

20

All right. But it was some high office?---I can't, I can't remember.

Well, it didn't say paperboy did it?---Sorry?

It didn't say office boy?---I wish it did.

Just on the question of the cards how - do you recall how they were delivered to your office?---Not at all.

30 Did they come through the post or did Charif bring them around?---I have no idea to be quite honest.

And do you remember looking at a packet of cards?---Yeah, to, to my recollection I remember I've seen a packet of cards on my desk and I told him to throw it away, I wasn't going to use it.

And on the outside of the packet there was one of the cards to tell you what was inside. Is that how it worked?---Yes, yes.

40 And you had a look at it?---Yeah, looked at it briefly.

And who did you tell to throw it away?---Charif.

All right. And how did it find its way into your cupboard then?---They filed it away over there.

Who's they?---Either Charif or the girl who worked there at the time or somebody else in the office. There were a few people.

Might we, may we take it you had a waste paper bin in your office?---Yeah.

Well, you could have picked up those cards and placed them in the bin yourself, couldn't you?---I didn't think of it that, that way - - -

Sorry?--- - - - at the time. I didn't think of it that way, I just told him to get rid of them because I wasn't using, wasn't going to use them.

10 The reality is the reason they found their way into your office is that you were content to take those cards because you were going along with the charade, that you were part of the organisation at that stage, weren't you?
---No.

THE COMMISSIONER: Did you know that these documents that were floating around the UAE were being used to, to persuade Seba to enter into an arrangement with the joint venture, that is the joint venture involving your brother at least and Mr David?---Mr Commissioner, I didn't know Seba in the UAE, it was my brother's Tony connection and I didn't have
20 much to do with them so - - -

Is your answer no?---No, I didn't.

Well, did you not, did you say at the compulsory examination that you suspected that the documents were being distributed to Seba?---I said possibly, Mr Commissioner.

MR NEWLINDS: Well you certainly knew that what was envisaged in the middle of 2007 was some relationship between Parkview and Seba. You
30 knew that much didn't you?---Excuse me?

You knew that what was being thought about at the time was some relationship between Parkview on the one hand and Seba on the other by June 2007?---I can't recall.

Well if I showed you a whole lot of emails addressed to you or cc'd to you where the subject matter was Parkview/Seba or Parkview/JV Seba, you would accept would you not that it's inevitable you would have read and absorbed at least the title of the email?---Mr Counsel - - -
40

THE COMMISSIONER: Mr Newlinds is (not transcribable)?

THE WITNESS: Oh, Mr Newlinds, I told you I wasn't interested.

MR NEWLINDS: I know you told us - - -?---So therefore I wasn't paying any attention to any details in any of the correspondence.

But can we just bring up 324, I know we've done this to death. Here is but an example. Just look at 324 for us. Now to know that you should ignore an email, you've got to look at something to do with the email to do with the email don't you?---Sorry?

To make a decision not to read an email you have to absorb some information about it. Correct? Is that right?---Yeah.

10 And what we have here is an email to you and other people from a man in the United Arab Emirates called Karam?---So it's addressed to Mr David, but I'm cc'd.

Okay. So what you would have seen when this came up on your screen was that it was an email from Mr Karam wouldn't you?---Yes.

And the other thing you would have seen was the subject re Parkview/Seba?---Possibly.

20 Well undoubtedly those two pieces of information would have been seen and understood by you - - -?---Yes.

- - - at the time that email came in?---Yes.

If you are to be believed that you made a decision not to read any of these emails any further?---Yes.

30 All right. And so if follows does it not that you would have known at the very least that whatever it was that they were trying to achieve in the Middle East in June 2007 involved some business relationship between Parkview and Seba?---Yes.

And you would have known that at the time. Correct?---Yes.

And you say you didn't know Mr Karam at the time?---I didn't know in person, yeah, I've heard of his name.

And did you know he was from Seba?---Yeah, it was brought up in front of me.

40 And weren't you interested, and does it not therefore follow that you, you thought it very likely that Mr Karam and others at Seba had been shown bits of paper that held you out as holding high office within Parkview?---Mr Newlinds, I was not interested in the details so therefore I wasn't paying any attention to any correspondence.

The way the, I'll withdraw that. The various businesses within The Rocks are either restaurant or entertainment, that sort of business?---Many are restaurant and cafes.

And a reasonably significant proportion of their takings are cash?---Any hospitality would have cash, yes.

And for example the wages of those business were paid by giving the employees envelopes with cash in it?---Yes. Withdraw the wages of the week and then it would get distributed accordingly.

10 There were safes within each of the businesses to keep cash that didn't get to the bank each day?---Yes.

And from time to time transactions of reasonably large amounts were carried out by Kazal businesses using cash. I'm not suggesting there's anything wrong with it - - -?---Ah hmm. What do you mean by that?

Well you'd buy things using cash?---Not necessarily. Most things we buy on account, on - - -

20 But it wasn't out of the ordinary to use cash to make purchases was it? ---Most of our purchases are made through our suppliers and we pay on a fortnightly account.

But it wasn't out of the ordinary - - -?---Yes, you could buy things in cash if you wanted to send somebody to the market to buy some vegetables.

THE COMMISSIONER: And you pay your employees in cash?---We, our accountant draw the cheque every week and it get distributed based on each person entitlements?

30 Cash?---Yes, yes.

Thousands of dollars?---Yes.

Many thousands of dollars?---It depends on the business, yes.

MR NEWLINDS: Certainly the totality of the, of the Kazal businesses would be many, many thousands of dollars in cash every week?---Each business run on its own, yes.

40 And at the end of each day, someone's job was to balance the tills and - - -?Yes.

- - -put cash in the bank?---Yeah.

Now, you remember I asked you whether in relation to the proposal of change of use in relation to 91 George Street, whether there was any objection in relation to your application, and I think you said- - -?---I'm not aware of anybody that objected.

All right. Was there a patisserie or a shop like that nearby- -?---Yeah.

- - -run by someone called Sally Charkos?---Yes.

Did it ever come to your attention that Ms Charkos had objected?---Not to my knowledge.

Yes, thank you, Mr Commissioner.

10 THE COMMISSIONER: Yes. Mr Beech-Jones?

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

THE COMMISSIONER: Ms Hogan-Doran?

MS HOGAN-DORAN: I just have one. Just excuse me one moment, I just have to pull up a page for reference.

20 THE COMMISSIONER: While we are waiting, Mr Kazal, is it, is your brother, Charif, is he employed as an operations manager of AWT?
---Yes.

Has he been employed as operations manager for some time?---I think not a number of years 'cause he was a consultant at once and then he, he was employed by Kazal Family Trust at once, so he was employed by different entities.

30 Yes, I understand that. But in 2007 he was the operations manager of AWT?---Yes.

MS HOGAN-DORAN: Could the witness be shown, sorry, Mr Kazal, my name is Hogan-Doran. I appear for Mr David. I just have two short questions I'm going to take you to?---Sorry, can you speak up a bit?

Could the witness be shown document 382, Mr Hillier, Mr Jones. Do you recall you were asked some questions by Counsel Assisting concerning the Parkview Property corporate profile?---Ah hmm.

40 And you were asked some questions concerning your knowledge of the use of this profile and its distribution or its intended distribution in the UAE. Do you recall those questions?---I'm sorry, can you ask again?

You were asked some questions about your knowledge about the intended distribution of versions of these profiles in the United Arab Emirates. Do you remember those questions?---Yes.

Right. It was the case, wasn't it, that that profile, to your knowledge, or a version of that profile was distributed in Australia?---Not that I'm aware of.

And in particular this profile at 392, 382, was- - -?---392 or 382?

- - -was in your- - -

THE COMMISSIONER: 382.

MS HOGAN-DORAN: 382?---Yeah.

10 Was in your presence distributed at a meeting between yourself, Mr David
and the chairman of the Gulf Council on his visit to Australia. Do you
recall that?---No, I can't. I don't recall it.

And do you recall that prior to that meeting, amendments were made to that
profile at your request?---At my request?

Yes?---No.

20 And do you recall that the amendment that was made to that profile was that
rather than as in previous iterations of this profile in which you were
referred to as a director, you were now referred to as a non-executive
chairman?---I, I don't have any recollection of that.

THE COMMISSIONER: Are you, are you putting who was the initiator of
this change?

MS HOGAN-DORAN: Yes.

THE WITNESS: So you think I read all that?

30 MS HOGAN-DORAN: And I suggest to you that you initiated that change?
---No, that's not true.

All right. Can I ask you to look at page 393?---Yep.

And I put it to you that the inclusion of your name as the non-executive
chairman of the Parkview company was inserted into this document at your
request?---That's not true.

40 And you made that request to Mr David?---That's not true.

And you know to your knowledge that a copy of that document was also
provided to Seba?---I'm not aware of that.

And a copy of that document was subsequently provided in as an attachment
to an email to your brother, Charif?---I wasn't included in any of the emails.

THE COMMISSIONER: Provided by whom?

MS HOGAN-DORAN: Charif.

THE COMMISSIONER: An email - - -

MS HOGAN-DORAN: To Charif.

THE COMMISSIONER: From?

10 MS HOGAN-DORAN: From Mr Rabih Karam from Seba?--- I'm not aware of that.

Another matter I want to take you to is in respect of the company incorporated in the Cayman Islands - - -?---Ah hmm.

- - - it's not the position is it that immediately following its incorporation you ceased, you directed that you cease to become a shareholder of that company?

20 MR BEECH-JONES: I object (not transcribable)

THE COMMISSIONER: Sorry?

MR BEECH-JONES: The relevant company should be specified because there's a few there.

THE COMMISSIONER: Why are you interested in this Mr Beech-Jones?

30 MR BEECH-JONES: Because this is a matter I will be taking up with Mr David.

THE COMMISSIONER: I'm not sure what it has to do with Mr Kelly?

MR BEECH-JONES: Well things I take up with Mr David ultimately do affect Mr Kelly because there's a very significant - - -

THE COMMISSIONER: Not everything.

MR BEECH-JONES: A lot does in terms of my submission about - - -

40 THE COMMISSIONER: I have no idea at the moment, see no relationship with what happened in Cayman Islands to Mr Kelly.

MR BEECH-JONES: Well can I outline it in these terms, Mr Kelly is a witness in the dispute that's broken out involving Mr David in the Cayman Islands.

THE COMMISSIONER: I understand that, that there are many people here who wish to use their various, who wish to use this forum as an opportunity

to get information concerning other disputes. I am determined not to allow that unless it is relevant to these proceedings.

MR BEECH-JONES: And my objective is the reverse of that, use information from other disputes to get to the issues in this dispute.

THE COMMISSIONER: Well you'll have to explain to me why that is relevant to Mr Kelly.

10 MR BEECH-JONES: Because part of what will be put down (not transcribable) Mr David is that a number of things he is stating is in part because of his anger at Mr Kelly for his providing an affidavit in those proceedings.

THE COMMISSIONER: Well you can put that.

MR BEECH-JONES: Well I do, but I'd like to do a bit more than barely put it to him, I'd like to have a proper foundation to develop it to make it plausible and at least ensuring there's a degree of accuracy as to what's
20 going on in the Cayman Islands. There are four companies in the Cayman Islands of which I'm aware. All I just ask is she specify the correct or which one.

THE COMMISSIONER: Mr Beech-Jones, we will continue this discussion when it is relevant.

MR BEECH-JONES: The Commission pleases.

THE COMMISSIONER: Yes, Ms Hogan-Doran. You've heard the
30 discussion. I'm sure you can put the question without arousing Mr Beech-Jones' ire.

MS HOGAN-DORAN: The only company about which Mr Newlinds directed to you in his questions was the company KTC, and that's the only, the only company to which I direct my question to you and it's simply this, that that company - - -?---Can you please speak up a bit?

And that company was KTC, Karl Tony Charif, you agreed with Mr
40 Newlinds that the company's name represented - - -?---Yes.

- - - or (not transcribable) each of your names. And you agree in your evidence that each of you had a 50, had a third shareholding and my question to you it's the position isn't it that you did not resign your shareholding or cease having a shareholding in that company until November 2008?---I think I asked for it to be dealt with immediately, the shareholding as well as the directorship of that company. I asked them to remove me completely from that company because I wasn't interested being in partnership with Mr David.

No other questions.

THE COMMISSIONER: Yes, thank you. Ms Williams?

MS WILLIAMS: No, thank you, Commissioner.

THE COMMISSIONER: Mr Newlinds?

MR NEWLINDS: Nothing from me, thank you.

10

THE COMMISSIONER: Sorry Mr Korn, I - - -

MR KORN: All right. All right. As life intended.

THE COMMISSIONER: Yes.

MR KORN: Nothing from me, thank you.

20

THE COMMISSIONER: Right yes, thank you. Does Mr Kazal, is he to be excused from his summons or - - -

MR NEWLINDS: Once again although it's very unlikely he'll be recalled, can he not be formally excused, but he can safely go about his own business until at least early next week.

THE COMMISSIONER: Mr Kazal, if the Commission needs you before the end of the week we'll let Mr Korn know. You're free to leave the witness box?---Thank you, Mr Commissioner. Thank you, Mr Newlinds, thank you.

30

MR NEWLINDS: Thank you.

THE WITNESS WITHDREW

[2.30pm]

MR NEWLINDS: Commissioner, might I call Mr Clinton James Willoughby.

40

MR SPENCER: Commissioner, my name is Spencer.

THE COMMISSIONER: I beg your pardon?

MR SPENCER: My name is Spencer, S-P-E-N-C-E-R.

THE COMMISSIONER: Yes, Mr Spencer.

MR SPENCER: With your leave I appear for Mr Kelly - Mr Willoughby, I apologise.

THE COMMISSIONER: Mr Spencer I do think you need to come to the front row.

MR SPENCER: Thank you, your Honour and - - -

10 MR NEWLINDS: Now, Commissioner, before we have the witness sworn I think you have with you three volumes entitled witness statements. In volume 3 of those folders commencing at page 1690 and finishing at 1728 is the witness statement of Mr Willoughby and I'm proposing to tender that statement and ask him a few supplementary questions.

THE COMMISSIONER: Mr Newlinds, I think that it would perhaps be appropriate at this stage to tender the bundle from which you have been referring, the different three, as I understand it, well, there are a confusing number of volumes.

20 MR NEWLINDS: It was always three volumes. It's just confusing which documents are in which volume.

THE COMMISSIONER: All right.

MR BEECH-JONES: We've actually got four so that's - - -

MS HOGAN-DORAN: (not transcribable) got four.

30 MR NEWLINDS: Okay. That is confusing.

THE COMMISSIONER: I beg your pardon?

MR BEECH-JONES: We've got four volumes not three.

THE COMMISSIONER: Well, the, the - - -

MR NEWLINDS: The only problem with what we're about to do, Mr Commissioner, is that we have been trying to update the various folders - - -

40 THE COMMISSIONER: Yes.

MR NEWLINDS: - - - with extra documents as we go along.

THE COMMISSIONER: All right. I understand.

MR NEWLINDS: I'm happy to tender it subject to checking just to make sure we've got everything in it.

THE COMMISSIONER: Well, tender it and everyone will understand that the bundles will eventually be tendered - - -

MR NEWLINDS: That's - yes, and - - -

THE COMMISSIONER: - - - so that if anybody wishes to object to any document that can be done when they are tendered.

10 MR NEWLINDS: Thank you. And then, then when we tender it hopefully it will just be, it will be clear what documents (not transcribable)

THE COMMISSIONER: So what you - - -

MR NEWLINDS: But in relation to Mr - - -

THE COMMISSIONER: I think, well, you can prove the statement in due course and then you'll tender it.

20 MR NEWLINDS: I propose to prove it in the usual way but I just thought I'd tell you that's where it is and tell my learned friends that that's what I propose to do in case they have any objections.

THE COMMISSIONER: Yes, we - - -

MR NEWLINDS: And I'm too used to doing - - -

THE COMMISSIONER: Mr Spencer, do you wish me to make a section 38 order?

30 MR SPENCER: Yes, your Honour, yes, Commissioner.

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

40 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR WILLOUGHBY AND ALL DOCUMENTS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HIM**

**TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR
ANSWER GIVEN OR DOCUMENT PRODUCED**

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

MR WILLOUGHBY: Oh, under oath's fine.

MR NEWLINDS: Sir, is your name Clinton James Willoughby?---Yes, it is.

And what's your current work address?---Current work address is Terrace 10, 263 Alfred Street, North Sydney.

10 And I wonder if Mr Willoughby could be shown a statement that he has prepared dated 30 May, 2011. Now, Mr Willoughby, just have a look at that document. Is that a statement that you have signed bearing the date 30 May, 2011?---Yes, it is.

And are the contents of that document so far as you're aware true and correct?---Yes, they are.

Thank you. I tender that statement.

20 THE COMMISSIONER: Yes. Mr Willoughby's statement will be Exhibit 1.

#EXHIBIT 1 - STATEMENT OF MR CLINTON WILLOUGHBY

MR NEWLINDS: If the court pleases.

Now, Mr Willoughby, can I just ask you a few supplementary questions.
30 When did you first meet Charif Kazal?---I can't be exact on a date but it was fairly close to the trip, the first trip.

So shortly before the first trip?---I'd say so.

Weeks or months, are you able to say?---I'm not sure, maybe months.

And when were you first told by Mr David or someone else within Parkview that you were going to go along on a trip to Dubai in the middle of 2007?
---Sort of weeks or months prior to the first trip.
40

Now, do you recall going to any meetings involving Mr David and Mr Kazal prior to that trip?---Ah, I think so, yes.

And are you able to remember anything about the topics that were discussed at those, at that meeting?---It, it, it, basically we're trying to get business in the Middle East, that was - - -

And can you remember anything in particular of Mr Kazal's contributions to that discussion?---Not a great deal.

Are you able to say whether there was one discussion or a series?---There may have been several.

When did you first become aware that Mr Andrew Kelly was going to be coming on that trip?---Once again, I'm not entirely sure, but I'd say a similar time frame.

10

And were you present at any meetings where Mr Kelly attended prior to that trip?---I can't remember.

Had you met Mr Kelly prior to the trip?---I'm not sure but if it was it would have been soon before we left.

Had you, was he someone you had heard about in business dealings prior to the trip?---Only within a month or so before the trip.

20

And did you get the same plane as Mr Kelly when you went to the UAE? ---I don't think so.

Did you have any discussions with Mr Kelly either before or during the trip about what Mr, concerning Mr Kelly's role on the trip?---On the trip?

Well, the discussions can be either before or after or at, during?---Yes, certainly.

30

And what, what did Mr Kelly say to you?---His property expertise was probably more in property management and mine was sales.

Right. So you both had an interest in property?---Correct.

And did you talk about that?---Briefly.

And did he tell you what he was going to be doing in relation to the trip? Why was he there?---Basically we were investigating real estate opportunities and I had a interest in sales and I guess Andrew, Mr Kelly, was looking at it from a different angle to myself.

40

So your, your angle was selling real estate?---Correct.

His angle was managing property?---Yeah, correct, correct.

And did you have an idea as to what the business might be that you were hoping to do in the Middle East, at that time, the time of the first trip?

---At the time of the first trip it was more an introduction, I think it would be fair to say. Focus may have been more on facilities management and property management and, you know, I guess that's the state of the first trip.

And what's the difference between facilities management and property management, is a facility something like, I don't know, a facility?

10 ---Property management, a property manager typically collects rent on behalf of a landlord and I think the simple answer is the facilities manager might look after the whole of the complex or a number of complexes and look after plant equipment and other bits and pieces, so it's, there's a slight differential.

And Parkview itself, a very large component of its business was building property?---Correct.

And was part of what might have been under consideration the prospect of building buildings in the UAE?---Yes.

20 And is it fair to say at this stage it was reasonably embryonic and conceptual and the idea was to go and find out what opportunities might be available?
---Correct.

And did you understand that, well, the people who went on the trip were four employees at the time of Parkview, yourself, Mr David, Mr Touma and I think Mr- - -

THE COMMISSIONER: Mr Tabet.

30 MR NEWLINDS: - - -Tabet?---Correct.

And Mr Kazal and Mr Kelly?---Correct.

Now, at the time did you draw any distinction between the people in the group, was there a Parkview group and a non-Parkview group?---I think it's fair to say, yes.

And Mr Kelly and Mr Kazal were in the non-Parkview group?---Correct.

40 And were they focussing on anything in particular- - -?---No.
- - -at the time?---No.

Did they tend to go to the same meetings as everyone else?---Yes.

And were there dinners and other social occasions over there?---Yeah, we'd have a dinner, a meal together, yes.

One or more?---Maybe several.

All right. And now doubt the topic of conversation was what you were up to?---Yes.

And people reported to each other as to what they thought were the good opportunities and the bad opportunities?---Yeah, correct.

Now, whilst you were in the United Arab Emirates, did you have a laptop with you?---I believe I did.

10

And do you recall that at least one document was created using your laptop? ---Yes.

And I think this, I wonder if this could be brought up on the screen. It's number 273. And I think you've seen this document before, Mr Willoughby. It just is a short email from you to Mr Kazal of 30 May- - -? ---Yeah.

20

- - -is the first document and the next document is the spreadsheet that's referred to. Now, my first question is, was that spreadsheet created on your laptop computer?---I believe it was.

And do you have a memory of it being created?---I, I do.

And what are the circumstances that you remember under which it is created?---It was a initial budget I believe for a facility management and property management start-up business.

30

And who, did you press the buttons on the computer to produce the document?---I don't think I pushed too many buttons.

All right. Can you remember who was involved in the preparation of the document- - -?---Yes, I can.

- - -and the circumstances?---Yes, I can.

Can you tell us, please?---Myself and Andrew, Mr Kelly.

40

And where were you, can you remember?---I can't recall the exact location. I think it was in like a lounge of a, or a library in a, in an office building or hotel. I, I can't recall the address, sorry.

And did you sit round with the laptop there- - -?---Yes.

- - -and plug in information and numbers- - -?---Yes.

- - -trying to work out what the costs of any such business would be?---Yes.

And can you see if we look at the spreadsheet the first three lines are moneys that were going to be paid to people involved in the prospective business and the people mentioned are Charif, Rodric, Andrew and Clint. Do you see that?---Yes.

So that's Mr David, Mr Kazal, yourself and Mr Kelly?---Yes.

Do you remember having any discussions with Mr Kelly as to the figure of \$350,000 that's been allocated to each of those persons?---Yes, I do.

10

What can you tell us about that discussion?---It was really an indicative figure that we thought that an expat would charge to undertake that role at that time.

And was it your understanding that if the business that you were trying to model got up and running that both Andrew Kelly and Charif Kazal would have a role in it?---Yes.

20

And would receive remuneration, whether it be by way of wages or consultancy of the order set out in the document?---Yes.

And if we go back to page 273 – and I'll just remind you of the dates – on 30 May I can tell you you were still in the UAE?---Ah hmm.

You've obviously sent this email, do you have any recollection of sending it and, and the circumstances?---I don't recall sending it but I can see a copy of the email in front of me.

30

Now, you appear to or you have referred to the spreadsheet as Andrew's spreadsheet when sending it to Mr Kazal. Do you see that?---Yes, I do.

Can you explain why you would have referred to it as Andrew's spreadsheet?---I guess Andrew probably had more input with the numbers than I did.

40

And was the business you were modelling, was it going to be sales, management or a bit of both or can't you remember?---I think the way it was evolving, probably more facilities management and property management than sales.

All right. And so that was more Mr Kelly's field- -?---Correct.

- - -than yours. Now, in relation to this trip, were all your expenses paid by your employer, Parkview?---Yes, they were.

And as far as you're concerned it was part of your job?---Correct.

No doubt a pleasant sojourn but still work?---It was work.

THE COMMISSIONER: Why did you send the spreadsheet to Mr Charif Kazal?---I honestly can't remember. I've no doubt I did send the document to Mr Kazal, sir, but I can't recall why I'm sorry.

MR NEWLINDS: Now, did anyone say anything to you to allow you to have an understanding as to who was paying Mr Kelly and/or Mr Kazal's expenses for the trip?---I had no idea.

10 Did you make any assumption to that effect?---I did.

All right. But is it based on anything other than your assumption?---No, just an assumption.

All right. Well, is that going to be of any use to you, Mr Commissioner?

THE COMMISSIONER: No.

MR NEWLINDS: No. I won't take that then. Now, can we go through,
20 please, to one of the Parkview profiles which is at, hold on, we've got the wrong folder.

THE COMMISSIONER: Can I just, while we are on the topic of salaries there's something I would like to ask you, or not salaries, the expenses?
---Yes.

Your expenses were paid by Parkview?---Yes, they were, sir.

How were they paid?---I've got no idea. I guess, sorry, I- - -
30

(not transcribable) you paid cash for- - -?---No, it would have been credit card at, at the hotel or- - -

Did you have a Parkview credit card?---No, no, sorry, it was paid by someone else at Parkview, sir.

On the trip?

MR NEWLINDS: So you didn't put your hand in your pocket?---I didn't
40 put my hand in my pocket on the trip.

THE COMMISSIONER: Was it paid from Sydney, was it paid in Abu Dhabi?---The airfares I think were paid from Sydney, I think the accommodation was paid in the Middle East.

By whom?---By Rodric David.

And you don't know how it was paid, by credit card or - - ?---I believe credit card, I think credit card.

Why do you think that?---(NO AUDIBLE REPLY)

Did you see it?---I didn't see it.

Well, is that, is that, I mean, other than an assumption is there anything on which you base that thought?---Not at all.

10

No?---Not at all, no.

What, what precisely was your job at Parkview?---I was employed to sell residential apartments that they were building in Sydney.

Right. And you were paid a salary?---Yes, I was.

How were you paid it?---Ah, monthly.

20 And in what form?---Ah, into my company account.

Electronic transfer?---Electronic transfer.

MR NEWLINDS: And it's clear, isn't it, that in relation to your airfare and the accommodation expenses in Abu Dhabi, you did not in the first instance pay yourself and then get reimbursed by Mr David?---Not at all.

30 All right. Now, if we can look please at a version of the Parkview Property Group profile which starts at page 301. And I think you're aware, Mr Willoughby, that there were a number of versions of this document that were created from time to time and it evolves?---Yes.

But it is a document you were reasonably familiar with at the time of the trip. Am I right?---Yes, yes, I was.

And it's a document that was in existence albeit perhaps as a draft at the time of that first trip?---Yes, it was.

40 THE COMMISSIONER: Had there been a number of versions before then?---Yes, sir.

So this was just, you, you, accompanying the trip was the latest version of this document?---Correct.

MR NEWLINDS: And what did you understand, well before I ask you that question, are you able to say whether the version that was there on the trip was a draft or a final?---I honestly can't remember.

All right. And what did you understand the purpose of the document was in relation to the trip?---A credentials document.

To explain to people who you were?---Correct.

THE COMMISSIONER: How was it used?---To present in a meeting on the credentials of the team at the meeting and what the skill sets were of each individual at the meeting.

10 And was it produced?---I think it was.

More than once?---I don't think so. I think, I know, I think it was produced as least once.

To whom?---I recall a meeting with, with Seba.

Yes, thanks.

MR NEWLINDS: And was Mr Karam the person you dealt with at Seba?
20 Do you remember that?---I think he was.

Is the best your memory can tell you that it was shown to Mr Karam?---To the best of my memory.

If we can go to page 311, we can see that the Board of Directors of Parkview are there set out?---Yes.

Now at the time was it your understanding that those people were the directors of Parkview?---They were not directors of, well the only two
30 directors, sorry, there were not directors of Parkview Property.

May we take it that Rodric David was?---Sorry, Rodric David was.

Were you?---Yes, I was.

And so, and who weren't then?---Karl Kazal and Charif Kazal.

Did you discuss this document with Charif Kazal at the time of the first trip?---I don't recall.
40

Was Charif Kazal at the meeting with Seba that you referred to a few moments ago?---I think he was.

THE COMMISSIONER: Did you discuss it with Mr David?---This document?

Yes?---This document would have been discussed with Mr David.

Do you remember what was said?---Only that it's a, it's a changed version from the original document that I produced to try and generate business for myself.

So said Mr David?---Correct.

And who produced it?---I can't recall the name of the ad agency, but it was a Sydney based ad agency - - -

10 You mean to Seba?---Sorry?

Who was the person who produced it at the meeting with Seba?---I, I don't remember.

MR NEWLINDS: Was it your understanding at the time of that first trip that if the business that was envisaged got up and running that Charif Kazal might be a director of whatever entity took on the business?---Yes.

20 And what about Karl Kazal, have you had any dealings with Karl Kazal at all?---I have met Karl, but no dealings, no - - -

Prior to the first trip had you met him?---I don't think so.

Did you have any discussions about the trip prior to the first trip with Karl Kazal?---No, I didn't.

Did you feel comfortable with including Karl Kazal in the document as a director of the company when he wasn't?---I didn't feel comfortable.

30 What about in relation to Charif?---I didn't feel comfortable.

But at least in relation to Charif, may we take it that your, your view was well if this gets up and running, he probably will be a director?---Of whatever company.

Correct. But you didn't have any view at all from anything about Karl Kazal?---Correct.

40 All right. Now - - -

THE COMMISSIONER: I think it's important to find out who, how Mr Willoughby arrived at his understanding.

MR NEWLINDS: In relation to your understanding as to what might happen in the future, is that based on anything anyone told you?---More Rodric, I guess.

All right. And are you able to tell us what he said as best you can?---
Certainly, from my involvement if there was any sales opportunities, I was
to benefit from them. It was grey. There was nothing defined. That's
basically it.

And what about Mr Kazal, if any management opportunities occurred, did
you say - - -?---I didn't have any discussion - - -

10 MR KORN: Can I just be clear whether that's, is this a conversation Mr
David is saying about Mr Kazal or what Mr Kazal is saying about himself?

MR NEWLINDS: It's a conversation Mr David is telling you about Mr
Kazal's future role. Were there any of them?---Very, no, no.

Okay. And what about, and when I say Mr Kazal there I mean Charif?---No
discussion with me about from Rodric with regards to the Kazal's.

Either Kazal?---Either Kazal.

20 Now Charif was there. Did you have any discussions with him as to what
his future role might be?---Limited.

All right. Now just reminding you about the spreadsheet. Obviously you
had a discussion about a role that would produce \$350,000 a year?
---Correct.

30 Did you have any discussions that he might have a role over and above that
as an, as an employee? In other words that he might become an owner in
some way?---My understanding was that if a deal went through with Seba
that the, the funds in the spreadsheet would be allocated to the individuals
that were mentioned in the spreadsheet.

That could be by way of salary, commission I suppose, consultancy fee,
correct? My question is more directed to did you have any understanding
that the people identified in the spreadsheet might become owners in part of
the business?---Correct. Yes, yes.

In the sense of owning shares if it was a company?---Yes.

40 Is that what you hoped would happen in relation to you?---Yes.

All right. Now where did that understanding come from? I think, I think
you told us it didn't really come from Mr David?---It was, my initial
discussions were with Mr David and from my point of view, I like to speak
for myself in that, I'd only benefit if the area that I was focusing on
eventuated. Therefore if there were sales, a sales opportunity I'd benefit
from it. My understanding was that if facilities management and property

management occurred that the other individuals mentioned in the spreadsheet would benefit from it.

All right. Well that's Charif and - - -?---Charif, Mr Kelly and Mr David.

And if building eventuated was that more Mr David?---Correct.

And perhaps Mr Touma?---And Mr Touma.

10 All right. I understand. Now that's your understanding?---That's my understanding.

Was it based on anything anyone told you?---No.

Just one other question, did you have anything to do with any dealings with Chesterton International prior to the trip?---Yes, I did.

20 Were you involved in any of the letters that were prepared in relation to trying to get some arrangement up and running with Chesterton? I can show you one if that will help?---Thank you.

Thank you. Bring up page 201. Now this is a letter, if you look at the second page which is 202, it purports to be signed by Charif Kazal. The evidence is it wasn't but it was signed by someone with his authority I think?---What was the number of that document?

201 and 202?---Thank you.

30 So you can see the first thing it does is refer to a discussion with you - - -?
---Yes.

- - - in relation to inquiries, et cetera?---Yes.

Do you recall such discussions with Mr Stokes?---Yes, I do.

40 Right. And tell me if I've got this wrong or I'm oversimplifying, was what you were trying to do was come to an arrangement with Chesterton's so that you might be able to use as franchisee or some other arrangement the name Chesterton's in the United Arab Emirates?---That's correct.

And ultimately that didn't happen?---Correct.

And is the short, is the short story that in the end the people in Australia said you've got to talk to the international people who I think were in London?
---I, I think that's correct.

But it didn't come to anything?---It didn't come to anything.

Did you have an understanding as to why?---I honestly can't recall why.

And, and the meeting that this letter refers to were preliminary discussions between you and Mr Stokes on that subject?---Yes, correct.

Did you have anything to do with the preparation of this document?---I don't recall the document, I don't recall preparing the document.

Do you recall seeing it after, seeing it at around the time?

10

THE COMMISSIONER: It contains quite a bit of detail about you?---Yes, it does, sir. I think I do recall seeing the document.

MR NEWLINDS: And do you remember being comfortable with it or being satisfied that it was accurate?---Yes.

And was it your state of mind as at April 2007 that both Charif Kazal and Andrew Kelly were part of the team that were working towards this, the business opportunity?---Yes.

20

THE COMMISSIONER: Again, Mr - - -

MR NEWLINDS: Yes. Now, may we take it that understanding in part came from seeing this letter?---Yes.

Was that understanding consistent with what people were telling you at the time?---Yes, it was.

30

Now, it's reasonable though to say that it's at April 2007 things are at a very early, and to use your word, grey stage?---Correct.

And was it as simple as there was a group of people going over as a team with a view to identifying potential business opportunities?---That's correct.

And if business opportunities were identified that team would then work together to try and secure those opportunities for their mutual benefit? ---Correct.

40

Now, do you think by reference to this letter that the early meetings with Mr David and Mr Charif Kazal had happened around, had happened by 12 April?---Yes, I agree.

All right. Yes, thank you.

THE COMMISSIONER: Were you present at any of those meetings? ---With Mr David and Mr Kazal?

Yes?---I think maybe one meeting, sir, an early introduction meeting.

And can you tell us what happened there?---I was sort of on, on the outer if you like.

Yes, I understand?---And I think it was more about introducing my credentials to, to Mr Kazal.

10 And was it explained to you what his interest was in hearing your - how you were to be involved?---Once again, my, my involvement was only in a sales capacity.

Yes, but how, how did - was it explained to you why Mr Kazal would be interested in knowing about this?---Yes, sir.

In front of Mr Kazal?---No, it was, Mr David explained.

Beforehand?---Beforehand.

20 And was anything said during the meeting which advanced your knowledge as to what Mr Kazal was doing there?---No, sir.

Mr Willoughby, there is a mystery in paragraph 14 of your statement. Can you resolve that?---The purpose of the helicopter flight was to get an understanding of the different regions within Abu Dhabi and where the new development was taking place.

Was that from a point of view of building or facilities management or both?
---Just a broad - - -

30 Just general?---Correct.

THE COMMISSIONER: Mr Korn.

MR KORN: Commissioner, would you mind if I defer to Mr Ricci first?

THE COMMISSIONER: Yes.

40 MR BEECH-JONES: My submission, Commissioner, is Ms Hogan-Doran should go first.

THE COMMISSIONER: I beg your pardon?

MR BEECH-JONES: Ms Hogan-Doran should go before me as this person is at Parkview. On the theory of Counsel Assisting - - -

THE COMMISSIONER: Yes, yes, you've persuaded me, Mr - Ms Hogan-Doran.

MS HOGAN-DORAN: I just have two quick questions for you, Mr Willoughby. My name is Hogan-Doran and I appear for Mr David. In respect of the helicopter trip can you recall who paid for that?---I don't recall.

And in respect of - you gave some evidence earlier about payment, a credit card payment for accommodation when you checked out of the Emirates Palace Hotel?---Yes.

10 Do you have a recollection of when you checked out?---I don't.

Do you remember leaving, where you went following the UAE trip?---I, I think Mr David and myself went to a property expo in Shanghai.

In Shanghai?---Yeah.

And it was just the two of you, that's your recollection?---I believe, I think so, yes.

20 I don't have any questions.

THE COMMISSIONER: Yes, thank you. Ms Williams?

MS WILLIAMS: No, thank you, Commissioner.

THE COMMISSIONER: No. Well, Mr Beech-Jones.

MR BEECH-JONES: Mr Willoughby, my name is Beech-Jones and I appear for Mr Kelly?---Yes.

30

Right. Now, I just want to ask you about Parkview which is referred to in paragraph 4 of your statement, I'm sorry, in paragraph 3 and I just want to get this clear. There is, there was a company called the Parkview Group Australia Pty Limited. Is that right?---Correct.

Was that a company owned by the Davids Group Pty Limited?---Yes.

Right. There was another company called Parkview Constructions Pty Limited, is that right?---Correct.

40

Who owned that company?---I understand it was a similar shareholder, associates involved with the David family.

Right. So not Mr Tony Touma or - - -?---I believe Tony Touma was a shareholder as well as Emile Tabet.

Of Parkview Constructions Pty Ltd, is that right?---I think so.

Were they - did you understand them to be shareholders of Parkview Group Australia Pty Limited?---I think so.

All right. There was a company called Parkview Developments Pty Limited, is that right?---I don't know.

I only knew that because I think you, you say something at the end of paragraph 3 that has the word Parkview Developments, do you see that?
---They had several shelf companies - - -

10

All right?--- - - - that worked on a project by project basis.

I see?---And they would have been shelf companies under the development umbrella.

Of Parkview?---Of Parkview.

Right. Now, Parkview Constructions was in the building and construction industry, is that right?---Correct.

20

It's been going for a number of years?---Correct.

And what sort of size projects would it do?---Oh, I think the largest at that time was 176, 170, 180 apartments.

And would you act as the sales agents for those developments would you?
---I did, yes.

30

Yes. Then there was another company called Parkview Property Pty Limited. Is that right?---That's correct.

Now, that was a company that was formed in 2005, is that right?---Correct, correct.

And you list the shareholders in paragraph 4 of which you own a quarter share, is that right?---Correct.

40

And Rodric David didn't own any shares in that company. Is that right?
---Um- - -

Directly?---Directly, correct.

But had an indirect grip, as it were, via his father, if that's the appropriate phrase, and through Davids Group into Parkview Group. Is that right?
---Correct.

You were a consultant to that company, is that right, as well?---Yes, I was.

You weren't an employee, were you?---A consultant would be more accurate.

Yes. So when you were asked questions about being an employee of Parkview the correct position was in fact that you were a consultant to Parkview Property Pty Limited. Is that right?---(NO AUDIBLE REPLY)

That's the correct position?---I was a shareholder, so my company, the correct, the correct definition would have been a consultant.

10

Yes. And that's via a company called, is it Foxwood, is that right?---Um, no. Um, I was a shareholder via my um, personal company, I think it was (not transcribable) was the name of the company.

Right. What, as a consultant, did you do that in your own capacity or did you have that via a company as well?---Via a company.

And what was the name of that company?---Um, sorry, it was via (not transcribable) Sorry, that's how, that was the mechanics of it.

20

THE COMMISSIONER: Mr Beech-Jones, I have restrained myself so far but I have no idea how this is relevant to the issues opened by Mr Newlinds.

MR BEECH-JONES: Because we have a lot of discussion which I'll come to about Parkview team, a construct we say of Parkview team and the others, which I'm coming to.

THE COMMISSIONER: Well, I don't know why that's relevant because a Parkview team was used as a, in a generic sense as a, the word Parkview was used to denote a group of people who had an interest in the Parkview Group and the, how that group is made up is not something that's presently relevant.

30

MR BEECH-JONES: Can I come to it this way. The brochure that you were shown earlier was a brochure of the company Parkview Property Pty Limited, wasn't it?---Correct.

Right. And can we just go to that, not the Parkview Constructions or the Parkview Group generally. That's right, isn't it?---Could you repeat that question, please?

40

I'll come to it. Just go to page 326. Sorry, I'll go back. Go back to 301? ---Thank you.

301 is the version of the profile that was shown to you by Mr Newlinds. Do you see that?---Yes, I can.

And if you go over the page you'll see the heading Parkview Property Pty Limited?---Yes, I can.

Right. And that's the company and, and all the versions you saw of this was giving, was giving a profile of Parkview Property Pty Limited. Is that right?
---Correct.

10 Now, I think in answer to Mr Newlinds you said it was giving the credentials of the team. Do you recall saying that?---Yes, I can.

In fact it was purporting to give the credentials of a company Parkview Property Pty Limited, wasn't it?---Yes, it was.

And it was doing that in a false way, wasn't it?---Yes, it was.

And you knew it was false at the time?---Yes, I did.

20 And you discussed its falsity with Mr Rodric David, didn't you?---I, I don't recall.

I think you said you had a lack of, you felt uncomfortable about certain inclusions about, I think the two particular aspects concerned directors. Do you remember saying that?---Yes, yes, yes.

And did you discuss that lack of comfort with Mr David?---I don't think I did.

30 Right. Did you discuss the use of this document with Mr David?---Yes, I did.

And what did he say about what was to be used with this document?---To present in meetings overseas.

Right. And when you went in May 2007 the lead presenter was Mr David, wasn't it?

THE COMMISSIONER: The lead presenter of the document you mean?

40 MR BEECH-JONES: The lead presenter, I'll withdraw that. The lead, the person leading the discussions with the various groups was Mr David, he was presented as the man in charge. Is that right?---One of I think is fair to say.

Well, who, was anyone else presented as the- - -?---Well, see, it's a tough, I honestly can't recall but- - -

THE COMMISSIONER: Try and give us an impression of what, how it worked. When you went to a meeting, did, was there a leader?---Yeah. Certainly Rodric was a leader amongst the group.

Was there another leader?---I think indirectly maybe Charif because of contacts that Charif was trying to introduce to us.

So were these meetings conducted in English or Arabic?---Mostly English. The meeting were in English.

10

MR BEECH-JONES: So just to be clear, Mr Charif's leadership role was in a facilitation manner because he was introducing the relevant contacts?
---Yes.

Mr Rodric David's leadership role was in his capacity as ultimately the man behind Parkview. Is that right?---That's correct.

The man behind the false statements in that document. Is that right?---Yes.

20

THE COMMISSIONER: Well, I'm not sure of that question. Does that mean is that how, was he, is the question was he the man behind the false statements or was the question was he presenting himself as the man behind the false statements. What exactly does that question mean?

MR BEECH-JONES: He was presented as the man ultimately behind Parkview. Would you agree with that?---Yes.

And it was the, and Parkview was being falsely represented as the company with the credentials set out in this document?---Yes.

30

Would you agree with that?---Yes.

All right. Now, in the course of that, a couple of potential contacts were met during that, that trip in May. Is that right?---Yes.

And one of them was Seba. Is that right?---Yep. Correct.

40

Now, is this in broad terms correct? They had some proposal for a very large area for, to house foreign workers and they were looking for facilities and assets managers. Is that right?---That's right.

The, without naming them, were there other contacts met in either construction or sales or that sort of area?---That, that was the main contact that I recall meeting.

And were you told about Seba before you went, were you told, look, we're going to be meeting a company called Seba?---I don't recall being told the name but I knew we were going over to meet a group.

Right. And you knew before you go that, did you know before you went that the main thing at least that group you were meeting was a concern about facilities and asset management?---Once again it was unknown. From my point of view it was unknown.

So far as you weren't sure whether that was, I'll withdraw that. You weren't told. You weren't told?---I wasn't told.

10 Right. Of the, at least during, during the time you were there, the most promising contact was Seba, wasn't it?---Correct.

And so much so that almost immediately after you got back, Mr David was copying you in on emails he was sending back to Seba showing enthusiasm about an asset and facilities management project. Do you remember that?
---I do remember.

Right. And to your knowledge you didn't see immediately afterwards Mr David sending back emails about construction or real estate sales opportunities, did you?---No.
20

When you came back immediately it was Seba assets facilities management?---Correct.

And of the people who went over, Mr Kelly had the most experience in that area. Is that right?---I, I, I understood so.

Now, the time, by the time you were there the hotel was fairly, fairly nice but you worked reasonably long hours. Is that right?---Yeah.
30

You wouldn't, you wouldn't describe it as either a holiday- - -?---No.

And you wouldn't describe the helicopter ride as a joyride or anything like that, would you?---It was enjoyable.

I asked for that. When you had to speak to people, when you had to have, go to these meetings I gather with people in, in the Dubai you had to at least attempt to understand or show that you understood something about the layout of the city and- - -?---Correct.
40

- - -how it worked?---Correct.

And to that extent it was useful to have a helicopter ride?---It was, it was.

Oh well at least we got that far. Just bear with me as I scramble through my notes. Excuse me Commissioner. I've lost a tag.

THE COMMISSIONER: Take your time Mr - - -

MR BEECH-JONES: It's Mr Spencer coming and invading my space that's why. At some stage in the latter part of 2007 you pulled out. Is that right of the involvement in Parkview? Is that right?---I can't recall the exact date, but in round terms, correct.

And so did Mr Tony Touma and Emile Tabet. Is that right?---No.

10 No, they stay involved Mr David pulled out. Is that right?---Mr David was no longer involved and I can't recall the date once again, sorry.

All right. Yes, thank you Mr Willoughby?---Thank you.

THE COMMISSIONER: Mr Korn.

MR KORN: Thank you. My name is Korn, spelt K-O-R-N. I look after the interests of Charif Kazal and Karl Kazal?---Okay.

20 All right. Mr Willoughby following on from what Mr Beech-Jones has just done, can you confirm this for me, that before you went to, on that first trip Rodric David had told you that one of the areas he was interested in pursuing business interests in included facilities and assets management. That's correct isn't it?---That's correct.

So it wasn't a case that he was going there because of his construction background solely looking with blinkered vision in respect of construction activity. That's not right was it?---It wasn't only construction.

30 No. So in fact what was clearly, did he actually tell you that he was putting together a team of people that could enable him as it were to explore every available opportunity?---Not every available opportunity, but the opportunities that we all had skills with.

And did you see yourself in that respect as coming along because of your sales skills experience?---Yes, I did.

40 Could you see, did he tell you bluntly that in fact he had a person by the name of Charif Kazal who could open the door in terms of the Middle East? If those weren't the precise words, do you understand the concept that I'm asking about?---I do, yes.

Did he tell you, did Mr David tell you that he'd found somebody by the name of Charif Kazal who could fulfil that function?---Yes, he did.

THE COMMISSIONER: I take it that's not all that he said about Mr Kazal. It was one of the things he said about Mr Kazal.

MR KORN: I don't pretend it is, Commissioner. But amongst other things with the caveat and a qualification the Commissioner has correctly put, did he tell you that that's what, apart from anything else, that Charif Kazal according to Mr David's, what he said to you, Charif Kazal would be there because he could in fact introduce he, Rodric David, to people in the UAE? ---Yes, that's correct.

10 And that there was a particular, did he tell you as part of that any such conversation that, that Charif Kazal would be valuable because business in the UAE is done in a particular way which puts a high emphasis on contacts?---Correct.

And on cultural considerations?---Yes.

20 Did you ever have any discussions with Charif Kazal, I know you've told us you didn't have many, but can you think of any discussions you ever had with Charif Kazal where in fact you, you discussed directly with Charif Kazal his purpose of being, in going over to the Middle East as part of this first exploratory trip?---I had very few discussions with Charif.

So anything you were told in that regard in terms of Charif's abilities came from Mr David?---Correct.

And did Mr David tell you other people - - -

THE COMMISSIONER: Excuse me Mr Korn.

MR KORN: Sorry, sorry.

30 THE COMMISSIONER: What about his purpose in being there? Is that anything that you were told come from Mr David as well? That the purpose of, of Charif's presence on this trip?---Yes, sir, it was by Rodric.

Everything?---I can't say everything but most that I heard before the trip

Yes?---That I can recall.

40 And during the trip? Well we know that you spoke about the budget, but I mean even beside the evidence you've given about that - - -?---Yes.

- - - was there anything that, was there anything or nothing that you were told by Charif Kazal as to why he was there and what he hoped to get out of?---Not that I can recall.

Yes. Yes, thank you.

MR KORN: And following on from that, in that same vein the Commissioner and I have been asking you about, in terms of what you saw

Charif do at meetings at which you attended, that was in fact consistent with what Rodric had prior told you was going to be his ability. Correct?---Yep. Correct.

And it was in that respect I think that you told us in the course of your evidence, if I took the note down correctly, that when you were asked whether in fact there was a leader in the group, you in fact said Rodric David was a leader amongst the group and then indirectly maybe Charif. Do you remember saying those words?---I do.

10

And when you said indirectly maybe Charif, in terms of describing him as indirectly may be a leader in the group, were you using it in the context of what Charif was doing, which appeared to be the introductions?---I agree.

And solely in that respect?---Correct.

In terms of the substance, the nuts and bolts of business, Rodric David was clearly the, the driving party wasn't he?---Yes, he was.

20

And we'll come to the basis for it, depending the proposition we arrive at, was it clear to you that consistent with that, the way which it had been explained to you that Charif was going to be as it were an asset on the trip and knowing the way in which you were going to be an asset on the trip was it clear to you that the other persons on the trip, given that they had individual areas of expertise were also as far as Mr David was concerned an asset to him on the trip, before the trip?---Yes, that's correct.

30

Did Mr David say to you and in particular let's deal with Mr Kelly. Did Mr David say anything in particular in terms of how Mr Kelly would be an asset to he, Mr David, in pursuing Mr David's business interest for this trip?---I understood Mr Kelly's level of expertise was in property management and maybe, just say property management and that was his - - -

THE COMMISSIONER: Sorry, I beg your pardon?---Sorry?

Just finish. I'm sorry I interrupted you?---That was his, Rodric would have benefitted from Mr Kelly's level of expertise with property management.

40

I think I would like you to take care in answering that question in the sense that it has been put to you - - -?---Yes.

- - - that, the question has been put to you in the context of value to Mr David?---Right.

I did understand your evidence that you gave to Mr Newlinds to be, that you understood that there were really two entities there?---Yes.

And it was a group effort. I mean that's the impression I got from what you were saying?---Yes.

So Mr Korn has specifically referred to benefit to Mr David in the sense I think, alone. Is that right Mr Korn?

MR KORN: I'm sorry Mr Commissioner, I just missed the last three or four words you said. That's all right. This is my (not transcribable), I missed - - -

10

THE COMMISSIONER: No the question you put concerned the benefit to Mr David.

MR KORN: Correct. And then I did say and if, depending on what level we get to then I'll take you (not transcribable)

20

THE COMMISSIONER: Yes. There's nothing, I'm not suggesting there was anything wrong with the question. What I just explaining to Mr Willoughby that when he answers the question he must bear in mind that the question concerns, the question is asked about Mr David alone whereas you'd earlier given evidence that there was a disparity of interests in the group that all seemed to be searching at least to the nth degree for a common purpose.

30

MR KORN: And I'll take you, I'll deal with that. I'll completely deal with that. When, if I, tell me if I miss out anything. When you earlier, when you earlier told Mr Newlinds that in fact you, and I don't see my note quickly, but if I summarise it quickly, that you recognised two groups. A Parkview group and a non-persons in the non-Parkview group and then you were asked whether in fact Mr Charif Kazal and Mr Kelly were in fact part of the non-Parkview group. I think that accurately summaries the way in which you were asked earlier and you agreed that you did recognise those two groups and in that way?---Yeah, yeah. Correct.

Now, was that based purely upon the physicality of the fact that the people you described as the non-Parkview Group didn't fly on the same plane going over?---A combination of two things. The Parkview Group worked together on a daily basis and knew each other fairly well.

40

You mean before the trip - - -?---Yes.

- - - or during the trip?---The Parkview people had worked together before going on the trips so we were familiar with each other, sir. I certainly wasn't familiar, had, I didn't have a close relationship with Mr Kelly or Mr Kazal beforehand so I suppose that's what I meant by the factions, it was the Parkview Group people and the other group.

Now, following on from that I thought you actually told - correct me if I'm wrong, I thought you told Mr Counsel Assisting that in fact whilst on the trip people went without distinction or without blur to the same meetings, to the same contacts. Is that correct or not?

THE COMMISSIONER: I didn't - are you saying that they went, they all went together?

10 MR KORN: Yes, and I'm not saying that everybody went to every meeting but there appeared not to be any distinction or not at Parkview Group there was no distinction between a Parkview Group and a non-Parkview Group to the extent that there ever was one in terms of the performance of, of pursuing business interests in the UAE?---That, that's correct.

That's correct, isn't it?---Yes.

20 Do you remember when it was on the topic - I'll now take it, I said to you before depending on where we arrived at the answer I'll - we'll go to the next level, I think we've arrived at the position where in fact you've agreed that Mr David as you saw it was to, was to benefit from the value of your expertise, the benefit of the value of Mr Charif Kazal's expertise and benefit from the value of the expertise of Mr Kelly, I think we've arrived at that so far, have we not?

MS HOGAN-DORAN: I object. That hasn't been the effect of his evidence at all.

THE COMMISSIONER: Well, I think it's all pretty commonsense, isn't it?

30 MS HOGAN-DORAN: Well, if he's directing to Mr David personally or is he saying to the benefit of Parkview Properties Pty Limited?

THE COMMISSIONER: I'll allow the question.

MR KORN: Did you understand that - may I address that, Commissioner.

Did you understand that Parkview and Mr David were very much the same thing in terms of that trip?---Well, Parkview Property or Parkview?

40 Not the Parkview of which you were a quarter shareholder?---The Parkview represented in the document?

Yes?---Yes.

Yeah. So effectively Mr David and I'm not pretending to lift the corporate veil but Mr Parkview and Mr David were effectively the same instrument, the same person, the same vehicle?---Yes.

THE COMMISSIONER: Well, the point is that there were shareholders.

MR KORN: Yes, there are, yes, there are.

THE COMMISSIONER: I mean, so it's really - Mr Korn, the questioning, I attach no value to the answer.

10 MR KORN: All right. Shareholders, I don't mean this to be in any way - the - you didn't understand the shareholders of, of the Parkview as represented in the profile document to be (not transcribable)

THE COMMISSIONER: Mr Korn, sorry, to interrupt. This is just an attempt to short-circuit this but I really do think this is a matter for argument.

MR KORN: All right.

THE COMMISSIONER: The facts speak for themselves.

20 MR KORN: All right. I can contend with that. Thank you, Commissioner.

THE COMMISSIONER: Yes, Mr Spencer?

MR SPENCER: No questions, Commissioner.

THE COMMISSIONER: Mr Newlinds?

MR NEWLINDS: No further questions.

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

THE WITNESS EXCUSED

[3.34pm]

40 MR NEWLINDS: Next, Mr Commissioner, I would like to call Craig Colnan, C-O-L-N-A-N, but before I do we distributed a statement of his evidence to those at the bar table, albeit only earlier today. For my part I propose to do no more than identify the statement and tender it through him, I don't want to ask him any further questions so I will only call - with your permission - - -

THE COMMISSIONER: Mr Korn I think wants to say something.

MR KORN: I was going to have a (not transcribable) response if I may but I don't, Commissioner, I haven't had a good enough opportunity to read this. It refers to the deletion of an email account. I just want to check that.

I'm happy to, I can do that very quickly and do it first thing tomorrow morning but I suspect I would be able to do it in a position to proceed this afternoon.

THE COMMISSIONER: I think we'd better wait, Mr Newlinds.

10 MR NEWLINDS: All right. Well, I can just hand, hand it up, Commissioner, so that you've got it because it's not in your folders, do you want a copy, I'll give you two. Well, on that basis, Commissioner, we've run out of witnesses. Tomorrow we will commence with Mr - well, we'll
commence with Mr Colnan, if anyone wants to ask him questions. Then we've got Dr Lang, Mr Touma and potentially Nadine Burch. Mr Lang and Nadine Burch have both done statements which are in the folders. Mr Colnan's done a statement and - but Mr Touma has not done a statement.

MR KORN: So you've got no questions (not transcribable)

20 MR NEWLINDS: I've got no questions.

MR KORN: (not transcribable)

MR NEWLINDS: I'll just tender it. Well, I could make a speech, Mr Commissioner, but might I suggest it's probably more appropriate that we (not transcribable).

THE COMMISSIONER: Mr Korn is going to make a speech.

30 MR KORN: I was just going to say that if I tonight come to the view that I don't need to ask any questions I'll convey that to - - -

THE COMMISSIONER: Yes, thank you. The Commission will adjourn 'til 10.00am.

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