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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION CARINA

Reference: Operation E09/1940

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 14 JUNE 2011

AT 10.05AM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

MR BROAD: Yes, Commissioner, I seek leave to appear as counsel assisting today.

THE COMMISSIONER: Yes. Yes. The Commission is investigating the following allegations. One, between 1 August, 2006 and 6 November, 2009 Kim Hildebrand provided Angus Algie and Greg Hildebrand with access to data contained on the Spatial Information Exchange a computer database administered by the Land and Property Management Authority, knowing that such access would be used to copy deposited plans, strata plans, crown plans and other information from the Spatial Information Exchange to a computer or a data storage device without the authority or consent of the LPMA. Two, between 1 May, 2009 and 6 November, 2009 Angus Algie and James Smith, Managing Directors of Addisons Valuation Services, by means of the access provided to the Spatial Information Exchange by Ms Hildebrand copied or directed employees of Addisons to copy around 74,000 strata plans from the Spatial Information Exchange to a computer or a data storage device belonging to Addisons knowing the copying of such data was without the authority or consent of the LPMA. Three, between 1 August, 2006 and 6 November, 2009, Greg Hildebrand, by means of the access provided to the Spatial Information Exchange by Ms Hildebrand, copied deposited plants, strata plans, crown plans and other information from the Spatial Information Exchange to his computer and to data storage device knowing the copying of such data was without the authority or consent of the LPMA. Four, between 1 August, 2006 and 6 November, 2009, Kim Hildebrand copied deposited plans, strata plans, crown plans and other information from the Spatial Information Exchange to her computer or data storage device knowing the copying of such data was without the authority or consent of the LPMA.

30 Mr Broad.

MR BROAD: Yes, thank you, Commissioner. Commissioner, this investigation concerns the unauthorised release and misuse of confidential information. Emerging information technology provides both new opportunities and new risks. Information is a commodity and like any object of value, it needs to be protected. It is therefore paramount that public sector organisations secure their data holdings and individuals given access to public sector databases do not misuse the information for personal benefit.

40 Commissioner, each year the Valuer General of New South Wales provides land values to local councils for rating purposes and the Office of State Revenue for managing land tax. All valuations for rating and taxing purposes in New South Wales are undertaken by independent contractors on behalf of the Valuer General. In May 2006, Westlink Consulting, a valuation company entered into an agreement with the office of the Valuer General to value land located in the Warringah area of Sydney. This agreement was for a period of three years ending on 30 April, 2009. In July

2006, Westlink employed Kim Hildebrand as an assistant valuer to work on the Warringah valuations. Ms Hildebrand was employed by Westlink until 1 May, 2009.

As part of the valuation process, Ms Hildebrand was responsible for collecting information about the attributes of various parcels of land in the Warringah area. Now much of this information relevant to Ms Hildebrand's inquiries is located on the Spatial Information Exchange, which is referred to as SIX, which is a website maintained by the Land and Property
10 Information, which until recently was a division of the Land Property and Management Authority. On 11 October, 2006, the LPI, which supports the work of the Valuer General, provided Ms Hildebrand with electronic access to the Spatial Information Exchange for the sole purpose of her obtaining information relevant to her work on the Warringah valuations.

Access to this database depended upon Ms Hildebrand entering a username and a password provided to her by the LPI. The database contains property related information including land title information and images of registered plans and dealings. The LPI has a statutory, statutory obligation to make
20 this information publicly available upon payment of a prescribed fee.

The LPI however did not require Westlink to pay the prescribed fee for access to this information. Commissioner, it is alleged that shortly after the LPI provided Ms Hildebrand with access to SIX, she began to use it for purposes unconnected with her employment at Westlink. The Commission will hear evidence that on 21 November, 2006, Ms Hildebrand conducted a title search of property registered in her name and emailed a copy of the search to Greg Hildebrand, her father. The evidence will also show that Ms
30 Hildebrand used her SIX user account to obtain property-related information about notable persons. Commissioner, it is alleged that after Ms Hildebrand left her employment with Westlink on 1 May, 2009, she continued to use her SIX account and the SIX accounts of other Westlink staff with whom she had worked to obtain copies of strata plans relating to her work as a valuer. The agreement between Westlink and the Office of the Valuer General stipulated that the information contained on the SIX database to which Ms Hildebrand had been provided access was to be treated as confidential information. Westlink agreed with the Office of the Valuer General to ensure that such information was not disclosed to any third party. Ms Hildebrand signed confidentiality agreements with the Valuer General
40 and Westlink acknowledging that in effect she understood the restrictions governing her access to the SIX database and that she had a duty not to disclose information contained on this database to any third party. Commissioner, it is alleged that Ms Hildebrand, contrary to the terms of these undertakings, provided her SIX user account to her father. This enabled Mr Hildebrand to obtain access to the SIX database without having to pay the prescribed fee. The evidence will show that Mr Hildebrand used the account to obtain property-related information about persons with whom he had business dealings. It is also alleged that Ms Hildebrand provided her

SIX user account and the SIX user account of Timothy Fleming, another Westlink employee, to Angus Algie, a managing director at Addisons Valuations. Addisons conduct valuations of properties on behalf of lending institutions and engaged valuers on a contract basis to do so. In 2009 the valuation of strata properties constituted a significant part of the work performed by Addisons. Mr Algie engaged Ms Hildebrand to perform valuations for Addisons in late April 2009, around the time she left her employment with Westlink. On 17, on 17 April, 2009, Ms Hildebrand emailed Mr Algie the details of her SIX user account. Prior to 17 April, 10 2009, Addisons paid an information broker to provide copies of strata plans required for a valuation of a particular strata property. The evidence will show that after 17 April, 2009, Mr Algie and James Smith, a co-managing director at Addisons, instructed staff at Addisons to use Ms Hildebrand's SIX account to obtain copies of strata plans as needed and at no cost to Addisons. From 17 April, 2009 to 30 June, 2009, approximately 494 strata plans were downloaded by staff at Addisons using Ms Hildebrand's SIX user account. Staff at Addisons then provided these plans to contractors engaged by Addisons to value strata properties. It is alleged that by 30 20 June, 2009, Mr Algie and Mr Smith had developed another plan for the use of Ms Hildebrand's SIX account. The Commission will hear evidence that on 30 June, 2009, they, or thereabouts, they directed a Deborah Whitelaw, an Addisons employee, to use Ms Hildebrand's SIX account to obtain a copy of all the strata plans registered in New South Wales and contained on the SIX database. The Commission will hear evidence from Ms Whitelaw about the steps she took to arrange this. Between 1 July 2009 and 3 September 2009, approximately 22,600 strata plans were downloaded by Addisons staff using Ms Hildebrand's user account and digitally stored on Addisons' computer server.

30 On 3 September, 2009 Ms Hildebrand's SIX account was locked due to a failed attempt by an Addisons' employee to enter the correct password into the SIX database. Evidence will be heard that on 4 September, 2009 Mr Algie had a telephone conversation with Ms Hildebrand and told her that the password to her SIX user account was no longer working. 15 minutes late Ms Hildebrand emailed Mr Algie the username and password for Mr Fleming's SIX user account. The Commission will investigate Ms Hildebrand's purpose in provided Mr Algie with access to the SIX database on this occasion, in particular the Commission will examine whether Ms Hildebrand did so intending to assist Mr Algie to obtain strata plans on a 40 needs basis or to facilitate the downloading of strata plans en masse.

The evidence will show that Mr Algie provided Mr Fleming's SIX user account to Ms Whitelaw who arranged for staff to copy a further 51,677 strata plans from the SIX database to the Addison computer server. On 6 November, 2009 the LPI deactivated Mr Fleming's user account when the excessive use of this account was discovered. Commissioner, it is alleged that between 17 April, 2009 and 6 November, 2009 around 74,000 strata plans were downloaded by Addisons without the authority of the LPI. This

represents almost all the strata plans available on the SIX database. It is also alleged that Mr Algie and Mr Smith avoided paying around \$822,000 to the LPI for the plans, the amount it would normally charge for access to the strata plans. This represents a substantial loss of revenue for the LPI.

10 The public inquiry will also investigate the factors that allowed the alleged corrupt conduct to occur and the systemic changes that can be made to prevent it from reoccurring. The Commission will examine what controls existed in 2009 that could have led to the detection of the unauthorised copying of almost all the strata plans from the SIX database and whether there was a failure to apply those controls. Mr, Ms Hildebrand's and Mr Fleming's SIX user accounts were not deactivated when they ceased working at Westlink. In the light of this the Commission will also examine the circumstances that led to this oversight and whether adequate controls surrounding information security and contract management presently exist to prevent large-scale misuse occurring.

20 THE COMMISSIONER: Yes, thank you, Mr Broad. I'll take appearances now.

MR LEWIS: Commissioner, Lewis my name. I seek your authorisation to represent Ms Hildebrand.

THE COMMISSIONER: Yes, Mr Lewis.

MR LEWIS: Thank you.

30 MS CARPENTER: Commissioner, Ms Carpenter. I seek leave to appear for the Land and Property Information.

THE COMMISSIONER: Yes, sorry, can you make a note of that please. That's Ms Carpenter is it?

MS CARPENTER: Yes.

THE COMMISSIONER: Yes.

40 MR YOUNG: My name is Young, Commissioner, I seek leave to appear in the interest of Mr Algie.

THE COMMISSIONER: Yes. Yes. Mr Stevenson.

MR STEVENSON: I seek your leave, Commissioner, to appear with Ms Whittaker for Westlink Corporation.

THE COMMISSIONER: Yes.

MR TAYLOR: Commissioner, Taylor, solicitor, I seek leave, your authorisation to appear on behalf of Mr Gregory Hildebrand.

THE COMMISSIONER: Yes.

MR TAYLOR: Thank you.

THE COMMISSIONER: Sorry, for Mr?

10 MR TAYLOR: Gregory Hildebrand.

THE COMMISSIONER: For Mr Hildebrand, yes.

MR GOLDSWORTHY: Goldsworthy is my name, Commissioner. I seek leave to appear on behalf of Deborah Whitelaw.

THE COMMISSIONER: Yes.

20 MR HAVERFIELD: Commissioner, my name is Haverfield. I seek leave to appear for James Smith.

THE COMMISSIONER: Yes, Mr Haverfield. Yes, Mr Broad.

MR BROAD: Yes. I call Kim Hildebrand.

THE COMMISSIONER: Yes. Won't you be seated please, Ms Hildebrand. Mr Lewis, do you want me to make a section 34?

30 MR LEWIS: I do, Commissioner.

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

40 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MS HILDEBRAND AND ALL DOCUMENTS 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: Now Ms Hildebrand, do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MS HILDEBRAND: Affirm. Affirm, sorry.

THE COMMISSIONER: Yes, would you, the affirmation, please.

THE COMMISSIONER: Thank you. Mr Broad.

MR BROAD: Yes, before I start, Commissioner, I might just tender a bundle of exhibits that will be relied upon during the course of questioning the witnesses. Copies of which have already been provided to legal representative who are appearing today.

10

THE COMMISSIONER: Yes.

MR BROAD: I think a copy has, has been tendered. It's volumes 1 to 4. I might just - - -

THE COMMISSIONER: Volumes 1 to 4 of, containing bundles of various documents - - -

MR BROAD: Yes.

20

THE COMMISSIONER: - - - will be Exhibits 1, 2, 3 and 4 respectively.

#EXHIBIT 1 - FOLDER 1 : CONTAINS VARIOUS DOCUMENTS

#EXHIBIT 2 - FOLDER 2 : CONTAINS VARIOUS DOCUMENTS

30 **#EXHIBIT 3 - FOLDER 3 : CONTAINS VARIOUS DOCUMENTS**

#EXHIBIT 4 - FOLDER 4 : CONTAINS VARIOUS DOCUMENTS

MR BROAD: Yes, thank you, Commissioner.

THE COMMISSIONER: Proceed.

40 MR BROAD: Yes, thank you. Ms Hildebrand, can you just give your full name for the record, please?---Kim Hildebrand.

And Ms Hildebrand are you working at the moment?---No.

You completed a Bachelor of Economics degree in 2002. Is that right?
---Yes.

And you majored in banking, trade and finance?---Yes.

In 2002, after you completed university you commenced working for QBE Insurance?---Yes.

And that was as a business analyst?---Yes.

10 What sort of work did you do there?---I was at that stage we worked, work related to dealing with intermediaries of QBE. So gathering information on competitors and what products they were offering and how we could compete.

Right. And I think in 2004 you were promoted to the position of a research analyst, is that right, at QBE?---My role blended into that one, yes.

And as you've already said, that you were gathering information about QBE competitors?---Yes.

20 And what type of information was that?---Product offerings and how they offered their products, whether it was through intermediaries or direct to customers.

And did you sign a confidentiality agreement when you worked at QBE?---I don't remember.

The information that you were dealing with, was it information of a confidential nature?---No.

30 Now in 2005 you left QBE to pursue a career in, in the property sector. Is that right?---Yes.

In valuations?---Yes.

Was that something that you've always wanted to do?---No, not really. It just developed over the years and interest I suppose and - - -

And on, I think it was 24 July, 2006 you commenced working with Westlink. Is that right?---2006, yes.

40 And that was at their Brookvale office?---Yes.

And they were a company that was situated, their head office was in Victoria. Correct?---Yes.

And you were employed as an assistant valuer?---Yes.

That was a relatively junior position in that particular office. Is that right? ---Yes.

And that was your first job in the area of property valuations. Correct?
---Yes.

You were working with others, including Tim Fleming?---Yes.

And David McMillan. Is that right?---Yes.

David McMillan was one of the valuers?---Yes.

10 And you were employed to work for Westlink on the, on a contract that they had with the Valuer General. Correct?---Yes.

And that was to value property in the Warringah and Pittwater areas of Sydney?---Yes.

And those valuations were relied upon by the Valuer General to, well they were adopted by the Valuer General were they not?---Yes.

20 And they were then provided by the Valuer General to councils and the Office of State Revenue - - -?---Yes.

- - - for rating and land tax purposes. Is that right?---Yes.

What was your role when you started in July 2006 in relation to, in relation to that particular contract, what were you doing?---My day to day activity - - -

30 Yes?--- - - - was at that stage gathering information about all property in the area.

Right?---Relating to slope, view, all the factors.

Right. And did you also gather information about sales?---Yes.

That was relevant to conducting an undertaking of valuation of property. Is that right?---Yes.

40 Now, I think it was sometime after starting with Westlink that you commenced a Master's Degree. Is that right?---Yes. Ah- - -

Or was that before?---No, I think, no, I started that before.

Did you start that when you were at QBE?---QBE. I think I- - -

And I think you majored in valuation. Is that right?---Yes. I think I left QBE and then started or I left QBE not long after I started the course, yes.

And that was a correspondence course?---Yes.

Right. Did you, you completed that in July 2007?---2008 I think.

2008. And you were registered as a valuer with the NSW Office of Fair Trading?---After that, yes.

After that course. And when was that, do you know?---I think it was around November '08.

10 Right. Could it have been '07?---It could have been, but I think it was '08. I'm not sure.

In November 2008 you were accredited as a certified practising valuer?---Yes.

Is that right? That was by the Australian Property Institute?---Yes.

That's a professional association of valuers. Is that right?---Yes.

20 And to gain that accreditation, what did you have to do?---You had to sit for an interview- - -

Yeah---?- - -and discuss the work that you'd been doing and show that you've done a course.

You had to have a, you had to show that you'd done some tertiary studies? ---Ah hmm. Yep.

30 You had done your Master's Degree so you relied upon that to gain certification. Is that right?---Yes.

And to maintain that accreditation you have to undergo regular or undertake regular professional development courses?---Yes.

And you've done so since 2008. Is that correct?---Yes. It doesn't just have to be courses, but yes.

40 Well, what else do you have to do?---Just show experience, any learning, anything related to what you're doing.

Now, I wonder if Ms Hildebrand could be shown Exhibits from folder 1, page 174. Now, before I take you to that document in detail, Ms Hildebrand, do you recall that when you started at Westlink it was a condition of your employment that you had to sign a confidentiality agreement?---I believe so.

Yes. And if you look at this document at page 174 and following three pages, you go to page 176 there's a signature there. Do you recognise that?

---Yes.

That's your signature- - -?---Yes.

- - -above the printed words, Kim Hildebrand?---Yes.

And you signed that on 21 July, 2006?---Yes.

10 Now, you would have read that document before you signed it?---I'd assume so. I don't remember this, but yes.

Your signature indicates that you would have read it. Isn't that right?
---It would indicate that, yes.

And having read it you would have understood that during the course of your employment with Westlink you may receive information of a confidential nature?---Yes.

20 That was the point of the document. Correct?---Yes.

And that you understood that, well, that you understood not to disclose that information to third persons. That was the effect of this document?---Yep.

Do you agree to that?---Yep.

If I could just take you back to the work you did at Westlink. You were employed to work on the Valuer General's contract relating to Warringah. Correct?---Yes.

30 And that's what you did for the first two years. Isn't that right?---I don't- - -

You didn't work on anything else?---I, I couldn't tell you exactly, but I have done other work for Westlink, yes.

The other work you've done, and correct me if I'm wrong, you, you, you undertook some work while at Westlink for private clients of Westlink. Is that right?---Yes.

40 But that was very occasional. Isn't that right?---Yes.

You didn't do that very, very often?---No, not often, probably about five or ten total that I can remember.

Because you, you worked at Westlink up until 1 May, 2009 as a permanent employee?---Then I switched to contract.

You switched to contract after that?---Yes, I continued working for Westlink.

Yes, and did you, did you do any objection work - - -?---Yes.

- - - while you were at Westlink - - -?---Yes.

- - - as a permanent employee?---Yes.

10 And what's, what's objection work? If you just explain to the Commissioner what that involved?---When someone objects to the land valuation they, we, we have another look at it so we look at other council area's valuations, not our own.

Right. And is that work that's sent to you by the Valuer General?---Yes.

Yes. And objection work you did, again there wasn't much of that?---There was a lot more than five or ten, I was thinking private clients. I've probably done 60 or 70 objections.

20 And were the objections in relation to the Warringah and Pittwater areas?
---No, they can't be your own area, no. They had to be Willoughby, North Sydney, another area.

Oh, I see, right. I think you did a rental determination in November 2008?
---Yes.

What's that?---Yeah, that's for the RTA.

30 Right. And what, what does that involve?---They were just, they wanted a valuation to determine the current market rent.

And in October through 'til December 2008 you worked on the Albury contract that Westlink had with the Valuer General?---Yes.

And that was again undertaking valuations?---The same as we were for Warringah and Pittwater.

But for the Albury area?---But for Albury, yeah.

40 The valuations were again for rating and taxing purposes - - -?---Yes.

- - - for the, for the Valuer General. Now, you mentioned that you did some private work or work for some private clients while at Westlink. Correct?
---Yes.

I take it Westlink would have had access to an information broker in order to obtain plans, title searches for, in order to do work for private clients, isn't that right?---I would assume, I don't know but I would assume so.

Well, how did, when you did the private work how did you get the plans and the certificates of title, the title searches that you needed to do in order to perform those valuations?---I used the database for all the work that I did for Westlink.

This is the SIX - - -?---Yes.

- - - the SIX database?---I was not told I couldn't do that. I used it for all work and I was open about that.

10

All right. Well, I'll return to that. The database, the SIX database was, well, access was provided to you on 11 October, 2006, do you recall that? ---I don't remember when exactly but - - -

Access to that was restricted in the sense that you had a, a username and password. Do you recall that?---Yes.

20

And you were given access to that information for the purposes of performing your functions relating to the Warringah contract, correct?---I was given it because we were doing that work but I didn't believe that I was only to use it for that work.

Well, do you say that you thought you could do it, use it for any work that Westlink was doing?---Yes. I, I didn't see that it was any different to any other sales databases that we had. We had Red Square, we had PIMS we had access to but none - - -

30

Yes, but this was a database provided to Westlink by the Valuer General? ---Yes.

It was provided by the Valuer General to Westlink so that Westlink could perform work for the Valuer General?---Yes.

Correct?---Yes.

The Valuer General didn't provide this database to Westlink so that it could do, so that it could use it to do private work?---I didn't realise that. I did not believe that it was a problem to do that.

40

Well, it's self-evident, isn't it?---I was open about the fact that I used it for all work that I did and while that wasn't a lot of other work I - - -

Well, that may be so but - - -?--- - - - I just didn't realise that that wasn't okay.

THE COMMISSIONER: What did you mean, what do you mean by being open, Ms Hildebrand?---Well, with the, particularly the RTA contract I looked up lease documents to help with the rental determination so in doing

that the rental determinations or those valuations I was dealing with one of the managers at Westlink and he was aware of the fact that I was downloading these leases relating to this.

And who, what's the name of the manager?---Brendan Sheales.

And so you say he was aware that you were using this database and he made no objection?---I don't remember the discussion but I remember doing that report with Brendan because I was getting my training at the same time and I was providing lease documents and they weren't related to the - - -

Do you remember whether he made an objection or not?---I don't remember.

If he had made an objection what would you have done?---I wouldn't have used it.

Did you use it?---Yes, I used it. But had I known not to I wouldn't have.

20 MR BROAD: Well you recall that, perhaps if the witness could be shown a document at page 518.

THE COMMISSIONER: In what volume?

MR BROAD: (not transcribable) 1.

THE COMMISSIONER: All right. And where is it?

MR BROAD: Folder 2.

30 THE COMMISSIONER: Folder 2.

MR BROAD: The second folder.

THE COMMISSIONER: Page?

MR BROAD: 518. Before I take you to that document, were there others at Westlink who were using the SIX database for private client work?---I was the only one doing the private client work in that office, I believe.

40 So Timothy Fleming wasn't doing private client work?---Not that I know of, no.

THE COMMISSIONER: Ms Hildebrand, when you, again coming to your evidence that you were open in the use of this database, you've referred to the work you did for the RTA, is there anything else that you rely on for your statement that you were open and doing what you did?---Honestly, I

don't recall the, the discussions, but I did a residential house in Collaroy and off the top of my head, I can't think of anything else that - - -

Why is that open, you did it for a residential house?---Because, oh because within the report you have to attach the strata plans.

I beg your pardon?---In the report you have to attach a deposited plan or a strata plan or a title search.

10 And who would see the report?---Anyone, anyone who reviewed it.

And would you work always be reviewed?---Yes, always.

By Westlink?---Yes.

And who in Westlink would review it?---Depending on what report it was, the, the house I think Davie might have reviewed it, otherwise it would have been Brendan or (not transcribable)

20 And who's Davey?---Sorry, David McMillan.

And did he make any comment about your use of the database?---No.

So those two instances on which you rely for your statement that it was, you did it openly - - -?---I don't know if they noticed, but I didn't try to conceal it because I didn't see that what I was doing was wrong. So I don't know if they knew.

30 MR BROAD: Well just on that point I might take you to the document at page 686 of volume, folder 2. Do you see that?---Yes.

It's a valuation report conducted on behalf of a Mr Oddy?---Yes. Brendan reviewed this one.

And Mr Oddy was a friend of your family. Is that right?---Yes.

And I think it was your father who asked you to conduct this particular valuation?---Yes.

40 And you did this through Westlink Consulting?---Yes.

And was this part of your training to become a valuer?---Yes.

If you go to the end of the report - - -

THE COMMISSIONER: What page?

MR BROAD: Page 701. It's signed by Mr Sheales?---Yes.

Did he write the report or did you write the report?---No, no, I wrote the report, but Brendan reviewed it and helped me through the process.

All right. And if you go to page 702 and 703, there are, there is a certificate of title attached to the report and a deposited plan, that's page 703. And dealing first with the certificate of title, it appears that, well firstly did you download these particular documents?---Yes.

10 And you used your Hildebrand user account to do so?---Yes. It says it down the bottom.

And that was for both the certificate of title and the deposited plan?---I can't see it on the, oh, yes, yep, both.

And that was downloaded by you, the certificate of title on 15 April, 2008 and the deposited plan in January, I think, 2008?---Yes.

Is that correct?---Yes.

20

Thank you. Did you bring that to the attention of Mr Sheales?---Not specifically, no, I didn't.

It just didn't occur to you that - - -?---No.

- - - it was anything significant. Is that what you say about using it?---Yes.

It didn't occur to you at this particular time that Westlink would have had access to this information through a, which they would have paid for,
30 through an information broker?---No.

THE COMMISSIONER: You thought Westlink could simply use this information without paying for it?---I believed it was given to us while we were doing this work.

Given to you by who?---By the Valuer General while we were doing the work that we were doing.

40 What made you think that?---Because it's part of the, what you are given when you do this work for the Valuer General, you are given access to that database.

But what made you think that it was free?---As in?

You don't pay for it?---I've not seen otherwise.

But how could you have seen otherwise?---Exactly.

Well, I don't understand. You were given access to a database, either you pay for it or it's free. And that's, those are the only possibilities available?
---At that time I didn't consider whether it was free or not. It was just - - -

You didn't think about it?---I just thought it was provided to you so that your access to it was faster and you could get the work done more efficiently.

You made an assumption?---Yes.

10

But there's nothing that led you to that assumption other than what you appear to have taken for granted without investigation?---Yes.

MR BROAD: But your access to the database, the SIX database was provided in the context of you performing work for the Valuer General?
---Yes. Originally, yes.

20

THE COMMISSIONER: But if you were doing work for the Valuer General, what made you think that when you were doing other work not for the Valuer General that it was still free?---I just assumed that it was fine.
We have access - - -

Why would the Valuer General agree to give you access to the government database for work totally unconnected with the government?---I just, I saw it as any other database we had access to where you just - - -

But it wasn't any other database. It belonged to somebody else?---A lot of the information is the same across a lot of the databases, so the sales - - -

30

The same?--- - - - the sales information, ownership information, a lot of it is the same.

Is it the same information as you get from the Valuer General?---Some of it is, yes.

Exactly the same?---Sales information, ownership, yes.

40

And details of the plans?---Plans I'm not aware of the plans being on the other database.

But plans are different, plans you won't get anywhere else other than the Valuer General?---I, I don't know for sure, but I believe so now.

MR BROAD: But this is information you had to pay for, that is the plans and a certificate of title. That's not free is it? You knew that in April 2008?---I believe at some stage I found out, yes.

Well you would have known it by April 2008?---I don't remember years, but, oh yeah, it would have been then, yes.

Yes?---I would have known by then.

And you knew that this information was a valuable asset, it had to be paid for. Correct?---I didn't think about that, but it had to be paid for, yes.

- 10 Yes. And you knew that Westlink had been given access to the SIX database for the purposes of, a free access for the purposes of doing work on the Valuer General contract. You understood that didn't you?---It was the reason it was given, but I wasn't made aware of the fact that it was for only that, no.

But you're an intelligent person, it wouldn't have taken very much to work that out, don't you agree?---It wouldn't have taken much, no, but I just, it's just not something I, I didn't- - -

- 20 Or was it the case that you didn't, you didn't really care?---No. I just, it's, I just didn't, I didn't consider that what I was, I didn't consider what I was doing, I just didn't think that what I was doing was wrong. I really didn't believe that.

All right. Well, if I could take you to the document at page 518. Before I do that, when you were, you've given evidence that you did some private client work, about five or ten private clients for Westlink- - -?---Yes.

- 30 - - -in the period you were permanently employed. Did anyone at Westlink direct your attention to the fact that they had information brokers who could provide Certificates of Title and plans that could be used for doing the private client work?---Not that I remember, but (not transcribable)

Well, is it possible that someone could have said to you, look, if you're doing private client work you need to use the database that we pay for? ---It's possible. I don't remember it though.

- 40 Well, who would have done that if someone had done that?---It could have either been my immediate manager, which was Davie, or I mean it could have been Belinda, could have been Brian or it could have been Brendan. It would depend on the work I was doing. I did different work for different people.

When you were doing the private client work did you get access to RP Data sales information?---I don't think we had RP Data, we had Red Square, which is the same sort of thing, and PIMS.

And that provides information about the sales history of properties?--- Yes.

So when you were doing the private client work were you using Red Square?---Yes, and always using Red Square, yes.

Right. And that's something that Westlink pay for?---Yes.

And you knew that at the time?---Yes.

10 Now, if you could go to page 518, this is a document entitled Schedule 8 Relevant Person. Go down the bottom there's a printed name and a signature above that. Do you recognise that?---Yes.

It's dated 26 March, 2007. Do you recall signing this document?---No, but that's my signature.

Signature. And I take it that you would have read it before you signed it. Correct?---I would assume so.

20 Well, normally, is it your normal practice to read documents before you sign them?---(NO AUDIBLE REPLY)

Correct?---Should be, yes.

And you would have done that on this occasion. Do you agree?---I don't remember but I assume so.

30 All right. And it's a, an acknowledgement by you that you have been provided with certain information in relation to the provision of services to you, you being the Valuer General. Do you see the first line?---Yes.

It starts, "By this deed?"---Yes.

That's pretty clear indication, isn't it, that the information that's been made available to you is for the purposes of providing services to the Valuer General? That's pretty clear, isn't it?---It's got "Quotable Value Australia." That's another firm.

40 Yes, but this was a document provided to you in relation to your access to the SIX database. Correct?---Yes.

Given to you by David McMillan. Right?---It seems so, yes.

And it was something that the Valuer General wanted before or, or wanted you to acknowledge for you to continue to have access to the SIX database. Correct?---Yes, that's what it looks like, yes.

And part of that acknowledgement is the statement or an indication from you that you understood that you were being provided with information in

relation to the provision of services to the Valuer General and that, and some of the information that you were being provided with was the information contained on the SIX database. Correct?---Yes.

So what I'm suggesting to you is that just a reading of this document would have made it abundantly clear to you the purpose for which you had been provided access to the SIX database – it was to provide services to the Valuer General. Correct?---Yes.

10 THE COMMISSIONER: Ms Hildebrand, if you look at clause 1, it says, "I have read and understand the terms of clause 9." I, I take it from the way you've given your evidence so far that you, you don't have any recollection of looking at clause 9. Am I wrong?---By the fact that it's got Quotable Value Australia in there I don't believe I looked at any of it.

That seems to be a mistake?---I know. Had I seen that I would have said that.

20 And - - -?---I signed it, I signed it either way but - - -

I know but are you able to cast any light on whether you were shown clause 9?---I can't remember. I don't remember signing it. I believe I did by looking at my signature but I don't remember signing it and I don't remember noticing it had the wrong firm either.

Do you remember when you signed it?---No.

Do you remember when you were given documents to sign?---No.

30 Did anybody explain the documents you were given?---I don't remember, they may have but I don't remember.

MR BROAD: David McMillan has witnessed your signature?---Yes.

As you've said he was your supervisor at the time?---Yes.

Did he provide you with a copy of the agreement between Westlink and the Valuer General?---I don't remember.

40 You don't remember?---I don't remember this at all. I don't know.

Well, maybe if, if you could go back to folder 1 and I'll just show you clause 9, if you turn to page 24 of folder 1. Just before I ask about that, you were, obviously you were aware that there was an agreement between Westlink and the Valuer General - - -?---I would assume.

- - - concerning, concerning the Warringah and Pittwater areas?---I would assume so.

That would have been, reference to that would have been made during your initial interview at Westlink I - - -?---I would assume so.

And that's why you were being brought on, wasn't it?---Yes.

10 All right. If you could turn to page 24 of folder 1, it's page 20 the contract, clause 9 is entitled "Confidentiality." Maybe just have a read of the first paragraph just to yourself. Having read that now does that, does that help you, does that assist you in recording whether - - -?---(not transcribable)

- - - you'd, you'd seen it before?---Oh, I don't remember, I don't recognise it, I don't remember.

You don't remember it?---No, but I mean it's clear, yes.

What's clear?---The use of the database.

20 THE COMMISSIONER: What date did you commence your employment with Westlink?---I'm not sure, in 2006 but I'm not sure, was it July? I don't remember.

When one looks at page 518 of volume 2, that's signed on 26 March, 2007, that's, that seems some months after you joined?---Was it? Okay.

That's right, isn't it?---I, I don't remember when I joined the company but - - -

30 Well, if you look at the date it's 26 March, 2007?---Ah hmm.

And that's some months after you joined, isn't it?---When did I join.

Well, you said in 2006?---Oh, sorry, yes, yes.

And you, you can't remember I take it why there was a delay in giving you this document to sign?---I don't know.

40 And I take it from what you're, from your evidence that you don't know if there was anybody who explained the importance of the document to you or whether there was any ceremony involved in you signing it?---I don't remember.

MR BROAD: You, you were given the access to the database on 11 October, 2006 and as the Commissioner's pointed out to you you signed the confidentiality acknowledgment in March 2007 so you had use of the database for some five or so months prior to signing this confidentiality agreement?---Okay.

Were you given, do you recall at that time when you were given the access, when it was provided to you in October 2006 whether anyone spoke to you about the basis upon which you were provided the access?---I have no memory of when I actually got the login, the details, no.

Well, I'm asking you whether you recall anyone actually - - -?---No.

- - - explaining to you - - -?---No, I don't remember when I got it, I don't remember how I got it, I don't remember.

10

Well, in any event, when you did get it it's your evidence I understand that you believed that you were authorised to use it for Westlink work?---Yes.

And at that time you were doing work on the Warringah contract?---Yes.

You knew when you received it, when you were provided with the access in October '06 that you couldn't use it for purposes unconnected with the Westlink work?---That wasn't made clear, no.

20 But that was something that you understood surely?---It was the only work I was doing at that time, Warringah and Pittwater work so that was the only use I could put it to.

Yes, and that's the reason you were given access to it?---Yes.

And you couldn't use it for instance to look up information about notable persons?---I wrote all the training manuals at Westlink and to be able to be familiar with the database I'd have to be able to do searches or whatever I needed to become familiar so if I - - -

30

My question is when you were access in October 2006 the access was for the purposes of, of - - -?---Yes.

- - - of Westlink work?---Yes, right.

That was your understanding, that's your evidence?---Yes.

40 You understood that you couldn't use it for purposes that were completely unconnected with Westlink, could you?---It wasn't made clear. It was given to me to do the work that we were doing, yes.

Yes, but you, what I'm suggesting, well, did you think that you were entitled to use it for instance to, to conduct an inquiry about a notable person? Do you think that something that was part of the, within the terms upon which you were provided access to the database?---You would assume not strictly, no, but - - -

No?--- - - - but I mean in, in, as a means to become familiar with what the site offers, for me to be able to write up training manuals I need to be able to carry out a search or whatever.

Well, when did you write up the training manual?---Oh, I've done a lot of training manuals through that time. I don't know when exactly.

10 THE COMMISSIONER: You could go and look up the address of a, you thought you could just go and look up the address of a film star or some other well-known person using that database, you were perfectly entitled to do that without paying for it?---For my purposes I, I wasn't doing it for any reason other than familiarisation.

Curiosity?---Yeah, curiosity and familiarisation. I typed my own name in there as well as - - -

20 MR BROAD: Yes, but you didn't need to look up the details of a famous person in order to prepare a manual did you?---Well, you do because if you do a search by name you can then view all the documents relating to that, the ownership of that property so - - -

Ms Hildebrand, you were searching, you were looking up notable persons or information about notable persons just to satisfy your, your personality curiosity about them?---An element of that at that time, probably.

Probably?---Yes.

You were, weren't you?---Well, yes.

30 And you understood that was not, you weren't entitled to use the database for that purpose, were you?---I didn't see the problem with that. I just - - -

You may not have seen a problem but you knew you weren't entitled to use it for that purpose?---I'd assume you're not supposed to use it for that purpose but I - - -

Well, why would you make that assumption?---Because it's, you would just assume.

40 Well, why? What is it, what, what matters which leads you to making that assumption?---(NO AUDIBLE REPLY)

THE COMMISSIONER: Well, you must have known it was confidential to Westlink?---You - - -

You could only look it up if you were doing it for Westlink's purposes?---I don't consider any of that confidential. Its ownership information so much that you get on so many databases.

Perhaps confidential is the wrong phrase but ordinarily you'd have to pay for it, this way you didn't have to pay for it?---That didn't enter into my head. I've never paid for a single document.

But Westlink has?---Sure and I realise now that's (not transcribable) but I at that stage had not considered that.

10 MR BROAD: You, you understood that you weren't entitled to provide others, provide persons outside of Westlink with access to the SIX database, you understood that in 2006?---Yeah, I would assume so.

THE COMMISSIONER: What do you think the purpose of the password is?---To allow access to a certain person.

To that person alone?---Generally yes, but passwords are shared.

Where are they shared?---To other people in the office, to - - -

20 They were shared in the Westlink office?---Yes.

As a matter of practice?---Yes.

But ordinarily the purpose of a password is to give the recipient of the password sole access to information isn't it?---Yes.

30 Otherwise there'd be no point in having a password would there if you had, if you gave it to the whole office what would be the point of having a password?---Mmm.

You mean you agree that there would be no point in having a password? ---No.

The point of a password is to actually make sure that only the person who receives the password has the access?---Yes.

MR BROAD: And you gave the, the user account name and the password to your father. Do you recall that?---Yes.

40 And you knew you weren't entitled to do that?---I would assume so, once again I don't remember when I did that, but, yes.

Yes. But you knew you weren't entitled to do that?---You would assume not, yes.

And you gave it to Mr Algie in April 2009. You recall that?---Yes.

And you knew you weren't entitled to do that?---I assumed not, yes.

Now the information that you were given access to, you recall that there were, it basically comprised or was contained in two systems within the SIX database. There was the document Integrated Imaging System, which contained various plans, strata plans?---Okay.

Deposited plans. Do you recall that?---I can't remember the way the system works now, but, yes, that was contained in there, yeah.

10 All right. But you had access to plans?---Yes.

You had access to registered dealings?---Yes.

Copies of mortgage documents?---Yes.

Transfers?---Yes.

You had access to lease documents. Do you recall that?---(NO AUDIBLE REPLY)

20

And strata plans, deposited plans, registered dealings, they all cost money. You had to pay normally for access to that?---Okay. Yep.

You understood that?---I believe that now, yes.

And you understood that?---I believe that now, yes.

And you understood that in, while you were working for Westlink?---At some stage, yes.

30

You were also given access to a system within the database called the Integrated Titling System. Do you recall that?---Okay. Not by that name, but yes.

And that gave you access to title searches, certificates of title?---Okay. Yes.

Which were also a, something which the Valuer General normally charged a fee?---Yes.

40 But you had access through your employment with Westlink which didn't involve Westlink paying any money to the Valuer General. Do you recall that?---Yes.

Now when you were provided with access to the SIX database what was your understanding as to when it would terminate?---I assumed at the end of the contract.

And the contract was due to expire on 30 April, 2009. Do you recall that?

---Around then, yes.

And why do you, were you told that or why do you make that assumption?

---I just assumed, the end of the contract.

Well why did you make that assumption?---Because we were given it when we started the contract, I'd assumed it would be cancelled - - -

10 You made that assumption because you were given it, the access for the purposes of working on the contract?---Yeah.

Yes. So when the contract came to an end your access came to an end?

---You would think so, yes.

Yes. It was clear from that that you knew that you were provided access for the purposes of working on the contract?---It was given to me for that time. I didn't see that it was a problem to use it while we were working on that contract, no.

20 Now you've given evidence that there were others in the office, Tim Fleming and David McMillan?---yes.

Tim Fleming, he was an assistant valuer- - -?---Yeah.

- - -when you started in 2006?---Yeah.

And he performed very much the same role as you did?---Yeah.

30 All right. When you started in '06, were you required to access the SIX database very much?---Can't remember.

Why did you need to access it in the first place in relation to the Warringah work? What sort of information was on the database that was relevant to your work?---I think lot boundaries, number of units in unit blocks, off the top of my head, that's it.

This was all information that was useful in the undertaking of - - -?

---Yes.

40 - - -valuing land?---Yes.

And it was your primary responsibility to obtain information of that nature?---Yeah.

And that information was then relied upon by others more senior in the office to make the valuations. Is that how it works?---I think, it, in the beginning, yes, I think so.

Now, there were occasions when you were locked out of the database?

---Yes.

And why would that occur?---Typed in the wrong password.

If you typed in the wrong password you got a message to say that the, the account's been disabled and would you please contact the local administrator to reactivate the account?---I think so, yes.

Would- - -

10

THE COMMISSIONER: Would that happen only on one, the first, the first time you made a mistake, that would happen?---No. I think you had to make, type it in incorrectly a few times.

MR BROAD: Three times, wasn't it?---Three times.

Type it in incorrectly three times, the account would, would, would be disabled. Is that- - -?---O.K. Yes.

20

Are you prepared to accept that?---I'll accept that, yes.

And it's the case, is it not, that when that occurred, rather than contact the LPI and organise for the account to be reopened, you would simply use either Timothy Fleming's or David McMillan's username and password to, to access that database and continue working. Is that right?---Yes.

And was it the case that they would use your username and password if the same fate befell their use of the account and they were locked out?---Yes.

30

And that was a normal practice?---Yes. We had each other's passwords and if we worked after hours, which we did, and we couldn't contact the Department of Lands, that's exactly what we did.

Yeah?---And did you keep a record of other people's usernames and passwords?

Yes?---And where did you keep that? I think I kept it on the pinboard next to me, if not, in a drawer. I can't remember where we kept each other's passwords, but- - -

40

And did they keep a, do you know whether David McMillan and Timothy, Timothy Fleming kept a record of your username?---I believe they did, yes.

THE COMMISSIONER: Was it just the three of you or did anyone else share their, their, the use of the password?---There were temporary contractors that helped us at different times and I believe we shared our passwords with them to get the work done if we needed, yes.

MR BROAD: All right. Now, you also knew by reason of your use of the account that it didn't allow for multiple users. If one person was using the account- - -?---Yes.

If you'd logged onto the account and someone else had used your username and password to, to also log onto the account, that would have kicked you out of the account?---Yes. I think I knew that then.

10 Do you recall that happening when you were working at Westlink on occasions?---I don't remember a particular incident but- - -

No---?- - -I believe I knew that then, yes.

Yeah. And was that explained to you at the very beginning in October 2006?---I don't remember. When I got it I don't remember that being explained, no.

20 Anyway, that was the experience that you had when you used the account - - -Okay.

- - -on some occasions?---Okay.

And that indicated to you that someone else was using the account?---It would, yes.

Yes. Now, you, you've given evidence that you gave your username and password to your father, Greg Hildebrand?---Yes.

30 Do you recall when you did that?---No.

Can you recall the year when you did it?---No.

Well- - -?---I assume within the first few months. I, I don't know. I don't remember.

Your father is a successful businessman. Correct?---I assume, yes.

Well, you, you, you either, you know or you don't?---Yes, I would say so.

40 Yes. And his business is real estate. Correct?---Yes.

He is a man who was, practised as a solicitor in the field of conveyancing? ---Yes.

Correct?---Yes.

And owns a number of properties in his own right?---Yes.

Is connected with various companies that own, that has substantial holdings of properties. Correct?---Yes.

It would be true to say that real estate is your father's life. Correct?---Yes.

And your father has a considerable number of tenants that occupy a number of commercial premises that he owns either directly himself or through some of his companies. Right?---Yes.

10 Now if the witness could be shown volume 2, folder 2. If you could turn to page 587. Now you should have before you an email, a copy of an email from yourself to your father dated 21 November, 2006?---Yes.

And in the email that you've sent him you've attached or you, yes, you've attached a copy of a title search you conducted using your SIX user account?---Yes.

And you conducted that search on 21 November, 2006?---Yes.

20 And that title search relates to a property that your father bought in Foster? ---Yes.

And that property was registered in your name?---Yes.

And, but purchased by your father using his own money. Correct?---Yes.

Why did you, you knew that as at 21 November, 2006, you didn't need to conduct a search - - -?---No.

30 - - - on the SIX database to find that out?---No.

So why did you on this particular occasion?---I don't know, just - - -

This was just a, you and your father sharing a joke it would appear?---Yes.

And you'd agree that using the database for this purpose was not consistent with the purpose for which it was granted to you?---No, it's not related to my work, no.

40 No, it's not related to your work at all?---Mmm.

And you were obviously aware of that on 21 November, 2006?---Yes. I don't see the harm in that, but, yes. It's not a search I would have carried out that relates to me, I just didn't see the harm in that.

You, was this the first occasion when you indicated to your father that you had access to the information on the database?---I don't remember.

Do you remember having a discussion with him about the nature of the work you were doing at Westlink?---I would have had a discussion. I don't remember it, but yes.

And your father would have been interested to know what sort of work you were doing?---Definitely, yes.

And he would have been interested to know what sort of information you had access to?---I can't imagine he would ask that, no.

10

No. But there must have been a discussion you had with him during which you indicated that you had access to the - - -?---Yes.

- - - to property related information on the SIX database?---Yes.

And it would have been clear from your discussion with your father that the access you had was as a result of, was for the purposes of using it for your Westlink work?---You would assume, yes.

20

Yes. And that was the, that would have been evidence, self evident?---Yes.

And your father would have understood that?---Yes.

And did he ask you for the username and password?---I don't remember when I gave it to him. I don't remember how I gave it to him. I don't remember the discussion.

30

Well do you remember why you gave it to him?---I would have given it to him just for him to have a look, out of interest, I suppose.

Well - - -

THE COMMISSIONER: There's an inference, a possible inference that you gave it to him because you thought it would help him in his business? ---No.

Why should we not draw that inference?---I can see why you see that, but - - -

40

I beg your pardon?---I can see why you would see that, but that's not something that would enter into my head. I didn't believe my - - -

I would just give, I would like to give you the opportunity, which I'm now doing to explain why we shouldn't draw that inference? What really was the reason then? If it wasn't that, why did you give it to him?---Just out of interest.

Out of interest?---Just if he was interested. I never - - -

Interested in what?---Interested in, in the information that you can get on that database, out of interest. It's, it would, real estate would be his hobby, if you had to describe it that way, and it would be of interest to someone like dad, the information, as it was to me. It is interesting.

To see what's there?---Yes. The information there, it's not, I never considered it would help him in his business. It was not the motivation for it.

10

MR BROAD: But you gave it to him because it would be something about which he would be interested. Correct?---I would assume he would have been interested.

Well that's because he's interested in real estate?---Yes.

And whether he has a, well that he would involve himself in a number of property dealings?---That he was involved?

20 Yes?---Yes.

I mean you gave it to him because he could use it to obtain information that was relevant to his business interests?---It could be, but I don't remember that being my reason for giving it to him. I just, as far as I thought it was my father and he could have a look, as far as I was concerned, I just didn't see that that was - - -

Yes, so he'd have a look at information that was on the database that was relevant to him. Correct?---Well he could have, yes.

30

Well that was the only reason you'd give it to him. He wouldn't look at it for reasons unconnected with him?---No, I wouldn't think that, no.

No. He wanted to, you gave it to him so he could look at information about properties that he was interested in?---He could have, yes.

Well that was the reason you gave it to him?---I didn't consider what he would look at. I gave it to him to have a look at - - -

40 THE COMMISSIONER: Mr Broad, I don't think this - - -

MR BROAD: Yes.

THE COMMISSIONER: The issue has been canvassed enough.

MR BROAD: Now you've, I think I've asked you some questions about using the account to look up information about notable persons and you

agree that you, you did that on occasion?---I have, I believe I have. I don't remember the occasions, but yes.

And that was something unconnected with your employment with Westlink?---Some of them may have been. I, I don't remember doing this. I mean if this happened on one or two occasions perhaps, but it's not, it was not a regular, a regular habit.

10 All right. Did you look up information about friends, friends of yours?---I don't remember.

Alison Scott, did you - - -?---Alison is my friend, yes.

But there's an access relating to her that was probably done by you. Is that right?---Yes.

Tara McKenzie, another friend of yours?---I don't remember that, but yes. Yes, I do know him, yes.

20 So if that access occurred then that has more than likely been done by you? ---Oh yes, yes. Yeah.

Kelly Slater?---Yes.

Someone else that you would have accessed?---Yes.

30 All right. Now you completed your work at Westlink on 1 May, 2009, that's the work on a permanent basis. Do you recall that?---Permanent basis, but I was still working for Westlink until March the following year.

THE COMMISSIONER: On what basis?---On a contract basis, but I was doing Valuer General's work all the way through there as well as other work.

So just to understand, before your contract with Westlink was terminated, were you working full time for Westlink?---Yes.

Were you an employee of Westlink?---Yes.

40 And then in May, 2009 you stopped being an employee?---Yes.

And you became an independent contractor?---Yes.

So they would pay you on a piece work basis for the work you did?---Yes.

Whenever they needed you?---Yes.

You'd be phoned and asked to do something?---Yes.

Or sent an email?---Yes.

MR BROAD: And now what was, the work you were doing private client work as an independent contractor. Is that right?---Yes.

10 And who were the, who was your client or who were the clients?---I did a revaluation of that house in Collaroy. We were doing working for Defence Housing Australia and we continued to do objection work for the Valuer General.

THE COMMISSIONER: Were you working for anyone in particular or were you freelancing?---I was working for Westlink as well as Addisons from that point.

And were you, were you employed by them or were you working as an independent contractor for them?---I was contracting to both, yes.

20 And were they your only two clients?---Yes.

And did you get a whole lot of work from each of them, enough to keep you busy all the time?---Oh, yes, yes.

Did you have to turn work away?---I don't remember doing so but I may have.

So the, with the two of them you were fully occupied?---Yes.

30 MR BROAD: And the Defence Housing work, that was private work?---It wasn't related to the Valuer General's work, no.

Yes, yes. And that was the majority of the work that you did when you were working as an independent contractor for Westlink?---I believe so but I can't remember. I've done a lot of objections but I don't know when I did most of them.

40 All right. And the, the objection work you did as an independent contractor for Westlink, was that in relation to all areas of New South Wales?---No, only areas in Sydney.

Right. Which area, a particular area of Sydney or - - -?---Willoughby we had a few, I think Hornsby, Ku-ring-gai, they're off the top of my head.

All right. Now, you were given access, well on 17 April, 2009 you were provided with another username, hildebrandk2 and this gave you access to the SIX database, do you recall that?---This is the one that relates purely to objections?

Yes, this was objection work?---Yes, yeah.

Do you recall that?---Yeah.

And the access that you had was to information that was, well, it wasn't as extensive as the information that you had access to under your original account?---You received all the documents relating to objections from that one, yes.

10 Right, all right.

THE COMMISSIONER: Who gave you the second password?---I don't remember. Someone from Westlink.

Was it someone from Westlink?---Yes, but I don't remember who or when or how. I believe but like I say I don't remember, I assume so.

And was there any explanation given to you as to why you were given the password?---I don't remember. I don't remember who gave it to me.
20

You didn't have to sign anything?---I don't remember.

MR BROAD: This was access to a system called ValNet, do you recall that?---I remember ValNet, I can't remember what was there, yes.

And did you ask for that?---I don't remember.

And that it was provided to you so that you could do the objection work?
---I believe so but I don't remember the discussion, I don't remember.
30

And did ValNet contain information about land values?---I think that it gave the history of that particular person's objection in the past and their previous land valuations, yes, I think it was everything related to a particular objection.

THE COMMISSIONER: And the plans?---I can't remember.

MR BROAD: Well, I don't think ValNet gave you access to the plans, did it?---They didn't?
40

No?---Okay.

No. So ValNet was, one of its purposes was to provide a means by which information could be provided to you by the Valuer General for the purposes of the objection work?---The history of that objection - - -

Yeah?--- - - - for that particular person's objection.

You could reconsider the valuation and send the information back through the ValNet system to the Valuer General. Is that how it works?---I can't remember how it went back but - - -

Right?--- - - - I just remember downloading the documents relating to a particular property and the history of it.

Okay. Now, you mentioned you did some work as an independent contractor for Westlink, for the Defence Housing Authority?---Yes.

10

Did you use the SIX database, that is the first user account you had been provided, did you use that particular account to obtain information for that work?---I may have. I don't remember but I may have.

All right.

THE COMMISSIONER: So would you have, you'd have used the password you original obtained?---Ah hmm.

20 That wasn't cancelled?---No.

MR BROAD: Yes. Did you expect that that particular password, the first one you were given of that particular account to be cancelled, correct?---I did expect it, yes.

THE COMMISSIONER: But you discovered that they had omitted to do that, Westlink had omitted to cancel it?---I didn't know who was to cancel it, I assumed the Valuer General.

30 But whoever was to cancel it hadn't cancelled it?---No.

MR BROAD: So I take it around about early April you would have been aware, early April 2009, that your Warringah, your, sorry, your work with Westlink on the Warringah contract was coming to an end?---Yes.

And you started looking around for other work?---Yes.

And I think you saw an advertisement on a website for a job as a valuer at Addisons?---Yes.

40

And you emailed a copy of your CV to Addisons in response to the advert, correct?---I believe so.

And you had an interview with Mr Algie who was the managing, one of the managing directors of Addisons in early April 2009?---Yes.

Can you recall that? 3 April, 2009?---Okay, yes.

And do you recall that interview?---Yes.

Now I take it that during the course of the interview Mr Algie would have described the nature of the work that Addisons was performing?---Yes.

And it was residential valuations for lending institutions?---Yes.

A significant proportion of the valuations related to strata properties, did he tell you that?---I don't remember that being mentioned.

10

All right. Did he, well, what did he say about the nature of the work?---Just as you've said, valuations for mortgage purposes and that was about it. I had no experience really in that area so - - -

But this was something well within your capabilities?---I was learning to do that on the, on the job I guess at Addisons but, yes, I was.

Well, you were a certified practising - - -?---I was certified to do it but I had no previous experience before then, no.

20

Right. But you had the skills to do it - - -?---Yes.

- - - because of the work you'd done at, for Westlink?---Yes.

And in order to do this particular work you needed to have a copy of a relevant plan, either a strata plan or a deposited plan that related to the property?---Yes.

30

Because that was, contained information that would assist you in conducting a proper evaluation of the property, correct?---Yes.

You'd also need sales data, information about the sales history of a property?---Yes.

All right. And you would expect that Addisons would provide that information to you - - -?---Yeah.

- - - in order for you to, to conduct those valuations?---Yes.

40

And you would have accepted or you would, I take it you would have assumed for good reason that Addisons had access to all of that information, that is the sales history and titles and plans at the time you were interviewed on 3 April - - -?---Yes.

- - - 2009?---Yes.

I note the time, Commissioner.

THE COMMISSIONER: We'll go on.

MR BROAD: Yes. Now, you were to be paid for each valuation you conducted?---Yes.

And you were engaged as a contractor?---Yes.

I think you were offered the position or offered the engagement on 6 April, shortly after the interview. Does that ring a bell?---Around then, yes.

10

Yes. I think it was, it was agreed that you'd start working around 20 April? ---Okay, I don't remember but yes.

Yes but - - -?---It was, it was a little, a couple of weeks later.

Yeah, all right. Now, the work that you were doing for Addisons, the way it was delivered to you was in the following way I'll suggest and tell me if I'm, if I'm incorrect. You were sent a text message - - -?---Yeah.

20

- - - with instructions to undertake a valuation of a particular property. Is that how it works?---Yes.

And you then make an appointment to inspect the property?---Yes.

And then you'd access the Addisons website and update the particular job folder with information about the appointment time?---Yes.

Is that how it worked?---Yes.

30

You were given a username and a password to access the Addisons' website?---Yes.

And there you'd find a copy of the instruction sheet that had been prepared by Addison staff?---Yes.

And that would have the details of the property, correct?---Yes.

40

Attached to the instruction sheet on the Addisons' website would be some data concerning the sales history of a property?---We had to get our own sales evidence from other databases but we could download all documents that we - - -

Okay. So you were provided with access to a database that contained sales information?---Yes

Was that RP Data?---RP Data and Property Monitors, yes.

All right. And did Mr Algie give you a username and password to access that particular site?---Yeah. Yes.

Right. And what about plans, strata plans, deposited plans, title searches, those sort of documents that you needed in order to conduct your valuation, they were contained on the Addisons Website. Correct?---Yep.

And you understood that they were obtained by Addisons administrative staff?---Yes.

10

Who would access or, well, who would make a request with an information broker. Correct?---If they didn't already have them, yes.

Right. Because Addisons had a library of strata plans?---Yes.

Correct?---Yes.

Did Mr Algie tell you about it, the interview on 3 April, 2009?---I don't remember when, but he told me that they had a library of plans and- - -

20

Right. Was that before you started working for them?---I don't remember.

So they'd go and look in their, their library, their database of stored strata plans. Correct?---I would assume, yes.

And if it was there they would attach a copy to the job on their Website and then you could download that strata plan?---Yes.

30

If they didn't have a cop of the plan in their library they would have to obtain it through an information broker. Correct?---Yes.

And they'd have to pay for that?---Yes.

And have to pay about \$20?---I thought it was less than that. I don't know.

But all of this would have been clear to you or made clear to you during that interview with Mr Algie on 3 April, or, or during conversations you had subsequent?---At some stage, yes.

40

When you started you knew exactly how the system worked, or you had a pretty good idea?---I had an idea, yes.

Yeah. All right. Now- - -

THE COMMISSIONER: Ms Hildebrand, we could adjourn if you would like to take a break, otherwise we'll just go on. It depends on you?---I'm just happy to keep going if you are, thanks.

MR BROAD: I wonder if the witness could be shown page 1327. Do you have that, Ms Hildebrand?---Yes.

And that's, you should have before you a copy of a Instruction (not transcribable) sheet?---Yes.

And it relates to a property at Ward Avenue, Potts Point?---Yes.

10 And do you recall seeing this before?---That's my writing, yes.

That's your writing?---Ah hmm.

This is a document that was, that you had kept and stored at your apartment. Correct?---Okay. Yes.

And if you look down the very bottom of the first page, instruction sheet, you'll see that it was printed on the, well, appears to have been printed on 22 April, 2009?---Yes.

20 And if you could turn to page 1333, a copy of a strata plan?---Yes.

And if you check the bottom, it's upside down, but the writing at the bottom indicates the source of the plan and it appears that that's a, may well have been obtained from the Addisons' Strata Plan Library?---Yes.

Do you agree with that?---Yes.

30 And the other documents, the real estate information is something that you would have downloaded yourself?---Yes.

Using the username and password that Mr Algie had given you?---These pages, 1328?

Yes?---No, no, they're just from realestate.com.au Website.

And that's a free Website, is it?---Yes.

40 But RP Data was something you had to pay for, the information on that database. Is that right?---Yes.

Right. Now, if you go, go to page 1335. Again it's an instruction sheet from Addisons. It was located at your unit. Do you recognise that?---I, I don't, but yes, that's- - -

That's yours---?- - -an instruction sheet, yes.

Yeah. And if you turn the page there's some field notes. They're in your---?- - -They're mine.

That's your writing?---Yes.

And you accept that you would have conducted this particular- - -?---Yes, yes.

- - -valuation. If you turn the page to 1337 there's a copy of a strata plan. And that strata plan was downloaded using the, your Hildebrand- - -?---Yes.

10 - - -username and password.

THE COMMISSIONER: That's the first, the first passwords?

MR BROAD: Yes, that's the first one, hildebrandk. The second one was, was, the username for the second account was hildebrandk2. This is hildebrandk. This was the first account that was given to you in October 2006?---Ah hmm.

20 Now, and it was printed on 19 April, 2009, which was a Sunday. You accept that you would have accessed the SIX database using that username and downloaded a copy of this plan for the purposes of this particular valuation?---Yes.

Why did you do that?---I believe preparation for the report, for the job the next day and impatience not being able to access it before Monday.

All right. But you knew that Addisons would provide you with a copy of the plan?---Yes, yes.

30 Right?---Yes.

But you, you downloaded the plan yourself on the Sunday using your, or using a SIX database account. Correct?---Yes.

Now, obviously this had nothing to do with the Valuer General's work, did it?---No.

And nothing to do with Westlink's work?---No.

40 And you weren't entitled to use the database for this particular purpose. Correct?---I'd assume not, no.

Well, I don't understand why you keep saying you assume. I mean, it's obvious, is it not, that this was an impermissible use of the account?---(not transcribable) I continued to use it while I was working at Westlink and I just- - -

Yes, but you're not using it for Westlink purposes on this occasion.---Not, not at this, no.

You're using it to download a strata plan for Addisons?---Yes.

Which is an impermissible use of the account. Don't you agree?---Yes.

Now, this was a plan that was being used for the purposes of a valuation you were conducting on behalf of Addisons. You were using it to benefit
10 Addisons. Correct?---No.

Well, it did benefit Addisons, didn't it?---It was to speed up the process. I didn't provide that to Addisons.

No, but they didn't have to pay for it, did they?---Well, perhaps they did. I don't know if they would know if I'd downloaded it or not.

Well, did you tell the admin staff at Addisons that the, that you had downloaded this particular plan?---I don't remember. It was a Sunday. I
20 doubt it.

Well, did you go in there on the Monday and say to them, hey, look, don't worry about downloading the plan for this particular- - -?---No, no, no.

- - -I've already got it?---No.

THE COMMISSIONER: Did you ever do that?---Not that I remember, no.

MR BROAD: Well- - -?---I often have to ask for the strata plans so if
30 they're not asked for they sometimes aren't provided.

I'm sorry, could you- - -?---I often have to ask for strata plans, so if I didn't ask for it it may not have been provided.

Right?---So generally they're put in the system ahead of time but if they get missed or- - -

Well there are other instructions that you received from Addisons on the Friday, 17 April, this is the day after you received these two in relation to
40 properties at Dee Why and Queenscliff. And it appears that you, in relation to the property at Dee Why downloaded the plan again on the Sunday at 3.50pm. And in relation to the property at Queenscliff you downloaded it on the Monday at 10.52pm in the evening?---Okay. It was without any consideration to Addisons. It would have been my own impatience and trying to get organised.

THE COMMISSIONER: But they did benefit by it?---I can see how they did, but that didn't enter into my head. I don't remember doing this, but from the time or day that you're talking about, I clearly did do it.

You just took it for granted that you would continue to use the password?
---Yes.

10 But you must have known that you weren't entitled to do that?---You would think, I mean it seems that way yes, but I just didn't, didn't think to - - -

You didn't throw your mind to it?---No.

You just blightly went on using the information for work not connected with the Valuer General or Westlink?---It would seem so, yes.

20 MR BROAD: In relation to these other valuations in respect of which you downloaded the plans yourself, did you, did you tell Addison staff that you were going to do this or that you had done it?---I don't remember. I don't imagine why.

Well to save them the trouble?---No.

But weren't you trying to present yourself as someone that was not only very efficient in what you were doing, but someone who had access to information that was relevant to the business that you were doing?---No. No.

30 Well that's the impression you may have made don't you think? Are you prepared to accept that?---I don't think anyone would know that I'd done that unless I highlighted it to them.

Well if you - - -?---And I would have no reason to highlight that.

Well if you go to page 297, volume, folder 1?---What page, sorry?

40 297. Do you see that, there's an email that you sent to Mr Algie on that particular day, on 20 April, 2009? This is at about 4.00pm and it's in response to a, it appears that you're replying to an email he sent to you on 17 April?---Yes.

And in that email you're providing him with the, the username and password for the Valuer General's database. Correct?---Yes.

So you were advertising the fact that you had access to this information. You were advertising it to Mr Algie weren't you?---They were tendering for the Department of, the Valuer General's work, so from my perspective, our perspective I gave it to him to show him what you get as part of the work that you're tendering for.

Well how do you know he was tendering for work?---He told me.

When did he tell you that?---I don't remember exactly when, but he told me he recognised me from a tender briefing the year before, I think the year before.

And when did this conversation?---I don't remember when that was.

10 Well it must have occurred before 20 April?---Well it must have, yes, but I gave it to him for the purposes of I guess out of interest this is what you get when you do this work.

But you've made specific reference in the email to the sort of information that he could access?---Yes.

Underneath the hyperlink you've written for title, plan, lease, sale et cetera searches?---Yes.

20 That's all information that's relevant if you were conducting a valuation isn't it?---It is.

Yes?---But they were tendering for work, valuation work.

Yes, but why, Mr, as of 20 April, 2009, you knew that Mr Algie had had a vast amount of experience in valuations. Correct?---Yes.

He knew what a title looked like didn't he?---Yes.

30 He knew what a strata plan or a deposited plan looked like?---Yes.

He knew what a lease looked like?---Yes.

And he, he clearly knew what sales information looked like because he was the one who sent you the, the link to the RP data?---Yes.

40 So why did he need to, why did you need to show him this sort of material? He was quite familiar with it wasn't he?---He would be familiar with it, but just that that is the link that you get when you do the Valuer General's work and if you're tendering for this work, this is what you get as part of that work.

All right.

THE COMMISSIONER: Well if you're tendering?---If you get it, sorry, if you get it.

- - - your tender is accepted?---Yes.

Ms Hildebrand when did you first, when did it first come to your mind that this is the reason that you gave your password to Mr Algie?---When did I decide that was the reason?

Well, yes, do you recall that you gave evidence to the Commission before?
---Yes.

10 You were asked about why you gave the information to Mr Algie?---To have a look.

You didn't mention that you gave to him for the purpose of valuation did you, because, for the purposes of showing him what he would get if he got the contract for which he was tendering did you?---I knew that he was tendering for that work.

No, no, my question is when you gave evidence, let's start again. You gave evidence before the Commission at a compulsory examination?---Yes.

20 You were asked why you gave your password, Westlink password, giving access to the Valuer General's database to Mr Algie?---Yes.

When you replied you did not say then that you gave it to him to inform him of what he would find in the database were he to get the contract did you?
---I don't, I don't remember.

Well now that's, that is my, the basis of my question, when did you first think about this as an answer to the question, why did you give your password to Mr Algie?---I, I always - - -

30 MR LEWIS: Commissioner, could she be shown the relevant part of the transcript?

THE COMMISSIONER: No. I asked her, I'm not, and she said she couldn't remember. And I'm not saying to her that she did, I asked her whether she did, so she's not being misled in any way.

MR LEWIS: All right.

40 THE WITNESS: I don't remember the discussion, but I remember being told very early on that they were looking at the work that I'd been doing for the last three years with Westlink and I knew that when I gave that login that they had a library of plans already. It was not to assist Addisons. It was purely, I gave it to Angus to have a look at what you get when you do the work that I'd been doing, the work that they were tendering for.

Yes.

MR BROAD: Well I might just take Ms Hildebrand to that particular passage. The point, I ask you, Commissioner, to uplift the suppression order that you made in relation to Ms Hildebrand's evidence on that particular occasion, 13 April, 2011.

THE COMMISSIONER: What the entire, all her evidence?

MR BROAD: Yes, Commissioner.

10 THE COMMISSIONER: Very well. That, the order, the suppression order relating to Ms Addisons evidence in the compulsory examination is removed.

MR BROAD: Yes, thank you. Ms, yes, page 19, please. If you go down to point, page 19, point 30, you were asked the questions about why you gave Mr Algie the username and password. A point further you indicate that you were giving it to Angus to have a look. You were asked this question, "You were doing him a favour?" Answer, "Understanding that he was going to tender for this work. This is what you get." Do you see that passage?
20 --- (NO AUDIBLE REPLY)

Do you recall giving that evidence?---Yeah, (not transcribable) protocol is, yep.

I think that if you turn the page, to page 20, about point 13 on the page, you were asked this question, you made a reference, you contend that you gave it to him to assist him to make a tender or to tender for some of the work. Is that what you said?---It wasn't, it wasn't to assist in tendering, it was as they were tendering for the work, this is just to show - - -
30

THE COMMISSIONER: Just answer the question.

MR BROAD: And you say, "No, no, I didn't know that. I know that he was interested in the work that I'd been doing." And the Commissioner asked you a question, "I thought you said that you did it because you knew he was going to make a tender?" And your answer, "I know, sorry, you see I don't know if I knew that after the tender part of it later, but I know that he was interested in the work that I was doing and they were interested in doing that themselves. So do you - - -"
40

THE COMMISSIONER: And then the next sentence is I think relevant as well.

MR BROAD: "Well, what, what would you - - -?---I don't know if they were preparing a tender or what they were doing at the time, I don't know?"---I know that they were going to tender for that work, I assumed they were tendering. I don't know if they had started the tender or not but I knew that they were introduced in doing the work that I'd done.

So they, there wasn't actually a conversation involving yourself and Mr Algie where he said that he was tendering for the work?---Oh, there, there have been several with Angus and James.

But you couldn't recall them on - - -?---I don't know when.

- - - 13 April, 2001, it would appear from that answer that you've been directed to - - -?---No, I can't.

10

- - - but you can recall them today?---I've had two months to think about things but I, I knew that they were tendering, wanting to tender for the work that I'd been doing, I don't know when they actually started preparing a tender and I don't know when I had the discussion but I know that I gave it with the idea in my mind that it would be used to have a look at what you get - - -

But you'd already used the user account and password yourself to obtain plans for Addisons, hadn't you?---Myself?

20

Yes?---I don't remember many but you've shown me some, yes.

Yes, and you continued to download strata plans after 20 April for Addisons work?---I don't recall there being many.

Well, but you - - -?---I was - - -

- - - did continue to download the plans - - -?---I can see that I have but I - - -

30

- - - because you started getting quite a lot of work from Addisons after 20 April?---Yes.

And you continued to download the plans and often you downloaded them quite late at night?---I work late at night, yes.

Yes. And you'd provided the username and password to Mr Algie on the 20th?---Yes.

40

Did you indicate to him prior to providing him with the password that you were using the account yourself to download plans?---I don't remember.

Well, wasn't that a subject of conversation between you and Mr Algie, the fact that you had access to the database and that - - -?---It was, it was, yes.

Yes?---I mentioned that I had access, yes.

And I, I, I'm asking you whether during the course of that particular conversation you would have made reference to the fact that you'd already used it for Addisons?---I don't believe I would have.

THE COMMISSIONER: Why was there conversation, what was the topic of the conversation that you had with Mr Algie concerning your access to the database?---I don't remember the actual discussion.

10 I find that odd. If you remember having the conversation but you don't remember what you've discussed?---I remember, I, I don't remember the actual discussion, I - - -

Well, why would you have a conversation about it? Did you regard it as an important fact?---If they were looking at the work that I'd been doing it was just as a means to provide them information with what you get when you do the work that I'd been doing. This is the database you get when you do this work.

20 Are you saying that you had this conversation with him before you started working for him?---I don't remember when it was.

You must have realised that if he got access to the database it would be to the benefit of his company?---He would realise that, yes, I didn't consider it.

But you brought it up?---I, I don't remember.

Well, who brought it up?---If, if I did, I, well I - - -

30 Who else could have brought it up?--- - - - I must have brought it up but I don't remember the discussion.

Well, why did you bring it up?---To help.

To help?---To, to show what you get if you do the work.

Well, those are two different things, to help and to show what you get are two different things?---There was no consideration to any financial benefit, any advantage in preparing anything.

40 No, no, I'm not, I'm, not suggesting there was any, well, I mean, you might have, the financial benefit to you would be to, possibly, to make him feel that he owed you something and you'd get more work?---No.

Well, how, what was it that would help him?---It was just to offer him, show him what you got as part of the work, that really is it.

But how would that help him?---It wouldn't help him really it would just be interesting for him to see.

But you said that you, one of the reasons that you told him about this was to help him?---It was for him to have a look, him personally to have a look.

Well, one way it would help him is it would give him access to all these plans for which he was paying money?---I realise that now, yes.

10 But you're saying that you didn't realise it at the time?---I didn't consider that at the time because they had a library and I was aware of the library of documents but - - -

But this of course would enable him to add to his library?---It would, it would, yes.

And that would help him?---But it's not something I considered, no.

You didn't think he would do that?---Never. I did not consider that.

20 Did you ever think he would use it?---I expected him to have a look at it which is what I gave it to him to do, to have a look at and see the information.

I understand that but I'm asking you whether you ever, did you ever discuss with him the use of the password?---I believe I told him not to give it to anyone because I remember thinking at the time that I didn't want James to have it because I had barely met James and it was to, for Angus purely to have a look at.

30 Would you have objected had they used it for the work they were doing, not to simply store it in their library but just to use it for the valuations that they were doing?---Absolutely because my name is on every document, yes.

I beg your pardon?---Absolutely I would have objected.

MR BROAD: Now - - -

40 THE COMMISSIONER: Can you say whether you said anything to Mr Algie which reflected your state of mind?---I probably didn't, I don't believe I did.

So he wouldn't know, he would not have known why you gave it to him then?---I believe he should have know, I, I, like I said, I don't remember the actual discussion but I, I'm sure I said don't give it to anyone because that, I never wanted anyone else to have it.

MR BROAD: You, you gave him the password on 20 April and you, I take it at that time you knew that your work at Westlink was coming to an end? ---No.

Your permanent position at Westlink was coming to an end?---Yes. It was, my permanent job I think had finished, I think it (not transcribable)

Did you think that the password, that the account that you'd provided to Mr Algie would be deactivated - - -?---Yes.

- - - when your permanent position came to an end?---So I assumed, yes.

10 Which was 30 April?---Yes, and I believe I said that.

You said that to - - -?---I said that to Angus.

Right. So is it possible that you might have said to Angus, look, here's the password, this database is open for ten days, I expect it to be closed when my permanent position comes to an end - - -?---I didn't (not transcribable)

- - - you can look at it, there's information there that's relevant, you know, you can use that, at least for that period of time?---No.

20

Is that something that, that you think may have been said by you?---I don't recall any discussion like that, no, in my mind I was giving it for him to have a look and it was to expire.

So you recall - - -?---That was it.

THE COMMISSIONER: So, sorry, I just want to get that quite clear. You thought that you were giving it to him to have a look?---Yes.

30 One look?---To view what was on the site and pick - - -

So he'd have one look at wouldn't have to look at it again?---Yes, yeah.

And, and I think that you mentioned that, you told him that it would, words to the effect that it would shortly be deactivated?---Yes.

So if he wanted to have a look at it he should look at it pretty soon and then that would be the end of it as far as you were concerned?---I, yes, yeah.

40 And he would have one look at it and that would be the end of it?---Oh, he may look at it several times to - - -

Why would he look at several times?---For preparation of the tender or out of interest, I don't know.

But you see, those are different things, Ms Hildebrand, really they are. I'm sure you understand that. It's one thing to look at the database to see what's there because you were curious to see what would you get if you got the

tender, that's one thing. To look at it because you were doing work and you need information from it is an entirely different thing, isn't it?---Yes.

But you've just said that you expected him to look at it to get information for work?---I never expected it to be used for Addisons, no. I expected him personally- - -

So you expected him to look at it once?---I didn't have any expectation, I just- - -

10

Well, you would have been surprised that he looked at it more than once? ---Not necessarily.

All right. How many times would you, if he looked at it five times would you be surprised?---No.

Why? I mean, if you were just giving it to him for him to look at it to see what's there, surely you would have been surprised that he had to look at it more than five times to see what was there?---I didn't think about how often I expected him to look at it.

20

But on your basis you gave it to him simply to have a look to see what's there, so that he would know what he was getting if he won the tender. That's right isn't it?---Yes.

I mean, if he looked at it ten times, that would hardly be consistent with looking at it just to see what was there, wouldn't it?---(NO AUDIBLE REPLY)

30

No, you're shaking your head. I'm not sure what you're saying?---I don't know what you expect me to say. I gave it to him- - -

I'm just telling you to tell me the truth?---I'm telling the truth. I gave it to him because I wanted, he could have a look at it, it was due to expire any day, they were tendering for the work I'd been doing, this is the Website, this is what you get. I never considered it would be used for anything else.

MR BROAD: There's just one thing. You said, "I never expected it to be used for Addisons?"---No.

40

But you were using it for Addisons the time you gave it to Mr Algie? ---I was using it myself.

Yes?---Yes.

And you were providing it to the managing director of Addisons?---The login.

The login?---Yes.

And you were using it at that time for Addisons?---It seems so, yes.

It's difficult to see on what basis you didn't, didn't contemplate- -?

I know what it looks lie, I can see, yeah.

- - -that Mr Algie would use it for Addisons like you were doing?

---I was provided all the documents that I needed from Addisons already.

10 I'm impatient and I work at night and obviously if it was faster to get the information myself through the database I'd used for all valuation prior to that, I didn't see that it was a problem.

You were careful, you, let's move into May, 1 May, 2009 you finished working at Westlink?---Full-time.

Right. And I suppose on that day you would have thought to yourself, well, that account I've given to Angus Algie should, should be deactivated, should come to an end. But it didn't come to an end, did it?---No.

20

No. It wasn't deactivated?---No.

And you found that out pretty quickly after, either on or after 1 May?

---I don't recall how often I used it but I found out, yes.

Yeah. And did that come as a surprise to you?---I think initially and then I assumed that it was still active because I was still working for Westlink and I was still doing Valuer General work.

30 Right. It hadn't come to an end. And you'd given the password to Angus. Were you concerned at that point- -?---No.

- - -that Angus had the password?---No.

And that the account was still open?---No.

I take it at that particular time, that is on or shortly after 1 May, you were using the account to download plans for Addisons jobs?---I can't believe that there were many, but I- - -

40

But you were doing it?---Clearly did, yeah.

So you were using the account for that purpose but it didn't contemplate, you didn't contemplate the possibility that Angus may have been?---No, because they had the strata plans and plans (not transcribable)

Did you go to Angus on or after 1 May and say, don't use that account any more?---No.

Why not?---I just assumed it was going to be cancelled, I just- - -

But it wasn't cancelled?---It wasn't, I know, but (not transcribable)

And you'd only given it to him, according to you, so that he could have a look?---Yes.

10 Well, by, from 20 April to 1 May, he'd had plenty of opportunities to have a look, hadn't he?---Yes.

And after 1 May the account was still open, wasn't it?---Yes.

He didn't need to have the account any longer, did he?---I don't know.

20 Well, if he was just looking at it, if he, if he had it for the purposes of looking at it, he didn't need to, to have it much beyond 21 April, did he? It would depend on what he was looking at. I mean different contracts come up for tender at different times. He may have wanted to look at it at a later time (not transcribable)

THE COMMISSIONER: So he, you expected that he would look at it for contracts?---For, just to see what was on the site.

To get the plan?---Out of, no, I never considered that, 'cause they had them already. They're an established- - -

No, they didn't have all of them?---Well, as far as I knew- - -

30 What, they had all the plans?---As far as would, I had no reason to believe otherwise. I knew there was the library.

Addisons had every plan that there was in New South Wales?---They'd been operating for years. There was no reason to think that they wouldn't.

40 MR BROAD: Well, on or after 1 May, well, when you found out that the account was still open, Angus has still got it. You don't know whether he's given it to James Smith at that particular date, do you?---I hadn't considered it, no.

And that was a concern of yours?---Not, not then.

Well, it was on 20 April or thereabouts when you told him not to give it to James Smith?---I did actually say that, did I?

I'm sorry?--- I did actually say that, did I? I know I thought it.

Well, why wasn't that a concern after 1 May?---I don't know.

THE COMMISSIONER: So you didn't say that to him? I'm sorry, I didn't
- - -?---Are you saying that I did or- - -

MR BROAD: Well, I thought it was, correct me if I'm wrong, but I thought
it was your evidence that you told Angus not to give the password to anyone
else?---I, I'm sure I told him not to. I don't remember whether I specifically
said not to James.

10 Okay. All right?---Whether that was what I thought in my head.

Well, what I'm asking you is that after 1 May, did it cross your mind that he
may give it to someone else, that was still a possibility?---I don't remember.

Well, on what basis did you trust him not to give it to anyone else?
---Because I asked him not to.

You'd only met the man on 3 April?---I know. Yeah.

20 Perhaps you had a few telephone conversations with him after that?---I just
got on well with Angus, I met Angus at the interview, I just, it was due to be
cancelled, they were tendering for the work.

All right. It was due to be cancelled because you'd completed the
Warringah work?---Yes.

And you'd been given the account for the Warringah work?---Yes.

30 Did you, on or after 1 May did you ring up Belinda MacFarlane from
Westlink and say, hang on, this account's still open?---No. I just assumed it
would be the end of that month or the financial year. I just assumed it was
going to be cancelled at some stage.

Well, at the end of that month did you ring up Belinda MacFarlane and say,
look, there's been an oversight- - -?---No.

- - -the account's still open, it shouldn't be open, I'm no longer working as a
permanent employee for Westlink, can you make sure you contact the LPI
and tell them to turn off the account?---No, I didn't.

40

Well, why didn't you do that?---I was still using the site for Westlink, I was
still, I just assumed it would be cancelled automatically, that was the
process.

You were using the site for Westlink. You'd been given a second account, a
hildebrandk2 account for the objection work you were doing at Westlink.
Correct?---Yes.

So you had that account available to you after you left Westlink on the, on 1 May, 2009. Correct?---Yes.

You weren't doing, well, how much private client work were you doing for Westlink after 1 May?---It was scattered at different times, but a reasonable amount, at different times.

10 Well, what you should have done is rung up Belinda MacFarlane and said, look, close the hildebrandk account and I'll need another account so I can perform the private client work I'm doing for Westlink. Correct?---There is no other account. I don't know what you mean.

Well,, well, this private client work was, had nothing to do with the Valuer General work, did it?---No, but I used it for private client work when I was at Westlink and continued to do so.

20 Is it the case that you didn't make the phone call to Belinda MacFarlane at Westlink because you knew that the account was being operated by Addisons after 1 May?---No. No.

Well, you were using it for Addisons?---I wasn't using it for Addisons, I was using it full stop. I was using it- - -

To download strata plans for Addisons work, weren't you?---I believe there weren't many. I don't believe there were many, because I was using it for Westlink. I was provided everything from Addisons. I had no need to look it up, to use it for Addisons.

30 Well, when you were getting jobs from Addisons, particularly jobs relating to strata properties, did you, did you start noticing that your username was appearing at the header, at the head of the- - -?---Much later.

- - -images of the plans?---Much later.

When did you start realising that your account had been used to download the plans?---I can't remember but I remember noticing Tim's login as well so that was much later.

40 Now, Mr Fleming left Westlink employment on a permanent basis around 28 May 2009. Do you recall that?---Yes.

He was a friend of yours?---Yes.

He also had been provided to access to the SIX database while he was at Westlink.---Yes.

And during the time that you and he worked together you obtained his user name and password - - -?---Yes.

And this was a result of that practice of sharing passwords - - -?---Yes.

- - -within the office. Now after the 1 May, after 28 May you would have expected that Mr Fleming's account would also be deactivated?---Yes.

He'd left Westlink, he wasn't even engaged on - - -?---No.

- - -the basis as an independent contractor.---No.

10

So you found out – and I'll withdraw that. You began accessing the SIX database using his account. Do you recall that?---Yes.

And I think you did that shortly after 28 May 2009. Do you accept that?
---If that's so, yes.

Well, do you recall that?---I don't recall that no.

20

When you did that, when you made those access as using his account obviously you would have realised that there'd been a failure on someone's part to notify the LPI that he had left.---Unless it was only specific cancelled later down the track, I don't know.

Well, why would be cancelled – I mean I thought it was your understanding that the account would be deactivated - - -?---Yes.

30

- - -when you finished working?---I assumed that when I finished working and then when I didn't – I assumed it must be cancelled at a later date whether it be the end of the year, I didn't know I just assumed that it was, it was cancelled.

Why did you access Mr Fleming's account?---I just interchangeably, like I had for no attempt to conceal what I was doing, there was nothing sinister if that's what you're suggesting.

Well, did you tell Mr Fleming that you were using his account?---No, I just didn't consider it significant it was just - - -

40

THE COMMISSIONER: I just don't understand why you'd used his name?---Well, I don't know.

There is an inference that you used his name because you wanted to conceal the fact that you were using it?---No, I would never put my friend in a position - - -

That's why we, that's why you're being asked why so you have an opportunity to explain why you used his name?---I don't know may be, I don't know but I mean, is this before I gave it to Angus?

MR BROAD: No, is account, he left on 28 May and the records would indicate that his accounts was accessed after that date 2 June 2009, 22 June 2009, I'm suggesting to you that it was you who accessed this account on those days?---I didn't consider what I was looking up to be wrong, I would not try to hide behind my friend's login - - -

The Commissioner's asking you why?---I can't answer that, I don't know, I mean, I used different login's at different times - - -

10

You didn't need to, I mean you had - - -?---I know I didn't need to.

- - -you had the HindebrandK account.

THE COMMISSIONER: Did you use other names to login apart from Fleming?---I would have used Davies, I would have used, I assume, I don't know but I assume I have just that Tim and I were there in the office the most and we knew each other's passwords. It's just - - -

20

MR BROAD: Do you recall a property at 17 Memorial Avenue, St Ives?
---No, but yes, I know which one, I don't recall that particular property but I
- - -

One of the reasons you may have decided to use Mr Fleming's account was because when you were using the HindebrandK account you were being knocked out of the account so to speak. Do you recall that happening?
---No.

30

Didn't happen?---It possibly did.

This is after the 1 May, sorry, after 28 May 2009 you were – I think you're prepared to accept that you were on occasions would have accessed the hildebrandk account?---Yes.

And were there time when you were on the, on the accounts when you were, when your access was disabled?---Okay, yes.

Is that possible?---Possible, I don't remember this but, yes.

40

And that you then thought, I still want to get the information that I'm after I'll use Mr Fleming's account - - -?---Yes.

- - -I'll grab the information using his account. Is that a possibility?---Possibility, yes.

Right. And if that had occurred, if you had been kicked out so to speak of your account after 28 May 2009 that would have indicated to you that

somebody else was using your account?---Not necessarily, I get kicked out of all databases, it can be an internet connection thing it could be - - -

Do you recall the evidence you gave earlier today that you recall that - - -?
---That is a reason, yes.

10 - - -multi-use of the account was not permitted and that when you were working at Westlink you recalled occasions when you were on the account on your hildebrandk account and you were kicked out?---I do, but I don't know if it was for that reason or whether the internet connection just dropped out - - -

No.---There are other reasons for it and I just - - -

So you're saying that that may have occurred, that you may have been - - -?
---May have occurred, yes.

20 - - -kicked out of your hildebrandk account after 28 May 2009 but if it did but you wouldn't have formed any suspicions that the reason for that was because somebody else was using your account.---Not necessarily, no.

Wouldn't have crossed your mind at all?---It could have crossed my mind, don't remember clearly.

Well, if it had crossed your mind, the first person you would suspect or the first people you'd suspect would be the people from Addisons surely?---It would be Angus because that's all I gave it to, yes.

30 Yes.---If I was to draw that conclusion that Angus was in there at the same times, yes.

THE COMMISSIONER: Did you think that?---I - - -

Or you're saying you can't remember?---I don't remember, I don't remember these incidents.

40 MR BROAD: Well, perhaps if Miss Hildebrand could be shown this statement of Mr Lyons at, I'll show you, what I'm showing you Miss Hildebrand is a document which is a log of accesses to your account. I just want to draw your attention to one particular matter.

THE COMMISSIONER: What page is it?

MR BROAD: It would be page, among the bundle of (not transcribable) the next. Well, look may be if I deal with it this way, Miss Hildebrand between 1 May 2009 and 3 September 2009 sessions on your user account the Hildebrandk account were invalidated 124 times and that was because of multiple use.

THE COMMISSIONER: Invalidated.

MR BROAD: Invalidated. Whoever was on first was kicked off because someone else used it, user name and passwords to log into the account – 124 times. From 1 January 09 to 1 May 09 the session was invalidated on 1 occasion.---What were those dates sorry?

1 January to 1 May, the session was invalidated once.---Yes.

10

After you gave the user account and password to Mr Algie that is from 1 May to 3 September, it was invalidated 124 times. Now you were using the Hildebrandk account between 1 May and the 3 of September. Correct?
---Was I, yes, okay.

Well, were you?---I believe so.

20 Yes, you were using it for Addisons work, correct?---Does that show where the person was when they were kicked out the location of that computer because I've not been kicked out of that a hundred and how ever many times.

No, I'm - - -?---So.

THE COMMISSIONER: I don't think it's been suggested that you were.

MR BROAD: No, I've asked - - -?---Are you suggesting that I've had 124 opportunities to think that someone else is using my login.

30 No, but I am suggesting - - -?---That there are other people using my login.

- - -but on some of those occasions - - -?---Possibly.

- - -it could have been you that was kicked out, it's certainly not all of them, no.---It could have been I could have been - - -

And that would have put you on immediate notice that others were using your account?---It could have but my internet connection at my place is - - -

40 What I'm ultimately putting to you Ms Hildebrand, is that you knew from 1 May to 3 September that Addisons were using your hildebrandk account?---I knew that Angus had my login.

Yes?---I don't know what happened to it beyond that until down the track, after the fact. And then I didn't know the extent then.

You must have had conversations with administrative staff at Addisons between 1 May and 3 September?---Probably requesting documents, yes.

Some of those people were Jodie, Natalie?---Yes.

Do you recall those people?---Yes.

And did they have conversations with you about the information that you were requesting for the purposes of valuations?---No, other than - - -

10 Well did you have occasions to ring them up and talk to them and say, look I need this plan, I need this RP data search?---Yes.

I need information about the sales history relating to this property?---Yes.

And during any of those conversations did they make reference to the fact that they were using - - -?---No.

- - - the database that, which you provided them access?---No.

20 Now 3 September, 2009 was the date upon which the hildebrandk account was deactivated. Do you recall that?

THE COMMISSIONER: Permanently.

MR BROAD: It was disabled, it was permanently disabled?---Yes.

Do you recall that day?---Yes, I think so.

30 Do you recall receiving a telephone call from Mr Algie about that fact?---I don't remember if he called me or I called him, but yes.

THE COMMISSIONER: So you might have called him?---Yeah, I don't remember.

About, about the deactivation?---Yes.

40 Why would you call him about that?---Because if I gave him the logon details and then I tried to type it in, I don't remember how it happened, but if I found it wasn't working I would assume it had either been cancelled as it should have been or that Angus had typed in the wrong password.

So you, you took it for granted then at that stage that he was still using it? ---He possibly could have because that was the only other reason it wouldn't have worked. It had either been, I assumed that it had been cancelled naturally.

But if he was just using to have a look to see what it was, why would he be using it still at that date?---He could have needed it to look at it at a later

date. And if he'd only looked at it every now and then he could very likely have forgotten the password and typed it in incorrectly.

MR BROAD: Yes. If the witness could be shown the document entitled Timeline. It's in volume, folder 4. Ms Hildebrand, I just want you to go to page 4 of the timeline.

THE COMMISSIONER: That's page 1152?

10 MR BROAD: That's correct. Now if you could go down the bottom, the last three entries on page 1152, there are three failed attempts belonging to the hildebrandk account?---Yes.

And that's at about 5 past 5.00 on the Thursday?---Ah hmm.

Down the page there are further attempts at 6 past 5.00 and 14 minutes past 5.00 to access the hildebrandk account, but they're unsuccessful because the account's been disabled?---Mmm.

20 Do you see that?---Yes.

It's been disabled because three unsuccessful attempts have been made to, for login. Correct?---Yes.

Now at 7.33 there's another attempt to log into the account unsuccessfully. Do you see that?---Yes.

30 And I suggest that that was you and the reason I suggest that is because if you look directly beneath that particular entry there's an attempt to log into the hildebrandk2 account immediately after - - -?---Yes.

- - - your unsuccessful attempt to log into the hildebrandk account. So I would infer from that, it's inferred from that that it was you who, who was now operating the account at that particular time or both accounts?---Yes.

Do you accept that?---The one starting at 7 o'clock?---Yes.

Yes, 7.30?---Yeah.

40 THE COMMISSIONER: Were you the only person who knew, who had access to the hildebrandk2 account?---I believe so, yes.

So that suggests that all the read, all the items printed in read on page 1153 reflect logins by you?---No.

Well if that - - -?---Starting at 7 o'clock for the - - -

Start at 5 o'clock?---Starting at 7 o'clock though.

Yes, starting at 7 o'clock, yes?---If starting, if I was doing an objection, which is why I would have logged into that k2 one.

I see?---I could have gone to the primary site first before the other - - -

So the ones at 7.33 onwards are - - -?---Those would be me, yeah.

10 Those are you. But not the ones at 5.00?---I wouldn't have any way of knowing.

Right.

MR BROAD: But firstly that would indicate that you were still using the hildebrandk account - - -?---Yes.

- - - as of 3 September?---Yes.

20 Because you tried to log in unsuccessfully around 7.30?---Yep. Yes.

You've then checked your second account and it's true to say that you rarely used that second account?---That only provided documents related to particular properties (not transcribable) the owner was objecting to the land value.

Yes. So you didn't do much objection work?---I did quite a lot, but I don't know when I did them.

30 All right.

THE COMMISSIONER: But you, at that time it seems you just checked, you just, you just obtained access to the hildebrandk2 account to see if it was still working because you, within less than a second you had logged out again. The third, you can see it, at, well it's a bit, not a second, I'm wrong, it's in a second, 19.33.54 you have a successful log in, one second later you log out. So you must have just seen, checked to see whether you were able to log into that account?---See the properties on Tim's login just below that, they're Westlink jobs. That top one, Gareth Close is an objection, I'm sure. And I must have tried to get the information, like deposited plan, title search
40 from my login before then trying my objection folder, which is, I was working on an objection, so I had to go to that objection database. And then after being kicked out of my login I've gone to Tim's to get the information I needed relating to that objection job for Westlink.

MR BROAD: So you understood then that the, the hildebrandk account had been disabled, but Mr Fleming's account and your k2 account were still open?---It may not have been disabled, it may have just not been working for whatever reason, but yes, yes, that could have happened, but - - -

Well the error message which apparently is, appears on the screen as (not transcribable) disabled account?---If it said that then I would have known that, yes. I don't remember, yes.

So when you discovered at 7.30 on 3 September that your hildebrandk account had been disabled were you concerned about that?---I don't, I don't remember.

10 Well given, I ask you that given the fact that - - -

THE COMMISSIONER: She doesn't remember Mr Broad.

MR BROAD: Doesn't remember.

THE COMMISSIONER: She doesn't remember whether she saw a disabled message or not.

20 MR BROAD: All right. But did it cross your mind?---I don't remember, but I would have assumed that it may have been cancelled because it was due to be cancelled.

All right. Well you went on then to use the Fleming account to obtain some information which was relating to some Westlink work?---Yes.

You say that the Mount Colah and the Voyager Point were objection, were they objection jobs or were they Defence Housing jobs?---No, Colah was an objection, the other one is, that's a Defence Housing job.

30 All right. Now, if you look, go to the bottom of this page, 1153, the last entry relates to the following day, the Friday, and there's a phone call from your phone to - - -?---Angus.

- - - the phone number there, that's an Addison's phone number?---That's, yeah.

That's Mr Algie's phone number?---Yes.

40 And you speak for about 19, well, the call duration is about 19 seconds so that might suggest that you left him a message?---Must have. I, I, I don't know.

And then you call him again later that morning at about 18 minutes past 10.00 and the conversation goes for some length of time?---Most, most of my calls with Angus go for quite a while.

Well, one of the subject matters of the call, well, firstly, it would appear that you rang Mr Algie - - -?---Okay.

- - - on the, on the Friday and you rang him to discuss the fact that your hildebrandk account had been disabled?---I believe so, yes.

Right. That was the primary purpose of the call?---I don't remember.

Do you think it might - - -?---I talked to Angus every day for at least 15 minutes so I don't remember that particular, the content of that entirely.

10 And during the call did you ask him whether the hildebrandk account had been, had been used by Addisons?---I don't remember asking. I don't think I would have asked directly like that.

Well, the account had been disabled, shouldn't it, didn't it cross your mind that one of the reasons it had been disabled - - -?---I would have mentioned that it wasn't working - - -

Yes?--- - - - but I don't know whether I would have pointedly have said anything, no.

20

All right. So you may have asked him for an explanation as to why that wasn't working?---I may have, I assume I would have, yes.

And that's because you might have formed the suspicion that, that someone from Addisons or Algie had been using it?---At some stage I definitely formed that suspicion but I don't remember when exactly.

Well, you would have formed the suspicion at the time you made the call? ---I don't remember.

30

Now, do you recall the conversation you had with Mr Algie?---Not in any detail, no. I remember discussing the fact that it didn't work.

Right. And did Mr Algie tell you that the, did he confirm that the password was no longer working?---I think so but I'm not sure.

All right?---I can't remember.

40 And did he give you an explanation as to why the password wasn't working?---I can't remember.

Did he tell you that he had been told by the girls, that is the office staff, that the password isn't working?---Yes.

He did tell you that?---Yes, at some stage, I don't remember when but I remember hearing the girls and being concerned, yes.

Well, was that during the - - -?---I don't remember if that was in that call or after it all.

Right. But you found out some time around then that the - - -?---Yes.

- - - that he had been told, Angus had been told, that the, by the, the girls in - - -?---Yes.

10 - - - which is obviously a reference to the administrative staff - - -?---Yes.

- - - the password wasn't working?---Mmm.

So you knew from that piece of information or you would have suspected from that that Mr Algie had provided the passwords and the user account name to the admin staff?---Yes.

That would be clear, wouldn't it?---Yes.

20 And he'd done that so that they could use it to download information?
---That's not why I thought, no.

Well, why else would he give it to his staff?---He might have asked them to check something for him which we all did, if we needed anything the girls would always help us. I had no considered they were downloading anything for Addison's use, no and I know that because I then gave Tim's login and I would never have given Tim's login had I known what was happening to mine let alone my friend's.

30 Did he ask you for another password?---I don't remember. I don't remember if I, I don't know why I would have volunteered it but I don't remember.

But you gave him another password?---I did, yes.

You gave him a password by sending him an email with the - - -?---Yes.

- - - link and the password immediately after the phone call?---If that's the timing, yes.

40 Well, why did you do that?---I must have assumed that mine had been cancelled and Tim's was soon to follow, I don't know. I don't know.

Yeah, but why did you give it to Mr Algie? I mean what, for what purpose did you give it to him?---For the same as the original purpose, just - - -

THE COMMISSIONER: But it wasn't for him to find out what was there because by now he knew?---The whole time I was working for Addison's they were talking of tendering for contracts but my, I don't know what use

they had for looking at it but I know that they had the documents that I was provided with in my time I was working there. It didn't occur to me that they would then use that for more.

MR BROAD: But it was obvious at that particular point in time that given the fact that Angus had provided the password to others in the office that it was being used by Addisons?---It was obvious that he'd not kept it to himself - - -

10 Yes?--- - - - and that someone else had accessed the site for him but I didn't know - - -

THE COMMISSIONER: For what purpose?---I didn't know what purpose. I didn't - - -

But what purpose could there possibly be?---I mean it's incredibly obvious now, I know but at the time I just thought they were assisting in the preparation of a tender, they were having a look, I - - -

20 Ms Hildebrand, there is, there is a possibility that you thought that Addisons would just use your password whenever they needed a plan they didn't have?---Well, they could have but I didn't - - -

Is that, did you think that?---I didn't give it to them for that purpose or them, Angus, I didn't give to Angus.

For that purpose?---For that purpose. I gave it to him just to have a look, this is what you get when you do this work, that was the motivation for giving it.

30 I can accept that it might have come as a shock to you to learn that he had in effect downloaded the whole stock of plans?---It did, yes.

But it may be that you simply thought that he would use it on a needs basis, that is that whenever he needed a plan that he didn't have he's use it and it wouldn't really mean a lot?---Well, that's true and he might but it's going to be cancelled any day, it's not - - -

40 Yeah?---I mean if, I don't know, I didn't give it for that purpose, no, but it's reasonable that that could have happened, yes.

It's reasonable that you could have thought that or I'm not sure what you mean?---I could have thought that, I don't remember. I could have.

I beg your pardon?---I could have thought that, yes, but I don't remember.

MR BROAD: But didn't, when Angus told you that the login had been shared with the girls didn't it occur to you that there might have been some excessive use made of the password?---It did.

It did. And that is, in other words, that they were using the password or the account to download information?---I didn't know what it was being used for.

But what else does excessive use - - -?---I don't know.

10

What else could you have been thinking of when you thought about the possibility of excessive use?---I just don't believe, I just didn't think it, I didn't think about it. I did, I don't know.

20

Well, you gave evidence at the compulsory examination that when Mr, well, I'll take you to the reference, it's page 40 at point 25, just bear with us for a moment, please, point 25. The question starts just above point 20, Sorry, I think you, ignore the Belinda phone call, you've made reference to "Angus phoned me to say that the girls said the login, the password's not working, right, so then I became aware of the fact that it had been shut down, not knowing whether it was because it had expired or because from the girls' comment that it's been overused and, yeah." Do you recall giving that evidence?---Yeah.

Well, I'm just asking you when you thought that, that is the possibility that it had been overused, you obviously would turn your mind to the possibility that it had been overused in the sense that it had to have been used to download information?---Yes.

30

What else could you have possibly thought?---Attempted logins, I mean, it would register every time you logged in without having to download anything so I - - -

So when you provided Mr Algie with the Fleming account on 4 September, it was, surely it was for the purposes of him to continue - - -?---I didn't know that that was happening.

40

- - - obtaining information that was relevant to his business?---I would not, I did not know that that was happening.

But (not transcribable) suggested to you that you knew that Mr Algie would use that account to complete the task of downloading all the data, all the strata plans on the, available on the database, that's not being put to you, what's being suggested to you is that when you gave him the account on the second occasion you did so knowing that he would probably use it or he'd pass it on to his staff so they could use it just to download information on a needs basis?---That was not the reason I would give, I would not give Tim's

login for that purpose I don't remember the discussion around it but I don't -
- -

MR BROAD: Well then, what other reason would you give him the
Fleming account?---I don't know I - - -

Is it the case really that perhaps you didn't want to dwell on this for very
long but you really knew - - -?---No, sorry.

10 - - -what he was using it for but it's not something that you wanted to think
about for very long or very hard. Is that right?---I think there's an element
of that.

You pushed it out of your mind - - -?---There is an element of that but not
that's not - I would not handover Tim's login.

But you did handover Tim's login?---With that awareness I would not have,
I wouldn't have, I would not have.

20 Well, I'm suggesting to you that you probably did think about it but you
didn't think about it for very long. That is, you didn't think about the fact
that it was going to be used to download information by Addisons.---I don't
believe I knew that. I know that afterwards I checked the system for future
jobs and I could see my login and Tim's login on plans, so I was well aware
that it was being used by Addisons at that point.

You saw your name - - -?---Yes.

30 - - -at the top of a plan.---Yes.

And you could tell.---Yes, I knew afterwards, definitely, yes.

All right. That would have been pretty soon after - - -?---Yes.

- - -the 4 September.---I remember I specifically looked for it, yes.

40 Well, what action did you take to bring that to an end?---I remember I
phoned Angus at some stage and said, something about how I'd noticed my
name was on strata plans.

Right. Did you ring Belinda MacFarlane and tell her to - - -?---I just hoped
that it would be cancelled and assumed it would be and it would just I stuck
my head in the sand.

Well, on what basis did you assume it would be cancelled it was still active
on 4 September, this is the Fleming account, it should have been closed on
28 May.---It should have but I just assumed maybe it was the end of the
year, it just had to have been cancelled and just stuck my head in the sand.

I wonder if you could turn to page 336 which is folder 1 please. It's a copy of the email that you sent to Mr Algie on 4 September.---Yes.

And that's enclosing or attaching the Fleming username and password. Subject section of the email you've written Valuer General's 6 login, last one.---Yes.

Was that the last one?---It must have been.

10

THE COMMISSIONER: What is your, what does that mean last one, what did you mean by that?---There's no more. I had my login and Tim's login as far as I'm aware at that point.

I see.

MR BROAD: So after 4 September, after you provided Mr Algie with this user account and password, you began to notice or you began to take more careful notice of the plans that you were receiving - - -?---Yes.

20

- - -from Addisons and you say that you noticed that your name appeared at the top of the plans indicating that your username and account had been used. Did you also see Fleming's name appearing at the top of the plans? ---Yes.

You've already given evidence that you did nothing to stop that from continuing?---I brought it up but I didn't pointedly say anything other than (not transcribable)

30

Is that because you didn't think there was much wrong with it?---No, because I didn't want to, I just, just an awkward conversation I didn't want to have and I just thought it would go away and it would be cancelled.

Well, you knew you weren't entitled to give Mr Algie Mr Fleming's account didn't you?---Yeah.

It was obvious.---Yeah.

And you weren't entitled to give him your account either?---No.

40

No.---I just leave it, I just didn't see what I did as being so wrong, it was just have a look, they were tendering for that work, it was - - -

But they weren't tendering for the work on 4 September 2009.---As far as I knew they were, they were repeatedly tendering for that work.

You gave it to him on 4 September so that he could use it to download information, surely?---Not to download anything – I gave it to him to look at.

You found out quite soon after 4 September that that's what he was doing. ---4 September, is that after I gave Tim's?

Yes.---Yes, yes I did.

10 And do you recall that some time shortly after 4 September you rang, you telephoned Heath Bedford?---I don't recall that.

Heath Bedford was an employee of Westlink?---I know Heath, yes.

He was situated in the Albury office?---Yes.

Do you recall getting a hold of Heath Bedford's password?---I've had Heath's at some stage, I don't remember when though but yes I've had Heath's password like everybody else's, yes.

20

Do you recall the conversation that you had with Heath over the phone? ---No, I don't recall a phone call.

You don't recall ringing him and asking him for his username and password?---No.

You don't recall telling him that you were, that your password had been deactivated and that you needed another one for objection work?---I don't recall - - -

30

You don't recall that conversation. But you do recall obtaining his user account and password?---I don't know when I, I don't know if I got it while I was still at Westlink or not, I don't know.

And you can't recall the circumstances in which you got it?---No.

Is it possibly that you may have got it by making a phone call to Heath? ---Possibly but I - - -

40 Well, you didn't work in the same office as Heath did you?---No, I had worked with Heath in the same office but not at that time, no.

Well, when you worked with him you didn't obtain his password on that occasion, is that right?---I don't know when I got the password.

It's quite possibly though that you could have obtained it by making a phone call?---Possible yes. These are all things that just weren't considered

significant at the time, I don't remember when and how these things happened.

Now what use did you put Mr Bedford's password?---I assume the same as my own, I don't know.

Did you use it for Addisons work?---If I occasionally looked it up, looked up plans that I had on my own, I assume I did too, I don't know.

10 All right. Well, if Miss Hildebrand could be shown the index for volume 3 – I'll indicate to you what this is Miss Hildebrand. It's a summary document that summarises information that has been obtained by the Commission, it's based on 25 instructions that were recovered from your unit on 6 April of this year by Commission officers. They came across 25 sets of documents which contain a set of instructions from Addisons – the sales data information and the copy of a strata plan relevant to the property the subject of the valuation. They were taken from your premises so, I take it from that you'd accept that these were instructions that you had been provided with by Addisons?---Yes.

20

And the notable thing about these particular documents is that they all contain strata plans that had been downloaded using the Bedford account and they date from 23 September, this is the date, the date that they were downloaded were 23 September 2009 through to 5 November 2009. And would you accept from me that that would indicate that the circumstances I've described to you would indicate that you used Mr Bedford's account to download those plans.---It appears so, yes.

Appears so.---I don't remember doing that.

30

Why did you do that?---I don't remember doing it – I don't remember having Heath's login at that time.

Well, it would appear that you have done it, I mean, there's no other - - -?---
It appears that I have but - - -

- - -sensible explanation as to why these plans are attached to Addisons instructions which were found in your unit. Do you agree with that?---I can't see them myself but I'd trust that that's right, yes, I don't know why I would have needed to look up any plans because they're provided.

40

Well, were you concerned at that particular time that Addisons were making excessive use or making use of the Fleming account and that you wanted to - - -?---There's, no.

Well, then why did you do it?---I don't, I don't remember doing that. I don't know.

Well, one of the inferences is that you did it because you were concerned that if you, if Addisons kept using the Fleming account, that it would attract the attention of persons in authority?---I've made no effort to conceal anything I've done anywhere along the line. I've not considered anything I've done at the time to be wrong. I've not, I would definitely not put my own friend in any position and try to hide like that. I can see exactly why you're saying I might have done that, but (not transcribable)

10 Well, can you offer an explanation as to why you would have used Mr Bedford's account?---I can't offer anything on that, no.

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

Mr Bedford's account was activated on 15 May, 2009, and it was first used on 8 September, 2009. Do you have any interest in a property at 11/25 Palmer Street, Woolloomooloo?---No.

20 What about a property at Sheas Road, Euberta, near, near Wagga. Does that ring a bell?---No.

No. Did you use Mr Bedford's account for anything else, apart from the Addisons work?---I can't imagine, no.

And you agree that you weren't entitled to use Mr Bedford's account to download strata plans for Addisons?---I would assume not, no. What were those properties in relation to?

30 I want to move on now to 6 November, 2009. This is a date when the accounts were deactivated, that is the Hildebrand account and the Fleming account?---Ah hmm.

Do you recall that day?---When Tim stopped working?

Yes?---Yes.

Do you recall you received a phone call from Belinda MacFarlane?---Yes.

40 And she advised you that there had been, that Westlink had received a report from the LPI that your account, the hildebrandk account and the Fleming account had been used to download about 74,000 plans?---Yes.

And what was your reaction to that news?---Shock.

And can you recall the conversation you had with Ms MacFarlane?
---Just discussed, she asked me if I'd have any idea how that could have happened and I said no, then she asked if I'd given my password to anybody and I told her I had, but that that wasn't, this wasn't possible. So we just discussed how we shared the login around the office. It could have been,

someone could have given it to someone else, it could have, it could be anywhere. Belinda suggested maybe the computers had been hacked, which didn't seem likely, but - - -

10 During the course of that conversation, I take it that you, although you may not have told Ms MacFarlane this, but you must have- -?---I was starting to think definitely. I thought Angus had given my password to someone else and that possibly, I didn't know, buy I thought perhaps, because it was Tim's login, not just mine, so through that phone call I start to think that that had something to do with it. And Belinda said, "Should we have it investigated?" And I agreed because I figured I could explain everything that I'd done if it came to that. I had no part in that and I had no knowledge of it before it happened and at that time I didn't believe it was Addisons either, I thought, I'd seen my, my name on strata plans but 10.

20 Well, all the, all the work you were doing from Addisons after 4 September, all the strata plans you were receiving had your, either your name or Fleming's name on them?---I didn't notice that. I noticed some, definitely, but I didn't notice all of them, no.

So you went and spoke to Angus Algie about the conversation you had with Ms McFarlane. Correct?---After I got off the phone from Belinda I called Deb.

Who's Deb?---Deb, Deborah was- - -

Deborah Whitelaw?---Whitelaw, in charge of the girls in the office.

30 What did you say to her?---I just jumped straight on the phone and I asked where we got the strata plans from and she was evasive and couldn't answer and started fumbling. And then I asked her a few different times and she said, from the database or something like that and wouldn't answer exactly where. And, and she said, she put me onto Angus.

And did you speak to Angus?---Yes.

40 And what did he, what did you say to him?---I don't know if I directly asked him the question, I think I just told him that there had been seventy-odd thousand downloads and I assumed enough from Deb's reaction.

Right. So you suspected that it was Angus who had downloaded the 74,000 plans or was instrumental in, in, in that occurring?---Yeah. Just by the fact that, yeah.

Did you report that suspicion to anybody?---Ah, I think I, I think I phoned dad.

Your dad?---Yeah.

Anyone in authority, did you report it, did you go back to Belinda MacFarlane and tell her?---No. I, Angus just tried to settle me down and told me not to tell anybody and it'll, it'll blow over, something like that, so I just believed that, stuck my head in the sand and, yeah.

You didn't go back to Ms McFarlane and tell her?---No.

You didn't tell Brian Robinson at Westlink?---No.

10

You certainly didn't tell the LPI about your suspicions?---No.

And you continued working with Addisons after that?---Mmm.

And worked with them up until, what, up until April of this year?---Mmm.

So, and you were using the plans that had been downloaded using your accounts?---Mmm.

20 And you used plans that had been downloaded using Mr Fleming's account
- - -?---Mmm.

- - -in the course of working with Addisons?---Mmm.

Did that concern you?---Yes.

What did you do about it?---Nothing.

30 What were you concerned about?---The fact that my name was on
everything or what seemed increasingly everything.

You were concerned about the possibility that, that you'd be dragged into some sort of inquiry?---I didn't think it would lead to anything like this. I hadn't considered that, no, but I was concerned that my name and more importantly Tim's name was on a lot of documents that they shouldn't have been on and that it- - -

THE COMMISSIONER: Mr Broad, perhaps we'll adjourn until 2.00pm.

40 MR BROAD: Yes, thank you, Commissioner.

LUNCHEON ADJOURNMENT

[12.57pm]