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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 15 JUNE 2011

AT 10.00AM

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

THE COMMISSIONER: Yes, Mr Broad.

MR BROAD: Thank you, Commissioner.

<DEBORAH KIM WHITELAW, on former affirmation [10.03am]

10 MR BROAD: Now, Ms Whitelaw, you recall that you were giving evidence yesterday and I was asking you some questions about your work history?---Yes.

And also some of the training that you had done as part of your work for a number of real estate agents. Do you understand that?---Yes.

Now, I think you said yesterday that it was, as far as you could recall it was late May, early June 2009 that you started working at Addisons as an office manager, correct?---Yes.

20 And what were your, what was your role and responsibilities at Addisons? ---When I first started I was employed part-time as an administration assistant and shortly after that the new appointed office manager hadn't worked out and the directors came to me and asked me if I would be office manager so I started in that role as best I could and there wasn't - - -

30 What sort of duties did you have to perform as office manager?---There, there wasn't a job description already made for that, that role at the time but some of the duties as the job sort of built, as I progressed in the job were database management of the Addisons database, looking after IT, ordering stationery, doing ad hoc, you know, typing and director support, sort of taking on a HR role in, in sort of organising the girls on the roster, ensuring that they turned up on time and completed their hours of work, doing a little bit of marketing, research, day to day sort of admin duties. I was still in training, learning the business. I hadn't worked in valuations before and it was, it's a very complicated area to, to learn I found, learning how all the instructions came in and how they were added to the database, how the reports were then actually done and then how they were sent to the clients.

40 All right. Okay. Well, the work that Addisons was doing was valuations for lending institutions, correct?---Yes.

That was their, their primary work?---Yes.

And James Smith was one of the managing directors. Is that right?---Yes.

And Angus Algie was the other managing director?---Yes.

Mr Smith had responsibility for the commercial side of the business, is that right?---Yes.

And Mr Algie had responsibility for the residential aspects of the business, correct?---Yes.

The valuations were performed by valuers who were engaged by Addisons on a contract basis?---Yes.

10 Did they have anyone on their staff, that is employed on a permanent basis, to conduct valuations?---Actually in the beginning I think they had, did they have someone? I think they might have had a valuer, a trainee valuer that was on staff.

Right. But most, most of their valuer were, were contractors. Is that right? ---Yeah, out of the office, yeah.

20 Do they, they, did they have occasion to come into the office to, to meet with some of the administrative staff or yourself or Mr Algie or Mr Smith? ---Not really.

Were there occasions when there was a meeting where the contractors were required to attend a meeting on a - - -?---Yes.

How often did that occur?---Looking at it we'd probably organise two a year I would say.

30 All right. And what was the purpose of that meeting?---Just to get the valuers together, to talk about the business, the issues that the valuers were having on the field, perhaps to go over client requirements, you know, standards of - - -?

Did you attend those meetings?---Yes.

Did you make a note of what was said at those meetings?---Yes.

And Mr Algie and Mr Smith were, I assume they were in attendance as well. Is that right?---Yes.

40 And that happened twice a year?---Yes.

And when was the first, after you started when was the first occasion that such a meeting was held that you can recall?---I can't recall but I would imagine it would have been late in 2009 some time, maybe September/October I think. I would have to look it up.

I understand that the valuers had access to that, to the website, Addisons website?---Yes.

They were given a username and a password?---Yes.

And they could go into the website to obtain a copy of the plan?--- Yes.

10 They'd download a copy of the plan that had been placed there by the admin staff?---Yes.

And also they'd download a copy of the instruction sheets which contained particulars about the property?---Yes.

And I understand that valuers also needed to obtain sales information about the property, the subject of the valuation?---Yes.

20 And that was, how would they go about doing that?---They would look up RP Data or Australian, APM it was called.

And what does that stand for?---Australian Property Monitors.

And RP Data, you gave some evidence about that yesterday, that was the website that contained information about the sales history?---Yes.

And that required a username and password?---Yes.

30 And the information was valuable in the sense that RP Data charged for access to it?---That wouldn't have been something that I considered.

You would have been aware of that though when you started?---It probably wouldn't have been something I thought about, but I probably would have been aware.

Now when you started did you become aware that Addisons had a library of plans, that is an electronic library of plans?---Yes.

40 When did you first become aware of that? Can you recall?---Probably when I was training to add jobs to the database.

Add jobs to the, to the website for valuers?---Yes.

Right. And what, what plans were held in the library? What sort of plans?
---Strata plans.

Deposited plans?---No.

Do you know why there wasn't, there weren't any deposited plans contained

in the library?---Apparently deposited plans had to be requested on the day of the inspection.

Right. Is that, did someone instruct, or did someone give you that advice or did you know that prior to - - -?---At the time, at the time I was probably just told we don't keep deposited plans, we keep strata plans.

All right.

10 THE COMMISSIONER: How many strata plans were there?---Thousands. I probably didn't know the extent of the library.

So when you say thousands - - -?---It was a big file.

- - - is that a guess?---Well I knew there was thousands in there because strata plans went from you know, the low numbers to sort of the 70,000's and there was thousands in the file. Not that I ever counted it or looked at it.

And I don't know whether you're able to answer this question, but were they, were they stored in a, in a particular format?---PDF format.

20 MR BROAD: Were they all PDF documents or were some of them a TIFF document?---Yes, some of them were TIFFs and we always converted them to PDFs.

And they were held on the Addison's server in a particular drive of the server?---Yes.

And which drive was that?---The X driver, which was a shared drive for all the staff to access.

30

So when a valuation job came in that related to a strata property, I take it that the admin staff would check the X drive to see whether the relevant strata plan was there before making a request to an information broker? ---Yes.

What I mean by that, if it wasn't there, there would then be a need to obtain a copy of the plan and that the admin staff would contact the information broker to obtain the plan. Is that right?---Well, when you say contact, all we did was, we just went onto a Website- - -

40

Right---?- - -downloaded the plan and attached it.

Right. And what was the Website that you, when you started, what was the Website that was in use by Addison's to download plans?---I think the one I can remember was, I refer to it as Spatial.

Yes. Was there any other database that was used by Addisons to download plans? This is when you started?---Yeah. I'm just, I, I don't know if I remember going on any other strata plan site.

Right. So the answer to that is no?---(NO AUDIBLE REPLY)

THE COMMISSIONER: As far as you can recall?---Well, yeah, as far as I can remember. I just remember the Spatial site.

10 MR BROAD: All right. Now, that Spatial site was a site that you had occasions to access?---Yes.

Was that part of your job when you first started in that administrative role, that is, that assistance, assisting role? Did you, were you required to download plans?---Yes.

But once you became the office manager, that was, that was a job that you didn't perform. Is that correct?---No.

20 Sorry?---I didn't perform it.

You didn't perform it, because that was done by the admin staff?---Yeah.

Right. And when you started as an administrative assistant, was that prior to or was that sometime earlier in May or, or, or- - -?---I think I started on 5 May, is a date that sort of stands out.

So 5 May as an administrative assistant?---Ah hmm.

30 And then late May/early June in the more senior role as office manager? ---Yes.

So when you started on or around 5 May, you would have been downloading plans?---Yes, I think so.

And strata plans?---Yes.

What about deposited plans?---I would have been taught how to download deposited plans as well.

40 From Spatial?---I would imagine, yeah.

Could you- - -?---Yeah.

Yes?---Yeah, would have been. We would have went to the one site, yeah.

What about copies of leases, were they things that you- - -?---Leases? For rent, you mean? No.

You don't recall ever downloading a lease- - -?---No.

- - -for the purposes of valuation?---No, I don't.

And what about transfers, certificates, certificates of title?---Yes. We used to have to download titles and attach title searches.

Right. And that would be attached to the valuation folder?---Yes.

10

Was that for strata properties and, and other properties?---Titles I think were more for houses rather than units and you didn't, usually I think we downloaded them on request from the valuer.

Right. And the title searches were conducted on the Spatial Website as far as you can recall?---I think, yes.

Right. I wonder if Ms Whitelaw could be shown page 297 of folder 1. ---Sorry, 297, was it? Thank you

20

Now, this is a copy of an email sent by Kim Hildebrand to Mr Algie? ---Right.

Do you see that?---Yes.

And you've seen this document before, is that correct?---Yes.

Right. Where do you recall first seeing this document?---Probably the last time you showed it to me here.

30

Yes, but prior to that, sorry, I didn't make myself clear, it's my fault. When was the first time you saw this document?---I don't remember seeing the document but it looks like I probably would have got this shortly after working at Addisons.

Right. Why do you say that?---Well, because of the date on it - - -

Yes?--- - - - and I've written on it.

40 Right. There's some writing, "services click DIMS click strata plans/titles," that's, that's your handwriting?---Yes.

All right. Do you know why you wrote those words on this particular email?---I think I would have written that to prompt myself on how to access the site.

All right. Is it possible that this email was, this email obviously provides a username and password - - -?---Ah hmm.

- - - which could be used to access the Valuer General's database, correct?
That's what the email says?---Um - - -

Do you see the words "Angus" and underneath that it's got "the VG's database link is"?---Oh, right, I was going to say I, I don't know where the, where it said Valuer's General.

10 Sorry, yes, it - - -?---But when I look at this I just see access to a site for plans, leases and searches and it gives me the access username and password. As you can see below it is a username and password for RP Data
- - -

Yes?--- - - - so that would have been a username we were using at the time and so it was just, just another one.

20 Yes. I'll return to that point but is it possible that this was lying near the, the computer that was used at Addisons to access this particular database?
---Yes.

Is it possible that when you first started working at Addisons this was something that you would have looked at before going onto the website to download plans?---Yes.

And do you recall whether Mr Algie gave you a copy of this particular email?---No, I don't recall but - - -

30 But obviously you used this particular website to gain access to plans as they were needed?---Yes.

Did Mr Algie tell you to do that?---In the beginning it probably would have been who was training me so one of the girls probably would have been instructing me because Angus didn't do that - - -

Right?--- - - - that training.

40 THE COMMISSIONER: Instructed you to do what?---You know, how to add instructions to the database and, and how to perform that administration role.

MR BROAD: Now, I take it when you first came across this email and when you first accessed this particular database you would have been required to enter a, the username that's identified in this email, that is the username hildebrandk?---Yes.

Did you, did you know anyone at that particular point in time by the name of Hildebrand?---I probably, I probably would have thought it was Kim's, I knew Kim was a valuer.

Right?---Not that I would have given it much thought and I'm not even sure, it might have been already remembered on the computer but I'm sure through the, the access of the site I would have had to type it in from time to time.

So you would typed in the word "hildebrandk" and you would have realised that that was somehow connected to Kim Hildebrand who was the contractor working for Addisons?---Yes.

10

Yes. And there was a password and the password there was "brookvale1"?
---Yes.

And you would have appreciated that that password would have originally been issued to Kim Hildebrand, correct?---I may not have thought about that too much because we had - - -

THE COMMISSIONER: It's obvious isn't it?---Sorry?

20

It's obvious?---Not really because when I started with Addisons we shared a lot of passwords and - - -

But it says hildebrandk, password brookvale1. It's obvious that brookvale1 is the password that had been given to Ms Hildebrand?---We, when I, when I accessed Australian Property Monitors we used Daniel Malik, Angus Algie, James Smith.

I don't understand how that's an answer to what you've been asked?
---Sorry.

30

You've been asked whether you realised that this password was the password that had been given to Kim Hildebrand. I mean isn't that obvious?---Well whether, it might, well Daniel Malik, we used his password, but the password wasn't created necessarily just for Daniel. You had to allocate certain people to have passwords and then the company used those passwords.

Well I have no idea who Daniel Malik is?---He was another valuer.

40

And whose password did he give you?---Well it was access to a site called Australian Property Monitors that we sometimes accessed for sales information, just like RP Data, they're very similar sites.

Did he give you his password?---No he didn't, he didn't give it to me, it was, it was at the admin desk, the passwords for us to use.

I still don't really understand how that's got anything to do with this question that you've been asked. The question is, if you look at this it says

username hildebrandk, password brookvale1. Now having seen that you must have realised that brookvale1 was the password that had been given to hildebrandk because that was the username?---Oh for that, no, okay, yes, I recognised brookvale1 belonged to hildebrandk, yes.

And not only belonged to her but had been issued to Kim Hildebrand. I don't know why you hesitate?---Well yes.

10 And it had been issued to Kim Hildebrand by the Valuer General?---That I wouldn't have thought of or considered.

It's obvious?---It's not obvious to me. I don't know what VG - - -

It says VG's database (not transcribable)?---Well I don't know what VG means.

You don't know what it means?---No.

20 You're the office manager of a valuer company and you don't know what VG means?---No.

Well what were you doing with this, with this email?---What was I doing with the - - -

Email?---Well it probably was on the desk and I used it as a reference to remind myself how to access that site. I might have even used - - -

Access what site?--- - - - the bottom one as well.

30 Access what site?---Spatial.

To get what?---A strata plan or - - -

And where did you think a strata plan came from?---From the site.

But whose strata plan was it?---I thought it was just an information site. And the information they had on it was strata plans.

40 So why would you use, why wouldn't you use your own, Addisons own password? Why did you have to use Kim Hildebrand's password?
---Because I was probably told that's the password you have to use.

Who told you?---Probably whoever was training me at the time.

Don't you think it's strange to use somebody else's password?---I was trying to say that before, it doesn't seem that strange when you were given a lot of other passwords to different sites using different people's names.

But, what is this is a practice at Addisons to use different people's names with their passwords to get access to sites which had been given to those individuals and not Addisons?---Well it was my understanding that was the, the way it worked, that you know, certain sites, like I was trying to make an example, APM, I think we had five passwords for APM and that had to be shared amongst the staff no matter, and the valuers, so no matter how many staff, we all sort of got allocated to us a password that in the office you used any one of them.

10

What do you think the purpose of a password is?---To gain access.

Why is it given to an individual?---So they know the password to gain access.

So only that person can gain access?---Well, in, in this circumstance it wasn't quite like that. We- - -

I know it wasn't quite like that because it seems to have been the practice in your organisation to share passwords or to get passwords of other people and use them for yourself. Is that right?---Yes, it is.

20

And do you think that that's appropriate?---Yes.

So you think that if somebody issues a password to an individual in the belief that only that individual will use it, it's quite appropriate for that person to give it to others for them to use it?---I, I would think at the time my understanding was the password was sort of given to the business and then we were all allowed to use it.

30

So the password, hildebrandk was given to Addisons. That's what you thought. Is that what you, is that your evidence?---That's, yeah, that's what I- - -

And who gave it to Addisons?---Well, now, I mean I know, Kim.

Well, who did you think at the time gave it to Addisons other than Kim? ---I probably wasn't thinking about where it came from, I just was told that's how you access the site and that's how I accessed the site. I didn't question where it came from or why it was that username and password.

40

My impression, and please correct me if I'm wrong, and this is not said with any disrespect, but you appear to have been some kind of automaton there doing exactly what you were told without thinking about what you were doing?---Well, you have to remember I only just started and- - -

I understand that?---And so you did what you were told because I was in training. This is a new field.

I understand. That's why I said without any disrespect. I meant that?
---Mmm. So yes, I did exactly as instructed.

You did what you were instructed and you really didn't understand what you were doing, what the implications were what you were doing. You were just doing what you were told?---Yes. I was at that stage learning the role.

10 Yes. And you really didn't understand how it was that Addisons came into possession of somebody else's password?---No.

And from what you were told it was quite permissible for you to use the password?---Yes.

MR BROAD: Yes. And the password obviously, it's obvious from this email which you had read, because you've written on it, that the password and the account came from Kim Hildebrand?---Right.

20 Because that's where the email, that's the source of the email, isn't it?
---Yes.

Yes. You would have known that Kim would have had some previous experience as a valuer?---Yes.

Otherwise she wouldn't be working at Addisons. And that it was highly likely that Kim had obtained this access during the course of her previous employment?---No.

30 You didn't think that?---No.

THE COMMISSIONER: Well, where did you think she got it from?
---I don't know. I might have even thought it was because of business we were doing, you know, that's why we had the password, as a company.

Just as a matter of interest, why was it printed out, this email, and left at the computer?---So it could be referenced.

40 By anybody in Addisons?---Yeah, anyone working at the admin desk.

So this, so, so when Kim Hildebrand sent the email to Addisons it was left at the computer so that everybody in Addisons could use it?---Yes.

But you don't know who did that?---Not specifically.

Who would have done it?---I could have done it, Jodie could have done it, whoever was advised first.

But if some person not employed by Addison sends you the password to some other organisation, you just leave it at the, you print it out so that everybody in the organisation can see it?---Yes.

And use it?---Yes. And when you say some person that doesn't work at the organisation- - -

Yeah---?- - -what do you mean by that?

10 Well, Kim Hildebrand wasn't employed by Addison, she was an independent contractor, she wasn't an employee?---I wouldn't have thought of Kim as not working with the company.

No, but she was not an employee, she wasn't paid wages, was she?---Look, when I - - -

You were the office manager?---When - - -

20 Was she paid wages?---When I started with the company - - -

Just answer the question, please. Did she, was she paid wages?---I know now she was not paid wages.

But you were office manager. Didn't you know then?---No, I would not have known.

30 But she didn't work in, in your offices?---No but I still thought of them as our valuers and our employees. Their, their status, whether that was full-time, part-time, casual or whatever probably didn't even enter my head. They were just, they were ours, you know, that's how I thought of them. It was probably only down the track that I realised oh, they, they had contracts and, and so forth.

Yes?---There was a lot to learn.

MR BROAD: Yes. I wonder if you could turn to the next page, Ms Whitelaw, page 298 so just, if you look from page 298 through to 309? ---Yes.

40 Now you - - -?---Yes.

You recognise this document?---Yes.

Yes. This is a, it's entitled "Strata plan instructions"?---Yes.

And it's a, a manual so to speak of how to access the Spatial website to obtain strata plans?---Yes.

Copy strata plans, convert them into a PDF document and to store them in the X-drive on the Addisons' server?---Yes.

And this is a manual that you prepared?---Yes.

10 And at whose instruction?---I may have, I probably did this on my own, I was setting up an instructions manual. We didn't have one when I first started. There wasn't any, the instructions I had or any reference material to, to remember how to do the work were just on scraps on paper. There, there - - -

What, like, like the email for example?---Yeah, yeah. We had lots of little scraps of paper around stuck on the, the screen and there was just like a couple scraps of paper, a couple of the girls had different, I would call them scraps of paper on, on their own instructions and there wasn't a central folder and I think that was one of the first things I'd started to do was sort of more formalise instructions and have proper instructions with screenshots.

20 Can you remember, can you remember who told you to do it though? Do you think you did it off your own bat?---Yeah, I think probably I, I would have done the instructions off my own bat to, to be more efficient, for the staff as well, not myself.

Now these, these instructions contain a set of screenshots?---Yes.

So it appears that they, they were taken, that is the screenshots were taken on 18 May, 2009 at about 5 to 1.00 in the morning. Do you recall staying up very late at night to do this?---No, no, I don't.

30 These screenshots were taken on a, on a laptop computer. Did you have a laptop computer at home?---Yes, I did.

Yes. Are you prepared to accept that you took these screenshots on your laptop computer late at night?---I, I don't understand the time and I'm actually a little bit unfamiliar, why I did it on the laptop computer.

Right?---Well, actually - - -

40 If you just go to page - - -?---No, actually, I was thinking I must have had to have remote access but of course I didn't, I could have accessed that site from home. I may, yeah, I may have done the work at home just to sort of try to catch up.

If you look at page 304 there's a screenshot of the delivery box?---Right.

And it's got the date ordered, 18 May, 2009 and then - - -?---Right.

- - - 0055 hours?---Ah hmm.

Which would be - - -?---Right, in the morning.

Yes?---Yes.

All right. Now, there are some instructions in type above and below the screenshots?---Yes.

10 If you go to the first page, 298, just above the screenshot there's a link and you've given the address of the link?---Yes.

And you would have typed that into the, into the document?---Yes. I would have probably cut and paste it.

So it was obvious that, well, you would have become well aware when you were accessing the Website on this particular occasion that you were accessing a government Website?---I didn't think that.

20 THE COMMISSIONER: It's obvious?---Where does it say, oh, New South Wales Government. Right.

MR BROAD: There's New South Wales, there's a few indicators and I'll just take you to them?---Yeah.

There's the, there's the hyperlink itself, which has got reference to the- - -? ---Yes.

30 - - -Lands New South Wales Government, if you go to the screenshot, there's some printed material under, it's not very clear, I'm sorry about that, but there's some printed material under the word searches, "The Department of Lands maintains the largest centralised land title registry in Australia and is the guardians of all land information in New South Wales."---I probably wouldn't- - -

So that just, you just didn't, didn't appreciate that?---I wouldn't, no, probably wouldn't even have read that.

40 Right?---I just would have been thinking, the link, you go to here, you go there.

But you, you see this little arrow that's been placed- - -?---Yes.

- - -on the screen?---Yes.

And I take it you would have done that?---Yes, I did.

And you did that to assist whoever was going to look at this manual to assist them as to what, where to input data?---Yes.

And I would suggest that in order to work out where to place that arrow, you would have had to have reviewed the Webpage you were looking at in some detail?---No. I would have just seen the boxes and went, arrow.

Right. And you turn the page to the next page?---Yes.

10 Again there's some text under the word welcome, "The SIX Portal initiative provides an integrated entry point to the New South Wales Departments of Lands." You say you didn't, you didn't read that?---No, I probably wouldn't have read the Webpage.

And you didn't appreciate, what, what sort of site do you think you were on at that particular time?---Just a site that we could access called Spatial. That's what I used to call it, the Spatial site.

THE COMMISSIONER: And what did that give you?---Didn't really tell me anything, just that that's where we go.

20 So why would you be there, for what?---Well, to get strata plans and titles, CTs, and you just went there.

You were just working with blinkers, you just avoided seeing all reference to the government and the Lands Department?---It wouldn't have meant anything to me. I was just going to a site to access information. I wasn't really interested in reading the site. We were, you know, working hard and fast at work, you just worked quickly as you could.

30 MR BROAD: Yes. And the next page, page 300?---Ah hmm.

You've placed an arrow near the words, integrated titling system and the acronym DIG?---DIMS.

DIMS?---Yes.

40 And how did you know to do that?---Well, it would have been initially like from that first email that I'd written on. Obviously I'd been prompted to say this is how it works, I would have written that out, and then doing the instructions I would have thought, O.K., how do you do it, so I wanted to make really clear instructions so I decided to do screenshots and point to where you had to go. So if we had new staff members or staff members that needed to, to access the site they wouldn't need anyone to tell them, they could actually go to this document and follow it step-by-step and get what they needed.

If you could just turn the page to 301. You were aware before you started at Addisons, by the way, that there was such a public authority, there was a

public authority known as the Department of Lands, weren't you?---(NO AUDIBLE REPLY)

You would have gained that knowledge from work in the real estate agencies?---Yes.

Right?---I didn't deal with them though.

No, but you would have been aware of their existence?---Yes.

10

All right. Page 301 you put an arrow next to DP/SP Plan Requests?---Correct.

Now if you look to the left, the far left there are a number of symbols. And it's not really clear on this particular print, but it's actually a dollar symbol? ---Oh, I see. Right.

20

That would indicate that these particular documents had a monetary value at least as far as the Department of Lands was concerned. You say you didn't see those?---I probably never noticed that, no.

Even though you put the arrow on the, on DP/SP Plan Requests?---Yeah. Yeah.

So your focus of your attention remained on the words but not on the symbol?---No, I've not noticed that before.

30

All right. But you understood that this information that you were accessing was information of value?---I honestly never really thought about it. It wasn't, it wasn't pertinent to what I was asked to do.

You said that one of your roles as the office manager was, was database management?---Yeah, the Addisons database and the contacts.

40

Right. But the RP Date website that was something that you knew that had to be paid for?---Well in hindsight I suppose. At the time I probably didn't think about what portals we had and did you pay for them or did you not pay for them. You were just, you know, we were just given our passwords and you know, you were told how to get the information and that's how you did it.

All right. So if you go to page 302 and 303 you'll see that the dollar sign is appearing on those screen shots as well, to the far left?---Oh, right. In the same place you mean?

Yes?---Yeah. Ah hmm. Yes.

If you go to page 305, a set of instructions as to how to download the plan that's been selected and 306 is an instruction as to how to save the plan into the X drive?---Right.

307 is how to correct, how to change the format of the plan into a PDF document?---Right. Yes.

Did anyone help you put together these set of, this set of instructions?---No.

10 You didn't get any help from anyone any advice?---No.

Anyone show you any other instructions that they might have prepared to assist you?---No. I probably originally had some handwritten, handwritten scribbled instructions that I, I then, you know, made a more clear, concise instructions out of.

These instructions are restricted to strata plans?---These ones, yes.

20 Yes. Did you do a set of instructions for deposited plans?---Actually it doesn't mention deposited plans does it? No, I would have thought I would have made it all in the one.

Because is it true to say that Addisons were using the site to download, this is as at 18 May when you prepared these instructions, Addisons was using the site to download deposited plans and strata plans and conduct title searches?---I would have thought, yeah, we would have been doing all that on this site.

30 Well can you explain why, well do you know whether there are another set of instructions for searches, title searches, deposited plans?---I would have thought I put the, put it all in here actually. But everyone knew that you just went to the same place (not transcribable) - - -

I'm just trying to find out why, why the instructions were prepared for strata plans but it doesn't appear to have included any instruction for the other plans or title searches?---I guess DPs are on the same section. I'm just , I'm trying to remember now.

40 You can't recall?---No, I don't recall why I haven't mentioned it all in the one, actually. I guess it was earlier on, maybe I forgot to include them.

All right. Okay. If you can just turn to page 353 and 354?---Yes.

Now, if you, there's an email from Mr Smith to yourself on 19 May, 5 minutes past 2.00 in the afternoon?---Right.

And you've replied to him later in that, on that day. Have you got the page, 353?---Sorry, yes, I've got page 353. I was reading, sorry.

Yeah, yeah. Okay. Do you remember those emails?---Yeah, I do remember them.

But Mr Smith was indicating that he had somebody coming in on the weekend to, to download strata plans?---Right.

And, and he's indicated that we need to determine an approach that is efficient for this project?---Right.

10

Is it the case that you may have prepared the strata plan instructions for the person who was coming in on the, on the weekend to download the strata plans?---Yes, that could be that. It would have been not only for, for that person, it would have been for the office as well.

Now, he makes reference to a, a project at the bottom of page 353?---Right.

Now, that's a reference of course to the scheme or project to download all of the strata plans from the database?---Yes.

20

Is that fair?---Yes.

When was that - - -?---Pardon me.

When do you recall that decision was made?---I don't recall it but just looking at this email and the date it probably would have been that week.

All right. And who made that decision as far as you can recall? Was it, well, Mr Smith was obviously involved in that. What about Mr Algie?

30

---Yes, it would have been discussed by them, them both.

All right. Okay. Were you present? I mean, well, I withdraw that. You had weekly meeting?---Yes, weekly or bi-weekly.

Right. And Mr Algie and Mr Smith and you were present?---Yes.

And you were the note taker?---Yes.

Is it possible that at one of those meetings the issue or the possibility of downloading all the strata plans was, was discussed by Mr Algie and Mr Smith?---Yes.

40

And could it have been discussed around the time of this email, 19 May? ---Yes, it could have.

All right. And the person referred to by Mr Smith in that email did come in on the weekend and download some plans, you recall that?---Yes, I didn't see them but I believe that happened, yes.

Yes. In fact, if Ms Whitelaw could be shown the timeline which is the first document in folder 4 and if you could go to page - - -?---Oh, sorry, I was looking at the screen, thank you. Thank you.

Just to assist you Ms Whitelaw, this is a document that's been prepared by the Commission and it summarises the information that was obtained from the LPI by the Commission, it summarises logs, access logs - - -?---Okay.

10 - - - that relate to the hildebrandk account and if you go to the third page you'll see an entry in red, Sunday, 24 May at 10.51.13. Do you see that?
---On page 3?

Yes, page 3?---Oh, 24 May, 10.51, sorry, yes, yes.

Yes, and there's the, there's a successful login with the hildebrandk account at 10.51 and then shortly after that there was a series of strata plans downloaded, in fact 1 to 211?---Right.

20 Right. And this is the weekend work that Mr Smith was referring to in his email to you on 19 May, correct?---Right, yes.

And is it true to say that that was the, the beginning of the project to download all the strata plans from the database?---Yes.

And Mr Smith attended, or Mr Smith went to the office on the Sunday as far as you're aware with this other person?---I thought that's what was happening, yes.

30 Because he would have had to let that person in?---Yes.

Yes. Now if you turn to page 326?---Oh, not in this book, in this book.

Yes, yes?---Sorry.

Folder 4, sorry, folder 1?---326 was it?

Yes, please?---Right.

40 Now this is a, you should have a page open before you entitled Management Meeting?---Yes.

And it's dated 30 June, 2009?---Right.

And the type of meeting, it's an overall company business, main priority database upgrades. The note taker is yourself. Correct?---Yes.

And Mr Smith, Mr Algie and your good self is present. Correct?---Correct.

And you're taking the notes obviously?---Yes.

And you created this document (not transcribable) - - -?---Yes.

- - - what was said at this particular meeting?---Yes.

And is this one of the weekly or fortnightly meetings that Mr Smith and Mr Algie had during 2009?---Yes. This would have been a good example.

10

All right. And these notes that you've taken, they're just obviously just a summary of what was said?---Yes.

All right. And how long did these, well this meeting went for three hours? ---Yes.

If you turn to page 328. If you go to the fourth item on that page entitled Strata Plans?---Yes.

20 There's a reference to the website and then there's the words, must gain as much access to get SP's from the site while we still have access?---Yes.

Now that was something that was discussed between Mr Algie and Mr Smith?---Yes.

And the note that you've made is a summary of that discussion?---Yes.

30 Well can you, can you assist the Commission and, and tell what else was said about that particular website and the access during that meeting?---I think from memory it was discussed that we wanted to get a better library than the one that we had. And this portal would give us that information so we were going to download the strata plans so we had a better library.

All right?---And to do that it was going to take more, probably more time than, than the staff we had.

All right. But there's a reference below tot the fact that a person connected with James Smith had done the 200 downloads, which is a reference to the downloads on 24 May?---Yes.

40

And it was proposed that, that an other person would be hired to do more of the downloading. Correct?---Yes.

And, and these were decisions made by Mr Algie and Mr Smith. Correct? ---Yes.

Now I take it by 30 June that that particular action had been done by reference to the comments to the right of that action item?---Sorry, let me just think. Yes.

And you had organised another person, a young person to do the, to embark upon the project of downloading the plans. Correct?---Yes.

And that person was to be paid \$15 an hour?---Yes.

10 And when did that person start, start working on that project?---I can't remember exactly, but it would have been around that time.

Right. With the instruction from you to start downloading from where Mr Smith left off on 24 May?---Yes.

And to assist that person they had the strata plan instructions that you'd prepared on 18 May?---Yes, they were.

Yes. And the access to the database?---Yes.

20

Yes. Now, in the summary of the discussion, you make reference to this, you make this note, "Must gain as much access to get PSPs from the site while we still have access."---Ah hmm.

It suggests that there was some appreciation by Mr Smith and Mr Algie and yourself that the access that you had was on borrowed time?---I think if I remember it was just that the access, yeah, was only going to be for a few months, was my understanding at the time.

30 How did you gain that understanding?---I think it must have been said in the meeting.

And did that strike you as rather unusual?---(NO AUDIBLE REPLY)

I mean, let's face it, with RP Data, if you, if you paid for access then you've paid for access for a certain amount of time. Correct?---Um- - -

That's how a subscription normally works?---Right. I wouldn't have been thinking about whether it was a subscription or- - -

40

This, this is quite different, isn't it? This is an access that can be, over which you really have no control?---I wouldn't have thought of that, that we had no control.

THE COMMISSIONER: You didn't have, you didn't have- - -?---I just would have been told that there was a timeframe and we should, you know, instigate this project so we could get the job done. That's what I would have been thinking about.

MR BROAD: Well, the comment you've recorded is, or the note that you've made is, "While we still have access."---Yeah.

That would suggest that access could be cut off at any time?---I don't think it was discussed when the access would be cut off. I think that it- - -

10 No, but it could be thought, I mean, that's the point, isn't it, that, that- - -?
---Well, just my wording, I mean, I think from memory I thought I had access for a few months, that's why we engaged a student to, to do it- - -

But what was the need---?- - -over a length of time.

But didn't you consider that after those few months you could, the normal thing to do would be to go back and subscribe to gain access for a further six or twelve months. That's normally, the normal business practice I assume?---I don't know what you're trying to say to me.

20 Well, I'm saying that this is quite different from the, from the normal situation, isn't it?---Well- - -

And that would have been quite, quite obvious to you on 30 June, 2009?
---What, what, what you're trying to say is normal to me, I started in a workplace where I was given access and that's the only Website I knew.

THE COMMISSIONER: Did anyone say anything which explained- - -?
---So that was normal to me.

30 Did anyone say anything at that meeting with Mr Algie and Mr Smith which explained to you why access was limited?---I, I don't remember there being a particular reason, I just took it as we just had limited access and the job just had to be- - -

Did you take it, did you simply assume that there was limited access or did someone say something to you (not transcribable)---No, it would have been, I think it would have been said that, it would have been discussed that there was limited access. I, I sort of remember thinking- - -

40 (not transcribable)---?- - -I had a few months, maybe three months.

But you can't- - -?---I don't know why that comes to mind.

Can you remember what was said or can't you?---No, I can't remember what was said.

MR BROAD: If Ms Whitelaw could be shown page 1165 in folder 4?---Is that- - -

THE COMMISSIONER: That's the timeline again.

MR BROAD: No, that's, it's not the timeline.

THE COMMISSIONER: Not the timeline?---So 1164?

1165.

10 MR BROAD: Sorry, 1165 in folder 4?---Sorry, this only goes up to page three hundred and something, one one six- - -

THE COMMISSIONER: Folder 4?---Oh, in this one. Sorry, I'm getting all confused.

And the page numbers are (not transcribable)---Yes. Yeah. Thank you. Yes 1164. Correct?

MR BROAD: Yes?---Yeah.

20 What you have before you- - -

THE COMMISSIONER: 1165?

MR BROAD: 1165?---Oh, sorry. Go.

30 And what you have before you is a column chart again prepared by the Commission which is essentially summarising information provided to the Commission by the LPI information relating to the, the number of strata plan downloads using the hildebrandk account, which is in red?---Right.

And another account, a Fleming account, which is in blue and if you go to June 2009 you'll see that by the end of June 2009 or for the month of June 2009 approximately 203 strata plans were downloaded and after 30 June the, the number of plans downloaded significantly escalates?---Ah hmm.

40 For the month of July and August and September and this, of course, is as a result of the employment by Addison's of this person to work almost exclusively on the job of downloading. Is that right?---Yes, they were always employed just to, to do this particular project.

And how many hours a week were they working to do that? So let's say for instance for the, for the month of July 2009?---Look, I can't recall but as we said, we employed a student, that student actually XXXXXXXX was XXXXXXXX, I got him employed to do the downloading and he was still at school, at high school, so he used to come a couple of days after school and sometimes he could work on the Saturday.

Commissioner, I just note the, reference has been made to the juvenile.

THE COMMISSIONER: Yes.

MR BROAD: I'd be asking for a, that you make a suppression order so that the identity of - - -

THE COMMISSIONER: Yes. All references to the identity of the, of the person who actually did the downloading is suppressed.

10

ALL REFERENCES TO THE IDENTITY OF THE, OF THE PERSONS WHO ACTUALLY DID THE DOWNLOADING IS SUPPRESSED

MR BROAD: Yes, thank you, Commissioner.

THE COMMISSIONER: The person or persons, all - - -

20 MR HAVERFIELD: Commissioner, whilst we're having suppression orders made, there is material in regard to (not transcribable) in relation to emails between my client and (not transcribable) I'd be asking for a suppression in relation to her name because she is also (not transcribable)

THE COMMISSIONER: Is she also a person who did the downloading?

MR HAVERFIELD: She was a person that came in on the (not transcribable)

30 THE COMMISSIONER: Yes, well, I said all young persons.

MR HAVERFIELD: Thank you.

MR BROAD: Yes, thank you, Commissioner.

So I can just refer to him as the student came in - - -?---Right.

40 - - - and, sorry, how many hours a week was he working in July?---Like I would have to look at the, the records which I did keep, it would be probably be two to two and a half hours, maybe three hours in the afternoon, I'm not quite sure and maybe on the weekends he could do four to five, maybe six, I can't remember how long he worked on a Saturday.

Did you think it was rather odd that this project had been commenced, that you had to go to the trouble of employing someone to download the plans?
---I - - -

I mean - - -?---I didn't think so, I thought it was - - -

It crossed your mind that, well, look if, if the plans are - - -?---It was quite cheap as far as, you know, optimising the use of students so we were a fast-growing business at that time and we were struggling with the work we were trying to cope with internally so to get a project done I probably thought that wasn't a bad idea.

10 Did it cross your mind that rather than going to all this trouble of downloading one plan after the, after the next we'll just go, contact Spatial and say, listen, how about we purchase a CD which contains all the plans? ---It wouldn't have occurred to me.

That would have been a good idea, wouldn't it?

THE COMMISSIONER: But you just didn't think about it again, you were just doing what you were told?---Yeah, I wouldn't have thought about that.

20 MR BROAD: I take it that apart from the student that was downloading the plans it was also the case that the admin staff, the permanent or permanent part-time staff were also asked to download plans when, when they, when they had a spare moment. Is that right?---Yes, it was.

Yes. And in fact I think you created some folders on the, on the X-drive especially for them to download plans into, is that right?---Yeah, I think I did remember doing that.

30 And did someone, did you keep a log of the progress of the, of the downloading?---Within the folders I would have known, that would have been the log, I would have imagined, because they would have sort of ticked off where they were at.

Okay. And did you report, report back to Angus and James Smith about the progress?---Yes.

Yes. And were they pleased with the, with the progress that was occurring?---I think it became, yes, yeah, they were pleased.

40 All right. Now do you remember an occasion when the password to the hildebrandk account stopped working?---Yes.

And I think it was the student who advised you of that. Is that right?---Yes.

He was working on the downloads on that particular day?---Yes.

And what did he come and speak to you?---Yes.

And what did he say? Can you remember?---I think he said, yeah, he couldn't get in, the access was denied or blocked or whatever, he just couldn't log in.

Did he say, did he indicate to you that he'd logged in unsuccessfully? That he'd failed to log in and - - -?---Yeah, I think that might have been, yeah, the discussion.

10 Yes. And as a result of unsuccessfully logging in, he was, he was logged out?---Yes.

And he couldn't get back in?---Yes.

Right. And you went and spoke to Angus about, about this?---Yes.

Yes. And what did he say he would do about it, if anything?---I think he said leave it with him, he'll look after it.

20 Right. Now the, this occurred on 3 September, 2009?---I wouldn't have remembered that, but I think you've got documentation - - -

Yes?---Yeah.

Are you prepared to accept that?---Yes.

Yes. Okay. Now did, did Angus come back, come back to you about this particular matter?---Yes.

30 And what did he say?---He had a new password.

All right. And did he say where he had obtained it from?---I - - -

Did he say he'd obtained it from Kim?---I don't remember. Like he just had a new password for us to use.

All right. And did he say that, that this, well the password was, well the user account was in the name of Fleming, do you recall that?---Now that it's been mentioned again, yes I do recall it.

40 Right. And did Angus tell you how long Addisons had this account for? ---Did?

Did he indicate to you how long this account was available to Addisons for?

THE COMMISSIONER: The password?---Oh - - -

MR BROAD: This new account?---Yeah, again he said, I think indicated that it'll probably only be a short access, again, like you know, a couple of months.

Right. And did he tell you, look, please be careful about entering the wrong password?---Yes.

Because if we do that then we'll be locked out again like we were with the hildebrand account?---Yes, I think that was discussed.

10

He said something like that?---Yeah.

Yes. Did you think about that?---No, except it would be a hassle.

Did you think about the implications of what he was saying?---No.

Perhaps if Ms Whitelaw could be shown page, if you could go to volume 1, folder 1, page 336, please. This is a copy of an email from Ms Hildebrand to Mr Algie?---Right.

20

Do you recall Mr Algie showing you a copy of or showing you this email around 4 September, 2009?---No, I don't.

When you, when Mr Algie gave you the login flemingt, you would have of course appreciated that was a reference to, that belonged to someone by the name of Fleming. That the username was a reference to a particular person?---I probably didn't give it thought.

30

Right. And you didn't know anyone by the name of Fleming who was connected with Addisons at that time?---No.

No. And like the hildebrandk account, this particular account also had a password?---Correct.

Right. Did it occur to you that this had been provided to Mr Algie without the consent of Fleming, the owner of this particular account?---No.

40

You didn't ask Mr Algie about any of these matters. Is that right?---Don't remember asking him.

All right. If you could go to page 337. But before I ask you about that particular, is it a case, Ms Whitelaw, that really you didn't really want to dwell on these issues concerning the source of these accounts for too long because if you did you, it would be rather disconcerting, you might find it rather unpleasant to think about that?---No.

Page 337 is another set of instructions?---Yes.

And this is a set of instructions that you prepared?---Yes.

And these were prepared shortly after you obtained the, or shortly after Addisons obtained the Fleming account. Correct?---Yes.

Who, who asked you to prepare these instructions?---I probably did them myself.

10 THE COMMISSIONER: Of your own volition?---It was probably discussed, 'cause this is probably when the folders were created for the staff, so I guess it would have been, you know, discussed with Angus that we, you know, divide the work up and make sure the girls knew what they had to do.

MR BROAD: Right?---So in, in that way I would have gone to make new instructions.

20 All right. And in these written instructions in point 1 after the word note, you've emphasised that staff should be careful to avoid any errors in logging in?---Correct.

And that was because you knew that if, if that had occurred then there was no way that Addisons could reactivate the account?---Yes, we'd be locked out.

You'd be locked out?---Mmm.

30 And you knew that you couldn't go back to the administrator of this account to unlock the account?---Well, I just thought it would have to go back to Angus and then that would be a hassle to have another account or however that worked.

Well, why would it be a hassle if Angus had a legitimate access to the account?---We just wanted to make it work smoothly.

Yes. But you appreciated that if there was an error logging in, that was the end, that was the end of your, or Addisons' access to the account, didn't you?---Yes.

40 Yes.

THE COMMISSIONER: That would be unusual, wouldn't it?---I don't know. At the time I might have thought maybe that's the timeframe, I don't know.

Ordinarily if you make a mistake and you're locked out you can always arrange to get back in again. Isn't that what you were used to?---Yes.

So what was the, what was so special about this one that if you made a mistake in logging in that you were logged out forever?---I don't know.

Again, you didn't, you weren't curious about it?---No.

MR BROAD: Yes. If you could just down the page, there's a heading "Reminder on use of new login," and you've written the following instruction, "The login and password are to be treated as confidential - - -?--
-Yes.

10

- - - and it is not to be given out or used inappropriately"?---Yes.

THE COMMISSIONER: Well, why, why were they confidential?---Well, I guess all our logins were confidential.

But you give them, you share them?---Within the business.

So they're confidential to outsiders but not within the business?---Yes. I may have put that sentence in other instructions, I don't know, as well.

20

You regarded it as pretty important, it's in bold?---Yes.

MR BROAD: Is it the case that you didn't want any of your, any of the staff from Addisons disclosing to people outside that it had access to his particular account?---Ah - - -

Would that have been a reason?---No, not that I would have thought it had been a topic of discussion.

30

THE COMMISSIONER: Well, if it was a, if it was a password that had been obtained without the consent of the owner it's not something you would have wanted others to know about?---I think I was putting that in just to, I don't know, just make it sound very formal in the instructions.

Why?---So, I don't know, passwords weren't handed about and used outside Addisons for other work or anything, I don't know.

MR BROAD: The owner of the account, Fleming, he didn't work for Addisons, did he?---No.

40

And he probably would have thought that his account should be treated as confidential (not transcribable)?---I'm not even sure if I, at the time I'm not even sure if I understood Fleming was someone's name or whether it was just a username made up of whatever.

Well, hildebrandk was a name that came, well, it was based on Kim's surname and the first letter of her Christian name?---Ah hmm.

flemingt wouldn't have taken much for you to realise that that was also derived from the owner's surname and the first letter of his or her Christian name?---I'm just saying I don't know whether I thought about what the username stood for.

Did anyone tell you to put that particular instruction in?---Pardon?

10 The instruction about treating the login and password as confidential, not to be given out or used inappropriately?---I think that there might have been discussion with the directors about generally our logins and confidentiality and, you know, making sure that the passwords were only used by the staff in the office, you know, that might have inspired me to put that in there. I, I really can't remember.

Okay. How would you regard use of the login and password, how would you regard it to be used inappropriately? What, what sort of use would you regard as inappropriate?---Well, other than for the, other than for the work of attaching to the work, the instructions that we had coming in.

20 But you would have thought it would have been inappropriate for a staff member to provide that user account and password to a competitor of Addisons, another valuation company. Would you regard that as inappropriate?---Yes.

Is that the reason why you wrote that instruction?---I think it was just really a general note that, you know, that passwords were confidential to our business.

30 I think you emailed this to various staff members, this set of instructions. Is that, that possible?---I could have, yeah, I would, I would have done it, I would have either printed it out and handed it to them or emailed them so they all had a copy, I might have put it centrally in the instruction manual that we had for them to reference.

And if you go to page 365, you've made, it's an email from yourself to various staff members, correct?---Yes.

And you indicate that you created a, an input log?---Right, yes.

40 And if you turn to page 368 and 369 - - -?---Right.

- - - is that the input log that you referred to in your email?---Yes.

And if you go to page 369 there's a, the first date is 4 September, 2009? ---Right.

It would appear that that particular staff member has used the Fleming account to continue the process of downloading on that particular day, so that's the very same day that the account was obtained?---Oh, right, right.

You accept that?---Yes.

Okay. Turn to page 370.

10 THE COMMISSIONER: Are you finished with 337, Mr Broad?

MR BROAD: Yes, yes, I have.

THE COMMISSIONER: Can you go back to 337, please, Ms Whitelaw?
---337, ah hmm.

Do you see under the bold part which you've been asked about there are the words, "There are other users of this login - - -?---Right.

20 - - - and at any time you are logged out in the middle of your downloads or your have trouble logging in you must do a number of things"?---Right.

Do you see that?---Yes.

How did you know that there were other users of this login?---Because I'd given the login out to multiple users to try and access at the same time and they might not have told each other, you know, that they were going to access it so we'd be logging each other out.

30 Did you not know that the other users would be persons outside of Addison?
---No.

Are you saying that you thought that this password only belonged, was only for the use of Addisons?---That's what I thought.

Why did you think that?---Because that's just what I thought.

Why?---Because all our logins usually just pertain to Addisons.

40 But how could Addisons have a login with the username of Fleming?---I didn't think about what the name was, sorry. We had a lot of different passwords, it was just another one.

MR BROAD: Yes. If you could turn to page 370 and that's an email, again from yourself to various staff members at Addisons dated 25 September, 2009?---Right.

And in that email you advise the staff that they no longer need to have, they no longer are required to download strata plans as two persons have been employed to take over that particular role?---Right.

And one of those persons was the student to whom you've referred and another person - - -?---Ah hmm.

- - - was a, it was a young lady. Correct?---Yes.

10 And she was employed from 21 September to 13 October?---Again that sounds about right but I would have to look at the records to - - -

And was she working every day of the week during that period, downloading plans?---I think my, I thought my memory was they both were sort of working part-time and thinking back now I think it was over a period of school holidays so there was more availability for the student and so to, to, although the student had study requirements and so therefore it was thought to bring someone else in to just finish this job off.

20 And whose thought was that?---It was - - -

It was Angus and Mr Smith decided?---Yeah. Probably, yes.

And the decision was to finish the job off because there was a certain amount of anxiety about how long the access would remain?---I don't know if the word anxiety, it was just, you know - - -

30 But they were certainly conscious of the fact that the access might come to an end at any moment?---Well yes, that the access might be coming to an end. We had an opportunity where the student was more available and there was someone else that could help with the work. And instead of logging each other off all day long, we, we were busy, so it was decided to like get, just let's finish this job.

40 And during this period were strata plans and, and deposited plans, title searches still conducted using the access as needed by, by the business? ---Yes. If, if the student or the other young person wasn't in the office using it, staff would log on and access as it's required. If they were in the office and using the login, then you, I think the direction was to ask them to download what you needed straight away and then that would be attached to the job, so the workflow would not be stopped.

And if I can just show you the column chart at page 1165?---Yes.

And if I could just direct your attention to the months of September and October. As you'll see in there's a significant spike - - -?---Yes.

- - - in the number of downloads?---Yes.

And, and also in October there's a significant number of downloads, strata plans downloaded and this is a result of the, the efforts put in by the student and the other young person?---Yes.

So by the end of October, early November almost all of the plans have been downloaded?---Yes.

10 And at page 370 in your email of 25 September, 2009, that's something that you remark upon when you say, thank you for all your help with the strata plans. Not long before we have them all?---Mmm. Yes.

Now do you recall when the account was, this is the Fleming account was deactivated? Do you recall that date?---No, I don't recall it.

Do you recall receiving a telephone call from Kim Hildebrand some time after the account was closed?---I'm not sure of the time, but yes I do remember receiving a call from Kim.

20 Yes. And why was she calling you?---She did ask me about strata plans and I think I did say to her, yes we've been downloading strata plans. And she then asked for Angus.

Did she ring you to discuss, well what did she actually say to you about the plans? Can you recall?---Well, no. I mean really she was ringing to speak to Angus, but he was unavailable at the time.

30 Right. And how was she when she spoke to you? What was her emotional state?---It just seemed like a phone call.

Right?---Something, you know, she wanted to speak to Angus. I mean the valuers always rang all the time, quite often urgently to speak to, to the directors.

Did she tell you that she, it had been reported to her that the accounts had been used to download a large number of strata plans?---No. I don't remember having that conversation with her.

40 Right.

THE COMMISSIONER: What did she ask then?---I think, I'm trying to remember, it was a long time ago and just one conversation. I think I do remember her asking about, were strata plans being downloaded. I think I remember saying yes we have been downloading the strata plans.

And what was her reaction to that?---And she wanted to speak to Angus.

Did she express dismay, anger or was she just non-committal?---I don't know, I think the conversation was quite short.

Well that doesn't answer the question?---I don't remember how I think she felt or sounded.

MR BROAD: And after, well after the account was closed did you have a, well did Mr Algie direct you to find another means by which to obtain plans and title searches?---Yes, he did.

10

And what did you do?---I think it was me and Rebecca, actually myself and Rebecca and another staff member to maybe do some research and, and see what companies made strata plans available.

Right. And you made those inquiries I take it?---Yes.

And you were, who did you end up, which information provider did you end up going with?---It was a company called, well we got Legal Stream, but I think we might've been working with, I remember a company called Ansel.

20

And I'm thinking maybe we had an account with them and now we're with Legal Stream.

And how much were you paying the company that you subscribed to after the Fleming account closed, how much were you paying them for a plan?---I don't know.

Well didn't you have to organise the subscription?---No.

Right. You just did the research and then presented that to, to Angus. Is that right?---Yeah, I think so, yeah.

30

You can't remember?---I think I remember researching what companies there were. I think I had to ask them for some names, because I wasn't aware of any companies, so - - -

Yes. Well I take it you would have got some names of some companies, you would have rung them and said, well look what are your prices?
---Mmm.

40

Yes. Do you recall doing this?---Yes.

And then you would have reported back to Angus - - -?---Yes.

- - - the various prices and the terms of their subscriptions. Is that correct?
---Yes.

And did you, did Angus then give you a direction to choose, did he then choose a particular information provider and then did you then go and

contact that particular provider?---I'm not sure if it was me or whether it would have been Jodie in accounts. It may have been me. I don't remember or it might have been Jodie. I'm not quite sure. Jodie normally did sort of - - -

10 THE COMMISSIONER: Did you still have a need for strata plans? Haven't you downloaded every one that existed?---I think it was because, you know, there's always a need for access to a site that provides strata plans, CT's and DP's. There would always be new strata plans because there's always new buildings, built, you know. Mmm.

MR BROAD: But there was, by the time the Fleming account was closed there was now a very large library of strata plans held on the Addison server?---Yes.

Yes. And that was used from there after. Correct? The plans were then used and attached to various jobs - - -?---Yes.

20 - - - that related to strata properties?---Yes.

THE COMMISSIONER: They're still being used?---Sorry?

They are still being used?---Yes, we still have our library of strata plans.

You still use them?---We, yes, we use that library.

MR BROAD: Yes, I have no further questions.

30 THE COMMISSIONER: Yes. Can I have an indication of which counsel would like to question Ms Whitelaw, please. There doesn't appear to be anybody who wishes to ask her any questions.

MR YOUNG: Commissioner, I have a few questions.

THE COMMISSIONER: Yes.

MR YOUNG: They're short.

40 THE COMMISSIONER: Could you just explain who you are, please.

MR YOUNG: Yes, I appear for Mr Algie?---Ah hmm.

I think Kim Hildebrand - - -

THE COMMISSIONER: Mr Young, whatever you're saying is not coming through on the transcript. Would you mind speaking louder, please.

MR YOUNG: So I think Kim Hildebrand gave her evidence and was interviewed on or about 3 April, 2009. Do you recall that?---No, I don't. I wouldn't have been there. I didn't start until the May.

Until May?---Mmm.

Right. Well, when you started there did you speak to Kim around that time at any stage?---I don't, don't remember. I probably didn't see Kim for some time.

10

All right. Well, after you actually spoke to Kim the first time did you speak to her on and off over the ensuing months?---I would have spoken to her on the phone, yes.

On a fairly regular basis?---It depended whether she needed anything. When I first started there in the admin role, probably spoke to the valuers a little bit more often as the required things or had to update you about their jobs, when I took on the office manager position I probably wouldn't have needed to speak to Kim very often.

20

Did you speak to her in relation to the use of the hildebrand password at any stage?---I don't remember speaking to her about it.

Did she ever say to you that the hildebrand password was only, was only to be used to, to look at the site or did she used the words, "just to have a stickybeak?"---I don't believe I had a discussion with Kim about it at all.

30

Did you at any stage aware that there is a limitation on the amount of information you could access on that site?---I wasn't told there was a limitation.

So as far as you, you could access whenever necessary?---Yes.

And I think you arranged for XXXXXXXXX to come in- -?---Yes.

- - -and download the strata plans?---Yes.

40

THE COMMISSIONER: I just better make it clear that the reference to son is governed by the suppression order that I made. I would prefer it if counsel would attempt to use neutral terminology.

MR YOUNG: Yes. Thank you, Commissioner. So as far as knowledge of the downloading is concerned, I think that, was most of the staff aware that it was being downloaded in bulk?---Yes.

And there was no, I presume there was no suspicion by yourself that you were doing something illegal?---No.

No. Not at all?---Not at all. I mean, I wouldn't have got the student involved had I thought there was something- - -

Illegal?---Yes.

MR BROAD: Yes. Thank you, Commissioner.

THE COMMISSIONER: I take it, Mr Goldsworthy, you wish to ask no questions?

10

MR GOLDSWORTHY: I don't wish to ask any questions.

THE COMMISSIONER: Mr Broad?

MR BROAD: Yeah, no questions.

THE COMMISSIONER: Yes. Thank you, Ms Whitelaw. You are excused?---Thank you.

20

THE WITNESS EXCUSED

[11.43am]

MR BROAD: I call James Smith.

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

30

MR HABERFIELD: If you could, thank you, Commissioner.

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

40

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR SMITH AND ALL DOCUMENTS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS, AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HIM TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT PRODUCED.

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

MR SMITH: Under oath, Commissioner.

THE COMMISSIONER: Would you swear Mr Smith in, please.

MR BROAD: Yes, thank you, Commissioner. Sir, could you give your name, please?---James Smith.

Mr Smith, you are a co-managing director of Addisons Valuation Services?
---Yes, I am.

10 Along with Angus Algie. Is that correct?---Yes, that's correct.

You obtained a valuation degree in 1994. Is that right?---Yes, I did.

And you're a certified practising valuer. Is that correct?---Yes, I am.

And you joined Mr Algie in 2000 to work with a company called Alcorp Smith Valuers?---Yes, I did.

20 Is that yours and Mr- - -?---Yes.

- - -Algie's company?---Yes.

And how long did you, did that partnership last for?---Well, until 2004 and we sold the business.

But you rejoined Algie in 2007. Is that right?---Yes.

And that was to form- - -?---Yes.

30 That was to form Addisons?---Addisons was already formed but I, I came later on, yes, and I became a director, I think it was 2008.

2008. And so, so by 2008 it was just you and Mr Algie who were directors?
---Yes.

And you were both shareholders?---Yes.

Were there any other shareholders?---No, I don't think so.

40 And no other directors?---No.

And of course Addisons Valuations was in the business of valuing property for lending institutions?---Yes. And private individuals.

An you were, had responsibility at certain points in time for commercial premises. Is that right?---For commercial, well, I, I was looking after the commercial side of the business- - -

Right---?- -after the, after the end of 2008.

Right. And Mr Algie was looking after the residential side?---Yes.

And you both had offices at the premises?---Yeah, yeah.

And that was at Rosebery, I think. Is that right?---Yes.

10 Now, in April 2009, how many staff were employed at Addison?---I think, I think we, we had a number of contractors and, and some employed valuers and then there was four or five admin, three or four admin staff. I, yeah, it's roughly those sort of figures, yeah.

And when do you recall Ms Whitelaw commencing with Addisons?---Deb started, I think it was around May, on a part-time basis. She came for an interview for, to be an office manager and we offered her a part-time position and another person in the office manager. That didn't work out and we approached Deb and she accepted the position.

20 Now, in order to properly instruct the valuers who were engaged by Addisons- -?---Mmm.

- - -it was obviously necessary to obtain a copy of a relevant strata plan or deposited plan?---Yes. Generally just strata plans.

Right. Why not deposited plans?---Deposited, well, we didn't, we didn't really need those for the valuations. Deposited plans sometimes if it was a full and comprehensive report that, that needed a full title search.

30 Right. Right?---So that the valuer could look at the plan and see if there were any encumbrances or easements over the property.

Now, you heard evidence yesterday and you were aware of the fact that Ms Hildebrand provided an account to the SIX database?---Ah hmm.

Provided an account to Mr Algie. Prior to that occurring, who was the information provider that Addisons was using?---I think it was a company called Universal.

40 Right. And, and how much were you paying Universal for a strata plan? ---Oh, I think between ten and \$12. I, I, I think that's where, where it was at at the time.

Is that the same price for a deposited plan?---I don't know. I couldn't tell you what a deposited plan was worth.

And a title search?---I don't think, I suppose a title search was about \$7 or something to that effect.

Right. And how many requests a day were Addisons getting around the time Ms Hildebrand was engaged under contract?---I suppose, I suppose it was about 20.

Right?---Could have been between 20 and 30 perhaps.

Right. And they were mostly strata properties?---No. They were, there's a difference. There's strata a Torrens Title properties.

10

Yep?---Strata, strata properties might have been a third maybe.

Right?---A third to a, yeah, of that sort of figure.

Yeah. Yeah?---Yeah.

Right. And the rest were Torrens Title or commercial premises?---Yeah, and not many commercial premises. I was, that was what I was trying to do, build that division.

20

And at that time, Addisons had collected a number of plans and- - -?---Ah
hmm.

- - -stored them electronically on the- - -?---Mmm.

- - -on the server?---Yep.

I think the, well, how many plans do you recall, how many strata plans were held in the, in the Addison library around April 2009?---I don't know
specific figures.

30

No?---But, like, 20 or 30,000 perhaps, something like that.

And were these plans that you had gathered over the years as a valuer?

---Yeah, I think, I think yeah and various, various valuers that we, we may have dealt with. I think by this stage, strata plans used to have to be ordered like by some guy who sat over at the Land Titles Office and went and got them out, photocopied them and got to, got them to the valuers however, in maybe late, late nineties or at some point they, they, it went online with,
with a system that you could, we've put all those sort of guys out of work
that, that searched them but - - -

40

It meant that you could get it electronically and you could have an image - -
-?---Yeah, yeah, yeah, it's, yeah.

- - - and you could store that image digitally?---Mmm, yeah.

And valuers started to aggregate those images?---Well, well, I guess valuers save the images when they, when they, when they ordered them and, and by that stage I imagine valuers had a lot of those plans available to them.

And is that what you had, had done?---Yeah, pretty much, yeah.

And - - -?---We'd kept them and, and, yeah.

10 THE COMMISSIONER: So you had a library of plans?---Yeah, we had a library of plans.

And did valuers on-sell their libraries amongst each other?---No, no, not, not really, I don't think it ever got to that, that stage. They might have swapped them amongst each other but - - -

20 Has it got to that stage now?---Not that I know of. Oh, well, I don't know, I don't know with confidence that that's, that that's, though it could be. I mean, it's been going, the, the ability to do that online searching has been around for a long time now so valuers probably, you know, are creating and, and growing strata plan libraries I would think.

And if they have, a strata plan library has a value I take it?---Oh, well, yeah.

And you, somebody who's got a large and comprehensive library would sell it to, to, to a firm that doesn't and would like one?---Well, yes, that's a possibility, yes.

30 MR BROAD: And it was the practice at Addisons for staff once a job had come in relating to a strata property staff would check the library, the strata plan library - - -?---Ah hmm.

- - - to see if there was the relevant plan there?---Yes.

And if it was it would then be uploaded onto the Addisons website - - -?
---Into related documents.

40 - - - and that would then be made available electronically to the, to the valuers who were contracted to work for Addisons?---That's right and that's generally the practice in valuation.

Did it matter that the plan that was obtained from the library was some months or years or had been printed some months or years previously?
---Well, I guess, I guess that that could have, that could have mattered. The valuer took the plan to the site with them so they, they, what we encourage our valuers to do is to check, to take the plan with them and make sure that what the plan says is what is actually there so it might have been evident to them if they got out there and looked at what they were looking at and it was different.

All right. And of course if a plan wasn't available in the Addison's library the staff member would make a request for the plan with a universal title search?---Yeah, and one of the reasons we didn't, we didn't order the plans straightaway is because often the property that was being valued was being purchased so the plan was in, as a part of the contract for, for sale so the valuer would then send, scan the plan and send it to our office and we would then put it in the library so it saved us getting the plan ourselves.

- 10 Right?---Sometimes the contracts weren't available so we'd order the plans anyway and I think in evidence previously given, probably by Kim, she said there was sometimes the plans weren't there, well, it was generally often, often when we were sent out to do a valuation we weren't absolutely sure if it was a purchase and if it was a purchase we expected the valuer to get the plan out of the contract and send it to us. So it frustrated the valuers as it probably frustrated Kim to, like to be organised and not have the plan but we, that, that was the objective.

- 20 All right. Now, you've heard evidence that on 20 April, 2009 Mr Algie obtained the, the username and password - - -?---Ah hmm.

- - - from Ms Hildebrand's account?---Yeah.

Did, when did you first become aware that Mr Algie had obtained that particular username and password?---I think it, I think it must have been late May or, I suppose. I, I think whenever, I learnt about it and then I, there's an email that I've seen that I arranged a relative to come and, and so it was around about that time I think.

- 30 Right. And did he tell you how he found out from Ms Hildebrand how - - -? ---Well, no, he just, well, I think, I think what was happening is that the, the front desk, they were being downloaded like, it was just going on and, and then I sort of asked him and he said oh, Kim's given us, Kim's given us a code.

Right. So the front desk was (not transcribable)?---I think, I think it wasn't until after, yeah, I think the timing wasn't 'til a little bit after that was sort of happening but, yeah, I was made aware.

- 40 THE COMMISSIONER: Was the front, I'm not sure what you're saying, Mr Smith. Are you saying that the front, what was the front desk doing? ---The front desk were the people that ordered strata plans - - -

Yes?--- - - - and put, that was, so I'm thinking I found out about it after, like got full knowledge of it after the front desk had been downloading some plans or it had started, so anyway.

And how did it start? Did the front desk just download plans on an as needs basis or did they start systematically downloading the plans?---I think it was more on an ad hoc, I think as they were required.

MR BROAD: And these plans were being downloaded at no cost to Addisons, you became aware of that?---Well, that's what, that's, that's what I became aware of, yes.

10 And these were being downloaded from the, the website maintained by the Land and Property Information?---Well, at that, at that stage I haven't, hadn't looked and I now know where it, where it had all come from.

But when you did look in May 2009 - - -?---Well, I don't, that's the thing, I don't think I ever actually looked at it but I, I'm, I'm now aware that's where it, that's where it was.

20 THE COMMISSIONER: Well, when did you first become aware that it was being downloaded from a government department?---I can't, I can't say for sure.

Well, what was the latest?---Well, it could have even been when Kim rang and she was upset but, but I - - -

But you knew it had been downloaded from about the end of May?---Yes.

30 Where did you think it was, where it was being downloaded from?---My thoughts at the time and, and I've tried to go back and analyse what I was thinking at the time. I thought that we were just like all our other websites, someone was paying for access for a specific amount of time and that, that person was either Kim or whoever she'd worked for and Kim had given us the code. That's what, that - - -

I don't actually understand that. Can you say that again?---Well, just like, just like the other databases that we have access to - - -

For which you pay?---For which we pay, that's right.

40 Yes?---I believed that Kim had given us her code for a database that either she or someone else had paid for. That's, that was, that's was what I thought.

So, so you thought that she'd given you access to an information broker? ---Well, yeah, something, something like that or, or that the, whatever the, the site was that she, well, yeah, access to an information broker.

What made you think that?---Well, because she'd given us a code and a password.

Yes, I know she gave you that but why did you think that that was the code to an information broker?---Because that's, my, my experience with databases, limited as it, as it is or in my business was that to get access to information you had to pay for either a certain time or a certain number of things and, and which was, and my experience and only experience was with sales databases.

10 And when you get, pay for access to a database and information provided you get a password and an identity name, a username?---Well, well, we do and we, we pay for a number of, we pay for a number of actual access points, is - - -

So are you allowed to hand over that username and password to anybody who hasn't paid for it?---No, well, I, I don't know the terms and conditions but no, I wouldn't think so.

20 So why do you, so you must have known that whatever Kim was doing, she wasn't entitled to do what she was doing?---I didn't, I didn't think about it. I didn't think about it. I thought it was suspicious, but I didn't think about it at the time.

You thought it was suspicious?---Well she was doing, she was doing it like for us, so - - -

What was suspicious about it?---Well, well that she'd given us her password, I suppose. It - - -

30 Well what was suspicious about giving you her password?---Well I guess I didn't know all, all of the conditions that the password was given under. I don't know, I just I thought well we had to pay for passwords and she'd given us her password, so she must have paid for the password.

Yes, but you knew that when you get a password it's given to you and to you alone. And you're not allowed to give it to anyone else. Isn't the normal rule?---I guess so, yes.

40 Mr Smith, there's nothing more to this than that you just saw an opportunity and you took it. Isn't that right?---Well there was an opportunity there and we took it, yes. I, I didn't - - -

And the opportunity was to get information for free for which you would normally have to pay?---Yeah. And I thought Kim had given us the password and that we could use it.

Just answer my question, please?---Yes.

I'll ask it again so there's no misunderstanding?---Ah hmm.

The opportunity you saw was to get information into your possession for free when you normally have to pay for it?---Yes. However, could I - - -

And you knew that at the very least that you doing this was suspicious?
---Well I didn't, I didn't - - -

That's word?---Yeah, I didn't understand the, the terms that Kim had the password. I wasn't informed of that and I didn't, once you, once you've been through what we've been through and I know how this has all gone
10 and I know the background to it all now, I can say, yeah, it was, it was suspicious and I should have thought it was suspicious and more suspicious than it was. But I didn't ask the relevant questions and, and now I'm - - -

How did you find out about it?---Well I found out, and I don't think anyone has recorded this, but I think I had a conversation, I'm pretty sure I had a conversation with Kim some time in November 2009 and she was very upset.

And what did she say?---And she said a whole heap of strata plans had been
20 downloaded and it's come from a, from a firm in Alexandria. And I was, and I was, yeah, quite shocked and upset at that time as well.

Because your firm is in Alexandria?---That's correct.

Why were you upset?---Well I - - -

Could I suggest to you you were upset because you'd been found out?
---Well, no I think I was upset because I realised that we weren't meant to have that code and those passwords at that time. And I realised then what
30 the implications could have been because of how upset Kim was.

When did you first learn that your company was using Kim's password to download plans?---I think it was some time in May.

And how did you learn that?---I think Angus told me. Yeah, I think either Angus told me or I observed - - -

What was your, or you observed it. How did you observe it?---Well it must have been that Angus had told me or I observed that the front desk were
40 ordering strata plans.

That's something I take it you would have found out anyway?---At some point I would have found out, yeah.

What was your reaction?---Well I thought it was quite good, firstly I asked do we have to pay for them and he said - - -

I beg your pardon?---First I, I guess the first question I had to ask is do we have to pay for, do we have to pay for these and he said, no.

Who said no?---Angus.

And did you ask why?---Well I may, I may have asked why and he would have said, Kim's, Kim's got access, given us the access code to this site.

Did you know what site?---Not at that time.

10

When did you first learn it was a government site?---I can't say with absolute certainty when I learned it was a government site. Most, most of the time, well most of the contact that I had with, had with this matter was the information was already in a, in a manual or, and I didn't really, I didn't really look at it. I didn't go, like I had, me personally had no point of going and looking at it because, I don't think I had any point because it was being done by the, by other people.

Yes, Mr - - -

20

MR BROAD: You went into the office on Sunday, 24 May - - -?---Yeah.

- - - with another person?---Yes.

For the sole purpose of commencing the project of downloading plans?
---Well I was, I was, yeah, I was going in on the Sunday and that, and it worked out that that's what happened as well.

And you accessed the database with the other person?---Well the - - -

30

Did you or did you not?---Well I must have, but - - -

And then you would have realised that it had the, that it was the database maintained by the Land and Property Information?---The information was in, was in a, was in a, was like all set out step by step by Deb. So I can't recall if at the time I looked at the site, but even at, even at that point I, I would have, the way I was thinking was that somebody had paid for access to this site and we had the, and we had the, we had the password for it. So -
- -

40

THE COMMISSIONER: Mr Smith, yes, sorry to interrupt. Carry on. Finish your answer?---So that's, that's how I saw it.

Is it possible for an individual to download the site over and over again without realising that it's a government site?---If, if you were the individual that was doing it I don't think it would be, I mean, you'd have to realise I suppose.

And you didn't?---I don't - - -

On that Sunday?---I may have, it's a possibility that, but it was, I was following, I was - - -

I don't want to call the person who was with you - - -?---No.

- - - but I need to know whether you downloaded it or not?---I would have followed the instructions that I had, yes.

10

And you downloaded it, and you downloaded some?---Well I'm, yes.

(not transcribable) I mentioned, I've got to, I've got to - - -?---Yeah. Yep. Okay. Yep, I downloaded some.

Yes. So you must have known then?---Well I guess, I guess I did. But I, I don't know much about databases and stuff. I know it had, it was a government site. I do now know that it was a government site. I just, as far as computer stuff goes, I get, I get an instruction and I just follow it dot, dot, dot and I'm not great on them, so I don't - - -

20

I mean let's just summarise where you were at. You knew that Kim Hildebrand had given you her, her username - - -?---Yep.

- - - and her password?---Yep.

Which enabled you to get access to strata plans?---Ah hmm.

And you knew that the access was to a government site?---Well, yes.

30

So that the plans in question were coming from a government site?---Yes. Well - - -

And you knew that in the past whenever you got information from an information broker, that is plans, the information broker got them from a government site?---Okay. Yeah.

So you knew that what you were doing was cutting out the, the, the information broker?---I didn't know if there was an information broker in between Kim and (not transcribable)

40

You knew that were going straight to the government site?---Okay. Yeah.

So you, you knew that you were cutting out the government broker?---Okay, yes.

So you knew you were saving yourself the money?---Yes.

So that is why it was an opportunity?---Okay, yeah.

And that's why Addisons benefitted?---Yes.

MR BROAD: And you weren't entitled to it in other words?---I didn't understand what Kim's entitlement was and I hadn't asked any questions in relation to that.

10 Well you knew that she had obtained the access through her previous employment?---Well I didn't know that for sure, no. I hadn't, I had never, I hadn't met Kim I don't think other than to just, to say hello. I hadn't interviewed her and that. I wasn't dealing with valuers that much at that time because I was working in the commercial section.

I'd like to ask the Commissioner if he could uplift the Suppression Order that was made on Mr Algie's evidence that he gave on 6 May, 2011?

20 THE COMMISSIONER: Yes. The Suppression Order is removed. Do we have copies for counsel?

MR BROAD: We can make copies. We don't have any copies available, Commissioner.

THE COMMISSIONER: All right. If you could just give Mr Smith that copy and in the meantime we will all make do with what's on the screen, but if counsel wish to get hard copies they will be made available later.

30 MR BROAD: If you could, if you could turn to page 117 and go to point 3, 35. You were asked this question. "Do you know how she got free access, how she got access to this Website?" You said, "I was aware that Kim had worked for a company that did valuations for zoning, for rezoning purpose and I assumed that's how she had access to the Website."---Ah hmm.

So you gave truthful evidence on 6 May, 2011?---Well- - -

Is that correct or not?---Yeah, no, that's, that's correct.

And that was a true answer to the question. Is that correct?---Yeah.

40 Page 118 at that point 40 or actually the last, the question on page 118. "So I mean you must have known that that is, that this is a government Website that you were getting access to?" And you answered, "Yes." See that? And if you turn the page, "And you must have known that, that Kim did not have the, did not have authority to give you access to this Website?" And you answered, "Yes."---Yeah.

See those?---Yeah.

And you agree you gave that evidence- -?---Yep.

- - -on 6 May? And you gave truthful evidence on that?---Yeah.

So- -?---What I, what I was trying to explain to you earlier is that for me to work out the timing of what I, what I knew when and where- - -

Yes, but you accessed the Website on 24 May?---Yeah.

10 And Kim was, you knew on 24 May that the Website was a government website?---Yep.

You knew that you weren't paying for the access?---(NO AUDIBLE REPLY)

Well, you weren't paying for it, were you?---No.

No. And you knew that Kim had obtained the access through her work for the Valuer General?---Well, I wasn't, I wasn't a hundred per cent clear on
20 who she worked for- - -

But you'd know that- -?- - -but I knew she had something to do with a company to do with zoning and things like that.

Yes. So you knew that the access that she had was through a previous employer?---Yeah, I guess so, yeah. Well, that would be the reason that she'd have the access.

Now, if you could go to folder 1, please, page 353. And this is a the email
30 from Ms Whitelaw on 19 May, 2009?---Yes.

You were here during the course of Ms Whitelaw's evidence?---Yes.

Do you recall I showed her a set of instructions that she had prepared, basically a manual for the downloading of strata plans?---Ah hmm.

It appears that she commenced the preparation of that document on 18 May?---Yep.

40 Did you ask her to prepare that set of instructions?---I may have, yes.

Because that was a set of instructions that really were aimed at a, perhaps someone new to the process of downloading?---Mmm. Yes.

And on the, on the Tuesday you had indicated to Deborah that you had someone, you had a person lined up to come in on a weekend?---Ah hmm.

Is it possible that you could have instructed Deborah to prepare a set of instructions for that particular person?---I could have or she would have just done it in due course. It was around about that time that this was all sort of happening and then she was putting together manuals because she was starting to grow, grow into the role.

And there's a reference in your email to Ms Whitelaw about the need to determine an approach that is efficient for this project?---Ah hmm.

10 So this project, it would indicate, it's a reference to the fact that at least in your mind the idea had been formed that there was a potential there to, to obtain all the strata plans on the database, the SIX database. Correct?---Yes.

Was that something you decided along with Mr Algie as a joint decision or was it your decision alone?---I, I, it could have been mine, we could have both discussed it. I'm not 100 per cent sure on where the decision came from.

20 All right?---I think more I was looking for something to give this person that was coming in on the weekend to do, so- - -

She could have mowed your lawn, couldn't she, or- - -?---I don't have a lawn.

You could have found her other things to do rather than downloading strata plans (not transcribable) didn't have access?---The other thing- - -

30 You didn't have legitimate access?---The other thing we, the other thing with the strata plan library that we already had, they were all, it was all a bit over the, all over the place with TIFFs and PDFs apparently so- - -

So this was an opportunity to, to clean out the old library and- - -?---Yeah.

- - -re-establish it with- - -?---Yeah.

- - -nice new plans from the government Website?---Yes.

40 And you've already given evidence that you came in with that person on 24 May?---I did.

If you could go to page 326. These are the minutes of the meeting on 30 June?---Ah hmm.

Page 328. There's the reference to the strata plans and the discussion?---Ah hmm. "Must gain as much access to get SPs from the site while we still have access." Do you recall that meeting, the meeting on 30 June?---Oh, vaguely.

Vaguely?---But I was, I think I was there.

And this was a - - -

THE COMMISSIONER: You're recorded as being there?---Yep.

MR BROAD: If you just turn to page 56, you're identified as one of the attendees. Do you see that?---Yes.

10 Yep. This was a, a decision that, that had been made by you and Mr Algie on that particular day, a consensus had been reached. Do you agree?---Ah, yeah.

Yeah. I'm just curious about the, the note that Ms Whitelaw has made. She said, "While we still have access." What was, that's obviously a summary of, a very brief summary of the, of the discussion, but what was the discussion- - -?---Look, I - - -

20 - - -you had with Mr Algie about, about that, the, the nature of the access that you had?---Look, as I explained earlier, my understanding of access to these things is you pay for a certain amount of time for them, and while we still have access, I, I would assume meant that somebody had paid for access to a certain time and then it ended. So that's, that's what I think that would relate to.

THE COMMISSIONER: Who could've that somebody have been?---Well, it was either Kim or whoever she worked for. Because that's how, in my experience and my understanding of databases is that you paid for a certain amount of time of access.

30 Well, what discussion took place about access at this meeting?---Um - - -

Can't you remember?---Well, I imagine the discussion would have been - - -

I don't want you to imagine. If you can't remember just - - -?---No, I can't remember.

MR BROAD: Now - - -

40 THE COMMISSIONER: You can't remember whether somebody said or ultimately said this - - -?---I don't think anybody, I don't think anybody, I don't think anybody even thought that there was a limit to the access but like it was a pretty good thing that we had it so if it, you know could go, I don't think anyone put a specific time or timeframe or anything on the access at the time.

MR BROAD: A decision was made at that meeting to hire another person to take up from where you had left off on 24 May. Correct?---Yes, I, the

person I had arranged for was really interested in it and seemed to take a lot of time and we thought it was just, didn't bother proceeding.

You weren't prepared to come in on the weekends yourself?---Well, I usually, I went in on the weekend a lot so it wasn't a big deal but um, yeah, there was that element to it I suppose.

THE COMMISSIONER: By this time people at the front desk were downloading.---They'd been downloading for a while I think.

10

You must have decided that that wasn't quick enough.---I don't think it was about it wasn't quick enough, I was looking for something for someone I knew to do a role.

This is something, you hardly give a child something to do when you knew it was suspicious unless there was a real benefit to you, unless there was some pressing need to do it would you?---I don't think - - -

20

And you're own family?---I, I, no, I don't think anyone understood, I don't think anyone in our business understood the access that Kim had or, it was imagined that it could run out or that it because it was a pretty good thing, I mean, for us, as you said, it was an advantage to us and we didn't pay for it so. Like I didn't know the terms that she had, I guess it would have been bad if we lost the access so, no one had ever put a limit on, on, like it was never set in stone or said anywhere where there was any limit on that. It was probably more imagined or feared that the access would end.

30

It might have been imagined or feared but the fact is that there was something which lead you to decide that it wasn't good enough to let the front desk download as and when they had to time. What was needed was to employ somebody to have a concerted go as doing as much as could be done over a shorter period as possible.---Yes. And, and one of the, one of the aspects of that was it, it would have made, business would have been more streamlined, it was a thing that was going on and it was people time from the other things that they were doing so I guess there was a benefit in having it done as quickly as possible to reduce the disturbance to the business and that would have been an objective at the time as well.

40

I understand.

MR BROAD: Now you recall that in early September the account provided by Miss Hildebrand no long, was no longer working.---I wasn't, I recall I heard about it, yes.

Yes. And another account was obtained. Correct?---That was my understanding, yes.

Where did you get that understanding from?---Deb may have told me, I'd heard about it, it was, that was how it was going on, like it was going on in the business. Deb or Angus could have told me - - -

Because Deborah Whitelaw was reporting to you about the progress of the downloading?---I think she reported to, she reported to in management meetings.

10 Yes, so you were there?---She wasn't reporting, well yeah, it came up in management meetings.

Yes. So and these were held either weekly or fortnightly?---Oh well, we tried to hold them like that, yes.

Yes. And so through the months of June, July, August, you would have been advised by Miss Whitelaw, you and Mr Algie would have been advised by Miss Whitelaw about the progress of the downloading.---Yes.

20 And you would have been interested to know whether or not the account had been deactivated. Correct?---Um, yes.

She would have reported that to you around the time it occurred?---Yeah, she may well have reported to me or Angus told me or, I'm in and out of the office so it could have happened while I was out – I found out about it later.

You became aware that Angus had obtained another user account for the same database from, from Kim Hildebrand?---Well I found that out at some point, yes.

30 Well, when do you recall first finding that out?---Um, it would be some time after the other one stopped working.

Right. Shortly afterwards?---I suppose so, yes.

Because the task of downloading was hardly interrupted for any length of time?---Well, that was my understanding.

40 And did you see the user name and password that had been provided to Angus by Kim on the second occasion?---I don't think so.

Did you have occasion to access that, the database using that particular?---No, I don't think I would have.

But you knew from the circumstances that this again was an account – the use of this particular account was something to which Addisons was not entitled?---I guess so.

Now some additional staff were employed by Addisons to use this new account, the Fleming account to finish the job. That was a decision that, is that right?---I understand, yes.

That was a decision that you made jointly with Mr Algie?---I think it was just, I think it was Deb and Angus and I at a management meeting, I think I was away for most of September so I don't, I knew that it was happening.

10 And you were quite content for that to - - -?---Well I, yeah, I didn't disagree with it happening at the time, no.

And were there certainly urgencies surrounding the completion of the job? ---The urgency being how long, it was sort of drag, it had been dragging on for a fair while. I guess there's two elements as I've already said. We didn't know, we didn't know what limitations to access there were, so we didn't know how long that thing was to go for. And it was also taking up time in the business so that, that was, it was a desire to get it done so we could, you know, do other things.

20 THE COMMISSIONER: Did you find out that if there was, someone made a mistake in logging in that you would be, the password would be deactivated?---I don't think that knowledgeable of the ins and outs of it like I - I didn't - I didn't pay any attention computer stuff really doesn't interest me all that much but that said, I don't, I don't know what the ins and outs of the access were. When, if it was, because the password was entered incorrectly and that stopped it, I don't know.

30 MR BROAD: This, you saw, see the instructions that Miss Whitelaw prepared for strata plan downloads using the Fleming account.---I don't think so. I'm not - I may have. There are, I'm cc'd in on a lot of emails that come from Deb and if they've got some title on it that I'm either interested in or I'm not I either look at the or don't look at them - but I assume that I would be, she cc'd me in on everything so I may well have, may well have seen a second set of instructions.

Well, if you could go to page, have you got folder volume 1, folder 1?
---Yes.

40 If you go to page 337, that's the strata plan downloads you've got there?---
Ah hmm, yeah.

Do you recognise that, those instructions?---Well, I don't, I don't recognise it but I get a hell of a lot of emails and I, it's not a document that's burnt into my memory. I - - -

Well, maybe if I could take you to page 372?---372.

That's an email from Ms Whitelaw to various staff members and a copy has been sent to you and Mr Algie?---Yeah.

And basically she, well, she has replicated the instructions that are found on - - -?---Ah hmm.

- - - page 337, copied the instructions into the email?---Yeah.

So you would have received this email - - -?---Mmm, yeah.

10

- - - on 9 September, 2009. Do you think you would have read it?---I'd have to have a look at, I've have, I'd have to have a look at my diary because I know in early September I went to Europe but I don't know the exact dates but I may, if I was in the office I would have - - -

You would have, yeah?---I would have got this email, whether I read it is another thing I suppose but - - -

20

You may have, all right?---It's not, it wasn't that sort of stuff that I was that, I've got to say I was that interested in, it seemed to be an admin thing that was going on and, and I, I had plenty of other things that I was like carrying on with.

Now, do you recall receiving a telephone call from Ms Hildebrand about the fact that the, the user accounts, the hildebrandk account and the flemingt account had been used to download a large number of plans?---Well, that's the, that's the telephone, that's the telephone I've, I recalled earlier.

30

Yeah, yeah. And what did she say to you during the conversation?---I think she was pretty stressed. She was going there's, there's a, there's some company has downloaded 74,000 strata plans or 70,000 strata plans and, and - - -

And did you, sorry?---Well, I didn't, well, because I, I hadn't understood the, her relationship with Angus around this I didn't say anything, I thought I'd refer this to Angus.

40

Well, did she ask you whether you had been involved in downloading the plans?---She, she may have. I, I wouldn't have known - - -

Well, how did you reply to that?---Well, I'm a, well, I, I possibly would have said I'm unsure about that because I wanted to talk - - -

(not transcribable)?---Well, it wasn't, well, no, it wouldn't, wouldn't have been (not transcribable) I wanted to, I wanted to then go and, and, and talk to Angus about it and find out just what it was all, like what it was all about and - - -

Well, you knew what it was about, you, you - - -?---Yeah, I, I knew what it was all about, I just wanted some clarification on it (not transcribable)

Well, clarification as to what to tell Kim?---Well, how did, how we, how did, what happens now? Like what, this has been done now, what, what happens.

10 And did you have that conversation with Angus?---I'm, I, I imagine I would have got up and gone and had a conversation.

And what was the strategy that, that you both came up with?---Well, I think, I think it was just to be calm and, and see what, see what happens.

And - - -?---And then I - - -

- - - in the meantime you continued to use the strata plans from the library that you'd obtained from the SIX database?---Yes.

20 And you continued doing so, well, are you still using them now?---No.

When did you stop using them?---When this, this situation occurred.

Right?---We do, we do though have, the copies were returned to us. We've received a letter in the last few days to ensure that we delete them from our, from our system and we're - - -

30 And have you done that?---Well, some of them have been deleted. We've got, they're, they're quite, we want to make sure that we get them out of every system so what we're, what our plan is when, we've obviously been here for a couple of days, we got the letter at the end of last, I think I got it on the weekend or at some point last, last week. What we, what we want to do is employ a, some sort of data person who can certify that it's been done so that you can be confident that the plans have been, have been, been deleted.

40 Yeah?---We, we still have the copy of our old, of the, of the old strata plans that we had prior to this whole circumstance arising so it's a, like it's not, I mean, we can go and get, delete the files out of the drives that hold the whole, the whole thing but there's going to be emails with strata plans in them that we want to make sure that we don't have any more because we, we've been instructed to remove them and we don't want to put ourselves in a position of any, you know, of you doubting that we've done it so that's why want to employ a professional to come in and certify that its been done.

If you could turn to page 375, this is a tax invoice from Addisons, do you see that?---Yes.

And it's an invoice relating to the sale of strata plans - - -?---Ah hmm.

- - - by Addison's to another valuation company?---Yes.

And it's the case that you arranged for some of the plans that had been downloaded using the, the account provided by Ms Hildebrand to another valuation company?---Yes.

And that was your idea?---Yes.

10 And why did you do that?---Well, we had a professional relationship with this, with this other firm and they were, they were doing some contract work, work for us and, you know, valuation firms talk amongst each other about what they're paying for certain things and I said well, we've, I think we've got a pretty full library of these. If there's some that you don't have and you want to order through us we'll sell them to you for \$7.70.

And that was cheaper than - - -?---Yes.

- - - what they'd pay if they went through an information provider?---Well, 20 I, I think so, yes. Yeah, I know so.

And apart from the plans that are identified on this invoice were there any other plans you sold?---No.

And why did you stop?---It was a bit of, it wasn't really what we did, we weren't in the business of selling strata plans. It was a, it was a strain on the, on the business, on our admin staff and I think at, at, at, there was one point and one of the, one of the, one of Kim's logins ceased to exist and, and I, just thought, you know what, I don't want to put these other people, you 30 know, have them delayed in getting their things and I just said to them, look, go and, go and get your strata plans from where you normally get them, we're not interested in doing it anymore and that's my recollection. When I first, when I first spoke to them about this I, I remember in my, from my evidence previous to you, Commissioner, I'm pretty sure what I said to them at the time was that we had a full library of the strata plans, that someone had given us a full library of the strata plans and that may be contrary to, to what I said last, to what I said last time for no reason other than I, that was how I logically saw it.

40 THE COMMISSIONER: I see.

MR BROAD: Yes, I have no further questions.

THE COMMISSIONER: Yes. Do any counsel wish to question, have any questions of Mr Smith?

MR LEWIS: Just shortly, Commissioner, if I may.

THE COMMISSIONER: Yes.

MR LEWIS: I'm representing Ms Hildebrand?---Yes.

You gave evidence of a conversation you had with Ms Hildebrand and you described her demeanour as being very upset?---Yes, she was, she, she was -
- -

10 Can you just from the best of your memory recount what was said by you
and by her in that conversation?---I think she'd rung, she'd rung to speak to,
to either Deb or one, she rang to speak with somebody, she was put through
to me I think. She said, I've just spoken to, actually I don't know who she
said she'd spoken to but she said there's, there's evidence that there's a
significant number of strata plans that have been downloaded at a site in
Alexandria and at that point I was just like oh, my god.

20 Did you agree that that was your firm?---I don't think I, I don't, I don't
think I did agree with her, with that at the time, only I needed, I don't know,
I just - - -

Why do you think she was (not transcribable)?---Well, she was pretty, she
was pretty upset. A, I didn't want her to get any further, like any further
upset but that was, I don't know, it was, she didn't ask me questions - - -

But you were well aware - - -?---She was asking questions, she was asking
questions that I couldn't answer I think.

30 But you were well aware that it was your firm that had performed the
downloads weren't you, that she was talking about?---At, at that point, yes.

Yes. So had you ever spoken to her previously about the project of
downloading these plans?---I don't, I don't think so.

So the best thing to do at that point was not to say anything about it?---Well,
well I, I hadn't, I hadn't had any initial conversations with her at the very
beginning. So at the point that I spoke to her about it I was, like I was
surprised that she was surprised because I hadn't understood what she'd said
to Angus in the first place. Do you know what I mean?

40 So hadn't you been interested to know from Angus what the arrangement
was?---I hadn't, I hadn't asked.

You just wanted to ignore it?---Well it's not that I, I wanted to ignore it, it's
just that I had, I had plenty of things on my plate and it was something
going on in the business and I didn't choose to ignore it, it's just that I was
busy doing other things.

Nothing further, thank you.

THE COMMISSIONER: Any other questions?

MR YOUNG: Commissioner. Mr Smith, you're aware that I represent Mr Algie. Whatever part you played in this, is it the situation that as far as you were concerned you didn't believe there was anything illegal about it? ---I didn't think it was illegal. You know, someone had paid for access to a site and then they'd given us theirs, that's what I thought, you know.

Thank you. Thank you, Commissioner.

10

THE COMMISSIONER: Yes. Mr Haverfield, do you have any further questions?

MR HAVERFIELD: No thank you.

THE COMMISSIONER: Does Mr Broad Yes, you're excused from the witness box, Mr Smith?---Thank you.

20

THE WITNESS EXCUSED

[12:41pm]

THE COMMISSIONER: Yes.

MR BROAD: Yes, I call Angus Algie, please.

THE COMMISSIONER: Do you wish for me to make a section 38 order, Mr Young?

30

MR YOUNG: Yes, Commissioner.

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

40

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

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

MR ALGIE: Under oath.

THE COMMISSIONER: Yes, would you swear Mr Algie in.

THE COMMISSIONER: Mr Broad.

MR BROAD: Yes. Can you give your name please?---Angus Algie.

Mr Algie, you're the co-managing director of Addisons. Correct?---Yes.

10 And joint shareholder with Mr Smith?---Yes.

I'll take you to 20 April, 2009, how many strata plans do you recall being in the Addisons electronic library?---I've always maintained I thought it was in excess of 20,000 or thereabouts.

And have you been involved in the collection of those plans over the years along with Mr Smith?---Yes, yep.

20 As at that date, 20 April, 2009 you had a contract or an agreement with an information provider to provide plans and title searches?---Yes.

And what's your recollection of the number of valuation requests you were receiving per day around that time?---I'd agree with the recollection of maybe 20, 30 a day.

Right. And half, a third, sorry, a third to a half of those would be strata properties?---I think that's fair to say.

30 Okay. Now you recall advertising in March 2009 for a valuer, contract valuers to work for Addisons?---Yes.

And you interviewed, well Ms Hildebrand responded to that ad and you interviewed her on 3 April, 2009?---Yes, she was one of the respondents, yes.

There was a number of them. Correct?---A number.

40 And was that the first time, when you, she came to the office for the interview. Correct?---Yes.

Was that the first time you ever met her?---Yes, that's the first time I'd spoken to Kim, yes.

Had you ever seen her before?---I'd seen her in a, in a briefing I believe at some point in 2008.

All right. And what briefing was that?---That was the, it was a briefing for ratings work, which I believe was for the Warringah Council, a rating tender for Warringah.

All right. And where was that conducted?---Land Titles Office I think in the city, Queens Square.

10 All right. And what was your purpose of attending that briefing?---I was, we, well we were in the process of putting a tender in for the Warringah contract and anyone was invited to go along for the briefing.

And did you place a tender for that particular contract?---Yes, it was unsuccessful.

And was that the first time you tendered for Valuer General work?---Yes, it was.

20 And did you do any tenders after that occasion in 2008?---I recall we did one for I believe it was the Parramatta and the Penrith areas. I think that was submitted early 2010.

Apart from those two there were no other tenders that was submitted by Addisons?---Not that I can recall.

The 2008 tender you say related to the Warringah area. Is that correct?
---(NO AUDIBLE REPLY)

Are you sure about that?---Well I think it was the Warringah/Pittwater area, is my recollection.

30 All right. Because Westlink had that particular contract at that time. Were you aware of that?---No, I wasn't.

And the reason I ask you that is that contract didn't expire until April 2009. In any event that's your recollection, it was the Warringah area?---Yeah, well my understanding is that there was a tender for that area which we were unsuccessful. I believe we were notified of that probably '08, early '09.

40 Right?---We went in for a debrief with the department over the reasons why.

Right?---And - - -

Is that when you saw Ms Hildebrand?---No, no, that was, that would have been many months prior.

Right. Now Ms Hildebrand was engaged by you on a contract basis to do valuations of residential properties. Correct?---Yes.

And it was agreed that she would start on or about 16 or 17 April. Is that your recollection?---Yeah, we pretty much wanted her to start pretty quickly because that was area was under, undermanned at that time.

Was that a, was she on a, brought on a trial basis? Were you wanting to see how she would perform before you, you decided to keep her on on a permanent basis?---Well I guess it was on a contractor relationship - - -

Yep?--- - - - so at any point either party could have walked away from it.

10

Right. Okay. Now you, obviously you're aware of the email that she sent you on 20 April enclosing the particulars of the, her hildebrand, her SIX user account?---Yeah, I've seen it many times, yes.

How did you discover that Ms Hildebrand had access to that account?---My recollection is there was a conversation in relation to strata plans and title documents we use from time to time. It was purported to me that Kim had access to a site that enabled her to get those. And my recollection is that it was promoted to me on that basis.

20

So who reported it to you? Who reported to you that she had - - -?---Kim did.

Right.

THE COMMISSIONER: Promoted, you used the word promoted. Who promoted it?---Kim.

30

What do you mean by promote?---Well I guess I took the interference was there's access to a site where you can get some information such as strata plans and title searches. And by giving that to us we were to, able to use it on a needs basis.

And did she give you any indication as to why she was telling you this?---I recall the information was volunteered to me. I didn't request and I remember at that time I didn't even know that there was such an access available to people.

40

And why did you, what basis did you have for thinking that she was giving it to you for use on an as needs basis?---Based on our conversation and the email that suggested it was for searches, title searches, strata searches.

MR BROAD: This was a conversation that, it was before 20 April, obviously. Can you recall, was it, was it a face-to-face meeting or was it over the phone?---Well, Kim, I think the first week Kim was in and out of the office. I wouldn't be able to categorically say whether it was face-to-face or over the phone, but I recall there was a conversation that occurred in

relation to that and I believe that Kim was already undertaking that activity on some of our work and maybe that's how it came up.

What, what, sorry, Commissioner.

10 THE COMMISSIONER: When you first contracted with Ms Hildebrand did you give her, did you start off giving her a little bit of work and then that increased or did you have some arrangement with her by which she could understand the quantity of work she was going to get or was it all left up in the open?---We generally encourage the contractors, well, we try and aim for them to do three to four a day, subject to the workflow that's coming in. When new contractors start with us we invariably like to have a bit of a feeling out period where we can send them I guess a limited amount of work to start with and then gradually that, that gets, that gets stepped up.

20 An inference is open, and I'm certainly not saying that it's an inference that will necessarily be drawn, but an inference is open that she gave you this in order to cement the relationship and ensure she'd get more work?---It could be seen that way. It certainly didn't assist her in work volumes.

I beg your pardon?---It certainly didn't assist her in work volumes. The valuers we have are nominated geographical areas and the work that comes in those geographic areas is what's given to those valuers that have nominated those areas.

30 But her position as a valuer for a particular area was something that could change and she could lose that, could she not?---Well, the northern beaches, which is Kim's area, is one area that we had, we've been having issues covering. We couldn't find a valuer down there, so Kim was, it was, it was quite good Kim came along. Directors were having to cover that area. We had at one point people that were sort of outside the region coming to cover that area, so, you know, it was simply a geographical area that suited Kim and suited the business.

So you have one, you have one valuer per area?---Well, we have, we have back-up valuers for those areas as well, because obviously there's holidays and so any geographical areas you'll have a bit of an overlay and, and you came move valuers in and out of those areas.

40 MR BROAD: I think you mentioned in one of your previous answers that it was reported to you that, that Kim was using, or was using the site to download her own plans for Addisons jobs?---Yes.

Is that correct?

THE COMMISSIONER: Is that what Kim told you?---Well, I think it, it came about just in business dealings. The process was when an instruction came in we had support staff that would organise strata plans and titles, I

couldn't recall how I became aware, but I think at some point I became aware that perhaps some had been downloaded by Kim which hadn't been provided by the, the business.

MR BROAD: Was this, this would have been told to you by a member of your own staff?---It, look, it could have been.

Or would, or could it, or could, or did Kim Hildebrand tell you that herself?
---(NO AUDIBLE REPLY)

10

THE COMMISSIONER: Or can't you remember?---I couldn't categorically say.

MR BROAD: All right. But in any event, you, you think, you believe you became aware of, of that occurring and that may have led to the discussion you had with Ms Hildebrand about strata plans?---That's right.

20

During the discussion that you had with Mr, Ms, sorry, Ms Hildebrand about strata plans, did, did, during the course of the discussion did you tell her that you were tendering for Valuer General work?---I think that came up in a bit of chit-chat during the interview. Having interviewed many valuers we generally run through a fairly stock standard dry approach and then towards the end have a bit of a, I always have a chit-chat or if both directors are there we'll have a chit-chat with the valuer to get a, you know, gauge, you know, who they are and things like that, and I think I mentioned to Kim that I may have noticed her at a brief. I said, "Well, you've got a brief", and she said, "Yeah, yeah, yeah." And I think that's as far as the conversation went.

30

But you've, you've tendered, you put in a tender in 2008 and you said earlier that by early 2009 that was unsuccessful?---That's right.

You were told that that was unsuccessful?---That's right.

And then the next tender was in 2010?---That's right.

40

So at that particular time, that is April 2009, you hadn't actually placed a tender for work with the Valuer General?---No, there wasn't a live, I don't, I don't believe there was a live tender open, no.

No. At any time during these discussions with Ms Hildebrand did she indicate the basis upon which she was giving you access to this database?
---I was always of the belief that it was on a as needs basis, as needs basis, that was my understanding. When I received the email, to my understanding it didn't come with any caveats, it was that's the access, there it is and you can do searches.

We might just look at the email, its page 297. I, I take it from that answer, Mr Algie, that she didn't place any limitation on the use to which you could put the, put the access, is that correct?---That's, that's the way I'm reading that.

That's your recollection?---That's my recollection.

10 And the email that you have before you, it would appear that you sent her a link and a password on 17 April to the RP Data website?---That's right, which was standard procedure.

Yes. And then she replied with this email on 20 April. It was a link to the Valuer General's database, that was obvious, correct?---I, I don't claim to know that was obvious. I, I see now it's very obvious but at that point - - -

20 You, you knew that this was an access that she'd obtained as a result of a, her work with, with Westlink and in particular her work for the Valuer General?---I knew it was a password from her work. I didn't understand the, I've represented before I didn't understand the power of it all, the scale of access (not transcribable)

THE COMMISSIONER: Her work being her work for Westlink?---That's right.

You didn't understand that?---Oh - - -

30 I'm not sure what you mean?---Well, the, it's been, I, looking at that there it's evident that it's a, a government website. I guess that the point I'm making is that at that time I didn't know that the, what the access would allow you to do.

Mr Broad, perhaps this is a convenient time.

MR BROAD: Yes.

THE COMMISSIONER: We'll adjourn 'til 2.00pm.

40 LUNCHEON ADJOURNMENT

[12.58pm]