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HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION VESTA

Reference: Operation E10/1246

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 28 JULY 2011

AT 2.05 PM

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

THE COMMISSIONER: Mr Korn.

MR KORN: I won't make a speech. Not a long one anyway. My learned friend and I have just had a very short conference outside with Ms Burch and the purport of that was to see whether anyone wanted to, there was one area of clarification that's been attended to so we just want to put this on record. You may not have the statement but if you do, if you go to the very last page you will see a page with a diary, "31 Monday" and then handwritten "New Year's Eve", do you see that? And then underneath it you see some writing, "Andrew Kelly, external". If questioned in the witness box Ms Burch would say, as I understand it, that that is all Mr Charif Kazal's handwriting and what that meant to her was Mr Andrew Kelly's external email was to be deleted, all emails deleted? I can't probably take that any further. But it says after that is, "Accept own PC." The import of that was leave everything, leave everything, don't delete it, leave everything on Charif's PC. In other words don't delete anything from there. If questioned that's what she would say about that and that's the point of clarification and subject to anything you feel about the matter she's not otherwise required.

20

THE COMMISSIONER: Yes, thank you, Mr Korn. I'm not sure if I understand this now. Because I haven't read the statement, what computers are being referred to?

MR KORN: Workstations in AWT as I understand. But I can take instructions if you want, and I mean at the relevant time, not now.

THE COMMISSIONER: And what does it mean "Andrew Kelly, all emails deleted", what's that mean?

30

MR KORN: "Andrew Kelly, external", that's his external email account.

THE COMMISSIONER: What does that mean? What is an external email account? I think we better call this lady.

MR NEWLINDS: I'll just call her. I call Ms Burch.

MR KORN: I won't try and save time anymore.

40 THE COMMISSIONER: Ms Burch is not legally represented?

MR NEWLINDS: She's not.

THE COMMISSIONER: No. I had better just explain her rights to her, Mr Newlinds. Ms Burch, as a , as a witness appearing before the Commission you are required to answer all relevant questions and produce any documents which you are required to produce and you must do this even though your answer or production may incriminate you or tend to

incriminate you. But if you object to answering any question or produce any document your answer or the document produced cannot be used against you in any civil or criminal or disciplinary proceedings. You should understand that this protection does not prevent you from being prosecuted for giving false or misleading evidence or other offences under the Independent Commission Against Corruption Act. Do you understand all that?

MS BURCH: Yes.

10

THE COMMISSIONER: Now this protection you may obtain as I mentioned by objecting to any particular question or production, but there is one way in which, another way in which you can obtain this protection without having to object to every question. I can make a declaration that all answers which you may give and anything which you produce will be regarded as having been given or produced on objection and if you do this and if I do this there is no need for you take objection in respect of each answer or document. Now not everybody wishes me to make such a declaration, many people do. It carries no implication either way. It's a matter for your personal choice. Do you understand that?

20

MS BURCH: Yes.

THE COMMISSIONER: What would you like me to do?

MS BURCH: A declaration thank you.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Ms Burch and all documents and things produced by her during the course of her evidence at this public inquiry 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.

30

40

**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MS BURCH AND ALL DOCUMENTS AND THINGS PRODUCED BY HER DURING THE COURSE OF HER EVIDENCE AT THIS PUBLIC INQUIRY 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: Do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MS BURCH: Affirm.

<NADINE BURCH, affirmed

[2:12pm]

THE COMMISSIONER: Mr Newlinds.

MR NEWLINDS: Is your name Nadine Burch?---Yes.

B-U-R-C-H?---Yes.

10 And your occupation is semi-retired I see?---Correct.

Right. Can you give us an address where it would be convenient to find you? And I think the Commissioner would like an order that this not be published?---

THE COMMISSIONER: Yes, there will be a suppression order against Ms Burch's address.

20 **THERE WILL BE A SUPPRESSION ORDER AGAINST MS BURCH'S ADDRESS**

MR NEWLINDS: Ms Burch, for the purpose of this inquiry, at the request of the staff of the Commission did you prepare a statement and sign it dated 19 May, 2011?---Yes.

30 And have you had occasion to review that statement recently?---A couple of days ago.

And are the contents of it true and correct as best as you can say?---They are correct.

Thank you. I tender that statement.

THE COMMISSIONER: Yes, Ms Burch's statement will be Exhibit 4.

40 **#EXHIBIT 4 - STATEMENT OF MS NADINE BURCH DATED 19 MAY 2011**

MR NEWLINDS: Have you got a copy of that there Ms Burch?---No, I don't.

All right. Have you got one now?---(NO AUDIBLE REPLY)

Can you just turn it up for me to page 7 of 9 at the bottom, which is page 1661 and paragraph 17?---Yes.

All right. There's reference to a post-it note which you identify as having writing on it of Charif Kazal?---Correct.

Now can you just assist us in decoding what you think those words mean, Andrew Kelly (external) all emails deleted? except on (PC), Charif computer, leave it please. What do you understand those words to mean?  
10 ---The external emails, in other words the routing that came in to the AWT computer and then went out to another address, that should be deleted.

THE COMMISSIONER: Sorry, there's two, two things you've mentioned?---Yes.

Incoming emails?---Correct.

And emails that went out?---Emails that would be routed to another computer.  
20

What's that mean?---There would be another, there was a technical thing that the IT people could do, similar to what I think if you had a phone that you wanted to read your emails, but it could also go to your other, another computer.

So it would - so if an email came in addressed to Andrew Kelly at AWT it would automatically be sent to him at another email address. Is that which you're saying?---Correct, correct, correct.

30 MR NEWLINDS: And what - - -

THE COMMISSIONER: Sorry, is that what you mean by Andrew Kelly external?---That's right.

And it's all incoming emails that are routed?---That's correct. There were several accounts like that.

And on what computer does this refer to?---On, on the main system.

40 So all - this would apply to all computers in AWT?---Except Charif's, he asked it to remain on his computer so I would have taken it off mine - - -

I understand?--- - - - the receptionist would have taken it off hers because those were the two that were being used.

And so there were three computers in the office?---Oh, no, there were computers on every desk.

So would this apply to every computer?---No, no, just on my computer and the computer that was being used by reception.

Because those were the computers which would receive the emails addressed to Andrew Kelly at AWT?---Well, they would have had things - no, no, that went to the - - -

10 Well, why didn't (not transcribable) those two?---Sorry, sir. Well, because we were the ones that kept file records of things, in other words, there would have been a file called UAE in which case if there was anything that came in from Charif or anybody else that was sent to my computer I would have put it in the file.

MR NEWLINDS: So did it have this effect: that any email that had been sent to Andrew Kelly in relation to the UAE topic - - -?---Yeah.

- - - would be removed from the UAE file that you had created?---If I received a copy of it, it, it automatically went off to him at another address.

20 And these emails were automatically redirected to his home address?  
---That's correct, that's correct.

But any such emails that remained on Charif's computer would stay - - -?  
---He wished them to be retained.

All right.

30 THE COMMISSIONER: I'm sorry for my ignorance?---It's okay, it confusing, the whole computer set up. I don't understand all of it either but - - -

So when the emails come in and are routed do they stay on the computer?  
---No, no. He was referring to emails that would have transpired between himself, myself, you know, anybody who was writing back and forth on the UAE on various topics like bookings for a hotel or whatever, you know, but he wanted it retained all on his computer.

40 Right, so was there correspondence concerning Mr Kelly and Mr Kazal that dealt with matters that had no relationship with their venture in the UAE?  
---I don't know. I don't know what - - -

You didn't see them?---Oh, no, no, no, they would go to Mr Charif Kazal or whoever was dealing with the matter.

So what did you see?---Mostly bookings to do with trips overseas which I commented on in my statement. Some - oh, when, when - I recall when there was, there were some changes being made to the website in the UAE. I was not notified about that.

The website of what?---The company that they were - had established by them so this was later, this was like in 2008.

I'm sorry what I don't - still not quite sure of is when the - some emails you retained from Mr Kelly or concerning Mr Kelly?---No.

None at all?---None.

10 So how did you come to see them?---If I was copied in on something.

That's, that's not, that's not an email that was routed then?---No, that's separate. Those emails could go - let's - if we could do this by, by diagram perhaps. Somebody sends an email to a person @AWT, you know the @, right, so that's there. It comes in to the server, it would come into the server and be immediately sent out to another address.

That's - - -?---I would never see those.

20 Right?---Right.

They wouldn't pop up on your computer?---No, no, no, no. And it wouldn't, I don't even believe it'd be on the server, I think it'd automatically go out.

MR NEWLINDS: Now, can I just interrupt?---Yes.

Was one the instructions to the IT people to switch that off?---Yes, absolutely.

30 Okay. So that's one topic - - -?---Absolutely, yeah.

Now, there's another thing that the IT people - and that has the effect of stopping the re-routing?---That's correct.

40 And then the second thing the IT person was being asked to do was to remove something from your computer?---Yeah. There is a thing global addresses on the computer which is sort of like a shortcut so if you can't remember somebody's email you don't have to, you can just go and see the name and you just click it and it'd just automatically like give you a form to send on to them. That was - they were to be removed from the global addresses.

THE COMMISSIONER: And what would the effect of that be?---Well, they would no longer have an [awt@awt.biz](mailto:awt@awt.biz) email address. No one could send anything to them at that address, it would bounce back.

All right. Thank you?---Sorry.

MR NEWLINDS: And the file, the information contained in files that you might've created in relation to the UAE, matters such as travel arrangements and the like was any of that going to be deleted?---Yes, that was deleted but there were hardcopies in the office of transactions, we kept a day file so we kept everything for each day so we could go back and look at it if necessary.

I have no - - -

10 THE COMMISSIONER: Well, does that mean that there are two categories of emails that, or two things happen, or three, one is the routing mechanism relating to Andrew Kelly's emails coming in were stopped?---Correct.

Then the, I've forgotten what you called it?---Automatic Global address was also deleted.

That was also deleted?---And there were others that were like Rodric David and a few other people that were involved.

20 Right. So that was also deleted?---Absolutely.

So it wasn't just Andrew Kelly?---No, no, it was a whole, the whole group of them.

Does that - - -?---Parkview people.

So all the Parkview, well, that doesn't appear from your diary note?---That is not my diary note, it's Charif's diary note.

30 I see?---Yes. It's not my diary note.

I see?---Yes.

But you know that all Parkview people were - - -?---Subsequently - - -

- - - (not transcribable) by this direction?---No, no, they were subsequently deleted, they were, it was - - -

40 When was that?---I have no idea I am sorry, I don't know the date, but it was definitely Bluefly that did it.

I see. And also you say the other thing that happened was that certain emails were deleted from your computer."?---Correct.

All computers except Charif's?---That's right.

On his instructions?---On his instructions.

And these, can you just describe the emails that were deleted?---The only ones that were - - -

What category of emails were deleted?---Just general administration, travel - - -

Relating to whom?---To all of the project, you know, like travel. I remember having emails come in in regard to travel arrangements for Mr David, having his passport, all of that sort of just general things.

10

I understand that. But they were relating to Andrew Kelly?---No, no, no, no, I could've got something from Mr David asking about what does, you know, he'd like to stay at such and such a, but it was the whole, the whole of the file wasn't just Andrew it was just - - -

It was everything?---Yes.

Whether it came from Andrew - - -?---Yes, it was the UAE project.

20 Rodric David, everything relating to that project was deleted?---That's correct.

And when was that?---I don't know, but 2008, some time around when we (not transcribable) to Bluefly.

This diary note is dated 1 January, 2008?---January, yeah. Around there.

So at about that time?---At about that time.

30 So what did you understand the project to be?---I just knew that they had several different components of a business venture that they wanted to get up and running with Mr David's company and - - -

Who's they?---Sorry, the Kazals. You know, I just knew that they were trying to get some projects off the ground in regard to facilities management, I think there was waste management was another thing they talked about, property management, just general things.

40 How did you understand this, what gave rise to the understanding?---Well, I saw some material that came in, a brochure, a brochure.

Was anything said to you?---No. Only - - -

By Charif?---No, well Charif told me that they were trying to get some businesses going up in the UAE. That's why he was going over.

They being?---Mr David, Clint Willoughby, Tony Touma - - -

So quite a few people?---Yeah.

What about himself?---Oh himself, yes, he was, he was saying he was providing the introductions to people in the UAE.

Yes. And was he part of the project or not?---Well I guess if it got, if it, if it got up and running I guess he would be. But, you know - - -

10 Is that what he told you?---No, he never said anything about it. It was sort of, it was like a venture that they were trying to get off the ground.

How do you know that?---Because there was travel involved to the UAE and there were phone calls between them all. They had some meetings in the office. I didn't pay attention too much 'cause I was doing other work.

Mr Newlinds.

20 MR NEWLINDS: And where did you understand, what did you understand Mr Kelly's role in all this was if anything?---I actually didn't know what his role was.

Right. Thank you. I have no further questions.

THE COMMISSIONER: Yes. Mr Korn.

30 MR KORN: Yes, I have. If I've understood this correctly, to the extent this file and I'll call it, if that's not a problem, the UAE file concerning the project was to be deleted, you said that. But is it clear that that same material was to remain on Charif's computer?---Absolutely.

THE COMMISSIONER: Can I, you did say that there were hardcopies?  
---Yes.

And was the hardcopies kept in a file?---Yes. They were kept in binders.

Where are the binders?---The binders would have been kept in the office.

40 What happened to them?---I'm sure they're there. I don't know. They're, I mean I left in October 2008, but I'm sure they were there.

How many binders?---Oh, I don't know. I didn't do - - -

About?---One.

What a plastic binder?---They were day files. Like files for everyday so that  
- - -

Sorry I - - -?---Okay. We had - - -

Do you mind explaining that?---Yes, of course. There was a system we used to have that the days work would be put into a binder, the month of March, the month of April, et cetera, et cetera. And anything that was done would be put into that binder and put in the cupboard in the back room where the lawyer worked. That's what I'm referring to.

10 And, but I take it that the day, the day file or folder would contain documents relating to all sorts of different matters?---Correct, correct, correct.

But wasn't there a system for example to take out the files, take the UAE matter, did that not, did they not get withdrawn and put in another UAE file so you could always find the documents relating to that particular matter? ---They may have been kept by Charif on his desk. I don't remember a UAE hardcopy binder. All I remember is that I had it in the computer in the documents saying UAE Venture, Rodric David.

20 I see?---But there would be copies of everything that was sent in the day file.

And for how long were those day files kept?---I left in 2008, so - - -

Yes, but generally?---Oh, I think forever, forever. They, they used to, you know, I mean I'm not sure - - -

30 They weren't, they weren't, they weren't say destroyed after six months or some (not transcribable) - - -?---Not really, no, no. When I left they were all there and that would have, I started the system in November or December, January of 2007, December 2006. Because - - -

And were there many documents relating to the UAE project?---No.

How many do you think? How many pages?---Maybe about 50 pages I'd say. And some of that was, was the brochure, you know, like a Parkview brochure. Like a printed one.

Yes?---Yeah.

40 Did you see more than one?---No, just that one. It was a printed version.

Yes?---I think it was, I think it had to do with Parkview, what they did. Very glossy, very expensive looking.

So, and that was bound?---That would have had two holes put in it and put into a binder, yeah.

Yes, but the brochure - - -?---Oh, the brochure was, it was very glossy, very expensive.

(not transcribable)?---Oh yes, oh yes. Yeah, many, many photographs. Very expensive production.

And other than the binder how many pages do you think there were about?  
---As I said about 30 pages, maybe. Not much. There wasn't much.

10 All right. Yes.

MR KORN: When you said binder did you mean brochure?

THE COMMISSIONER: I meant brochure, thank you, Mr Korn.

MR KORN: (not transcribable) I think the witness said 50 pages - - -

THE WITNESS: 50 pages altogether, you know.

20 THE COMMISSIONER: So 50 pages altogether, taking out the binder there were 30 pages about, approximately?---Yeah, the brochure.

Any questions?

MR NEWLINDS: No further questions.

THE COMMISSIONER: Thank you, Ms Burch, you may be excused?  
---Thank you, sir.

30

**THE WITNESS EXCUSED**

**[2.30pm]**

MR MacCALLUM: Ms Hogan-Doran as you're aware is - - -

THE COMMISSIONER: I beg your pardon?

MR MacCALLUM: Ms Hogan-Doran is not here today and I seek the indulgence of the Commission that if the witness could not be released until  
40 - - -

THE COMMISSIONER: No.

MR MacCALLUM: Yes, Commissioner.

THE COMMISSIONER: If Counsel are not here that's the risk they take. If they take the brief, the brief runs. The case runs, the brief can stop but the

case runs. We've got too many Counsel to accommodate them, that's the practice of the Commission. Yes. Mr Newlinds.

MR NEWLINDS: I call Mr Touma. Anthony Touma.

MR GOW: Commissioner, may I announce my appearance?

THE COMMISSIONER: Yes.

10 MR GOW: My name is Gow, G-O-W. I appear for Mr Touma.

THE COMMISSIONER: Yes, thank you, Mr Gow. Do you wish me to make a section 38 order?

MR GOW: Yes, I do.

THE COMMISSIONER: Please sit down, Mr Gow. Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Mr Gow and all documents produced by him during the  
20 course of his evidence at this public inquiry are to be regarded as having been given or produced on objection - - -

MR KORN: Mr Commissioner, you said Mr Gow.

THE COMMISSIONER: I beg your pardon. Mr Korn, what would I do without you? Thank you. Yes, Mr Touma. I'll start again. I beg your pardon. Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Mr Touma and all  
30 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. Mr Touma, do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MR TOUMA: Under oath.

THE COMMISSIONER: Mr Newlinds.

MR NEWLINDS: Mr Touma, what is your full name?---Tony Touma.

And what is your occupation?---I'm a builder/developer.

10 Are you employed by anyone at the moment?---Employed by Parkview Group Australia which is the company that I, I'm a shareholder in.

All right. Now, can we just get this straight. Parkview Group Australia, is that a Pty Limited company?---That's correct.

And is that its name Parkview Group Australia Pty Limited?---(NO AUDIBLE REPLY)

20 Who are the shareholders of that company?---Myself and Emile Tabet and various companies associated with John David.

But not Rodric David?---Not Rodric David.

And when was that company formed? Just a year will do?---I think about 2004, thereabouts.

30 In 2007 you were involved I think as an employee and perhaps also as a Director with some other Parkview Companies which Mr Rodric David was involved in, is that right?---If you're referring to Parkview properties no, but any other, there are a few other development, independent development companies that we did have shareholdings in and I was a Director of, yes.

Now, were they companies that were formed on a project by project basis to take on particular jobs?---Correct.

All right. And did you work for what might be described as the Parkview Group without confusing that concept with any company called Parkview Group?---Correct.

40 And who was your employer, was it one of the companies - - -?---Well, I'm the Managing Director so the company, in terms of the individual or the company that paid me is Parkview Group Australia. That paid me.

Now, in 2007 what was your day-to-day job? You were the Managing Director, what did you manage and direct?---The construction development company.

And did it build properties?---Various properties between Townsville down to Gold Coast, Brisbane, Sydney.

And who were the shareholders, is that the same company that you're a shareholder and Director of now?---Yes.

And does it continue to do the same business?---Correct.

10 In 2007 did you go on a trip to Dubai and Abu Dhabi with Mr David, that's Rodric David and others - - -?---Yes.

- - - in the middle of the year and again - no, in the middle of the year?  
---Yes.

What was the purpose of that trip?---The purpose of the trip was to investigate any construction opportunities.

20 Who invited you to go on that trip or was it your idea?---There was a discussion that Charif Kazal had said I could introduce you to a few people over there and if you, you'd like to come we're heading over at this time of the year so join us if you'd like and see what the, you know, lay of the land is and at the time, you know, people were being told the streets were paved with gold so everyone went over and had a look at it and we came, we decided or I decided with Emile not to pursue any more activities after our first trip or our only trip.

30 Was your perception that Charif Kazal was the person who was the driving force of the trip or was it a Rodric David idea or, or what?---No, he was just to facilitate the instructions to certain people over there.

But what it Charif Kazal who invited to come along or was it someone else?  
---There was no invitation, it was an offer to join them and see if there was any opportunity for work or set up an office up there in terms of construction.

And who made that offer to you?---It was - I can't recall.

40 Was it either Rodric David or Charif Kazal or perhaps both of them?---I, I can't recall. It wasn't, it wasn't why don't you set up here, it was more - - -

THE COMMISSIONER: I beg your pardon?--- - - - come and have a look. It wasn't like come set up here, it was come and have a look to see what it's like.

MR NEWLINDS: And did you - - -?---It was an investigative journey for me so it wasn't, you know, anything - - -

Now, you're a builder?---Yes.

And that's what you like to do and that's what you're good at?---Oh, yeah.

Is this reasonable: that when, during the trip that various business opportunities were looked into, some of them involving building and some of them involving other things like property management and the like?

---Yeah, it's reasonable to assume so and I believe we, we looked at a lot of things.

10 Did you have any interest yourself in being involved in any other sort of business than building?---Not in the UAE, no.

And at some point either during or after that first trip did you lose interest in the project?---There wasn't a project, it was just an introduction. I lost the interest in having to - the fact that I just as soon as I got there and looked at the place I thought it was just a bubble about to burst. It wasn't, it wasn't an opportunity for, for me to set up shop up in the Middle East.

20 And I take it you wouldn't have been the first builder on site?---In hindsight.

The group travelled, did it not, as Parkview, presented itself as a group from the Parkview Company?---Yeah, but the perception was to, to - in certain environments when I was introduced to certain developers, you know, we had to explain what we did and, yeah, it was under the Parkview brand.

30 All right. And were documents prepared that identified various people on the trip as being part of the Parkview brand?---I wasn't aware of a document that was shown to me by the inspectors that, if you're referring to that.

I'm referring to the various documents that are entitled Parkview Profile, have you been shown those documents? I can show you one now quickly? ---I've been shown one document that doesn't mention me on it but - - -

All right. Perhaps if we can bring up document number 301. This is one of the versions, I'm not sure if this is the one you've seen before?---No, I haven't seen this one.

40 Sorry?---No, I haven't seen this one.

All right. Can you just look at this one and I'll find the one in due course that you've looked at?---Yeah.

So it's a, a version of the Parkview Property Group Corporate Profile, you see that at page 301?---Yeah.

And if you go through to 310 it's clear the company that we're dealing with is Parkview Property Australia Pty Limited, can you see that?---That's correct.

Now that's the company at - that's a company at the time of - that as at 2007 you were a director of?---No, not Parkview Property.

Okay. Were you a director, a shareholder or employee of that company at the time?---No.

10

All right. Can you go to 311, did you know who the directors of that company were at the time?---No.

Did you see a version of this document before or during the trip?---No.

Is the first time you saw a version of this document when one of the investigators of the Commission spoke to you recently?---Yes.

20

All right. Did you understand at the time of the trip that Charif Kazal and Karl Kazal were directors of that company?---No.

If you can move forward please to page 358. Just let me know when you get there?---Yep.

Are you there?---Yep.

This is another version of the same document or some other version of that document. And you can see that this one records the Board of Directors - - -

30

THE COMMISSIONER: That's, I don't think that number is right.

MR NEWLINDS: I'm sorry, try 338. I'm getting old, older?---Yep.

You got it?---Yep.

This version of the document records the Board of Directors as Rodric David, Andrew Kelly, Karl Kazal, Charif Kazal. Do you see that?---Yes.

40

And Tony, Tony Kazal?---Yes.

Did you understand that Mrs Kelly and any Kazal's were a director of that company at the time?---No.

All right. Now do you recall Mr Kelly coming along on the trip?---Yes. Yeah, I saw him over there when I landed.

Can I ask you this, did you know Mr Kelly before the trip?---Yes, I did know Mr Kelly.

In what circumstances had you met him?---There was, by way of an introduction by Rodric I think at one stage. I can't recall the exact time, but I do recall meeting him prior. So that, I don't exactly know where.

And was it in the context of a meeting that was about the planned trip?  
---No, 'cause we were doing a refurbishment at the Entertainment Centre when I first met Mr Kelly and it wasn't, it was through the refurbishment of the Entertainment Centre. I didn't have any day to day dealings with him,  
10 but I did know that he was, he was, he played a senior role in the Sydney Harbour Foreshore Authority.

When did you, sorry - - -?---Sorry, and I was introduced to Rodric, yeah, ah, to Mr Kelly, then.

When did you first become aware that he was coming on the trip?---Prior to the trip, but I don't know exactly when. But it wasn't - - -

Shortly prior to the trip?---Shortly prior, yeah.  
20

Weeks or months?---It would have been weeks.

All right. And who told you he was coming on the trip or how did you find out?---(not transcribable) correspondence and emails and what have you. I would see (not transcribable) property, the purpose of that I wasn't sure of, all that sort of stuff. But - - -

All right. That relieves me of asking one question. Did you ask Mr Kelly at any stage what he understood his purpose on the trip was?---No.  
30

Did, during the trip did anyone tell you what Mr Kelly's role was?---No.

Did you observe Mr Kelly doing things on the trip?---No. We, we would go, catch up with everyone after the days, you know, introduction to people and then everyone would regroup at night and join everyone, you know, on a table of 15, 20 people. We'd all sit around and have dinner, but that's about the, the relationship I had with Mr Kelly overseas.

Did you go to any meetings where Mr Kelly was also present?---I don't recall.  
40

Did the meetings you go to focus on your interest, that is building?---Yes.

And were you introduced to and did you talk to builders or developers - - -?  
---We were introduced to various developers, but again, it's very difficult over there. You don't know who's doing, who you're talking to and who's in charge and so, there was a lot of smoke and mirrors, it was difficult. It wasn't, I don't know who they were.

But you weren't impressed?---No.

Is it fair to say that others in the group appeared to be more impressed with what they were seeing and learning? Was there something - - -?---Evidently yeah, they were so, but we weren't, Emile and I weren't, we just wanted to get back home and didn't want to, even for a holiday it was too hot.

10 And were your expenses covered by Parkview?---Parkview yes (not transcribable) company.

And as far as you were concerned you were at work and you drew whatever salary you drew for that period, yes?---Yes.

20 All right. Now, after the trip did you go to any meetings or were you copied in to any emails concerning the trip and what the group have done?---I don't, didn't go to any, I don't recall going to any meetings and I may have been copied in to emails but I get copied in to a lot of emails at work, generally that's, you know, what I ask everyone to do so - - -

You ask them to send you emails?---I ask all my senior staff at work to copy me on most of their, most of their emails or a lot of their emails so - I don't necessarily read them but when I do get the chance to I - - -

And if you did go to any meetings after the trip concerning, if I can call it the project, do you have any memory of doing that?---No. I don't, I don't think I went any meetings but I don't recall.

30 And do you have any memory of reading any emails that you might have been copied in on?---Once we got back I really wasn't interested.

All right?---It was hard - at the time I was opening up, I opened an office in Townsville and one on the Gold Coast so my focus was sort of up and down the coast so it was really hard.

Did you have any understanding at the time as to who was paying for Mr Kelly's time and expenses on the trip?---No.

40 Right. Unless you have any questions, Commissioner, that's all I want to cover.

THE COMMISSIONER: Yes, thank you. Mr Korn?

MR KORN: No, thank you, Commissioner.

THE COMMISSIONER: Mr Beech-Jones?

MR BEECH-JONES: Sir, can I just ask you this, just going back - - -

THE COMMISSIONER: Mr Beech-Jones, can you just explain who you are?

MR BEECH-JONES: I'm sorry, I do apologise. Mr Touma, my name is Beech-Jones and I appear for Mr Kelly. Can I just take you back to 2007. What was Mr Rodric David's position within the Parkview Group?  
---He was a director.

10 He was a director of - is it Parkview Group Australia Pty Ltd. Was there another company called Parkview Constructions?---Correct.

And was that, was that just a special purpose vehicle for one particular development?---We had, look, we had special purpose vehicles for all our developments (not transcribable) construction division and we also had the Group, the holding company which was the Group so the construction division was the, the, the company that build, contracted - - -

20 Right. That was the company Parkview Constructions Pty Ltd, is that right?  
---(NO AUDIBLE REPLY)

And were you a director of that company?---Yes.

And was that company owned by Parkview Group Australia Pty Ltd?---Yes.

And you were a director, Rodric David was a director and Emile Tabet was a director, is that right?---Yes.

30 And going back to - at that time, that's 2007, Parkview Group Australia Pty Limited was - Rodric David was a director of that company, is that right?  
---I'm sorry?

He was a director of that company?---Which company?

Parkview Group Australia Pty Limited?---In, in what year?

May 2007?---Yes.

40 And so were you and so was Mr Tabet, is that right?---Yes.

Now, how much of an interest did you have in Parkview Group Australia Pty Limited, how much of a shareholding?---21 per cent.

And how much did Mr Tabet have?---Four per cent.

And who had the other 75 per cent?---It was a make up of, of various David family businesses.

All right. Was the person - so all together various David family businesses, 75 per cent. Is that right?---Correct.

And the person who at that time was in effect running the David - running the Davids' interests in the Parkview Group was Rodric David, is that right? ---No.

10 Right. John David and Rodric David was it?---No, they weren't, there was no, there was no - Rodric wasn't running the interests of that, we'd report, we'd have to report to the Board and John was our chairman. I, I was running the interests of the construction company predominantly and Rodric would oversee the development company and if a development side, if a development project came alive he'd have the development team work a feasibility and look at it and the construction guys would price it and then we'd present it to the Board for approval. It wasn't - it - it was - that's what - - -

20 That was the structure?---That's generally what should happen or would have happened, should have happened.

We'll come to whether it did happen but so the - as you understood what should have happened was you were running the construction side - - -? ---Yeah.

- - - and Rodric David was running the development side?---Correct.

And was that for his part meant to be a full-time executive role?---Yes.

30 Now, and you said should've, is that how in fact it did happen?---For the most part but - - -

During the time in, when you were in UAE in May 2007 I think you didn't see much of an opening on the construction side, is that right?---Correct.

Did you see any openings on the development side?---No.

You did observe that Mr David though expressed considerable interest in property management, asset and facilities management side?---Correct.

40 Now, and to your knowledge that interest continued after the trip?---I believe so, yes.

Now, at some point did he cease to have involvement with the Parkview Group, that is, Rodric David?---Yes.

And when did that happen?---He was away in November 2007 and his official exit was, I think it was December or January, December 2008 or January, sorry, December 2007 or January 2008.

And that was to your knowledge around the time that he went back to the UAE, is that right, or you didn't know about that?---I didn't, I don't know, I didn't talk to him after, there was a fallout.

Yes, I'll come to the fallout in a sec. When he left was there some rearrangement in the shareholdings at Parkview?---Yes.

And what was that rearrangement?

10

THE COMMISSIONER: Mr Beech-Jones, again I have no idea why you're doing this.

MR BEECH-JONES: It's coming to the position of Mr David. It's critical.

THE COMMISSIONER: What has this got to do with the case as outlined by Mr Newlinds?

MR BEECH-JONES: Because, firstly, this is the topic Mr Newlinds started on which is how was Parkview put together. Secondly, Mr David - - -

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THE COMMISSIONER: How Parkview is put together is not part of the case.

MR BEECH-JONES: With respect it is because it is relevant to what - - -

THE COMMISSIONER: I can say it isn't and you say it is, let's try and get somewhere.

MR BEECH-JONES: Without going into the intimate detail what was the falling out over?

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THE COMMISSIONER: Why is that relevant?

MR BEECH-JONES: I'll put it this way. Did the falling out involve concerns about financial record-keeping involving Mr Rodric David? In part?

THE COMMISSIONER: Can you answer that?---There was a whole, whole bunch of reasons why I had a fallout with Rodric and, you know, it was a personal issue and he wanted to be sole CEO and I didn't, I wouldn't accept it and there was a lot of, many things that Rodric would go and do, you know, partly, mainly it was the fact that he wanted to be sole CEO and I wouldn't accept it.

40

MR BEECH-JONES: Right. Did it partly involve though what I put to you in terms of - - -?---I can't recall, you know, those details. There were, there were a few, you know, things that may have happened but, you know, we

didn't, we decided to deal with, you know, everyone just shook hands and walked away. I can't recall the detail or anything - - -

Mr Touma, you know that one of the details, without going into what they were, was concerns on your part about him and financial recordkeeping don't you?---I don't see why this is a matter, is this Parkview Properties we're talking about or are we talking about, it's got nothing, which I have nothing to do with and I've dragged into another matter.

10 THE COMMISSIONER: Just answer the question?---No, it wasn't.

MR BEECH-JONES: Right. Didn't you tell, you told Mr Kelly at some point in time that that was part, the auditors were called in at some point of your dispute with Mr David didn't you?---Yeah, I told Mr Kelly that Rodric was paying himself a lot more money than I was getting paid and I didn't think that was appropriate, but I wasn't aware of it at the time. But that's about it.

Right. Thank you.

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

MS WILLIAMS: No Commissioner, thank you.

THE COMMISSIONER: No. Mr MacCallum?

MR MacCALLUM: No questions, Commissioner.

THE COMMISSIONER: No. Mr Newlinds?

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MR NEWLINDS: No, no questions at this stage.

THE COMMISSIONER: Yes. Mr Touma, you may be excused.

MR GOW: Mr Commissioner, I have a question.

THE COMMISSIONER: Sorry, I beg your pardon, Mr Gow. Sorry.

40 MR GOW: Mr Commissioner. Mr Touma, you gave some evidence that you went to Dubai in 2007?---Yes.

Did you go back to Dubai in 2008?---No.

Nothing further. Thank you, Mr Commissioner.

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

**THE WITNESS EXCUSED**

**[2:54pm]**

MR NEWLINDS: I think I've committed a, perhaps not breaching one of Dr Lang's commandments but perhaps a mortal sin, we've run out of witnesses again. We've got Mr David, Rodric coming tomorrow morning and we've got Mrs Kazal on summons to return tomorrow morning as well. But we don't have anyone this afternoon.

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THE COMMISSIONER: Yes well Mr MacCallum might feel aggrieved to (not transcribable) adjourn, but we're stopping early but I apologise for that inconsistency Mr MacCallum and we'll adjourn until 10.00am tomorrow.

AT 2.55 PM THE MATTER WAS ADJOURNED ACCORDINGLY

**[2.55pm]**