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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION DANBY

Reference: Operation E10/1603

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 1 FEBRUARY 2011

AT 10.05AM

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

ASSISTANT COMMISSIONER: Thank you. Please be seated. Yes, Mr Downing.

MR DOWNING: Commissioner, just before we call the first witness there were just a small number of transcript matters that I thought might be worth raising now, it won't take very long but it might be better if we can try and reach agreement about matters that I think may have been errors.

ASSISTANT COMMISSIONER: Ah hmm.

10

MR DOWNING: If everyone has it. Page 10 of the transcript, line 10 should be "was presented" not "was present".

ASSISTANT COMMISSIONER: I don't have it so I'll have to rely on others to agree or disagree with you. Sorry, Mr Downing, what was the first one?

MR DOWNING: Page 10, line 10, the second word should be "was presented" not "was present".

20

ASSISTANT COMMISSIONER: Yes, yes, that's right.

MR DOWNING: Then page 13, line 23, where the sentence ends it should be "so to pluck a figure out of the air," not to "pipe a figure out of the air".

ASSISTANT COMMISSIONER: Yes.

MR DOWNING: Page 23, line 18, Mr Taylor's present in court but Simone I'm pretty sure should be Simon Taylor.

30

ASSISTANT COMMISSIONER: Yes.

MR DOWNING: Page, page 37, line 7, this was Mr McIlwaine speaking but it was when I'd made an objection about certain matters regarding Mr Armstrong's background and the words are in that line "I wasn't aware there was" and then it says "(not transcribable) for privilege." I'm pretty certain and I'm sure Mr McIlwaine will correct me, it was "a probity check."

40 MR McILWAINE: Probity.

ASSISTANT COMMISSIONER: Yes. He certainly said he wasn't aware about the probity issue.

MR McILWAINE: It was a probity matter.

MR DOWNING: A probity matter.

MR McILWAINE: Yeah, certainly I used the word “probity” not “privilege.”

ASSISTANT COMMISSIONER: Yes.

MR McILWAINE: (not transcribable)

MR DOWNING: I’m content with the probity - - -

10 ASSISTANT COMMISSIONER: Yes.

MR DOWNING: - - - matter if, if - - -

MR McILWAINE: Yes, sure.

ASSISTANT COMMISSIONER: Yes, yes, that’s correct.

MR DOWNING: Page 54, line 14, upcoming by-election, by is just simply misspelt.

20

ASSISTANT COMMISSIONER: Yes.

MR DOWNING: They’re the only matters, Commissioner.

ASSISTANT COMMISSIONER: Yes, thank you, they’re noted, Mr Downing.

MR DOWNING: I call Mr Taylor.

30 ASSISTANT COMMISSIONER: Yes, Mr Taylor. Yes, Mr Taylor, you’ve been called here to give evidence and you are required to answer all of the questions asked of you. Do you wish to seek a declaration under section 38 of our Act that nothing you say here can be used against you in future proceedings?

MR TAYLOR: No, I’m fine.

ASSISTANT COMMISSIONER: All right. Now, you’re required to take an oath on the bible or make an affirmation to tell the truth. Do you have a preference?

40

MR TAYLOR: Affirmation, please.

ASSISTANT COMMISSIONER: Yes. Could the witness please be affirmed.

<SIMON EDWARD TAYLOR, affirmed

[10.08am]

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Mr Taylor, could you tell us your full name?---Simon Edward Taylor.

And your date of birth?---12th of May, 1963.

10

For the purposes of this investigation it's correct, isn't it, that you have prepared a statement dated 26 October, 2010?---Correct.

And do you have a copy of that with you?---I do.

Is there anything in that statement that you wish to add to, to correct or to change?---No.

20

I tender the statement. Copies have been provided to those at the bar table and I have two copies? They haven't?

MR CRADDOCK: No, I haven't got one.

MR DOWNING: I'm sorry. You have or, I had two copies to hand up.

ASSISTANT COMMISSIONER: Yes, the statement of Mr Taylor dated 26/10/10 will be Exhibit 8.

30

#EXHIBIT 8 - STATEMENT OF MR SIMON TAYLOR DATED 26 OCTOBER 2010

40

MR DOWNING: Mr Taylor, can you recall the circumstances, the circumstances which led to you attending the meeting in Sydney on 3 September, 2010?---Yeah, sure. I was based in Melbourne, I was up in Sydney ostensibly for a group meeting for the Tenix Group, an annual meeting. While I was there we set up a number of meetings with a number of councils during the week and, and also with some government authorities and the reason for going to the Strathfield meeting specifically was to do a site survey to look at where we might be placing some cameras to do parking surveillance.

And had you had any discussion with Mr Armstrong before that meeting about the nature of the meeting?---Yes.

And what had Mr Armstrong told you?---Well that was basically as I described, we were going to go and survey the site, see how many cameras

there would be, look at, visually look at the issues they had around congestion around the streets and that sort of thing.

Did he say anything to you about his belief as to council's level of interest for PICS?---Oh, there was a lot of interest, yes.

10 Is this according to what Mr Armstrong had told you?---Yes. The reason we were there is because we had had discussions in the past and you know, we were sort of far enough down the track that we were actually looking at the site, so that suggested to me that there was a level of interest there. Yep.

But you hadn't been privy to any of the previous dealings with - - -?---No, no, no. I understand there'd been meetings before, but I wasn't there.

All right. In your statement you've set out your recollection of the meeting on 3 September?---Sorry, the meeting was on 3 September?

20 Sorry, I just said in your statement you've set out your recollection of what occurred at that meeting?---Yes, yes.

And the fact that there was a period where you went to buy coffee which you were able to time because of the fact that you kept your receipt from Gloria Jean's?---Correct. So we essentially sat down. Met with the client, we did some brief introductions. And then we were in Gloria Jean's so I went up to buy some, some coffee. Correct.

And we know from your receipt which you've annexed to the statement that that occurred at, assuming the register is accurate - - -?---Yep.

30 - - - at 10.51?---Correct.

Do you recall in the course of that meeting anyone, I'll withdraw that. Mr Chau saying anything about whether surveys would be required for the council to progress its interest in PICS?---I don't recall.

40 Do you recall whether Mr Chau said anything about having written a report to council in relation to recommendation about PICS?---Possibly. Yeah, I can't specifically recall. I think there was something about a report around the issues in that area, around congestion and buses not being able to get around corners and that sort of thing. Yeah.

Do you recall whether Mr Chau said anything about any timeframe for PICS to be up and running within Strathfield?---I don't recall. No.

You've referred in your statement to the fact that at a point during the meeting while you were out on the street doing the survey that Mr Armstrong approached you and told you something about what Mr Chau had said to him?---Correct. So after we had coffee we went out to survey

the street and pretty well straight after us leaving Gloria Jean's Phil Armstrong approached me and said that he'd been approached by Mr Chau while I was getting coffee asking, suggesting that there was a, someone who wanted to be a councillor, they needed money to, for brochures and flyers and things.

10 Now (not transcribable) when it was that you went and got the coffee how long afterwards was it to your estimation that Mr Armstrong approached you and told you?---Yeah, I would say it would be pretty well immediately as we left the Gloria Jean's area. So there was a, an area just outside where there was a bus stop and it was pretty well, I'd say two to three minutes after we'd left the meeting when Phil mentioned that to me.

How many minutes before you left Gloria Jean's was it that you actually went and bought the coffees?---Sorry?

20 How many minutes before you left Gloria Jean's was it that you went and bought the coffees?---We bought the coffees while we were in Gloria Jean's, hadn't left Gloria Jean's.

Sorry, I'm not making myself clear?---Sorry.

I'll ask you another way?---I bought, okay, so I bought the coffees and we sat down and had the coffees and then we left to go outside. Is that what you're talking about?

30 What I'd like to try and establish is to your recollection how many minutes passed between when you were absent from the table, that is you were at the counter buying the coffees - - -?---Oh, sorry.

- - - and when Mr Armstrong spoke to you and said Mr Chau has just approached me?---I guess that whole thing might've been 15 minutes. Essentially, I came back, we had the coffee and then once we'd finished the coffees we went to see the site. So however long it takes to have a coffee and go outside I guess.

40 And what was your response to or what was your reaction to hearing what Mr Armstrong told you?---I guess I was surprised and the response was that that's something that we couldn't do.

In the time that Mr Armstrong worked at Tenix, to your knowledge did he ever approach you for any monies to pay to a council in order to facilitate a contract?---No. No.

Did he ever approach you for any monies to pay to any council?---No.

To your knowledge has Tenix Solutions ever made any payment or donation to anyone at Strathfield Council?---No.

Would that be something you'd be aware of if Tenix Solutions had done it?
---I'd imagine so. I've been there for two and a half years so I don't think
we've had any dealings with Strathfield in the past at all.

Mr Armstrong's employment was terminated on 8 October 2010, that's
correct?---Yep.

10 Was Mr Armstrong's employment terminated for anything to do with his
dealings with Mr Chau or his dealings with Strathfield Council?---No.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you, Mr Downing.

MR McILWAINE: I have no questions, Commissioner.

20 ASSISTANT COMMISSIONER: All right. Well, thank you very much for
coming?---Okay. Thank you.

You are now excused from further attendance.

#THE WITNESS EXCUSED

[10.15am]

ASSISTANT COMMISSIONER: Yes, Mr Downing.

30 MR DOWNING: Commissioner, that leaves Mr Chau but before I ask him
to give evidence there are a number of statements from witnesses who I'm
not intending that they be called and I'll tender them at this point if that's
convenient.

ASSISTANT COMMISSIONER: Yes.

MR DOWNING: I am hopeful that all of these have been provided, I'm
confident they were yesterday. I stand to be corrected. But there are
statements from Mr Robert Bourke dated 21 October 2010.

40 ASSISTANT COMMISSIONER: That will be Exhibit 9.

**#EXHIBIT 9 - STATEMENT OF MR ROBERT BOURKE DATED 21
OCTOBER 2010**

MR DOWNING: Commissioner, would you prefer I hand them up
individually or do them as a bundle at the end, the tender?

ASSISTANT COMMISSIONER: We'll just mark them and then you can hand them up as a bundle.

MR DOWNING: Helen McLucas dated 4 November 2010.

ASSISTANT COMMISSIONER: That will be Exhibit 10.

10 **#EXHIBIT 10 - STATEMENT OF HELEN McLUCAS DATED 4 NOVEMBER 2010**

MR DOWNING: Damian Koytz dated 23 December 2010.

ASSISTANT COMMISSIONER: That will be Exhibit 11.

20 **#EXHIBIT 11 - STATEMENT OF DAMIAN KOYTZ DATED 23 DECEMBER 2010**

MR DOWNING: Neale Redman dated 23 December 2010.

ASSISTANT COMMISSIONER: That will be Exhibit 12.

30 **#EXHIBIT 12 - STATEMENT OF NEALE REDMAN DATED 23 DECEMBER 2010**

MR DOWNING: And I'm sure I'm not going to pronounce this correctly but Velmurugujey Jeyadevan dated 23 December 2010 and I'll spell it V-E-L-M-U-R-U-G-U J-E-Y-A-D-E-V-A-N.

ASSISTANT COMMISSIONER: Dated, sorry?

MR DOWNING: 23 December 2010.

40 ASSISTANT COMMISSIONER: Yes. Well, that will be Exhibit 13.

#EXHIBIT 13 - STATEMENT OF VELMURUGU JEYADEVAN DATED 23 DECEMBER 2010

MR DOWNING: The next witness is Mr Chau.

ASSISTANT COMMISSIONER: Yes. Mr Chau, could you come up please. Yes. Now, Mr Chau, do you wish to seek a declaration under section 38 of the ICAC Act?

MR CHAU: Yes.

MR McILWAINE: Yes, my client seeks it.

10 ASSISTANT COMMISSIONER: Thank you, Mr McIlwaine. Now, Mr Chau, this declaration, the effect of this declaration is that nothing you say here can be used against you in any future proceedings, civil, criminal or disciplinary and the exception to that is if you're found to have breached the ICAC Act, for example, by providing false information. So as long as you tell the truth nothing you say here can be used against you. Do you understand the effect of that?

MR CHAU: Yes.

20 ASSISTANT COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by this witness and all documents and things 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 there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

30 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS 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 THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

40 ASSISTANT COMMISSIONER: Mr Chau, do you wish to take an oath or make an affirmation?

MR CHAU: Oath, please.

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you. Mr Chau could you tell us your full name please?---Michael Fook Tshung Chau.

And your date of birth?---6/7/49.

10

Mr Chau in terms of qualifications, its correct isn't it that you hold an Arts degree from Sydney University?---Yes.

And also is it a Law degree from Macquarie University?---Yes.

And when did you complete your law degree?---Oh, in 1990 something, '89, 1990, I think.

And after completing your law degree you finished the College of Law?
---Yes.

20

And is it correct that you've also got a Diploma in Ethics from UTS?---Yes.

Was that something you did as part of the College of Law or was that separate?---Has to be part of it.

So you had some formal ethics qualification through the University of Technology Sydney?---The UTS. It's part of the course.

30

And it's correct isn't it that you began work at Strathfield Council as a multicultural officer in December 2001?---I can't be too sure, but - - -

And prior to that employment had you practiced for some time as a solicitor?---Yes.

And could you briefly tell me what was the nature of your practice? Where did you work and doing what?---I was a legal officer in the New South Wales Public Service, in the Department of Community Services. I practice in the children's court.

40

And did you do that work up until your commencement as an employee of Strathfield Council?---Yes.

Now is it correct in about 2008 you became the acting manager of Community Services at Strathfield Council?---I'm not sure of the date, but I did become acting at some stage, yes.

Well would you accept from me that you became the permanent manager of Community Services on 4 September, 2009?---In 2009 sometime, yes.

Now if I could ask you to have a look at a document which is the position description for your position and it appears at page 6 of Exhibit 1. Do you see that on the screen in front of you?---Yes.

And do you see on the first page of that document there's a heading Our Values? Do you see that?---Yes.

10

And under that heading it indicates that there were certain fundamental organisational values that Strathfield Council held and that they were regarded as guiding the way in which Strathfield carried out their, council carried its business and delivered its activities?---Yes.

I take it this document is something that you've seen before, your position description?---Yes.

And you're familiar with it?---Yes.

20

So you understood that team work according to this document was something that was important? That you were to work as part of a team with your fellow employees at Strathfield Council?---Yes.

And also that integrity was regarded as something very important?---Yes.

That honesty and integrity on the part of council and its staff was something that was essential?---Yes.

30

Now in that document if we could go ahead to the third page, towards the bottom you'll see there's a bullet point under Care Accountabilities that deals with particular areas of responsibility?---Yes.

If we just keep going down on the screen. There's a bullet point there that sets out certain areas, that is aged services, youth services, children's services, multicultural services, community safety and crime prevention and access and equity. Do you see that?---Yes.

40

And were they areas in which you had particular responsibility in your job as manager of community services?---Yes.

So that what was involved in your job was providing some services through council to people within the municipality but also helping to facilitate people to access other services that weren't actually provided by council? ---Facilitate, yes.

In those areas?---Yeah.

And one of them was community safety and crime prevention?---Yeah.

Now is it correct that during much of the time that you've worked at Strathfield Council you've also done some secondary employment?---Not secondary employment as such, but I do have permission to set up a legal office.

Right. So have you run your own legal practice separate to your work at Strathfield Council?---I have a legal office, yes.,

10

Well, a legal office is a legal practice, isn't it?---Yes.

And can you recall how long back it, how long ago it was that you set up your legal office?---Four or five years ago.

Could it be that it was in October 2002 that you started up as the sole principal of Metrop Lawyers?---I did register myself then, yes.

20

And have you practised as a sole practitioner lawyer through Metrop Lawyers from that time, October 2002 through to the present?---Not actively because I did register myself, yes, but I did practise to a certain extent but not very actively.

But you had a number of legal matters in which you acted through that office?---Purely conveyancing matters.

Did you sometimes act in litigation?---Very seldom.

30

Does that mean you did sometimes but not regularly?---Very rare, like once a year or something.

And was that something that you made council aware of?---When I declare myself, yes.

Well, when did you first declare your legal practice to council?---Every time there was an opportunity to declare I always declare it.

40

Well, what opportunities did you take? Tell me when it was you believe you first declared that work to council?---Well, the document I, I saw previously I declared that and - - -

Well, I'll show you a document. If you can have a look at the document which appears at page 50 of Exhibit 1. Do you see that's a Secondary Employment Declaration form?---Yes.

And if you go ahead to page 54 you'll see that that appears to have been signed on 4 October, 2009?---Yes.

Prior to that time have you given any notification to council of your work in your legal practice?---I'm sure I did.

Well, if it's, it's, you agreed with me in an earlier question that you believed it was in about October 2002 that you started work in your practice, that is Metrop Lawyers?---Yes.

10 How soon after that do you believe you told council about your practice as a lawyer?---I can't remember but I did tell my supervisor.

Who was that?---It changed from time to time, it was Rob Bourke, I think I told him. He's aware of that.

But did you give any formal notification, that is fill in a, a document to make council aware or was it more a case of just telling Mr Bourke?---I can't remember but Mr Rob Bourke did emphasise to me that you shouldn't work during council hours. I say yeah, that's fine and he actually put me in an office with somebody else at that time.

20 You said in your evidence before that you did from time to time act in litigious matters?---Yes.

That is matters that involved court appearances?---Yes.

Did you have other lawyers working for you?---No.

30 Well, can I ask if you're working as a full-time employee at council how did you manage litigious matters?---Well, like I said, we do it very, I do it very, very rarely and if we do we just engage counsel.

So you would never attend court yourself?---No, or we - - -

MR McILWAIN: Commissioner, I stand up to raise the question of what this, how this comes within the terms of reference of this inquiry? We're going back now to events going back to 2002. I thought the compass of this inquiry was fairly straightforward, it's about the incident (not transcribable) September or August of last year.

40 ASSISTANT COMMISSIONER: Yes. Well, this, yeah, what do you say about that, Mr Downing?

MR DOWNING: It's, there are obviously going to be issues of credit and issues of whether Mr Chau should be accepted. There are matters that I thought might arise from that but I'm going to move on from that topic in any event, Commissioner.

ASSISTANT COMMISSIONER: Yes. This was signed in July 2009, is that correct?---I can't remember, Commissioner.

Well, if the form says that?---Yes, yes.

I can't understand why you answered, on the front of it, it says "Are you currently undertaking paid work?" and it says, "No." Then it says, "Are you proposing to undertake paid work," and then it says, "No." Do you see - - -?---That's right.

- - - that in the form?---Yeah.

10

So was that correct at the time?---It's correct because I never get paid. We always make a loss.

Well, you say you did conveyancing and litigation and you never got paid any money?---Not at all, we always make a loss.

What do you mean you made a loss?---Well, say for last, the year before the income tax return was \$45,000, we make a loss of 48,000 or something.

20

Well, that's not the same as not being paid. Did your clients pay you or not?---Yes, they paid, yep.

All right. Well, I can't understand why you would answer you're not currently undertaking paid work outside the council?---Well, I thought about it then, Commissioner, I didn't think I was being paid because I never receive any money from my, my legal practice.

But you were being paid obviously?---Yes.

30

All right. I mean, as I read this form on any fair reading of it you seem to be just saying that the only reason you've registered yourself is because it's a requirement of your, the conditions of your licence not that you're undertaking any work or any paid work of any kind?---That true. That was one of the reasons why I have to have address.

Yes.

40

MR DOWNING: Just a couple of questions arising out of those matters, Commissioner. Mr Chau, as a legal practitioner you know the importance of answering a document, a form like this accurately and honestly don't you?---Yes.

Do you say that when you indicated that you weren't currently undertaking any paid work what you meant was that I do get paid but my practice always runs at a loss?---And I don't get paid.

Mr Chau, do you seriously say that that was the way you understood the form?---I look at it that way, yes.

Did you not understand the form to mean that if you were doing work in which you charged fees to clients for outside work that was something you needed to disclose?---Well, this form say are you being paid, I don't get paid. I thought if you paid in additional to your salary yes, then I'll get paid but we always make a loss so I never got paid.

Mr Chau, is that your honest answer?---Yes.

10 So you believe that in saying that the practice made a loss that allows, I withdraw that. That in your understanding of the practice made a loss that entitled you to answer this form that you did no paid work?---Not paid, yes.

I suggest to you that in reading that form you understood that what it was asking was are you doing any work for which you charged some fee?---No, not at all. I read it as are you undertaking paid work. I never got paid by my practice.

20 But you were, so despite the fact you were doing some work you weren't being paid for it, is that correct?---Clients paid it, paid it for the fees, yes.

But your understanding was that if you were spending a number of hours per week doing work but you never, and ultimately yourself got paid for it you didn't need to answer that you were doing paid work, is that correct? ---Well, I never got paid.

30 But the situation when you completed this form was that you were doing some work isn't it? You were doing some legal work but you say you didn't get paid for it?---Yes.

Could I ask you to go to page 51 of the document. Do you see there's a question towards the bottom of the page that asks you to indicate proposed times and days of work each fortnight? Do you see that?---Yes.

And you've answered nil?---Yeah.

40 Now, you've told me in your last answer that you were at that time doing work though you say you weren't being paid for it?---Yes. No, no, can I, can you repeat the question?

Well, I asked you in my last question whether putting aside the fact you say you weren't being paid for it you were actually spending time outside of your council work doing this secondary work which was legal work and you told me you were?---Yes, I do sometimes, yes.

Well, this question asks you the proposed times and days of work each fortnight, correct?---Yes.

And you answered nil?---Nil because most of the work is done by casual employee. I never do much of the work itself.

I thought you told me earlier in your evidence that you didn't employ any other lawyers?---No, no, no, no lawyers at all. Casual employee, yes.

But, Mr Chau, only a couple of minutes ago in your evidence you told me that you did work yourself for which you didn't believe you were being paid?---Yeah, for myself I didn't get paid, yeah.

10

If you were doing that work wouldn't it have been incumbent on you to answer this question to say there are a certain number of hours, you might've estimated five, ten, twenty hours per fortnight that you were going to do that work?---I just supervised the casual employee.

That's doing work yourself as a lawyer isn't it?---Not very much because the practice is very small.

Mr Chau, I'm suggesting to you that in answering this form you didn't make a proper and genuine attempt to answer it honestly and completely?---Well, I, I believe I did.

20

Mr Chau, separate to your practice as a lawyer, do you also hold a qualification as a migration agent?---Yes.

And have you practiced at various times while you've been working at council as a migration agent?---No.

You've never done any work as a migration agent?---I give legal verbal advice. That's all.

30

You give?---Verbal advice.

Verbal?---Yes.

Well would you regard giving verbal advice as a migration agent doing work as a migration agent?---But I never ask for payment for that. The reason why you have to register yourself is because I always get questions from various people in the community about, oh what about my grandmother, what about my daughter, what about my parents? And under the Migration Act, you have to be registered as a registered migration agent before you can even give verbal or written advice.

40

Mr Chau, these people in the community that you say you give verbal advice to how do you meet them?---In my course of work.

Course of work at the council?---Yes.

So they're people you meet through the council and you give them verbal migration agents advice?---Yes, I give them advice like I can't tell you anything more, you just go and see a migration agent.

If these are people that you are meeting in the course of your work with the council and that you're providing advice as a migration agent, that has nothing to do with your work as a council employee does it?---I don't actually provide legal advice, just tell them where to go and actually tell them what form to get and say that's it, that's the situation.

10

You refer them to other migration agents?---I beg your pardon?

Do you refer them to other migration agents?---Yes.

So have you never charged any fees as a migration agent?---I don't believe I ever have received any money at all.

All right. I'd like you to think carefully about that. Have you charged fees for work you've done as a migration agent during the time you've worked at Strathfield Council?---The office Metrop Lawyers do have one or two migration matters.

20

Which, for which you've charged fees?---Yes.

Now that's work then you should have disclosed for the purposes of this form isn't it?---I don't see the form as separate from the migration agent work.

Well you've said nothing in this form about migration agent work have you?---But I, I did say I'm registered as a migration agent.

30

The only time that you've registered yourself with the New South Wales Law Society as a sole practitioner and that you have a legal office in the form. Can you see that at the top of page 51?---Yes.

40

Can you tell me where in the form it is that you indicate the nature of your practice as a migration agent or even the fact of?---I, I'm sure I put it down in one of those detachments for declaration of interest or something. And on top of that every year when I renew my migration agent authority I get a letter from the Human Resources manager to say that in addition to my application for registration I am an employee of Strathfield Council.

Mr Chau, I'm not sure you've answered my question. You've told me that Metrop Lawyers did some migration agent work for which it was paid? ---Yes.

Correct?---Yes.

Would you accept from me then that a proper response to this form would have required you to disclose that work?---Well, I'm sure I did declare myself as a migration agent for (not transcribable)

This was the form you completed in 2009, on 29 July, 2009 - - -?---Yes.

- - - in relation to informing council of your secondary employment. Correct?---I informed council long ago about it. It's not in this form, but in another, I have informed our Human Resources manager.

10

Can I say why you would not have made mention of the fact that you work as a migration agent in this form?---I suppose it was all lumped together.

What was lumped together?---Being a legal practitioner and being a migration agent.

They require separate registration, don't they?---Yes, they do.

20

Beyond your work as a legal practitioner and as a migration agent you also hold a taxi licence?---Yes.

Do you ever drive a taxi?---Not in the last four or five years.

As part of your training at Strathfield Council, as part of the, your work you're required to have knowledge of and abide by a Code of Conduct, aren't you?---Yes.

And are you familiar with that?---Yes.

30

If you could have a look at the document that starts at page 12 of Exhibit 1, do you recognise that as the Code of Conduct?---Yes.

And you've had specific training in relation to that, haven't you?---Yes.

If I ask you to go to page 25 of Exhibit 1 which is page 14 of that Code of Conduct, page, page 25 of Exhibit 1. Do you see under "Gifts and benefits" there's a prohibition there on seeking or accepting a bribe or other proper inducement?---Yes.

40

And can I ask you to indicate what you understand a bribe to mean?---Oh, someone, somebody giving you money to do something.

To favour them in some way in the exercise of your duties?---Perhaps, yes.

Now I take it that knowing, I withdraw that. I take it that you understood even before having seen this document that seeking a bribe in the course of your work was not something that was permissible?---Yes.

You know that that's dishonest?---Yes.

Do you also understand that if someone external to your work with the council were to try and offer you a bribe that that's something that you should disclose to those who you work for at council?---Yes.

10 So that if someone, someone were to offer you a payment of some form in order to show them some favour in the exercise of your duties that's something that you should make those that you work for at council aware of?---Yes.

Now, one of your obligations as a, the Manager of Community Services at council is that because of your position you're required to complete a section 449 return each year?---I don't know exactly the number, 409 but - -

449. If you go to page 44 of Exhibit 1. Do you recognise that form, the section 449 return?---Yes.

20 And that's something that was completed by you on 24 August, 2010? ---Yes.

And it related to the period June 2010 to June 2011. Do you see that?---I filled in the form, yes.

But it related to the period June 2010 to June 2011?---Yes.

30 And do you see under the heading "Important information" of the form indicated that it was being collected for, for the purpose of compliance with section 449 of the Local Government Act?---Yes.

And that it emphasised you mustn't lodge a return that you know or reasonable to know is false or misleading in a material particular?---Yes.

Now, I take it that you knew when completing this it was an important form and something you needed to complete fully and accurately?---Yes.

40 When you completed it in August 2010 did you complete it fully and accurately?---I believe I did so.

That is, that you, you disclosed your pecuniary interests in other matters fully and accurately in that document?---I believe so.

Mr Chau, if I can just then change topic to the meeting on 18 August, 2010? ---Yes.

That is the first meeting at council which was attended by persons from Tenix Solutions and VMS?---Yes.

Do you recall that meeting?---Yes.

And was it, is it correct that you came to attend that meeting at the invitation of Mr Backhouse's personal assistant, Ms Seeto?---Yes.

And initially you attended the meeting with Mr Back house and with Mr Hill, Mr Armstrong and Mr Farlow?---Yes.

10 And that later during the meeting Mr Backhouse invited Mr Bourke and Mr Wong to attend?---Yes.

Now, do you recall that in the course of that meeting Mr Armstrong and Mr Hill explained a bit about the various products that Tenix Solutions and VMS could offer?---They show a brochure, yes.

Well, just dealing with that brochure, did they provide copies of the brochure?---Yes.

20 And do you recall keeping one?---Yes, I think I did.

If I could ask you to look at the document which appears at page 66 of Exhibit 1. If you could have a look at that and if you could scan down the second page, does that look like the brochure that you recall seeing and keeping at that meeting on 18 August, 2010?---Something like that.

And do you recall as well as giving the brochure that they handed out business cards?---They did, yes.

30 And they spoke about the nature of the various products they had?---Yes, they described very briefly a number of systems they had.

And was PICS, the Parking Infringement Camera System one of them? ---There was a parking camera system, yes, they described that too.

And was that a system that was of particular interest to you?---Not at that time but, you know, we look at all the other systems and one of them was the camera system.

40 Well, do you recall them saying anything about PICS being a camera system that could be used to deal with dangerous parking practises?---Not in those words, they just say it was to do with infringement notices.

Well, your particular area of responsibility relevant to these products was community safety, correct?---Yes.

So general matters like traffic management weren't in your area?---They are, they actually are quite a bit.

Well, aren't there other council officers including those present at that meeting who, general traffic management fell within their area of responsibility?---There are but traffic is also one of the things that affect me as well.

10 Only to the extent that it involves community safety issues or do you say more generally?---Well, generally because it goes into double parking, you know, pedestrian walking in between cars, doing illegal U-turns and that sort of thing and also parking on footpaths and so on, blocking pedestrian footways and people with wheelchairs.

Right. Can I suggest to you that Mr Bourke who is the, is this correct, the Director of Operations at Strathfield Council?---(NO AUDIBLE REPLY)

Is that correct, that he's the Director of Operations?---Yes.'

20 That traffic management and infrastructure are really his areas of responsibility?---No, not actually, it's Mr Patrick Wong actually.

Right. Well, Mr Patrick Wong is the Director of Technical Services, correct?---Yes.

And would you agree with his real, one of the areas of his responsibility are dealing with parking violations?---He's in charge of compliance and the rangers.

30 Can, can you tell me why, did you form any view during that first meeting on 18 August, 2010 about why you were there?---Well, as the meeting progressed I thought that yes, this is to do with my area.

In, in what respect?---To make sure that people are, you know, parking safely, the buses are turning safely, there's no vehicle park on the footpath which is a constant happening and people doing illegal U-turns, parking onto footpaths, that sort of thing.

Right. Do you recall in the course of that meeting Mr Armstrong or Mr Hill explaining a bit about PICS worked?---Yes, they did.

40 And saying something about capturing images of parking infringements and then those images, I'll stop there, about the camera system capturing images of parking infringements?---Yes.

And then those images being capable of being used to issue parking infringements?---Yes.

And did they say something about the fact that this system could be offered to a council on a no upfront fee basis because it would be paid for through a

submit of the parking infringement revenues?---Wasn't put that way. It wasn't put that way.

How do you recall it being described?---Was saying they supply all the equipment for free and take a percentage of the infringement fees.

And in the course of that meeting did you ask some questions?---I asked only about one or two I think.

10 And was that related to whether the cameras would work at night?---That's right, I asked whether it was a 24 hour camera.

Was that of particular interest to you?---Yes.

So it was something that you would want to make sure the system did before you would really have much interest in it?---Yes.

20 Do you recall Mr Bourke or Mr Wong asking any questions?---Well, no, I wasn't, I wasn't listening much to what was being said by them, by Mr Patrick Wong and Mr Bourke.

Well, what were you doing?---Because I was looking at the brochure.

Do you recall whether Mr Backhouse asked any questions?---No, I can't.

Now, do you recall any request either during the meeting or after the meeting by Mr Backhouse that you, Mr Bourke or Mr Wong look into PICS further?---No, he didn't say it at all, he didn't say anything at all.

30 So at the end of the meeting was it left that there was no suggestion or direction to you that you should take matters any further?---No, not at all.

There was certainly no instruction by Mr Backhouse that you should act as his delegate to make this PICS system happen for council was there?---No, not ever.

40 Now, what do you recall after that meeting on 18 August 2010 was the next matter that you became aware of involving the PICS camera system?---Mr Phillip Armstrong rang me up and left a message.

I'll come to that in a moment. Do you recall being copied an email from Mr Armstrong?---Yes, there was an email from Mr Armstrong.

Could I ask you to look at page 58 of Exhibit 1. Do you recognise that as an email from Mr Armstrong to Mr Backhouse copied to you and others dated 20 August 2010?---Yes.

And it was an email addressed to Mr Backhouse?---Yes.

Do you recall receiving that and reading it?---Beg your pardon?

Do you recall receiving that email and reading it?---I, I did receive it and I read it very quickly, yes.

10 It reiterated an offer didn't it of a demonstration or a survey of, amongst other things, the PICS system with the indication that whilst that might cost \$10,000 if Strathfield proceeded with a three year contract that that fee would be waived?---Well, I've totally forgotten about it until I read it this morning.

That email didn't, it wasn't specifically addressed to you was it?---No.

And it didn't ask for you to contact anyone?---No.

20 Can I suggest to you that on or about, I'll withdraw that. Do you recall that the original meeting 18 August was a Wednesday and that this email was received on 20 August which was a Friday. Does that accord with your recollection?---Well, if it say so 20 August, yeah, it's a Friday.

Can I suggest to you that on or about Monday, 23 August that you in fact telephoned Mr Armstrong?---Not true. I got a message from one of my staff to say that please telephone Phillip Armstrong and then gave me a mobile number on a computer by email.

Do you recall who that staff member was?---Can't recall.

30 Well, I'm suggest to you that in fact it was Mr Armstrong who you telephoned?---No, not true.

And that you telephoned him to indicate that you'd like to organise a meeting?---Well, when I returned the phone call he said, you know, How do you feel about this? And I said, Well, the best way is to go and have a look at the sites.

40 Can I ask you as at the end of that first meeting on 18 August 2010 what was your view about PICS?---There's a still a long, long way to go before, there are a lot of considerations. There would be a lot of considerations.

Well, is it accurate that you thought at that point it was too early to know whether it was a good thing or a bad thing?---No, there was, there was some good aspects to it but whether it will go ahead or not is a different matter.

Well, at that point there'd been no survey done at all had there?---That's right.

Because one of the things you would want to be certain of before suggesting that something like PICS be used was that there actually was evidence of a real problem with dangerous parking at council?---We always know there's dangerous parking and danger for pedestrians in that area. The point is the survey was for them, the PICS people to follow up.

You've referred to a survey, you're talking about a survey that was being proposed as part of the negotiations with PICS, sorry, with the people at Tenix Solutions and VMS?---Yes, the PICS people.

10

Wasn't part of the survey also for council to get an accurate understanding of the nature and extent of the parking problem?---Well, we always know there was a parking problem because at the initial meeting Mr Robert already said there are a lot of problems down there. We all know that already.

Do you say from your point of view, that is, as a council officer you didn't believe there was any need for a survey?---No, I didn't say that. I said we know that there's a lot of problems down there.

20

Was it your view that a survey was needed from council's perspective before going anywhere with the PICS proposal?---It would be useful in view of the technical aspects like how far the camera can go, how long can it go, it would be highly useful for us, yes.

Because it was to be used as a system to capture images of parking infringements and then issue notices, correct?---That's what the PICS system is, yes.

30 So certainly as a council you would want to be sure that it worked?---Well, it come with the technology at the first meeting to say it works with other people.

That was a claim by the people who were promoting it, correct?---Yes, that's right.

You'd want to verify that claim wouldn't you?---Later on, sure.

40 You would want to make sure that the evidence that it provided, that is, photographic evidence of parking violations was adequate evidence for issuing infringement notices?---Yes.

Because there's always that possibility that someone might challenge it in court?---Yes.

You'd also want to make sure given your area of interest that it worked at night?---Yes.

You'd want to talk to someone who had already used PICS to make sure they were happy with the way it worked?---No, not really because, because if you talk to somebody they will say yes, it's okay but we have to find out for ourselves.

But how would you know that unless you speak to someone that actually had PICS in place?---Well, the PICS, the people who have PICS obviously will say yes it works otherwise they wouldn't be using it so the best way is to get to the people who provide this technology.

10

You mean Tenix and VMS?---Yes.

Given that they were the companies trying to sell the system you didn't expect they were going to say anything bad about it did you?---Well, you have to get it through an assessment to find out whether they were providing all this equipment can do what they say it claim to do.

20

And Mr Chau, you were aware from the outset, that is, from 18 August that at least one council in Victoria was using PICS, correct?---That's what they say.

That's Maribyrnong?---I got, I don't know to pronounce the name myself.

Wouldn't it have been from your perspective useful for council to actually speak to Maribyrnong Council and ask them does it work well, are you happy with it, how much are you paying as a percentage or how much is Tenix keeping as a percentage of each parking infringement notice?
---Eventually yes, they will come to that, yes.

30

Certainly before anyone could make any sort of recommendation that the system should be proceeded with they're all things you need to know aren't they?---There are a lot of other things to do, yes, things to change, things come in, you know, things change all the time.

But before you could make any proper recommendation, any informed recommendation that this was a system that should be proceeded with they are matters that would need investigation aren't they?---There are plenty of things to investigate.

40

Would you accept that the matters I've put to you were matters that needed investigation before you could make any proper and informed recommendation about adopting or not adopting PICS?---There are many things to investigate and one of them is, you know, that the technology works, like you said.

Now I think, you've agreed with me previously that at the end of the meeting on 18 August there was no, no direction or discussion from Mr

Backhouse about you taking up PICS directly with the people from Tenix or VMS?---None at all.

You certainly weren't asked by Mr Backhouse to go and act on his behalf and indicate that he wanted it to happen and you were his deligate?---No.

10 And you were aware didn't you that you had no, no specific authority or instruction from him to represent or commit anything on behalf of council in relation to PICS?---I have overall authority to investigate matters that affect my portfolio, yes.

PICS, you accept don't you that PICS was a product which fell into the portfolios of other council employees besides you?---Well, yes, it affects everybody.

Particularly Mr Wong and Mr Bourke, who Mr Backhouse specifically called to that meeting on 18 August?---It includes them too, yes.

20 If you were going to pursue PICS and make a recommendation to council you needed their input didn't you?---Eventually everybody would have to be involved, yes.

But if we're not talking about the level of just undertaking a survey, we're talking about a recommendation that council should adopt this system, you would need their input wouldn't you?---You'd need more then their input. You need an assessment, you need, you know, agreements, you need negotiation. A whole lot of things.

30 But before you could make a recommendation that this is a system that's good enough that we should go down the path of implementing you would need to get the views of Mr Wong and Mr Bourke. Do you agree with that?---Not necessarily them, but certainly from their department, yes.

Or other people within the revenue part of council?---Well, I don't know, I guess at that stage how far the information should go, so I weren't prepared to speak to anybody about it.

40 It's correct isn't it Mr Chau, that by the time of your meeting at Gloria Jean's on 3 September, 2010 you had not involved anyone else at council in your investigations of or recommendation in relation to PICS?---No, I involve a couple of people.

Oh well, do you mean Mr Koytz?---Yes.

And do you mean Mr Ianni?---Yes.

Right. Mr Koytz was a parking officer?---Yes.

He had very little involvement in that first meeting on 27 August. Is that correct?---No, he has quite a lot because he is the, he is the parking officer and he knows where the problems are. That's why I got him there to tell me is it, am I doing the right thing, Damian, you know.

Well, he could help you identify areas where there's parking problems?
---That's right.

10 As the parking officer was he the sole parking officer that worked for council?---Yes.

And did he work under Mr Wong?---Yes.

Is it, would you accept from me that before you could make any sort of recommendation about PICS you needed Mr Wong to say yes from my perspective, given my portfolio, this is a product I think is worthwhile?
---Well, eventually it will come to that, yes.

20 But to make a recommendation that the council should adopt that system you would need his recommendation?---No, not his, his input.

Well dealing with Mr Ianni. Mr Ianni was the, the head of the team, a council work team. Correct?---He's the supervisor of a work, of the outdoor staff, engineering. Yes.

In essence he's a blue collar worker?---I beg your pardon?

He's a blue collar worker?---Blue collar, yes.

30 He did manual work?---Yes.

He wasn't a decision maker at council?---That's right.

He had no involvement in making decisions about parking matters?---No.

40 He had no involvement in making decisions about traffic management matters?---Yes, he had some. He, he often tells me, you know, how traffic, you know, should be directed in certain way. And I say, oh yeah, I'll bring that up. Yeah, that's a good point. Yeah, he knows the dangers as well, because he's out there all the time.

Mr Chau, you know full well don't you that Mr Ianni's job was to do physical work on behalf of council?---He does physical work. I also ask him for advice now and again. For example, there was a person parking on the footpath all the time and I say, what should I do about this, Frank? And he said, oh, just simple, we put a bollard in. We put a bollard in, within a week somebody, I can't say who ran over it. And I say, well if we keep putting up this bollard, Frank, this guy or somebody is going to keep

running over it. Then he said, oh, maybe we should put in a concrete one. So he knows about traffic management problems.

His real area of responsibility is to carry out physical works like fixing potholes. Do you accept that?---I don't know what exactly he does, but it's (not transcribable) part of your work of the outdoor stuff.

You don't know what he does?---I don't know what exactly he does.

10 Well would you accept this, he fixes potholes?---Well, outdoor stuff, I suppose, yes.

Kerbs, gutters?---Yes.

Footpaths?---Yes.

He was not someone who was going to have any influence in a decision that council would make about whether PICS should be adopted or not was he? ---Not something that will influence the administrative position, yes.

20

Now I asked you before about whether you involved anyone else at council and you said that you did and the people were Mr Koytz - - -?---Yes.

- - - and Mr Ianni?---Yes.

Up until 3 September, 2010 when you attended that meeting at Gloria Jean's you'd involved no one else?---No, I did. I did inform my supervisor.

30

Who's that?---Mr Neale Redman.

And what had you informed him?---I was wearing a fluoro vest when I walked into his office and I said, Neale, I just went to see those people who, who are going to install cameras. I inform him verbally.

Well you told him that you were doing it, that you were going to see the people?---No, I told him I saw them already.

You told him the fact that you'd gone and seen them?---Yeah, immediately. I came back to office about 11 o'clock. I told him immediately.

40

Right. Mr Chau, what I'm suggesting to you is that you didn't actually seek the input of anyone at council to assist you in making a recommendation about whether PICS was a system that the council should - - -?---No. There was a long way to go.

Can I suggest to you that you in fact didn't tell Mr Redman anything about your meetings or dealings with Tenix Solutions or VMS?---I didn't tell him about any meetings or dealings but I did tell him I went out on a site

inspection on the, the first time. I actually wrote it on my diary and I actually wrote it on my timesheet. The timesheets are presented to the director every fortnight.

Mr Chau, I don't quite understand what you're saying. You say you didn't tell him about any meeting, but you told him about the fact that you were going out for a site inspection?---Yes.

10 That was a meeting wasn't it?---No, it was a site inspection. To me a meeting is when you sit down and make notes and exchange and negotiate. I told him it was a site inspection. I just want to be certain of my words, that's all. It was a site inspection.

Well do you mean on 27 August, 2010?---That's Friday was it?

Yes?---Yeah, the first, the first site inspection, yes.

Well, that's the first time you met at Gloria Jean's?---Yes.

20 Where you sat down together and talked before you inspected the site?
---That's right.

It was a meeting Mr Chau, wasn't it?---No, actually it was a site inspection.

All right. Well let's - - -?---That's what I arrange with Mr Phillip Armstrong and Mr Saxon Hill, to go out on a site inspection. That's what I told him.

30 Well let's deal with that first. We'll call it neutrally attendance at Strathfield, at Gloria Jean's in Strathfield?---Yes.

That was something that you arranged through speaking to Mr Armstrong?
---Well, he rang me, I rang him back and then he rang back to confirm a meeting.

40 And you understand I'm suggesting to you that you in fact called him?
---No, that's not true. He, he ring me and I rang him back because the staff member gave me an email message to say please ring Phillip Armstrong and then gave me a mobile number.

In any event you met on 27 August at Gloria Jean's. Do you recall that?
---On Friday, yes.

On the morning of Friday, 27 August. Do you recall meeting was around 10 o'clock?---Yes.

And you attended the meeting with Mr Koytz?---No, Mr Koytz came later.

All right. He was only there for a short period wasn't he?---Yeah, he was very busy. Yes.

All right. And on behalf of Tenix Solutions and VMS Mr Armstrong and Mr Hill were there?---Mr Armstrong and Mr Hill, yes.

10 Yes. I want to suggest to you that at that meeting on 27 August you said to Mr Armstrong and Mr Hill words to this effect: I'm acting on behalf of the General Manager of Strathfield Council, Mr David Backhouse. I'm the go-to manager to make things happen. David wants the project to proceed and I'm here to make it happen. Do you recall saying words to that effect, all those words?---Not at all.

Do you deny it?---Yes.

Commissioner, at this point I seek that the record of compulsory examination of Mr Chau have the suppression order uplifted because I'd like to put a number of matters that arise from that to Mr Chau.

20 ASSISTANT COMMISSIONER: Yes. Well, in respect of the compulsory examination conducted with Mr Chau I remove the non-publication order previously made.

**IN RESPECT OF THE COMPULSORY EXAMINATION
CONDUCTED WITH MR CHAU I REMOVE THE NON-
PUBLICATION ORDER PREVIOUSLY MADE.**

30 MR McILWAINE: Commissioner, could I be provided a copy? I have seen the document.

MR DOWNING: (not transcribable)

MR McILWAINE: Thank you.

MR DOWNING: And I'd ask you to look at page 45 of that transcript. Do you see page 45 at about line 28?---(NO AUDIBLE REPLY)

40 Mr Chau, do you see that?---There's no line 28, sorry.

Oh, I'm sorry, you don't - - -

ASSISTANT COMMISSIONER: Above 30, you see where the 30 - - -?
---Oh, right.

Two lines above that?---Ah hmm.

MR DOWNING: I'll just read it to you, the question that was asked of you and your response and ask you a question about that. The question that was asked of you during that compulsory examination was, "Now you indicated to Mr Armstrong and Mr Hill that you wanted the, you want, you were acting on behalf of David Backhouse and you want the project to proceed or he wanted the project to proceed and that you were to make it happen. Do you recall saying something like that?" And your response was, "Yeah, could be. I mean, you know, if it's good, if it's good for the community it's good for the council, we'll go for it and it happens, yeah?"---Well, I didn't
10 exactly say what you just said before, I said I could, I never said those exact words that I'm acting on behalf of David, I say it could be but I don't think I said it.

Well, today you reject that proposition, don't you, you say I didn't say words to that effect?---Well, I say it could be at that time before, you know, but I can't exactly remember but I don't think I, I actually said it.

Well, is this the case, that today you still don't remember or today are you certain that you didn't say those words?---I just can't remember, it could be
20 but I can't, so that's why I have to say I did say it. I, I just can't recall.

You don't remember at all, do you?---No.

You see, what I'm suggesting to you is that you did say those words and that those words did not represent the truth?---No, I, that's why I said it could be, I said it could be, I'm, I didn't say it, it's not, just not, just not my style to say things like that.

Well, given that you accept that you might have said it, can you explain why
30 you would have made that representation to Mr Hill and Mr Armstrong?
---Well, that's why I was asking when you asked me about that, I said, you know, I couldn't, I couldn't have said because I don't usually say things like that, I represent the general manager.

Well, it wasn't just that you represent the general manager, it was also that he wanted it to happen and you were to the go-to manager to make it happen?---But the go to was not actually my words as well, I never use the word go-to as well. I mean, I use the word can do usually and what I meant was they wanted to do a camera somewhere, I say yeah, I can make it
40 happen, yeah.

I'm not, I'm suggesting to you that this wasn't a discussion about a camera survey, that, what I'm suggesting to you is you said to Mr Hill and Mr Armstrong that I'm here on behalf of Mr Backhouse, he wants it to happen and I'm here to make it happen or words to that effect?---You, you couldn't, you couldn't say that for the whole project because there are so many other variations to the project. You couldn't say that Mr Backhouse, he wants, yeah, and you wanted the project or he wanted the project to

proceed because Mr, Mr Backhouse is not that sort of person to ask things to proceed without, you know, a lot of consideration so I couldn't have said that.

So are you now denying that there was any possibility that you said that?---I could have said that, I could have but I don't think so.

10 So was your answer during the compulsory examination inaccurate?---No, it's accurate, it could be, it could be I said it, it could be I, I may not have said it, yeah, but it's just not my style to, to say things like I'm acting on behalf, I never do that.

But you, you do agree, don't you that the words that are, that I'm suggesting you said didn't represent the true position as you knew it on 23 August, 2010?---Certainly I, I never - - -

Sorry, 27 August, 2010?---I never could say I'm acting on behalf, I mean, it could be I said it but I don't think so.

20 Well, can I ask you what was your view about the merits of the PICS system as at 27 August, 2010?---It has some merits but not totally acceptable.

Well, what didn't you think was acceptable about it?---Well, I thought that there was a lot of community considerations that were not acceptable.

30 Is that you were concerned about how the community might respond to the idea of cameras taking images of people parking?---It was one of them. Previously I have discussed with the general manager because one of the things he asked us managers to do was to think of some revenue raising ideas and I thought of parking meters and he said no, that's not acceptable so I knew that, you know, things like this, you know, you have to have a lot of consideration so - - -

Would that be something, sorry, I don't mean to cut you off?---When you say merits of the system there are a lot of community considerations that you have to consider.

40 Well, does that mean that you were concerned that there would need to be some process of community consultation to sort of, to gauge community views before you could give any serious consideration to a system like this? ---A lot actually.

And can you tell me up until 3 September, 2010, what did you do in order to organise that process of community consultation?---Nothing because we were waiting for feedback from the PICS people.

What feedback were you waiting for from the PICS people?---Things like the camera survey they were going to do then I have to wait a response from

the general manager because I made a initial report and that was to get the thing going to say that I done my bit, I helped them do the camera survey and there's a whole lot of other things to consider. Then there was supposed to be some sort of media, media kit they were supposed to provide, the PICS people. None of them was provided.

So all of that still needed to be done?---A lot to be done.

Before any proper consideration could be given?---Yes.

10

Do you recall at that meeting on 27 August, 2010 a discussion with you and Mr Armstrong and possibly Mr Hill about the way in which council and the companies might split any revenue raised through the parking infringement notices that could be issued?---Not split the revenue but certainly they talk about how the system work.

20

Well, what do you recall Mr Armstrong and Mr Hill saying about that issue, that is, the percentage split between council on the one hand and the companies on the other?---It wasn't put like how the income was split or something like that. It was put like in the first meeting they, they said this is our system, we, we charge ten per cent or 15 per cent depending on how much we do so it was, at the second meeting on Friday, the 27th there was also discussion about, you know, things like, yes, ten per cent for infringement notices or 15 per cent and Mr Armstrong said there would be a number of things and council would have somebody sitting there full-time writing notices and he, then they said oh, we, we can provide that service as well, we can employ people to, to write those notice and I said well, has to be a proper procedure to make sure that, you know, those notices are issued properly and so on so there would be set-off and he said oh, yes, we will follow the guidelines of what council provide to us and there was talk of percentages then of the degree in which they were providing the service and also it was on the, same as the first meeting, they said it was on a sliding scale after, after three years.

30

So is this correct as a summary that there was a discussion about the different levels of services that Tenix Solutions and VMS could provide once PICS was in place?---One or two levels, yes.

40

And that there might be different percentage splits that would apply depending on the level of services?---That's right.

It's correct isn't it that you had no authority and were in no position to enter into any specific negotiations about what percentages the council might agree that Tenix Solutions or VMS could - - -?---It was just a discussion, they, they, they know that eventually it have to be signed and agreed and, you know, put down on paper. It was just a, just discussion.

Does that answer mean that you did believe that you were in a position to have those type of, enter into those negotiations on behalf of council?---No, of course not because you have to get it signed and written and so on, there was no direct negotiation we were just talking about the level of services that could be provided and it was just, you know, figures being discussed.

10 Putting aside just for a moment that actual discussion do you accept that as at 27 August 2010 you had no authority and you were in no position to enter into any negotiation about a specific percentage on behalf of council?---It was just discussion, no.

I'd ask you just to try and answer my questions as directly as you can, Mr Chau?---Yeah.

Do you believe you had any authority to enter into any negotiation regarding a percentage split as at 27 August 2010?---No, no.

You were in no position to do that were you?---It's just discussion.

20 You weren't even in a position to negotiate on behalf of council were you? ---No, that's right.

You had no authority to do that?---Not to negotiate a system to be implemented, certainly not but certainly to be there to make sure that I give them as much assistance as possible to do their camera survey.

30 Can I suggest to you that at that meeting on 27 August, that is, the first meeting at Gloria Jean's you indicated that you would be prepared to be generous in the revenue sharing model and that you would agree to Tenix Solutions and VMS keeping 35 per cent of any parking infringement revenues raised?---I never used the word generous, it was just a discussion figure. Like they provide the service that they was, we were talking about different levels of service and they were saying we employ people to issue the notices. And then I said, Yes, you know, 10, 15, 35 per cent. It was just a discussion.

But do you accept that you put the figure 35 per cent up?---I mentioned 35, yes.

40 Indicating that the council would be prepared to let Tenix Solutions and VMS keep 35 per cent of each parking infringement notice?---Nothing to do with council it was just a discussion among the three of us.

Mr Chau, how could that have nothing to do with council, you were there as a council officer?---Yes, but it was discussion among us three people only. It was - - -

What, I'm sorry, I'll let you finish?---No, that's all right.

How could that have nothing to do with your job as a council officer, you weren't there on your own behalf you were there as the Manager of Community Services at Strathfield Council?---I was there to make sure that they have all assistant required to put in a camera to do the survey, that's what we were talking about and - - -

This didn't involve giving them some assistance to locate a position for a camera did it this discussion?---Yeah, yeah.

10

Well, you say the discussion about revenue sharing had something to do with identifying a proper position so that you could identify dangerous parking behaviours?---No, what I meant was we were there for the site inspection. We were there to do a site inspection of all the potential sites. Then in order to facilitate them they wanted to do a camera survey and during the course of conversation they say we can provide levels of, they actually advised me Mr Phillip Armstrong, Mr Saxon. I think Mr Armstrong he said there was a high level or lots of notices to be issued. It was one of the topic of discussion and they said, you know, we will employ people to do that for you if you, if that's what you want, that's what is required or something, if that's the service that's required because they provide different levels of services.

20

Mr Chau, the discussions at that meeting on 27 August went far beyond identifying a spot where a camera survey could be done didn't they?---Well, we talk about this as well, we talk about - - -

But they went far beyond that one discreet subject matter didn't they?---We talk about a lot of matters, we talk about the camera survey, we talk about the percentage.

30

Who do you say within council would be the appropriate person to enter into any sort of negotiation about percentages of revenue?---I'd say it would be the Mayor and the General Manager.

Would that also be something perhaps Mr Wong might have some involvement in?---I don't know.

Wouldn't the proper thing to do where any discussion of that nature took place was to say this is not within my area, there needs to be someone else from council to be involved in this?---Well, it was an informal discussion. If it was a formal discussion like we are now prepared to sit down and talk to you about percentage I would say straightaway sorry, I have to refer this back to my supervisor but it was just discussion.

40

Doing the best that you can, can you please tell me what you said about the percentages to Mr Hill and Mr Armstrong?---There were a lot of figures thrown around.

Try and use the words that you used or words to the effect of, what did you say?---I certainly didn't say I'm prepared to be generous.

Mr Chau, I'm not asking what you didn't say, please do your best to indicate what it was you did say to the best of your recollection?---Just well, I have to go back a bit, they said they were going to provide people to issue the notices because there would be a lot of notices so they issue, so I say maybe, maybe 35 per cent. That's what I said.

10

Do you accept even indicating on a provisional basis 35 per cent was not something that was proper for you to put forward on behalf of the council? ---No, I don't think so, it was just pure discussion, they know that, it's an informal discussion.

After this meeting you received an email from Mr Armstrong didn't you? ---I'm not sure.

20 If we could go to page 59 of Exhibit 1. Do you recall that three days after that meeting you received, I'm sorry, I said it was from Mr Armstrong, it was in fact from Mr Hill but it indicated that it was drafted by Mr Armstrong and sent by Mr Hill because there a problem with Mr Armstrong's server. Do you recall receiving this email?---Yeah, I have received this email.

And do you recall reading it?---Yes.

And you in fact responded to it didn't you that day?---Yes.

30 And it set out a summary of mutual actions to be completed?---Well he was confirming what he was going to do.

Well mutual actions, it wasn't just what Mr Armstrong was going to do, it was what you were going to do as well wasn't it?---Well, I don't see what I had to do. All I did was to confirm that they can go ahead with the camera survey.

40 Well I'll come to that. But the first thing, if you look at point 1, Mr Armstrong (not transcribable) understanding that you'd be meeting with Energy Australia to confirm that Tenix Solution and VMS could use their power poles for the purposes of the PICS equipment. Is that a correct summary of what had been discussed at the meeting?---There was some discussion in the first meeting that it perhaps could use power poles instead of putting separate poles for the cameras.

You say at the first meeting, not 27 August?---Well it could, it could have, it could have been the second meeting as well.

And did you in that second meeting on 27 August indicate that you would be meeting with Energy Australia to discuss this issue?---I said I will meet with them, yeah. At the first meeting I said, you know, I have a lot to do with Energy Australia I will meet with them if it comes to that point to put separate metres on to the power poles to record the amount of power the cameras are using, if the cameras were mounted on telegraph poles.

10 In the second point, and I think you've referred to this in your evidence already, they indicated that or Mr Armstrong indicated he needed your approval to undertake a discreet camera survey and data gathering exercise?---Yes.

And that was where, that was the specific matter in which you in your (not transcribable) that day gave him approval?---Yes.

Now can I ask you in relation to that, is that something that you believe you should have raised with someone else at council?---I did.

20 Who did you raise it with?---I raised it with the compliance manager, Ms Robyn Druce.

Right?---I told her very early, I don't know whether it was on that day or earlier in the week or immediately after the first meeting, I said some, some company is going to put a camera. I said, Robyn, is that all right with you? Just to make sure that you're aware of what's, I did, I did ask her.

Was that orally or was there some written communication?---No verbally. I went to her room and told her herself.

30 It is possible you're mistaken about having gone and spoken to - - -?---No. Has to be through Robyn Druce because she is in charge of all those things.

When you say it has to be, do you have an actual recollection of it?---Yes.

40 The third point in the email was confirmation of the business model that according to this had presumably been discussed at the meeting. That is that it would involve no capital outlay by council, no recurrent hardware or maintenance fees and the equipment would remain the property of Tenix Solutions and VMS on the basis that a license to use PICS would be included in the service cost of 35 per cent per PIN. Do you see that?---Well, that's relating to our conversation. It was a discussion.

Well do you say that they have got it wrong in the suggestion there that there'd been some agreement on a 35 per cent figure?---Well, there was certainly an informal discussion, but certainly not fixed agreement, no handshake, no, no written agreement, no nothing. It was just a discussion.

What I'm suggesting is that it wasn't just an off the cuff suggestion or discussion. It was you indicated that 35 per cent would be what council would agree to?--I don't agree. It was an informal discussion among the three of us and depending on the level of service, I said, well maybe 35 per cent. And Mr Armstrong put it in his email in that way.

Well did you respond to Mr Armstrong and indicate to him that his understanding about the 35 per cent fee was incorrect?--No, I didn't, because I knew that it would be subject to negotiation anyway.

10

Mr Chau, I'm suggesting to you that you didn't make any response to that matter because you knew that it was a proper reflection of what had been discussed at the meeting?--No, actually not, because it has to be negotiated. It has to be signed. It has to be, you know, discussed among the management. Because you see, in there it doesn't say which level of service they are providing, so obviously a question will be ask.

20

Well Mr Chau, do you see at point 4, Mr Armstrong indicated that a financial model would be developed for council based on the PICS survey data that had to be, was to be gathered?--Yes.

And at point 5 there was to be a business proposal developed setting out all of the operation and financial aspects regarding PICS?--Yes.

Covering three separate locations, three separate, three camera poles of up to four cameras per pole?--Yeah.

30

And in point 6 Mr Armstrong indicated that they'd commence work on it after hours infra red enhancement to the PICS services as soon as possible to meet your after hours monitoring needs. Do you see that?--Yes.

And that's a proper reflection of that point isn't it? That you'd asked him about after hours infra red enhancement, so what we need to do to make it work after hours?--It was one of my points.

40

Do you see at point 11, this over the page at page 60, that was Mr Armstrong indicated that allowing for finalisation of the survey done and collection that they would put together a fee service price proposal and have it completed and available for council by the close of business on Wednesday, September 8?--Yeah. They were going to give us their proposal.

Well did you understand on reading this that that meant that it would be based on the business model which relied on 35 per cent revenue share going to Tenix Solutions and VMS?--Well, when (not transcribable) a proposal, yes, it would be subject to negotiation and talk. And I would have to explain yes, this is the level of service they are providing. I did mention 35 per cent, but subject to negotiation, yes.

Is it a convenient time?

ASSISTANT COMMISSIONER: Yes. We will adjourn for ten minutes at this time.

SHORT ADJOURNMENT

[11.34am]

10

ASSISTANT COMMISSIONER: Thank you, please be seated. Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner.

Mr Chau, I was asking you before the break some questions about the 27 August, 2010 meeting and there was one matter I neglected to ask you about and that is do you recall during that meeting Mr Hill offering to demonstrate the way the PICS system worked through what's known as the PICS review tool?---I don't know exactly what it is but Mr Phil Armstrong said we have some demonstration or whatever, he could have used those words, I'm not sure but he, certainly he pointed to Mr Saxon Hill, he said to show you.

Well, do you remember Mr Hill saying I've got something on my laptop computer that I can show you about the way in which the PICS system works?---I can't be exactly sure but they did have something to show, yes.

Right. And can I suggest to you that you expressed that you weren't interested in seeing it?---No, not wasn't interested, just wasn't the right place because we were there for a site inspection and it was pretty distracting in the coffee shop, there were people walking around and I didn't know how long it would take because we were only there for a short time and we were waiting for Damian as well.

Mr Chau, you discussed quite a number of matters about PICS and about the, the business model for PICS at that meeting, didn't you?---Not, not, not the way you put it, like business model, I mean, it wasn't a full discussion like oh, yes, we issue a lot of notices, yes, here's the level of service, yes, here's percentages, what we do we employ people to write for you. It was really informal discussion. There was no formal discussion at all. We were strictly there and I told Mr Armstrong that on the phone as well and he knows that we are only there for a site inspection.

Well, I'm suggesting that that discussion at Gloria Jean's on 27 August went far beyond just making simple arrangements for a site inspection?---I don't believe so. I mean, if they wanted to show a demonstration, I said no because the coffee shop is not a suitable place.

Do you say that you told them no because this not an appropriate venue?---I didn't want to emphasise any more, I just say no.

10 You made no request that you be shown the PICS review tool at another location or at another time, did you?---Oh, it will come later when they have a, you know, surely on the first meeting, the very first meeting we meet them, it wouldn't be the first and last meeting, there would be plenty of meetings later on and they will have plenty of opportunities to present what they have.

Putting aside the opportunities that they might have in the future, the truth is, isn't it, that you made no request that they show you, that Mr Hill show you the PICS review tool at a later occasion or at another location?---No, not my place to do so. They, they have plenty of opportunities to do so later on. It just, there we were sent for a site inspection, it was not a suitable place.

20 Mr Chau, in order for you to properly understand the PICS system and make an informed view about whether it was something proper to recommend to council, that would have been something that was important for you to actually see?---After the camera survey, after the business proposal, after everything else, it probably take about four or five months down the track, yes, there would be plenty of opportunities for them to show what they got.

30 Mr Chau, what I'm suggesting to you is that at that meeting that you said a number of things which I've already put to you but things to the effect that you were there on behalf of Mr Backhouse who wanted it to happen but you were the man who was going to make it happen and in relation to the percentage fees that you would be prepared that Tenix Solutions and VMS could keep, I'm suggesting that you made those representations with a view to indicating to the people that were there, that is Mr Hill and Mr Armstrong, that you were going to be favourable towards their proposition?---Not really. I, I already explain why I said those things.

I'm suggesting to you that you were trying to create an impression with them that you would favour this proposal?---Not at all.

40 And that that was an impression that you knew to be false?---I wasn't trying to create any impression at all.

If we can then move on from the meeting on 27 August, you drafted a report on 1 September, 2010, didn't you, and this appears in Exhibit 1 at page 75. I'm sorry, the email is at page 70 but that's a later email, the actual report itself is at page 71. Do you see that report?---Oh - - -

I'm sorry, it may just be coming up now?---Yes.

Do you recognise that?---Yes.

And if you go ahead to page 75 do you see that that is a Word document Properties Summary - - -?---Yeah.

- - - in relation to your report which indicates that content was created on 1 September at 12.30, at 12.23pm?---Well, that's what it says, yes.

10 Well, can I ask you, what's your recollection about when you created that report?---I thought I created it either Tuesday, I thought I said Tuesday before, obviously I was wrong, sorry, it should be, it should be the 1st then.

Tuesday before what?---The 1st is Wednesday.

Right?---And I thought I created it the day before, Tuesday.

Do you accept that it might have been on Wednesday, 1 September?---Yeah, I, I made a, I thought it was Tuesday that I created the report.

20 Now, this was a report to go to council?---No, it was a report to remind the general manager, management that I've done my part, that it was a draft report, that it was something to discuss about. It was not to go to council, no.

Well, you submitted that report ultimately to Mr Backhouse, didn't you?
---Yes, I email it to him.

30 And did you expect a decision about the PICS system given the sensitivities it might be something that would need to go to council?---Eventually it would have to go to council I would have thought but this is a report that's only to, for discussion with the management.

Did you expect that as part of the presentation to council that this may be a document that would go up before the councillors?---Not in that strict form, it could be, there could be many, many changes. In fact, most of my reports are totally changed, some of them.

40 Well, do you say, well, I withdraw that. One of the things you could have done at that point was to provide a report saying look, this is a system that's worth trialling and here's the nature of the trial I think we should understand, you could have done that, couldn't you?---No, not really because this is only a draft report. I, most of the information was taken from the, whatever they provided. That's how we, I do reports, you just copy the information and put it down and repeat it and then you make, you make a certain observations and eventually you put it in a draft report just to remind yourself and just so that you won't forget.

Do you say this was a, a reminder tool for yourself?---Yes, as well.

Do you see under the heading “The purpose of the report” there’s something written there, Mr Chau, on page 71?---Yes.

And do you see what that says is “to request approval from council for the installation of a fixed parking safety system in the Strathfield Local Government Area for the promotion of safety?---Yes.

10 So on its face it says that it’s a, it’s a request for approval from council?
---No, actually it’s only a draft report, it could change, like I said, it changes all the time.

Mr Chau, it was open to you at that point, that is 1 September, to make a recommendation to Mr Backhouse that certain steps can be taken to investigate the matter further. It was open to you to do that, wasn’t it?---I haven’t talked to him yet about it.

20 No, but he was the person that you were reporting back to. He was the person you sent this email to?---No, I actually sent the report to him so that he could ask all the other people that was in the first meeting to come and discuss it. I was waiting for the, for the whole people to come back and discuss this.

Mr Chau, there was nothing stopping you going and speaking to Mr Wong or to Mr Bourke to seek their involvement in this process, was there?---Not in the report, no, no when you’re writing a report.

30 You knew that their opinions were required before any proper recommendation and informed recommendation could be made to council about adopting PICS?---Yes, we, we’ll have a proper meeting then to talk about it, yes.

And tell me, what steps did you take to organise that meeting?---Nothing at the moment because it was just a draft report to tell the general manager that I have done this and I was waiting for him to come back to me.

40 But it’s correct, isn’t it, that as at 1 September, 2010 no research, no survey, no data gathering, no investigation, no comparison had been done by you or anyone at council about PICS?---That’s right because this is only a draft report. Once those information comes in then we include it in it. There, there could be changes all the time. I mean, the recommendation could be changed to, you know, do a proper independent assessment of going up to council and say ah, well, do a community consultation or simply that a further report be provided to council. Things change all the time.

Or it could be changed to we’ve now done a survey and we think it’s completely inappropriate and doesn’t work and we don’t want to adopt it?---

I don't think will be that sort of recommendation because none of the information is complete.

Well the point is you didn't have any real information available to you other than the pamphlet from Tenix Solutions and what the people from Tenix Solutions and VMS had said in meetings about the system as at 1 September, 2010?---Yes, a very basic draft report, yeah. It's just to stimulate discussion. It's not a proper report to go up to council.

- 10 Well it says in it that it requests, it's to request approval from council?
---Yeah, it's, this is just what I was going to discuss with the management, that we should go ahead, and go ahead and maybe they say no, we can't go ahead, we've got to do this, we've got certain other steps to do. There are many considerations here. It was only a draft report.

You didn't raise in the report any of these other considerations and the things that needed to be done further did you?---Not in, not in the report because you don't, you don't say those things in a report.

- 20 Don't you think it would be important in making a recommendation? This was (not transcribable) the recommendation in the report was not a qualified recommendation was it? It was simply that the council give approval?---It's only a draft report.

I understand that Mr Chau. But it was open to you to say in this report the further steps you thought should be taken?---Upon direction from the general manager and from the management, yes, the recommendation will be changed.

- 30 It was your view when you wrote it that a number of further things needed to be done before anyone could seriously consider implementing PICS?---It would be a number of steps to be taken, yes.

Wouldn't it have been useful for council or Mr Backhouse to have those identified so they could know where along the process you were?---We have to discuss it, yes. Because that's how we do it, we, we just discuss things further on, like your report is, you know, hopeless or your report is okay or it has to be changed. That's how we discuss it.

- 40 By 3 September, 2010 you'd organised no meetings with Mr Backhouse, with Mr Wong or with Mr Bourke to discuss your progress in relation to PICS had you?---I was waiting to hear back from Mr Backhouse because I forwarded the report to him.

Well, no, that was on 3 September?---Yeah.

After the meeting with Mr Armstrong and Mr Hill?---Yeah. That's, that's what I have to report to him.

But you wrote this on 1 September?---Yes.

And at that stage it was based, is this correct, purely on the pamphlet you'd received and the presentation that Tenix and, and VMS had made?---Yeah, just to remind myself that this is what they're doing.

10 And you, I think you said this in your evidence earlier, but large parts of this report were just cut and copied directly from the pamphlet?---No, I didn't say that. I just said I just copied a lot of information from the pamphlet. That's what I usually do and that's what reports I usually do.

Didn't you see your role in providing a recommendation in this report to actually provide some analysis about the system?---Yes. It will come in future. Like I said this is a draft report. It could be six months before this report is presented to the council. And by then you would have all the information.

20 Mr Chau, you're a manager at council?---Yep.

It's a fairly senior position?---Yeah.

Your reputation will ultimately depend upon the quality of your work?---Yes.

Do you accept that?---Yep.

30 If you were to provide a report like this without any qualification, without saying this is only to be regarded as preliminary, that there's all these further steps to be taken, where you wholeheartedly endorse a product like PICS without having a proper basis to it. That could embarrass you if things didn't turn out, I'll withdraw that. If, if the product didn't prove to actually be what you'd hoped?---This report was only a draft. It changes all the time.

40 When you sent the email, I'll withdraw that. Do you say that when you drafted this it was plain in your mind that you weren't anywhere ready, near ready for PICS to proceed? That a lot more needed to be done?---Partly that and partly to remind myself, you know, this is what they do. This is what they are for. And this is what we have done, site inspections. We identified a number of sites so I wouldn't forget it.

All right. But your unambiguous belief, your clear belief when you drafted this report and when you sent it was that at this stage lots and lots of things needed to be done. This is nowhere near ready to proceed?---Well, I don't know whether that was the view of management, but certainly - - -

No, I'm asking about your view, Mr Chau?---I only did a draft report and I feel that there are a number of steps to be taken, yes.

So that it was nowhere near ready to proceed?---That's right.

All right. Can I have you, ask you to have a look at page 70, which is your email on 3 September. Do you see you refer to the draft report and in the second sentence you say, all is ready to proceed any time?---That's right.

10 That was patently untrue wasn't it?---No, it was actually all to proceed to discuss all these things with him, always ready to proceed.

Mr Chau, nowhere in your email and nowhere in your report did you say a word to suggest that this needs far, much further investigation, discussion or review?---We don't need to because the General Manager or Mr Redman my supervisor would call me in and say this is your report, what are you going to do about it and it will be changed or things would be added or things would be altered. So when I say always ready to proceed anytime it means that, you know, that we have done all this camera survey, we have
20 done all the leg work and it's now up to, you know, more things to be done.

Mr Chau, no camera survey had been done as at 1 or 3 September 2010 had it?---Always ready to proceed anytime, yeah. The camera survey was going to be done, you know, they were going to put a business proposal, they were going to provide a media kit, everything was going to be provided. So that's why I say everything is ready to proceed.

Do you accept that on a plain reading of that email it suggests that your recommendation that council approve the installation was what you were
30 suggesting was ready to go, - - -?---No.

- - - that the installation could go at anytime now?---Not the installation at all, no. It means things to progress further, can proceed.

Do you say you, who was your direct manager, is that Mr Redman?---Yes.

So you see on page 74 in Exhibit 1 there's a box for the report to be approved by a director?---That's right.

40 And you haven't indicated there who the director was?---We normally don't.

So - - -?---It's only a draft report.

It was a report you were sending to the General Manager of council?---It was only for discussion to tell him yes, I've done my part and it was ready for discussion. Because if this report was going to be accepted it will have to go through Mr Neale Redman anyway.

Mr Chau, I'm suggesting to you that the answers you're giving about the report only being for discussion and only being preliminary aren't a truthful response?---No, that's not true.

I'm suggesting to you that in fact when you prepared this report what you were intending was to try and promote PICS as something that the council would implement or adopt in the short term?---Not true at all.

10 And you accept don't you that at no point up until the meeting on 3 September 2010 had you spoken to anyone at council to indicate your view that contrary to what the report says that things needed to be investigated far further and you expected there to be months and months of work to be done before any serious proposal could be looked at?---That's what the report was for, the draft report it was to get things going, to discuss it. You're going too far ahead.

20 Do you agree with me that as at 1 September 2010 you'd had no survey done to actually determine empirically the level of the parking problem around Strathfield?---By Strathfield Council or by the PICS people?

What I mean is that you had anecdotal evidence, you'd had people telling you and complaining about problems with parking and dangerous parking but you'd had no actual survey to indicate how significant the problem actually was?---Yes, no scientific survey, no.

That was exactly what was being proposed by Tenix Solutions wasn't it?
---Yes, that's right.

30 But hadn't been done?---It was going to be done.

Hadn't been commenced at that point?---That's right, we were waiting for them to do it.

As at 1 September 2010 you had no information about how PICS was actually functioning in other places where it had been employed?---No, it was going to depend on what they said at the first meeting.

40 And it would be responsible for you as a council officer to actually go beyond what the company who stands to make a profit from selling it tells you about it wouldn't it?---Well, eventually there would be an independent assessment, yes.

But you made no mention of that in your report?---It's only a draft report.

At that point on 1 September you had no information about the technical workings of the system did you beyond what you had been told by the people from Tenix?---And what I saw on their website, yes.

You went to the website did you?---Yes.

When was that?---Just before the first meeting.

On 18 August?---Yes.

10 As at 1 September you had no information about how reliable the photographic evidence produced by PICS was?---Not to myself or to anybody in the council, no.

You'd had an offer from Mr Hill for you to look at the PICS review tool which presumably would've shown you that but you declined that at that point?---I said no then but there were plenty of opportunities for him and for them to do it later. I mean there were months and months of work ahead.

20 At that point on 1 September you had no information about what percentage share between Tenix Solutions and the council implementing PICS had been agreed in other locations did you?---They did indicate it on the first meeting that it was about 10, 15 per cent but I don't know whether it applied to anybody or not.

So that was other councils?---Well, they didn't say that they just say 10 or 15 per cent.

30 But it was your understanding that they were indicating that other councils had agreed that Tenix and VMS could keep 10 to 15 per cent of the revenues?---No, I didn't that to mean anything at all. They just said our method is we take 10 to 15 per cent, I didn't think it applied to anybody in particular.

Well, who else besides councils did you think would be looking to be a purchaser or a user of PICS?---I'm sorry, I don't understand your question.

PICS wasn't something that your average mum and dad would purchase is it?---Yes. I mean - - -

40 Councils or municipal authorities would be the likely customers for PICS wouldn't they?---If it comes to that, yes. I don't know whether the council will do it or not eventually.

Can you think of any other type of organisation that might be wanting to buy something like PICS?---It's not within my area.

Mr Chau, the reality is that as at 1 September you had no information other than what you've been told by the people from Tenix Solutions and VMS about what might be the percentage that would be appropriate or was being

paid by other customers that had bought PICS?---They did get some information on the first meeting like I said.

But you'd taken no steps to verify that or investigate that yourself?---It was a long way ahead yet.

You had no information and you'd made no attempt to seek any information about whether there might be comparable systems on offer elsewhere?---I did.

10

Right. And what was that?---I made some phone calls to other companies and the consensus was the technology is not ready for 24 hour camera.

All right. Which companies did you call?---I can't recall them.

When did you call them?---More than six months ago. Long before PICS came into the picture because we were looking at CCTV long, long before then.

20

Right. And you have no recollection now of who you contacted?---It wasn't exactly me who just did it, it was also, I asked the Safety Officer before to do it and she left and I asked a couple, I can't remember who and they all came back and said 24 hour camera is not presently good enough or something or other.

30

You've told us that your report or the report that you drafted on 1 September and you sent to Mr Backhouse on 3 September was something of the nature of a discussion paper, is that right?---Something to remind him yes, I'd done my part and, you know, and that's it. I usually wait for him to call me or he will pass the report back to Neale and we'll have to sit down and discuss it.

Did you at any point chase up Mr Backhouse about what was happening in relation to it?---Well, I gave it to him on Friday I think and I was waiting for him to come back to me but I didn't, I didn't chase him.

40

But it was something you thought needed to be discussed and meetings to be held to thrash out issues in relation to PICS with other council employees? ---Definitely.

I take it that even though this was, you say, a preliminary report or a draft report in recommending that council go ahead with it your view was that you were satisfied that PICS was a good system?---No, I wasn't satisfied.

Can I ask you what was your view about PICS, did you think it was a good system or not?---I think it's a controversial system.

So something that would be politically sensitive?---Not, not my area but controversial to the community.

And did you make any mention of that in your report?---We will come to that eventually because that's one of the consideration we have to discuss.

But does that mean you made no mention of that in your report?---I made no mention of it because it's only a draft report.

10 Mr Chau, can I ask you to have a look at the transcript of your compulsory examination at transcript 68.1. To be fair it starts at the bottom of page 67. Do you see in answer to a question there that you'd indicated that your recommendation in the 1 September 2010 report regarding PICS that you said that, "After the meeting, the first meeting, the second meeting I thought that yes, this is a good piece of technology for the council and community."?---Sorry, I don't see that.

20 I'm sorry. If you now go, I'm not sure what page you're at. Yes. If you look at the bottom of page 67 do you see the words, "Yeah, I thought that, yes" right at the bottom of the page? And if you go over to the next page, "This is, this is a good a piece of technology for the community, for the council and the community."?---Yes.

So is that an accurate description of what your view about PICS was after the second meeting, that is, the 27 August 2010 meeting?---Technology, technology is good, the - - -

30 For the community and the council?---The motive is good but it's a controversial, controversial implement, instrument.

Well, do I take it that because of your concerns about it that you weren't favourably disposed towards PICS at the time you wrote this report?---No, it was only a draft report for discussion, I don't know which, how management would take it.

40 But your personal view I'm asking about. When you wrote this report is it fair to say you weren't favourably disposed towards PICS when you wrote the report?---When I wrote the report I knew there were a lot of other consideration.

If you could answer my question. Were you or were you not favourably disposed towards the PICS system when you wrote the report?---Yes and no, I can't answer it because like I said the technology is good, it takes away a lot of arguments because just at that time there were a lot of press about rangers and parking officers being assaulted so, and no, it's not good because it's controversial.

Did you like it as a system?---I can't say one way or the other because I haven't seen everything about it.

See, if that was your true position that you didn't know, you weren't sure, you thought there were drawbacks that would've been something that was incumbent on you to put in your draft report even if it was only a draft report?---No, it's only a draft report, it's only for discussion. I'm sorry but that's how we make reports and that's how my reports are.

10 So is this your position that when you write a report you don't put your actual view down because it's something that you can change later?---No, I put everything that's possible that's in there but in this case, in this PICS matter not all the information was there so that report was very basic.

But even putting aside matters that hadn't been investigated you're saying you had concerns about it, that it was controversial within the community? ---I can say that when it's up for discussion, yes.

20 Mr Chau, if you're providing a draft report that purports to set out your view it would be common sense that you would include those matters in that report?---It's only a draft report, sir, I'm sorry I can't agree with you.

In any event you prepared that report on 1 September. Do you recall whether when you went to send it to Mr, I'll withdraw that. You ultimately came to send it to Mr Backhouse on 3 September, that's correct isn't it? ---That's Friday.

And that was after your meeting with Mr Armstrong and Mr Hill?---Yes.

30 Did you make any substantial changes to it on 3 September or was it in largely the form that you drafted it?---I made some changes.

And can you recall what they were, what was the nature of the changes? And if it would help to look at the report please tell us?---I can't remember exactly what (not transcribable) but I think the thing that, I put some, I put the locations in I think of the cameras.

40 Well, you'd indicated in your report four specific locations. This is at page 74. You said the Strathfield Town Centre and also Albert Road, Churchill Avenue and The Boulevarde?---I don't have it here but they are some locations that I put in.

Do you see at page 74 which is now hopefully on the screen in front of you - -?---I think I made some minor changes and it could have included them.

Right. Now, those locations besides Strathfield Town Square, Albert Road, Churchill Avenue and The Boulevarde, were they locations you visited during your meeting on 22 August or 3 September?

---Not the first one.

Not, not Albert Road?---Yes.

What about Churchill Avenue?---Yes, that was the, on the first site inspection.

And The Boulevard?---I can't recall, I can't recall that but I know definitely the first one wasn't on the site inspection the first time.

10

Mr Chau, I'm suggesting to you that when you prepared and indeed when you sent this report you didn't believe the matters that you had set out about PICS and whether it was appropriate to be installed?---Sorry, I don't understand the question.

I'm suggesting that you didn't genuinely believe the matters that you set out in terms of your recommendation in your report when you prepared it and when you sent it?---What do you mean genuinely believed?

20

I'm suggesting that in recommending in the report that council give approval for the installation and suggesting in your email as well that all was ready to proceed at any time, those matters did not represent your genuinely held view in relation to PICS?---Well, it's only a draft report.

After you prepared this report on 1 September you then, the next relevant matter was you attending a meeting on 3 September?---Yes.

That was the second meeting at Gloria Jean's?---Yes.

30

And that was the meeting which you were accompanied by Mr Ianni?---No, he, he came later I think.

He came at your invitation?---Yes.

And do you recall when it was you contacted him?---Oh, I can't remember, maybe, I can't recall but he, I certainly did contact him, yes.

Could it have been the day before?---I can't recall, it's quite a while ago.

40

Now, this was a meeting that was being organised at a time when you prepared a report recommending that PICS, you say a draft report but a report recommending that PICS be approved by the council?---That was a, that was a recommendation that could be changed any time.

And the only person from council that you invited along was Mr Ianni?
---Yes.

Do you accept that it was open to you to invite other people like Mr Bourke or Mr Wong?---No, not really because they were, they are very busy people.

Too busy to attend the meeting?---And it was just a site inspection.

Well, Mr Chau, do you accept that a number of matters were discussed at that meeting that went well beyond a simple site inspection?---They brought it up, yes.

10 Well, it wasn't something that was just brought up, I'll, let me give you an example. Right from the beginning, the first meeting on 18 August there'd been an invitation by Tenix Solutions and VMS that someone from council might like to travel to Melbourne to see PICS in operation at a council there?---I can't recall that but it certainly came up.

Well, that was something that was raised at the first meeting, wasn't it? Do you not recall that?---I can't recall.

20 It certainly came up at this meeting?---Yes.

And you promoted Mr Ianni as the person that should attend?---Well, Mr Phil Armstrong suggested it and I just said on the spur of moment, Oh, here's Frank, he can go or something.

30 Can I suggest to you that the idea that Frank Ianni would be an appropriate person to visit a council in Melbourne to inspect PICS in operation was laughable?---No, that's not true. He, he is a experienced guy, he knows where the poles are going and he was solely there to help me on that day to find out where the poles are going to be and if he goes there he has to look at where the poles are and whether it was appropriate to put poles or to put it on telegraph poles. That was all he had to do.

40 Mr Chau, you invited Mr Ianni along to that meeting you say to assist you in working out pole locations and where it would be feasible to put poles?
---No, not, not in that way. I got him to come and help me so that when we go around on the site inspection he can say oh, don't put it there or don't put it there and he did advise Mr Saxon Hill twice to be very careful about digging because it would cost the council hundreds and hundreds of, thousands of dollars if we dig up the wrong, dig up some wires.

Well, what you've just told me, Mr Chau, is that his role was to provide some input about where poles could be put and to avoid causing damage?
---He knows where to put the poles.

Presumably the system in Melbourne has already been installed so that the poles are in the ground?---I don't know.

Well, you understand it's a pole-mounted camera system don't you, Mr Chau?---Well, it, it is a pole-mounted I think, yeah.

And you knew that it was already in operation and up and running in Victoria?---Yes, one council was using it, yes.

Given that it was a pole-mounted system did you infer from that that it meant that there were poles in the ground and that there were cameras attached to them?---Yes.

10

And that the cameras were working?---Yes.

That would tend to suggest, wouldn't it, that Frank's particular area of expertise was going to be wasted on a trip to Melbourne?---No, not really, he knows where the poles are, how far they are going to be, where they are, next to a telegraph poles, can we put it on the telegraph poles, do we have to put a separate pole on the footpath, no.

20

Mr Chau, you understood didn't you that a large part of the reason for someone from Strathfield Council being invited to go to Melbourne is to actually see the system in operation, to talk to people about how it was operating?---It wasn't put that way, it was just to find out, just to go and have a look and nobody said in detail what was the visit for.

Well, what did you think someone from council would do when they were in Melbourne?---For my mind I wanted somebody to go and see the actual pole.

30

Is that an honest response, Mr Chau?---Yes. I wanted to actually see how they are situated.

You wanted to know where the poles were?---How they are situated.

40

You see, what I'm suggesting to you is during that meeting on 3 September discussions about the trip to Melbourne involved going down to Melbourne, someone from Strathfield Council going to Melbourne, speaking to the council, seeing how it operated and talking about operational matters with someone at the council?---No, he didn't put this way, he just say if somebody want to go down to Melbourne and have a look at it, see the cameras in action I say, Oh, yeah, send Frank, you know, you send Frank.

You knew that there would be any number of more appropriate council employees who could take that trip to Melbourne, didn't you?---There would be anybody if they're willing to go I could ask.

Well, I'm suggesting that there would have been other people than Frank who would have been far more appropriate for that purpose, for that visit?

---I, I don't know because if you are looking at a particular aspect, yes, but if you're looking at another aspect, yes.

Do you say that your entire understanding about the idea that Frank would go to Melbourne was that he was to go down and look at pole locations?

---That was what I thought was the best way to look at it.

10 Well, is that what you understood he was going to do if he went to Melbourne?---We never talk about it but that was what I had in mind, that he would just go down to Melbourne, make sure that the poles are correct, can we put it on the telegraph poles or not? Why should we put it on poles if we can help it we can put it on telegraph poles. I mean, he has the experience to, to do that, I'm sure.

Well, I'd ask you to look at page 64 of Exhibit 1 which is an email that Mr Armstrong sent you later on 3 September, 2010. Can you see that? It's an email from, that was received, if you scan down the page, at 1.33pm?

---Yes.

20 And do you see that in the email Mr Armstrong indicated the purpose of the visit is to present Frank with detailed information regarding the working of the PICS camera technologies?---Yes.

It didn't say we want to take him down and show him the poles, did it?---We didn't discuss that at all. That's what Mr Armstrong put in his email.

30 Did you respond to him and indicate to him that this is not possible, that Frank doesn't have that role and can't do those things?---Well, because Frank wasn't going anyway so I didn't have to respond to that but certainly that never came into the discussion.

Mr Chau, on 3 September, 2010 you didn't know that Frank wasn't going, did you?---No, I didn't know.

He told you the following day, he rang you and said to you I'm not going? ---Well, because he, I think he did indicate on walking away that he wasn't going to go.

40 Because he indicated that he thought it wasn't something he would be doing, that had anything to do with his work, didn't he?---Well, he had one view and I had another.

Did you know that Frank had some difficulty with reading and writing?---I heard, I have heard about it but I never seen it myself.

But had you heard about that prior to September 2010?---I have heard something but to what extent I don't know.

You knew that any trip to Melbourne would have involved talking to council officials, looking at documents that would show how the system was operating, wouldn't, didn't you?---Not at all, we didn't even discuss looking at documents. We just discussed how the cameras would work and actually his, to my mind all I wanted to him was to find out yes, Frank can we put it here or can we put it on telegraph poles. That's all I wanted from him.

10 Mr Chau, I'm suggesting to you that in proposing Frank for the trip to Melbourne you were trying to again create an impression with the people from Tenix Solutions and VMS that you were the manager who was going to make this happen for them?---No, I'm not. That didn't come into the discussion at all.

That you were in their camp and that you were going to make sure that this project proceeded?---Not at all. I did tell them there were a number of things to do and they know about it.

20 Did you expect that after Frank had travelled to Melbourne that he would report back to you or to council generally about what he'd seen?---He will just report directly to me, yes.

You knew that Frank was in no position to provide any sort of report about PICS?---Not a written report, a verbal report. I never ask him for a written report, no.

30 You accept don't you that he was in no position to give you any information about technical aspects or operation or financial aspects of PICS?---It wasn't what Frank was for.

Mr Chau, can I now ask you to turn your mind to the discussions with Mr Armstrong in the course of that meeting on 3 September, 2010. And particularly, do you recall that there was a time when, it was before Mr, I'll withdraw that. Do you recall that Mr Taylor and Mr Armstrong were initially present?---Yes.

And that Mr Hill arrived some time later?---Yes.

40 Do you recall a time at which Mr Taylor went to buy some coffees?---Yes.

And do you recall at that point having a discussion with Mr Armstrong?
---We were talking all the time.

But do you recall raising a new subject matter at the time that Mr Taylor had gone to the counter to buy some coffees?---I know he was gone, but I don't know whether he was back or not. I can't recall how many people were there.

What I want to suggest to you is that when the moment came that Mr Taylor went to the, to the counter to get the coffees, and this is at time when Mr Ianni wasn't present that you spoke to Mr Armstrong, you said, Phillip, I have a favour to ask of you. As you know there have been difficulties with the (not transcribable) operation of Strathfield Council and Scott knows there will be a bi-election in the next two to three weeks and we want to see a Liberal Party councillor elected to council. I'm assisting with that process and I need your assistance to make available \$10,000 to assist the Liberal candidate for the printing of political brochures and pamphlets and other general expenses. Could you make the \$10,000 available ASAP as the council bi-election is looming fast and there's an urgent need to raise the funds. I suggest to you that you said those words or words to that affect - - - ?---Not true.

- - - to Mr Armstrong?---Not true.

Well, can you tell me what you recall in terms of any discussion about an election or a need for funds?---Well, we were talking about, prior to the meeting Mr Armstrong rang me up and said, we want to arrange another meeting so that you can meet Mr Simon Taylor, our manager or our director or something. I said, yes. And I say, is good, because I forgot to show you two other sites at Strathfield Square. And I said I need to show you those two other sites because they are important. So we met at the coffee house again and during the phone conversation Mr Armstrong also said, also asked me, is the council friendly? And I said, I can't discuss that. That was in the phone call prior to the second meeting.

Well, I want to suggest to you that there was no such discussion?---Well, there was, actually. He did phone me up and he did say, he did ask me, is the council friendly? And I said, I can't discuss that. At the meeting we were discussing things and I said, Phillip, I can't, you ask about whether the council is friendly, I can't discuss that. It all depends. He said, and he said, yeah, Scott told me there is a problem in council. I say, yeah, they're having a bi-election. And he say, how much does it cost? I say, it's going to cost a lot of money.

Well, can I just stop you there?---Yes.

You say that Mr, Mr Armstrong in being told that there was a bi-election asked how much is it going cost?---Yes.

Can I suggest to you that he asked no such question?---He did.

All right. Please continue. So you say, you told him there was a bi-election. He said, how much is it going to cost?---How much is it going, and I say, is going to cost a lot. There's advertisement, there's posters, there's volunteers, transport. And he said, I said, well, maybe 10,000.

If I can just stop you there. Do you have any, are you a member of the Liberal Party?---No.

Do you have any involvement with the Liberal Party?---No.

Any local branch in the Strathfield area?---No.

Have you had any involvement with campaigning or fundraising for the Liberal Party?---No.

10

How would you have any knowledge of what it might cost to run a bi-election and campaign in providing an estimate of \$10,000?---Well, that's what I, I don't know, I just, you know, thought of a figure, I just made it up.

So you plucked a figure out of the air?---Something like that. I just made, I say, oh, 10,000. Could be more, could be less. I don't know.

20

Right. And then, so, continue, what else did you say?---I said 10,000 and I said, well, you can make a contribution or a donation if you like. And he said, how do I go about it? And I said, you are a friend of Scott aren't you? I said, you can give it to Scott or you can give it to me. And he said, he said, that should be all right. And that was, that was the end of the discussion. And then I think we talk about the camera system or some other things further then that.

I want to suggest to you that the evidence you've given about that discussion is not an honest account of what occurred?---It was totally true.

30

So you say that Mr Armstrong asked about who he could make a payment to?---No. He just said, how do I go about it? That was his exact words.

Well how did you know what he meant, how do I go about what?---Well, when I say you can make a donation he say, how can I go about it? Obviously he was going to make a donation.

So you understood him to mean to what, to the candidate that was running for the election?---I have no idea. He was just going to make a donation.

40

Well you say in your evidence on your account of what occurred that you told him about the type of expenses that would be involved, that is pamphlets, things like that?---Yes.

That would presumably mean the expenses that a candidate running for the bi-election would incur?---Somebody would incur, yes.

And you say that when he inquired about how he could go about making a donation to, you said he could make it to Scott or to you?---Yes.

Now you knew Mr Farlow, who was Scott. I take it that's who you were referring to?---Yes.

Was the former Mayor of Strathfield?---That's right.

And he was a Liberal Party councillor?---Yes.

10 And he had an involvement with the Liberal Party?---Well I don't know at that stage because, you know, I don't know what his involvement is, to what extent, but I know he's a Liberal Party member.

Well, are you suggesting that a donation could be made to the Liberal Party? Is that what you're intending?---Well, he came to the first meeting with Scott so I thought he knows about Scott, he knows about the political connections with Scott, so he can donate it to Scott.

20 But is that what you're suggesting, that a donation to the Liberal Party candidate for the upcoming bi-election could be made?---Not to anybody specific but give it to Scott.

But you also said you he could give it to me?---Yes.

Well what involvement did you have in the upcoming bi-election?---Well because I thought that in, no, none at all, sorry, in the bi-election.

What role did you have in fundraising for any party for the upcoming election?---None at all.

30 On what basis as a council officer did you have any authority or permission to seek that you would receive some funds for an upcoming bi-election? ---Well, it's based in, the company is based in Melbourne so I thought he had some difficulty in meeting Scott, so I thought if he give it to Scott, he can't meet Scott, give it to me and I give it to Scott.

Oh, so you were intending to give the money to Mr Farlow?---Yes.

40 What, so you understood he wanted to give some money to the Liberal Party?---Well, he's a friend of Scott, that's why I said, you're a friend of Scott aren't you?

Mr Chau, do you accept that it would be completely improper for you as a council employee to receive a political donation from someone who is seeking to do business with council, that is to enter into a contract with council in the exercise of your functions?---Nothing, nothing to do with me if he gives the money to Scott, it's nothing to do with me. And I, I'd declare it.

You made it plain you say on your version of events that you indicated that the money could go to you or to Scott?---Yeah. So I can give it to Scott, yes.

You didn't say anything about giving the money to Scott did you?---No.

See I'm suggesting this entire account that you've given about the way in which the \$10,000 was raised and the idea of it being held by you or being given to Scott is an invention?---No, not true.

10

And it's an invention to try and cover the tracks that you know you left by asking Mr Armstrong if he can do a favour and that is to make a payment of \$10,000?---That type of conversation never occurred.

And I'm suggesting to you that in asking Mr Armstrong about him making a payment you had no intention that any monies would go to any candidate, Liberal Party candidate or otherwise. Your intention was that you would keep the money?---Not true.

20 Is it the case as at the second half of 2010 that you had any financial problems?---The second half of 2010?

Yes?---No, no financial problems that I'm aware of.

No debt problems?---I have a credit card balance of about \$800 I owe.

But I'm asking you to direct your mind to the second half of 2010?---Yes.

30 Say, to make it simpler, say from August to October, 2010. During that period did you have any problem of a financial nature?---I can't, I'd been paying people money, I owe some people money so I've been paying them, yes.

Did you have any particular debts of more than just a small amount, more than hundred of dollars?---Yes, I did.

Did you have debts of thousands of dollars?---I owe a credit card of about \$800 and I think I owe, have some legal fees of about \$5,000.

40 When, could I ask you, for how long had you been in debt to your credit card company?---Six or seven months.

Going back into earlier in 2010?---Yes.

And what about your legal fees, when did the legal fees, or first of all, for how long had you owed the legal fees?---Oh, a few months now.

So again going back into what, the middle of 2010?---Yes, something like that.

And what did the legal fees relate to?---For a court case.

A court case that you were personally involved in?---Yes.

10 Can I suggest to you that as at August and indeed October 2010, you owed a debt or an overall debt of about \$10,000?---How did that figure come about?

Well, can you just tell me first of all whether you agree or disagree with that? If you don't remember, you're entitled to say so?---I can't remember but I do know I owe legal fees about 5 thousand.

Well, the figures you've given us are legal fees of about \$5,000- - ?---Yes.

- - -and a credit card debt of about \$800?---Yes.

20 Is it possible that the debt between your legal fees and the credit card was more like \$10,000?---I don't think so.

Do you recall in, do you recall that arising out of your practice as a solicitor you had a complaint made about your practice on the basis that you had falsely witnessed an affidavit?---I wasn't there. It's not falsely, but if that's the way that it was put by the Law Society, I have to agree, just that I wasn't there at that time.

30 You understood as a solicitor that it was improper for you to witness an affidavit if you weren't there to see the deponent sign?

MR McILWAINE: Commissioner, I have objection to the line of questioning and the proceedings relating to that matter are still pending and as I understand are about to be commenced. And my (not transcribable) to seek to examine the witness about the matters the substance of the complaint which will be subsequently determined in a Tribunal would be an unfair use of the processes of this Commission and would prejudice my client in those, those proceedings, he being here under compulsion to answer questions about matters unrelated to that, being examined about the nature of those allegations.

40

ASSISTANT COMMISSIONER: Well, nothing he says here can be used against him in those proceedings.

MR McILWAINE: Can't be, Commissioner, but (not transcribable) can be made of any evidence he gives here and he's prejudiced say by having to canvass those matters because that material while not being able to be used would be available to those who are on the opposing side in those proceedings.

ASSISTANT COMMISSIONER: I'm just not sure what derivative use could possibly arise in these circumstances. At this stage he's just been asked to confirm, as I understand it, that the basis of these proceedings is that he's witnessed a document when he wasn't really there. Is that the basis of the proceedings by the legal, what are they called, the board?---Law Society. Yes, Commissioner.

10 MR McILWAINE: Sorry, Commissioner, I have no problem if the question is restricted to that, proceedings exist - - -

ASSISTANT COMMISSIONER: Yes.

MR McILWAINE: - - -but if there's to be some engaging in an examination of the facts and circumstances surrounding that allegation- - -

ASSISTANT COMMISSIONER: How he came to make the, or sign the document. I don't know that Mr Downing does wish to go into that.

20 MR DOWNING: I don't, Commissioner.

ASSISTANT COMMISSIONER: No.

MR DOWNING: I'll do it in fairly narrow compass.

ASSISTANT COMMISSIONER: All right.

MR DOWNING: Thank you.

30 ASSISTANT COMMISSIONER: Proceed at this stage.

MR DOWNING: You, you don't dispute that you witnessed an affidavit without being physically present when the deponent signed?---That's right.

And you accept, don't you, that you acted improperly as a solicitor in so doing?---Yes.

MR McILWAINE: I object, Commissioner. These are the very matters that- - -

40

ASSISTANT COMMISSIONER: Yes. Look, I don't think we need to get more than the factual situation. He's agreed that he did it. I think it speaks for itself.

MR DOWNING: If I could ask that the witness be shown the document which appears in Exhibit 1 at pages 88 to 90. Do you recognise that as a letter you wrote to Ms Barbara Dobosz, D-O-B-O-S-Z, at the Law Society - - -?---Yes..

- - -in the Professional Standards section? And that relates to this complaint that I've asked you about?---Yes.

And it's a letter you wrote on 19 October, 2010?---Yes.

If I could ask you to go to the third page, at the bottom, that's your signature, isn't it?---Yes.

10 And I take it you wrote this letter knowing that it was important to be truthful and accurate- - -?---Yes.

- - -in what you've indicated?---Ah hmm.

If I could ask you to look at the bottom of the second page, that is page 89, going to the top of the third page, do you see in subparagraph D you set out some information there about your income and your debts?---Yes.

20 And you say that you have current outstanding debts, that is credit card and legal fees of \$10,000?---Yep.

That was the truth, wasn't it?---Well, it's an approximate sum I said of \$10,000.

You were putting that information forward as part of your request or submission that the council, sorry, that the Law Society not impose any financial fine. That's correct, isn't it?---Yeah.

30 And it was truthful, what you were saying?---Yes.

Well, given what you told us about the time frame during which those debts were incurred, that indicates, doesn't it, that as at August 2010 you did have debts of \$10,000?---Around ten thousand. It's definitely more, but ten thousand, just to be on the safe side I put ten, I asked- - -

It's more than that?---No, just to be on the safe side. It's less than that, but just to be on the safe side I asked the barrister who was trusting it to put it to around ten thousand, just to be on the safe side.

40 Did you not draft this letter?---I wrote the letter, the barrister look over it for me and I signed it.

You signed it being comfortable that what was contained within it was truthful and accurate?---Yeah. I had debts amounting to about, it's less than ten thousand but ten thousand is a safe figure.

You weren't overestimating the level of your debts with a view to trying to convince the Law Society that they shouldn't impose a fine on you, were you?---No, not really. No, not at all.

You understood that it was important to be candid in that letter, didn't you?
---Yes. That's why I put down debts.

10 See, what I'm suggesting to you is that at the time Mr Armstrong accuses you of having tried to request a payment of \$10,000 from him, you in fact had debts of almost that figure?---No, no connection. Didn't even think about it.

All right. And I'm suggesting to you that your motivation in seeking the payment wasn't an intention to provide any moneys to a Liberal Party candidate or to Mr Farlow or the Liberal Party generally, but to use the money for your own purposes?---Not true at all.

20 I'm suggesting to you that what you had done in your dealings or attempted to do in your dealings with Tenix Solutions and VMS was to try and promote an image that you were going to make this happen for them, that you were favouring the application with a view to at some point in the future calling in the favour?---No, not at all.

And then I'm suggesting on 3 September, 2010 during that meeting you in fact called in that favour by asking for a \$10,000 from Mr Armstrong which you intended to put to your own purposes?---Not at all.

30 Now, do you recall earlier in your evidence I asked you some questions about the Section 449 declaration that you completed for council?---Yes.

And I took you to that. All right. And that begins at page 44 of Exhibit 1. Do you recall that?---Yes.

And I took you to it and read to you the relevant reference to the section in the Local Government Act and you indicated to me that you understood that it was important to be full and truthful in what you provided in your, your return?---Yes.

40 And that you understood that you were not permitted to give false or misleading information in the document.---Yes.

You see on page 48 at the top of that document there's a section that asks you about any debts.---Yes.

And this was a document you completed on 24 August, 2010.---Sorry, what was the date again.

If you go back to page 44, in fairness to the witness.---Yes.

It was completed by you and signed by you at the bottom of the page on 24 August, 2010 and that was a time at which you had debts of approximately \$10,000 in terms of credit card debt and legal fees. Correct?---Yes.

That was something that you should have disclosed in this document, isn't it?---No, I don't think so because that document relate to debts that affect my work if I owe a debt to somebody who's connected to Council or indirectly to Council – yes – then I would declare that. That's how I read it.
10 If a debt if I owe it to a friend or family friend it shouldn't come into it.

Mr Chau could I ask you to read the, under the heading “debts” on page 48 what it actually asks you to indicate there.---Name and address of each person to whom I am liable to pay any debt at the return or any time given the return period.

There's nothing in that that indicates that there's a limitation to only people who are in some way connected with your council work is there?
---When you read the paragraph by itself, yes, but when you read who the
20 whole document it relates to procurery interests under the Local Government Act that were affective.

Well, don't you understand that if you owe a significant debt to someone, a third party that's unconnected to Council but that third party might have some dealings with Council that might put you in a difficult position?---If the person had any dealings with Council, yes then I would have to declare it.

Mr Chau, I'm suggesting to you that in your answers about why you didn't
30 declare to the debts here you're not being truthful.---No, not true at all.

That you're attempting to explain away a failure on your part to be full and truthful in what you indicated in this return.---Not true at all.

Going back to the discussion on 3rd September, 2010 at the meeting, did you feel any sense of discomfort or unease that what Mr Armstrong on your version of events was suggesting to you was an attempt to in some way win your favour in Tenix Solutions dealings with the Council.---I had nothing to do with it if it passed onto me and I just give it away and I just tell the
40 management about it. Nothing to do with me.

But you understood – didn't you – that this was a company that was seeking to do business with Council?---It may not happen at all.

Mr Chau, could you please try and answer my question. You understood that this was a company that was seeking to do business with the Council?--
-Yes.

You understood that what on your version was being proposed by Mr Armstrong was a donation to a political party who would be running a candidate at the upcoming bi-election for Council.---I don't know whether he was aware there was a candidate or not – I just said there was a bi-election coming up, that was all.

10 But didn't it ring some alarm bells in your head that by offering this payment, a substantial payment, that Mr Armstrong might have been in some way trying to win the Council's favour with a view to convincing it to look more kindly on the application, the contract that Tenix Solutions was trying to negotiate?---It was a matter for him, not for me.

Well, didn't you think as a Council employee that was a matter that you had an obligation to raise with someone else?---Yes, it happened yes.

Well, you say it did happen and you did not make any report of what had occurred to anyone at Council, did you?---I beg your pardon?

20 After that meeting on 3rd September, 2010 you didn't go and report Mr Armstrong's approach to Mr Backhouse?---No, because it never happened.

No, Mr Armstrong I don't – sorry Mr Chau – I don't think you're understanding me. I'm saying, I'm asking questions on your version of what occurred.---Yes.

On your version of what occurred Mr Armstrong was trying to – through you – make some sort of payment – you say – to Mr Farlow or to you that could then be passed onto Mr Farlow?---Yes.

30 And you understood that was a payment to be used for the purposes of a party in the Council elections.---For a bi-election, yes.

You understood that Tenix Solutions the company for which Mr Armstrong worked was a company trying to do business with Council?---Yes.

40 Did it not occur to you that if what was being suggestion was some donation to the party that might end up being – having some role on the Council that that might be a donation that was trying to be – that was being made with the view to try and influence the Council favourably towards Tenix Solutions productions PICS in particular?---Not for my mind it was entirely up to them what they do.

Would you accept that that might have the, would that be a perception that could be placed on the events?---It didn't happen so I don't know.

Are you aware of a Business Ethics Policy at Strathfield Council?---There would be some ethics about it.

Well, are you aware of the specific Business Ethics Policy?---Yes, ethics policy, yes but I can't remember what.

Well, do you accept that that's something that's been in place at Strathfield Council going back to February 2007?---If we say a document produced by the Council it would be a Council document, yes.

10 Can I ask you to have a look at a document. Looking at that now and I'm sorry, Commissioner, I'll provide a copy to you as well. I can indicate that I'm intending to tender the document in a moment but I'll ask Mr Chau some questions about it first. Mr Chau, looking at that document, are you familiar with it?---No.

Do you say it's not something that's ever been brought to your attention at Council?---No, I know it exists.

Have you ever had any instructional training about it?---I'm not sure, I think we must have.

20 But would you accept that this is something that you are expected to know and abide by?---Yes.

Can I ask you to turn to page 5 of the document. Do you see the heading 3.1 Gifts or benefits?---Yes.

And that's come under the heading, "Additional things you need to know." And in that first paragraph – I'm sorry, I'll withdraw that. I'll ask you to read the text that goes, that follows under heading 3.1 down to 3.2.---Yes.

30 The first part refers to people who are wanting to do business with Council understanding that offering of gifts, benefits and incentives is not permitted at Strathfield Council?---Yes.

And that under no circumstances will a gift of cash or money be accepted. ---Yes.

40 And it refers to the fact that in the next paragraph that offerings of gifts and benefits may be perceived as an attempt to unfairly influence decisions and services Council expects Councils and Council staff to decline gifts or benefits.---Yes.

Now you won't suggest that you attempted to decline the payment that Mr Armstrong wants to make, do you?---Well, it wasn't for me?

Well, you say it was to go to Mr Farlow who was then to provide to what a Council candidate in the bi-election?---I don't know what he does but I'm not receiving any benefits, gifts or incentives – if I did, I have to report it.

But you understood on your own evidence that it was being provided to assist a candidate in the up-coming bi-election.---Well, that's what - - -

You say that's what Mr Armstrong said to you?---No, that's what the tenure of the conversation was. You give to Scott or to me.

Well, do you see that in the next paragraph it says, "Council employees and Councillors who are offered any gifts and benefits must immediately inform the General Manager in writing."---That's right.

10

You failed to do that didn't you?---I didn't receive anything. I didn't receive anything.

Do you see it talks about offers of a gift or benefits, not receiving it?---Yes, but it's not for me. I was going to facilitate and give to Scott, Mr Scott Farlow – it wasn't to me.

20

So to your mind it would have been acceptable conduct to receive a \$10,000 payment to then hand it over to Mr Farlow and say nothing about it to the Council?---No, hang on a minute, it never happened. If I, if I was saying to you earlier if it happened, then I would report it yes. But it never happened.

30

Mr Chau, you understood – didn't you from – I'll withdraw that. As a matter of common sense forgetting this Business Ethics Policy – you understood that an attempt to provide a payment – that is an offer of a payment from a person or a business that wanted to do business with Council was something that needed to be disclosed to Council.---If Mr Armstrong said, "I'll give the money to you," then I would definitely say no, you can't do it. But he said, I said, you're a friend of Scott aren't you? He said, "Yes." Well, "Give to Scott to me," it wasn't to me. It wasn't to me sir.

I'm suggesting that you knew or should have known that the approach you say Mr Armstrong made to you had to be reported to the Council and had to be reported in writing.---No, nothing happened, sir. If it happened, yes, I would definitely report it.

At this point Commissioner I tender the Business Ethics Policy.

40

ASSISTANT COMMISSIONER: Yes, the Business Ethics Policy of the Strathfield Council as at 6 April 2010 will be Exhibit 14.

#EXHIBIT 14 – BUSINESS ETHICS POLICY OF THE STRATHFIELD COUNCIL DATE AS AT 6 APRIL 2010

MR DOWNING: And I'll also at this point tender the transcript of Mr Chau's compulsory examination – I thought I had tendered earlier but perhaps it was only the suppression order that was listed.

ASSISTANT COMMISSIONER: That's right, it hasn't been tendered. The transcript of the compulsory examination of Mr Chau will be exhibit 15.

10 **#EXHIBIT 15 – TRANSCRIPT OF THE COMPULSORY
EXAMINATION EVIDENCE OF MR CHAU**

MR CRADDOCK: Can I ask that a copy of that transcript be provided to me at some point.

ASSISTANT COMMISSIONER: Yes, yes.

MR CRADDOCK: Thank you.

20 MR DOWNING: I may just have a couple of short matters to deal with Mr Chau. Could I ask that we take the luncheon adjournment now, it may be that I have nothing further to ask but I can make that decision perhaps more efficiently over for lunch.

ASSISTANT COMMISSIONER: Yes, we'll adjourn till 2 o'clock.

LUNCHEON ADJOURNMENT

[1.02PM]