

E10 1603PUB00001
31/01/2011

DANBY
pp 00001-00057

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION DANBY

Reference: Operation E10/1603

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 31 JANUARY 2011

AT 10.05AM

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

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

ASSISTANT COMMISSIONER: Thank you, please be seated. This is a public inquiry being conducted by the Independent Commission Against Corruption. The Commission is investigating an allegation that on 3 September, 2010 at Strathfield Michael Chau in relation to his position as Manager, Community Services at Strathfield Council solicited a payment of \$10,000 from Phillip Armstrong for his own benefit. The general scope and purpose of this public inquiry is to gather evidence relevant to the allegation being investigated for the purpose of determining the matters referred to in section 13(2) of the Independent Commission Against Corruption Act.

10 Mr Jason Downing has been appointed as counsel assisting and I will now ask Mr Downing to deliver an opening address in respect of the allegation. Thank you, Mr Downing.

MR DOWNING: Thank you, Commissioner and I formally seek leave to appear.

ASSISTANT COMMISSIONER: Yes, you're granted leave to appear.

MR DOWNING: Commissioner, this public inquiry is being conducted for the purposes of an investigation into an allegation that on 3 September, 2010 Mr Michael Chau, the Manager of Community Services at Strathfield Council, and that's a public official, sought to solicit a payment of \$10,000 for his own benefit from Mr Phillip Armstrong, the New South Wales Development Manager for Tenix Solutions Pty Limited. One of ICAC's principal functions pursuant to section 13(1) of the Independent Commission Against Corruption Act is to investigate allegations, complaints or circumstances which in the Commission's opinion imply that corrupt conduct may have occurred and that's the nature of the current investigation.

30 To properly understand the nature of the allegation which is being investigated in this investigation it's useful to provide some background to the specific allegation of an attempt to solicit a payment on 3 September, 2010. Tenix Solutions Pty Limited, which I'll refer to as Tenix Solutions from here on in and Vehicle Monitoring Systems Pty Limited, which I'll refer to as VMS, are Australian companies which have formed a joint venture with a view to distributing and selling a number of parking compliance management systems.

40 Of particular relevance in this investigation, Tenix Solutions and VMS sell a parking infringement camera system known as PICS or Parking Infringement Camera System. PICS is a pole-mounted parking safety camera system that monitors car parking and provides photographic evidence of alleged parking infringements. It's primarily intended for use in areas where dangerous parking occurs. On the basis of photographic evidence parking infringement notices can then be issued to drivers. Tenix Solutions and VMS earn revenue through the PICS system by claiming a percentage of any parking infringement notices issued with the percentage

needing to be agreed between Tenix Solutions, VMS and the relevant customer which in this case is Strathfield Council or would have been. As would be expected the primary target market for PICS is made up by local councils and municipal authorities.

10 The Commission will hear evidence that during, during this public inquiry that on 10 August, 2010 Scott Farlow, the former mayor of Strathfield and by then a senior advisor working for a media relations and lobbying firm known as CPR Communications and Public Relations Pty Limited or CPR sent an email to David Backhouse, the general manager of Strathfield Council, seeking a meeting on behalf of Tenix Solutions which was one of CPR's clients.

20 Mr Farlow specifically indicated in his email that PICS may be something that could be of use to Strathfield Council in dealing with certain with parking problem areas. Mr Backhouse responded by email the following day agreeing to a meeting being arranged. The initial face to face meeting occurred at Strathfield Council on 18 August, 2010 and it was attended by Mr Farlow, Mr Phillip Armstrong, the New South Wales Development
20 Manager for Tenix Solutions, Mr Saxon Hill, the Managing Director of VMS, Mr Backhouse, Mr Patrick Wong, the Director of Technical Services at Strathfield Council, Mr Robert Bourke the Director of Operations at Strathfield Council and Mr Chau. In essence the 18 August, 2010 meeting involved a presentation and a sales pitch about PICS by Mr Armstrong and Mr Hill. As part of that presentation Mr Armstrong and Mr Hill explained that there was a Victorian council which was already using PICS successfully. They proposed a council representative from Strathfield might wish to see PICS in operation in Victoria and they offered a demonstration
30 of the technology via a trial in the Strathfield Municipality which would be at no cost to the council. At the conclusion of the 18 August, 2010 meeting Mr Backhouse thanked Mr Armstrong and Mr Hill for their attendance and indicated that he would get back to them in due course.

40 On 20 August, 2010 Mr Armstrong sent an email to Mr Backhouse which he copied to other council employees who had attended the meeting including Mr Chau. In that email Mr Armstrong expressed thanks for the chance to demonstrate PICS and reiterated the offer by Tenix Solutions and VMS to fund a limited parking study and traffic assessment involving PICS. He indicated that the normal cost for that type of survey would be \$10,000 plus GST but he indicated that the fee would be waived if Strathfield Council proceeded to a contract for PICS for a minimum three-year term.

The next relevant event appears to be a matter of some contention. That is, there is a dispute between Mr Chau and Mr Armstrong as to whether it was Mr Chau who contacted Mr Armstrong by telephone or vice versa. That issue will be addressed by the evidence but in any event there was a telephone discussion, it would seem on or about 23 August, 2010 in which Mr Chau proposed a meeting for 27 August, 2010 at the Gloria Jean's

Coffee Shop in Strathfield. The Gloria Jean's outlet is located close by Strathfield Square which was a location at which Strathfield Council had experienced some difficulty with unsafe parking behaviours and there have been a number of parking problems there.

10 The meeting at Gloria Jean's on 27 August, 2010 was attended by Mr Armstrong and Mr Hill on behalf of Tenix Solutions and VMS and Mr Chau on behalf of the council. For a brief period there was a second council employee, a parking officer named Damian Koytz who was also in attendance. The Commission will hear that there is some dispute on the evidence as to precisely what was discussed at that meeting but Mr Armstrong and Mr Hill will say that Mr Chau indicated to them that Mr Backhouse, the General Manager of Strathfield Council, was keen for PICS to be installed and that Mr Chau had been made the go-to manager who was to be responsible to make it happen. It's anticipated that the evidence from Mr Backhouse will be at that point that whilst he thought PICS might be worth some further investigation that he had no particular desire for Strathfield Council to install it in the short term and he did not give Mr Chau any specific authority or direction to take matters any further.

20

There will also be evidence at that first meeting at Gloria Jean's on 27 August 2010 that there was some discussion about the way in which revenue might be shared between the council and Tenix Solutions and VMS if PICS were to be installed.

30 On 30 August, 2010 Mr Hill sent an email on behalf of Mr Armstrong to Mr Chau in which he set out his understanding of the steps that both Strathfield Council and Tenix Solutions and VMS would need to take in order to progress the council's interest in PICS further. Mr Armstrong specifically sought Mr Chau's approval to undertake a camera survey and data gathering exercise in priority areas which had been identified around Strathfield Square. On the same day, roughly half an hour later, Mr Chau responded by email confirming approval to do a camera survey and data gathering exercise at Strathfield Square and he noted his understanding that that would not have any financial implications for council.

40 On or about 31 August, 2010 Mr Armstrong contacted Mr Chau to organise a further meeting for 3 September, 2010 in order to discuss Strathfield Council's interest in PICS again. And again the meeting was to be held at Gloria Jean's Café in Strathfield. It's this meeting on 3 September, 2010 at Gloria Jean's which is at the heart of the current investigation. The meeting began just before 11.00am. Mr Chau attended with Mr Frank Ianni, who is the senior team leader engineers from Strathfield Council. And Mr Ianni was invited by Mr Chau to attend that meeting. There will be an issue as to why Mr Chau sought Mr Ianni's presence at that meeting.

Mr Armstrong and his direct boss, Mr Simon Taylor, the director of business development for Tenix Solutions from Melbourne attended on

behalf of Tenix Solutions. Mr Hill from VMS also attended, although he arrived some minutes after the meeting had begun. Mr Armstrong will say that he'd asked Mr Taylor, his direct boss, to attend because at that point he believed that there, there may well be a sale that would eventuate to the council.

10 It's the discussions between Mr Armstrong and Mr Chau at this meeting which are central to the current investigation. Mr Armstrong alleges that in the course of a brief one on one conversation with Mr Chau during the meeting, at a time when others who were present were absent, Mr Chau asked for a favour in the nature of a \$10,000 payment in order to assist an unnamed Liberal candidate in an upcoming council bi-election. The bi-election for Strathfield Council was in fact held on 23 October, 2010.

20 Specifically Mr Armstrong alleges that Mr Chau indicated that the money would be used to assist with printing of political brochures and pamphlets and other general expenses. Further, Mr Armstrong alleges that Mr Chau indicated that there was an urgent need for the funds and that they should be paid directly to Mr Chau. As that 3 September, 2010, in fact no Liberal party candidate had been selected to stand in the council bi-election. Ms Helen McLucas, the Liberal party candidate who ultimately stood and was elected on 23 October, 2010 denies any knowledge or association, knowledge of our association with Mr Chau.

30 It is anticipated Mr Chau will deny the claim that he attempted to solicit any payment and that he will allege that it was in fact Mr Armstrong who attempted to offer a payment of \$10,000 for the purposes of assisting of Strathfield Council candidate in the upcoming bi-election. There are also likely to be some further areas of dispute between Mr Armstrong and Mr Chau in relation to discussions on 3 September, 2010 about certain arrangements for Mr Ianni to travel to Melbourne in order to visit the particular council which had previously implemented PICS. That however is a side issue.

40 After Mr Chau had attended the 3 September, 2010 meeting at Gloria Jean's Café, and at approximately 2.30pm he emailed a draft report to Mr Backhouse in which he made a recommendation that council give approval to the installation of PICS and set out his reasons. That report had in fact been drafted by Mr Chau on 1 September, 2010, that is some two days before the 3 September, 2010 meeting. There will be an issue in the course of the investigation as to Mr Chau's motivations in preparing and sending that report.

Commissioner, there will be a number of key issues in this investigation in respect of which the Commission will need to make factual findings arriving out of the communications between Mr Armstrong and Mr Chau. Generally between 23 August, 2010 and 3 September, 2010, but most pointedly in relation to what occurred on 3 September, 2010.

It is anticipated that the key factual issues will be as follows, firstly, Mr Chau's motivations in his dealings with Mr Armstrong and others at Tenix Solutions and VMS and in recommending that Strathfield Council approve the installation of PICS. Secondly, whether Mr Chau in fact sought to solicit a \$10,000 payment from Mr Armstrong during the 3 September, 2010 meeting. Thirdly, if Mr Chau did seek to solicit such a payment on 3 September, 2010 what were his intentions in doing as regards the money, that is whether he intended to put the monies to his own benefit or for the benefit of someone else. And fourthly, whether any person, any other person was a party to Mr Chau's attempt to solicit the \$10,000 payment from Mr Armstrong, if in fact it's found to have occurred.

Depending on the factual findings the Commission ultimately makes, an issue may arise as to whether any conduct is found which amounts to corrupt conduct, having regard to section 79 of the Independent Commission Against Corruption Act and in particular the statement as to the general nature of corrupt conduct in section 8 subsection 1 and subsection 2 and the further requirements of section 9 of the Act.

Finally, at the conclusion of the public inquiry, the Commission will be required to prepare a report pursuant to section 79 of the Independent Commission Against Corruption Act which may include a statement, sorry, which will include statements as to any of its findings, opinions and recommendations.

ASSISTANT COMMISSIONER: Thank you. And now I'm not sure whether I before announced what the general scope and purpose of the inquiry was, did I? All right. Well, that being the case we'll have a short adjournment so the camera can withdraw and after that I will take applications for leave to appear.

SHORT ADJOURNMENT

[10.21am]

ASSISTANT COMMISSIONER: Thank you. Please be seated. Yes. Applications for leave to appear.

MR CRADDOCK: My name is Craddock, C-R-A-D-D-O-C-K, and I seek Commissioner's leave to appear for Strathfield Council.

ASSISTANT COMMISSIONER: Yes, Mr Craddock, you're given leave to appear for the council.

MR McILWAINE: Assistant Commissioner, my name is McIlwaine. I seek your authority to appear for Michael Chau.

ASSISTANT COMMISSIONER: Yes, Mr McIlwaine, you're given leave to appear for Mr Chau. Is there no other applications? Mr Downing?

MR DOWNING: Commissioner, I have a bundle of documents to tender. Copies have been made available to the other interested parties. It's paginated and numbered 1 to 95 and then there are some documents then, six pages, which are noted, described as a file note.

10 ASSISTANT COMMISSIONER: Yes. Well, this 95 pages of documents will be marked Exhibit 1.

#EXHIBIT 1 - BUNDLE OF DOCUMENTS ANNEXED THROUGH 1 TO 95

MR DOWNING: Commissioner, I call Phillip Armstrong.

20 ASSISTANT COMMISSIONER: Yes. Mr Armstrong? Yes. Just face the witness box, please. Your name is Phillip Armstrong?

MR ARMSTRONG: Yes.

ASSISTANT COMMISSIONER: Take a seat. Thank you. Mr Armstrong, you've been called to give evidence. You are required to answer every question that's put to you. You may seek a declaration under Section 38 of our Act to the effect that anything you say can't be used against you in future proceedings. Do you wish to seek a declaration to that effect?

30 MR ARMSTRONG: Not at this time, thanks.

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

MR ARMSTRONG: An oath, thank you.

ASSISTANT COMMISSIONER: Yes. Could the witness be sworn, please.

<PHILLIP ANTHONY ARMSTRONG, sworn:

[10.30am]

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

MR DOWNING: Mr Armstrong, if you could start by telling us your full name?---Phillip Anthony Armstrong.

10 And your date of birth?---27/3/57.

And I'd ask that you be shown a statement that you prepared on 9 September, 2010. Do you have a copy of that?---Yes, I do.

And can I ask you whether there's anything you wish to add, correct or change in relation to that statement?---No, I'm happy with it.

Thank you. I tender the statement.

20 ASSISTANT COMMISSIONER: Is that dated 9 December?

MR DOWNING: 9 September.

ASSISTANT COMMISSIONER: 9 September. Yes. Mr Armstrong's statement of 9 September will be Exhibit 2.

**#EXHIBIT 2 - STATEMENT OF MR PHILLIP ARMSTRONG
DATED 9 SEPTEMBER 2010**

30

MR DOWNING: Mr Armstrong, it's correct, isn't it, that you began at Tenix Solutions as the New South Wales Business Development Manager on 19 July, 2010?---Correct.

And you worked out of VMS's offices in Sydney?---Yes.

That's because Tenix Solutions is a Melbourne-based company?---Correct.

40 And was Mr Saxon Hill from VMS also working from the same offices?
---Yes, we shared offices.

And it's correct, isn't it, that VMS and Tenix Solutions had formed a joint venture?---Yes, they had, yeah.

In relation to marketing certain parking monitoring systems?---Yes.

And PICS was one of those?---PICS was one of those, yes.

It's correct, isn't it, that your employment at Tenix Solutions was terminated on 8 October, 2010?---Yes, that's correct.

And to your knowledge, did that termination have anything to do with your dealings with Mr Chau or your dealings with Strathfield Council?---Not that I'm aware of.

10 Now, your first dealings with Strathfield Council, please tell me if this is correct, was it an 18 August, 2010 meeting?---Yes, that's correct.

And was that a meeting you were asked to attend by Mr Farlow?---Yes. Mr Farlow had been assisting us with marketing and had a relationship with the council and had organised to make introductions for us.

Now, was the nature of that meeting, the first meeting, that was, I'm sorry, I withdraw that. But that meeting was held at council?---Yes, at the council premises.

20 And was the nature of that meeting an opportunity for you and Mr Hill to in effect make a bit of a sales pitch about different systems, including PICS?
---It was, yes, correct. We were to introduce ourselves to the general manager, David Backhouse, and at that meeting, three other members of the council team were there. It was an opportunity for Mr Hill and myself to present our credentials, to describe in general terms the offerings that we had and to inquire if the council was interested to take further steps to explore those offerings.

30 And who between you and Mr Hill spoke on behalf of Tenix and VMS?
---The majority of that discussion was mine. Mr Hill provided subject matter expertise and commentary as appropriate.

And I take it during the course of that meeting you described the features of different systems, including PICS?---Absolutely, yes. That was a primary focus for the meeting.

40 And at that meeting did you hand out a pamphlet in relation to PICS?---Yes. It was my practice to always ensure that on every customer visit, people received a brochure or a pamphlet describing our offerings so that they would have a reference point after the meeting.

Commissioner, the pamphlet appears at page 66 and following in the tender bundle, Exhibit 1. If you have a look at the screen for a moment, is that a copy, a black and white copy of the pamphlet?---Yes, it is.

And if we go to the next page?---Yes, I recognise that.

That was the pamphlet that was given to the persons present on behalf of the council at the meeting?---Yes. It was one of the primary document that we presented.

10 Was one of the matters that was discussed during that meeting the way in which revenue would be earned from PICS if it were to be adopted by council?---Yes, it was. It was part of a general discussion to say here are the technology offerings and solutions we have, here are evidence of the success that we've had with in particular Maribyrnong Council and an offer was present that we could provide to Strathfield Council a no capital cost involvement up front and that there would be a revenue sharing type arrangement if we were to proceed to do business.

And were any figures mentioned at that initial meeting in terms of revenue sharing or was it up for discussion?---No. No, specific figures were mentioned because at that stage neither the council nor ourselves had any idea on the true scope of the project, whether it would be one installation, many installations and the cost elements were not finalised on either side.

20 And would those matters that you just mentioned be relevant to the type of percentage you would be looking at on behalf of Tenix?---Yes. For us it was a case of this business model carried the risk of the project success on our side. In other words, if we put in a lot of hardware and software and services and there was minimal recovery from those devices we would potentially be in a loss-making position. On the other side, if there was to be large amount of revenue gained through the detection of various infringements it would provide a larger upside for us and a better return for the company and of course representing the company that was a consideration always for me to look for the best return for my side of the discussion.

30

You've, was one of the, you've indicated already that Mr Backhouse was one of the persons from council present, Mr Chau was also present at that meeting?---Correct.

Do you recall whether at the end of that meeting there was any commitment from anyone at council in relation to a trial or a purchase of PICS?---No, there wasn't. It was a meeting where at the end various people thanked each other for attending and for the courtesy of the, the meeting. I thanked Mr Backhouse and he indicated to me we will be in touch with you in the near future and I thanked him and the meeting closed.

40

Is it correct that the next contact between you and anyone on behalf of council was an email you sent some two days later on 20 August and if we could now go to the, page 58 of the tender bundle?---Yes, I recognise the email.

That was an email which is addressed to Mr Backhouse and is copied to various others at council including Mr Chau?---Correct.

10 Was there a reason for addressing it to Mr Backhouse and copying it to others?---At the meeting Mr Backhouse was the most senior member. It's a common business courtesy to always address correspondence, at least in my own experience, to the most senior manager and to copy his team. All of those people worked for David Backhouse and since there was no clear instruction at that time to work with any individual, the courtesy and the protocol dictated that I send it as a matter of principle to Mr Backhouse in the terms that I've presented in that email.

In effect, is this correct, that the email was a follow up to the meeting to see if there might be some interest in taking the matter further?---Absolutely. As you can see as a means of furthering this approach can you let us know your interest to take a formal step to engage so I'm seeking at this stage to determine the interest that David Backhouse would have for us to take further steps to consider the offerings that we were putting.

20 And further down the email you indicate that the survey that might be performed would be at a cost of about \$10,000 but that Tenix and VMS would absorb that if there was a commitment to taking on PICS for a three-year term?---Absolutely, it was to let the council know that significant time and effort and materials would need to be deployed on our side and rather than providing every council that we were to engage with potentially free consulting and free resources we had to at some point determine a commercial value and this was a means of bringing to the general manager's attention that we were serious about doing business, there was a cost involved but as a gesture of goodwill we were prepared to absorb that cost.

30 Right. Mr Armstrong, if you accept from me that the initial meeting, the face to face meeting at council was on a Wednesday, that is 18 August and that this email was sent on Friday, 20 August, do you have a recollection of when your next contact with anyone on behalf of council was and who that was with?---To my recollection it was the following week, approximately five to seven days after my email and that was a phone call that I'd received from Michael Chau introducing himself as a contact point to proceed further. I had received no email from Mr Backhouse and I assumed from the phone call that Michael Chau had been engaged and approved to pick up
40 business discussion on behalf of the council.

Mr Armstrong, paragraph 6 of your statement you've said that the phone call from Mr Chau was about three to four working days after that initial meeting. Is it possible that that's a more accurate statement of how long it was after the meeting, the email or are you - - -?---No, no. I'm, I'm, I stand corrected. This would be a more accurate timeframe as I had the benefit of my diary handy at the time of making this statement. I don't have that diary in front of me at this time, so I would rely upon what I've said in point 6.

And you've said in your evidence that the contact was Mr Chau telephoning you?---Correct.

Is it possible that you in fact telephoned him?---To the best of my recollection and in my discussions with Saxon, he'll, we were both waiting to hear from the council rather than proacting any further. My email was the extension of the offer and it was courtesy not to be badger a customer or a general manager, so we were in a mode of waiting for contact. And that
10 contact came in the form of Mr Chau's phone call.

Now do you recall what Mr Chau said to you in the phone call?---As I've indicated in point 6, I'm calling on behalf of David Backhouse. Can we meet further to discuss the potential installation of the cameras. It was clear as the conversation unfolded that the other offering that we had, PODS, which is the Parking Overstay Detection System was not of primary interest, so it became clear that the camera offering was the main offering that was of interest. And hence, the reference here from Mr Chau.

20 In the next paragraph of your statement, paragraph 7, you refer to the meeting with Saxon Hill and Mr Chau on 27 August, that's the first meeting at Gloria Jean's?---Correct.

And paragraph 7 to 9 of your statement you deal with that. Do you recall there was another council representative present for a short time? And it might assist if, if you have go to paragraph 9?---Yes, that's correct. Towards the latter part of the meeting a ranger was present briefly for about five minutes. I offered him a coffee to join us. He said he was rather busy. We then moved out from the café after we'd finished, Michael, Saxon and I
30 had finished our coffee and the other gentleman who did not present a business card to me, so I don't recall his name, but I understand there are only two rangers employed by the council, so it's one of those two parking rangers joined us for about five minutes.

Now in paragraph 8 of your statement you've set out what you recall Mr Chau saying to you?---Yes. Correct.

Do you recall during the course of the discussions with Mr Chau on 27 August any particular discussion about the trial you'd proposed?---Yes. The
40 interest was there as expressed by Michael regarding the installation of the cameras. There were a lot of problems with illegal and potentially dangerous parking in and around the Plaza. That's why Gloria Jean's Café shop, rather, was selected as it was adjacent to the area and the focus was on the Strathfield Plaza. And Michael had made it clear to me and to Saxon, we were both of the view that he was the endorsed and approved manager to represent the council.

In the course of that meeting on the 27th, was there any discussion then about the way in which revenue might be shared between the council and Tenix Solutions and VMS if in fact PICS were installed?---There may have been, I'm not exactly clear, but in keeping with the consistency of all of the dialogue we had been having up to that point and as things unfolded, it was supporting our position that no capital costs would be incurred by the council and that we would seek to engage at an appropriate time with a discussion on a fee for service or a revenue share model.

10 Do you recall whether at this meeting on 27 August there was any discussion about a particular figure?---There was mention of a figure, I'm not sure if specifically if it was at this meeting or at a later meeting. I would need to refer to my notes. However, a figure was presented by Mr Chau of 35 per cent of a total revenue share with us. And both Saxon Hill and I were of the view that that was an extremely generous figure. It was not - - -

Generous from whose perspective?---From our perspective. Generous to us.

20 Right?---We had not at that stage discussed any potential figures because to do so would have been grossly irresponsible on my behalf. It would have been without the approval of my line management and it would have been on the basis of no costings whatsoever having been done specifically against the Strathfield Council installation. So to pipe a figure out of the air would have been irresponsible and without authorised approval.

30 Do you recall now how it was that Mr Chau came to mention the figure of 35 per cent?---Yes. He used the words that he was prepared to be generous with us in the revenue sharing model. To give an example, a no stopping ticket in New South Wales is a fine of \$204. A 35 per cent share of that \$204 is a considerable revenue item per infringement. So at 35 per cent, we would have been well and truly in the gravy, so to speak. We would have been well and truly recompensed and it would have been over time an enormous financial contribution to both VMS and Tenix. Anywhere from 20 per cent onwards would be an acceptable figure. Where 35 per cent came from was not of our choosing or of our proposal. It was from Mr Chau.

40 Did Mr Chau make any inquiry about what percentages other councils had, had agreed upon with Tenix and VMS?---No. There'd been no discussion. The only other installation that was at work was the Maribyrnong and even I, as a Tenix employee did not have all of the full details of that business arrangement. I wasn't involved in it and it was in Victoria.

Were you surprised by Mr Chau's preparedness to offer a figure at that point?---Absolutely because as I've said, the technical due diligence for any solution that we would propose to provide had not been completed. We didn't know the number of cameras, we didn't know the number of poles to be installed. We hadn't done any survey gathering at all to determine a, an

anecdotal sense that there were a high number of infringements in the area. There'd been no validation or survey discussion, so of course arriving at a firm figure was very much plucking a figure from the air.

Is it fair to say that as at 27 August, 2010, but even on 3 September, 2010, not only had the technical due diligence not been completed, but it hadn't even been begun?---Correct. We were seeking approval as some of my subsequent emails, which I believe have been made available to the council and to Mr Chau in particular, were talking about the steps that needed to be taken. And any discussion of figures or percentages or proposed revenue sharing was absolutely premature.

Well if I could now ask you to try and recall when it was after that meeting on 27 August you next had contact. Do you recall whether it was, whether there was a later email contact or telephone contact with Mr Chau?---I believe there may have been a further email, but I'm not 100 per cent certain. I only have this material in front of me to assist me. If you have other material I'd appreciate your showing me.

20 If I could ask you to look at the email that appears at page 59 of 60 of Exhibit 1. Now - - -?---Yep. 30 August. Okay.

Okay. Now if you see, it actually that email in the top of it that it's from Saxon Hill. Do you recall whether that was in fact something that was from Saxon Hill that was drafted by you or whether it was from Saxon Hill? ---No, it was, it was my email, but that afternoon there was an email server problem within Tenix Solutions and Saxon was kind enough to send that on my behalf. But it was my work and agreed by me.

30 Just dealing with that email, it sets out, does it not, a summary of what you understood to be happening at your end and at the Council end in relation to PICS?---Absolutely. It was an attempt to bring some form to the business discussion because this was a technical project that involved hardware, software, services and a range of efforts by various authorities, including Energy Australia to provide some power, the Council to provide the approvals for surveys and ultimately for installation. And I outlay here a number of steps that I believed were matters outstanding that needed consideration.

40 In point 2 in the email you sought specific approval to do a discreet camera survey and data-gathering exercise?---Correct.

And that's from Mr Chau?---Yes. That was sent to Mr Chau seeking approval for us to undertake that survey work.

And then in point 3 you make reference there to confirming a business model whereby there will be no capital outlay for council?---Correct.

And you make reference in the fourth, third and fourth lines, "The licence to use PICS will be including in the service cost of 35 per cent per PIN issued?"---Yes.

Is PIN parking infringement notice?---Parking infringement notice, yes.

Now, does that reference to 35 per cent in this email of 30 August, 2010, help you in recalling whether it was at the 27 August meeting or at a later meeting that Mr Chau had suggested the 35 per cent figure?

10 ---On reading this it confirms for me it was the 27 meeting of August. Here I'm replaying back to the potential customer the commitment that he had offered and that I was very happy to embrace and I believe that would also be the testimony that Saxon Hill would provide.

Well, if you just confine yourself to what you recall of the- -?---Yes. My recollection is I was feeding back to Michael Chau that the 35 per cent that he had offered previously was now being documented and that we were happy to engage, delighted to engage, I should say, at 35 per cent.

20 In paragraph 9 of your statement you then refer to steps that were taken to organise a further meeting. You've got your statement in front of you, don't you?---Ah, yes, I have. Yeah, sorry, yeah. Sorry. Yep.

Could you just have a look at paragraph 9?---Yep.

You refer to a contact with Mr Chau to arrange a further meeting for 3 September, 2010?---(NO AUDIBLE REPLY)

30 ASSISTANT COMMISSIONER: Sorry, before you answer, Mr Armstrong, could I just ask you not to move too close to the microphone?
---Sorry.

It's interfering with the recording. So just sit back and talk normally. You should be picked up?---Okay. Is that better?

I think it is. Just carry on?---Sorry. Could you repeat your question, sorry?

MR DOWNING: Paragraph 9?---Yes.

40 You refer at the bottom of that to you arranging a further meeting for 3 September with Mr Chau?---Correct.

So did you contact him to organise a further meeting?---Yes, I did.

And was that with a view to furthering the steps that were to be taken in order to, at this stage, trial PICS?---Yes. And also I had in mind that I would advise Simon Taylor, my boss, who was based in Melbourne, that it would be appropriate for him to join us at the meeting of September 3.

And if, I'm sorry to do this, but if we could just go back to the email at page 59 of Exhibit 1, you'll see in paragraph 5 you refer there to developing a business proposal?---Yes.

10 So was that something that needed to be done before the actual process of council seriously looking at PICS could occur?---Yeah, absolutely. It would be an essential step in I imagine any process, but certainly in relation to our offerings you would need to do that for both sides, both for council's benefit and for our benefit, and I could not imagine at all council agreeing to approve any project without those steps being taken.

And then at paragraph 11, which appears on the second page of the email, or point 11, there's a reference there to a time frame for finalising the data, the survey data collection and having a service fee price proposal completed and available for council by close of business on Wednesday, September 8? ---Yes.

20 So is that, was that your understanding in terms of the shortest time frame that could be within which you could have that sort of proposal available? ---Yes. We, we were keen to progress the opportunity as the signals we were receiving were very positive and we were very keen to, to take advantage of that and so set at timeline to which both parties could work towards completing their agreed actions.

30 Now, between your contact with Mr Chau to organise the 3 September, 2010 meeting, and the actual meeting itself, do you recall any conversation with Mr Farlow?---Ah, there had been many discussions at various times. It's possible I've had a further discussion with Scott at that time frame that you've suggested.

40 Do you recall any telephone conversation where he phoned you and in that period between 31 August, 2010 and 3 September, and discussing with Mr Farlow what was happening with Strathfield Council and the proposal that it install PICS?---Um, again ah, to the best of my knowledge, that may well have occurred. I don't have my diary here with me I'm sorry. But that would seem appropriate. Scott and I were in regular contact. He was providing paid consultancy services to Tenix. I was the principal point of contact and naturally Strathfield Council was high on our prospect list as a potential customer. So it is highly likely, as you suggested, that there was contact during that time frame.

Turning now to the meeting of 3 September, that is the second meeting at Gloria Jean's, you deal with that meeting at paragraphs 10 to 20 of your statement?---Yes.

Consistent with what you said at paragraph 10, was the reason for inviting Mr Taylor along, your view at that stage that there was some reasonable

prospect of Strathfield Council proceeding with PICS?---Yes. I had an obligation to provide business forecasts of potential business to my boss, Simon Taylor, and I had been, along with Saxon Hill, both of us had been identifying this opportunity, and Simon in particular had financial approval for any proposal that I may put forward. So it was important to have my boss engaged to be able to gain from his own perspective a view of the opportunity and to meet the key people from Strathfield Council.

10 Now, you've set out in those paragraphs your recollection of the discussions with Mr Chau and others, but particularly Mr Chau, at that meeting?---Yes.

Beyond the matters there, do you recall anything else that Mr Chau said to you during that meeting?---These comments essentially capture the majority of the discussion that we had directly. There was broad conversation between Saxon Hill, Simon Taylor and myself with Michael and brief commentary from Frank from time to time throughout the morning. The key elements of the discussion between Michael and I are captured in my statement.

20 Do you recall if Mr Chau said anything during that meeting on 3 September about any particular time frame within which the council wanted PICS to be up and running?---Yes. I recall and was surprised that Michael indicated to me that the business case for approval had been obtained and I later commented to both Simon Taylor and to Saxon Hill that I was surprised that these things were said by Michael, given we had not even begun to put together a list of all of our hardware, software and services to begin to form an estimate of what our costs would be so that we could then sit and agree an agreed figure for services provided.

30 But beyond the question of financial agreement that might be reached between council and Tenix Solutions and VMS, is it also the case that as at that meeting, not a single camera had been installed to see that it even worked?---Correct. No survey data activities had been undertaken. There was much work to be done and in fact one of the focuses for the meeting of September 3 was to look at the potential areas where the three cameras that were being discussed were likely to be sited and to agree upon the number of cameras per pole. So there was much technical work still to be completed and the pricing as I said on our side hadn't even been commenced.

40 Had you presented PICS to other councils besides Strathfield as at August/September 2010?---We were in the business of proposing to a number of councils around Sydney and I personally would have been involved in perhaps representations to anywhere between eight to ten councils at that time, but the discussions were at a very early preliminary stage, not anywhere near as advanced as Strathfield.

Well, even just dealing with the preliminary discussions you had at the other councils, did the other councils typically ask to see some evidence as to how PICS actually worked, that is, see the photographic evidence?---Yes. The general brochures and pamphlets that we provided gave an outline or the marketing pitch for the offering but the actual demonstration of PICS in operation could be done via more detailed presentation of software that was on a laptop that Mr Saxon Hill had access to and that he was more suitably qualified than myself to provide such a demonstration and of course there was an open offer to all councils that we spoke with to have a look at the
10 Maribrnong experience in Melbourne as they were a very happy customer.

You made reference before in your evidence to a business case obtained, that is that in the course of your discussions and I think you said something about a business case needed to be obtained in order to progress the matter? ---Yes.

What exactly did you mean by that?---Okay. A business case would be beneficial to both the council to finalise the benefit to them and also on our side if you're proceeding with a revenue sharing model you need to have
20 some broad idea or extrapolation of the potential number of infringements that would be expected to be detected so that you could with some degree of certainty take a commercial decision and a position of risk, particularly in a model where you're not asking the customer to pay for any hardware, any software or any services, rather to share from the bounty of the number of infringements that are detected, that's the sole means of raising revenue from VMS and Tenix but to do so you need to have some survey data and an idea of the potential number of infringements prior to PICS and potentially available to be detected by PICS.

30 So that's what you expected would have happened in this case if there was serious interest in - - -?---Absolutely, both from our point of view I would not get approval from Tenix Solutions to put forward a formal proposal without some business modelling being done and financial sign-off obtained from my senior management.

At paragraph 14 of your statement you deal directly with what you say Mr Chau said to you in the course of that meeting?---Yes.

40 That is the part of the conversation where it was just you and Mr Chau and he spoke to you about doing a favour for him?---Yes.

And are you confident as to what you've set out in your statement accurately represents what Mr Chau said to you?---Yes, I have a clear recollection that these were the words to the effect as I have described here. Simon Taylor my boss was at the counter buying coffees for the group and Michael Chau and I were alone perhaps for a minute thereabouts by ourselves, Saxon Hill had not arrived at that time, Frank was outside as I've indicated and it's at that point of being together, Michael and myself sitting

at the coffee shop, that Michael said the words that I have described in my statement.

Were you surprised by what he'd asked of you?---Yes, I was both surprised and embarrassed that potentially what had appeared to be a very well qualified business opportunity was now being compromised and initially I wasn't sure if that was naivety on behalf of Michael Chau or a more sinister view which myself subsequent conversations led me to form a conclusion that it was not a naïve request.

10

Well, when you say your subsequent conversations, do you mean subsequent conversations with Mr Chau?---Correct. When the meeting inside Gloria Jean's concluded we then went outside as a group to examine the potential locations of the cameras and it was at a point outside of the coffee shop that I sought further clarification from Michael regarding his intention and it became very clear to me that the things that I've expressed here were the intended things that Michael was seeking the financial benefit for.

20

And is that what you've said in, set out in paragraph 16, is that the further conversation outside that you're referring to?---Correct, yes, I'm referring to point 16 at that stage.

30

Can you recall what you initially said to Mr Chau when he asked you or said to you the matters that you've set out in paragraph 14, that is his initial request for a favour?---I took it on board at that time not wanting to finalise the matter and I must admit I was surprised that when Simon Taylor returned with the coffees that no follow up to the request or the, the discussion was brought into the general fabric. I had a sense of unease. I did not want to embarrass potentially Michael Chau, my customer, in front of my boss by in any way being clumsy and inferring that, you know, he'd made an inappropriate request but likewise I was uncomfortable that the request had been made so I must admit when Simon came back and the coffees were presented to the group, when there was no further discussion of that request for a favour I sat back and my initial thoughts in all honesty were have I misunderstood this? Is there some sense of perhaps a request here that Michael is seeking funds for a candidate as he's indicated or have I misunderstood but certainly as a sales manager in a conversation with a customer the last thing you want to do is either embarrass yourself or the customer in front of others so when the conversation did not proceed further at that point it left me somewhat perplexed and when we went outside there was an opportunity to quietly speak with Michael to see if I could understand the context of what he had earlier asked as this favour of me and it was at that point that things became a lot clearer in my mind.

40

Well, in paragraph 16 where you say Mr Chau asked you or said to you, "I prefer to have the cash directly given to me so I can finalise the arrangements," what did that lead you to conclude?---Well, it seemed highly

irregular to me. I was at one point, I must be brutally honest, I was at one point considering whether or not there was any way that this matter could be legitimately accommodated. I was looking to see could I assist a customer or a potential customer deal with this request but when I further inquired about how should the money be, be made available, would you like us to pay for the pamphlets and the brochures and the printing, when the answer came back no, just have the money made available, could you make the \$10,000 available because the council by-election is looming, there's an urgent need for the funds, direct those funds to me, that's when it became clear in my mind that this was no kosher, that there was something wrong in what had been asked.

If I could ask you to assume for the purpose of my question that Mr Chau will say that in fact the request for \$10,000, sorry, I withdraw that, that the suggestion of putting a payment or giving a payment of \$10,000 to council is something that you, you put forward, is that a correct version of the events?---Absolutely not and in fact to confirm my position Tenix Corporate have very strong guidelines regarding any political donations of any type, a formal register is kept at the group head office. I have no access to approval for any such funding nor would Simon Taylor have approval or ability to approve \$10,000 in funding and I certainly can guarantee you that it wasn't coming out of the Armstrong family budget to pay \$10,000 to anybody so the answer to that is no, I certainly did not offer or propose any funds to Mr Chau.

Did you raise the topic of a looming by-election and make a suggestion you might be able to help with that in some way?---No, I did not but I do recall that it was the subject of broad discussion between Mr Farlow and myself previously and Mr Saxon Hill and that I'd also informed Simon Taylor that there was the potential of a by-election coming. Michael had previously in our meeting of late August discussed the matter with Saxon and myself at Gloria Jean's and I am very clear that there was no raising of the matter on our behalf.

You've made reference in your evidence to the fact that some time during the meeting you actually took Mr Taylor aside and told him what had transpired with Mr Chau?---Yes, that's correct.

Can you recall where you were and roughly how long after the words Mr Chau had spoken to you that that occurred?---It would have been literally about a minute after the conversation that I've just described between Michael Chau and myself because at that stage Simon Taylor had emerged from the café and it would have been about one minute after Mr Chau, I broke off the, the discussion. Mr Chau went on to talk with Frank and Saxon Hill approximately 50 metres away. I stayed where I was and I waited for Simon Taylor to come from Gloria Jean's Coffee Shop and I then advised him we have a problem.

Was that a problem that I guess upset you a bit at that stage in terms of your prospects of being able to make a sale?---Yes, it did. And it was both, as I said very disappointing that what was potentially appearing to us to be a genuine and legitimate business opportunity had now been soured or complicated by a request for funding that was not in any way legitimately or otherwise connected to the deal. And that that was something I had to immediately report to my boss to say, Simon, we have a problem here, I've just been requested to make available a payment of \$10,000. And that was very disappointing.

10

Now in your statement at paragraph 18 you've also made reference there to some discussions with Mr Chau about a trip for a council employee to Melbourne?---Yes.

And particularly the suggestion that Frank Ianni might travel to Melbourne?---Yes.

Now you've said earlier in your statement that you were a bit surprised that Frank was the person that came along to the meeting and was, sorry, I'll stop there, but Frank was the council employee who'd come to the meeting?---Yes. Up to that point I can say to you there was no detailed technical analysis of the software management, in other words an essential element of the PICS solution is the software that provides evidence of the offence and the processes of the back office which are more technical IT and or class 12 officer or a parking officer type decisions to be made on whether to issue a PIN. So to have a blue collar outdoor facilities construction type person being put forward as the representative of Strathfield Council to go on a trip to Melbourne to meet with representatives of Maribyrnong Council to discuss the intricate workings of PICS, both the hardware, the software and the total offering seemed highly unusual for "Frank" to be nominated as Frank did not strike me as being a person with those technical skills or financial other otherwise services related skills.

20

30

And in paragraph 18 you've referred to the fact that there was some discussion there about what arrangements Tenix might make for Frank while he was in Melbourne?---Yes.

And particularly towards the bottom you've said that Mr Chau indicated that Frank would like a nice lunch and a massage?---Yes.

40

What response if any did that create in your when Mr Chau suggested that Frank might like to be looked after in that way?---It further confirmed for me that this deal was now non-kosher. This was not a genuine business opportunity and that a sense of disappointment on my part was it just reinforced that this was the wrong person to send to Melbourne. And I say this because in sponsoring a trip, whether it was paid for by Tenix or paid for by the council, I would need to brief Maribyrnong Council as to what people would need to be available. I would need to brief the Tenix head

office as to what people should be there to meet Frank as the representative. I would need to make all of the arrangements, both with the customer and with my own head office to ensure that the trip was productive and worthwhile. Yet no discussion at all about the content, the activities, the nature of the, the trip itself, no discussions were coming from Michael, rather then, you know, how should we organise this, what does Frank want to see in Melbourne was essentially the broad question that I was asking expecting to get some sensible answer back. And I get back is lunch and a massage. Hardly what I would have expected back as a legitimate response.

10

Do you recall any mention by Mr Chau during that meeting on 3 September of him having already done, have already done a report to council about PICS?---Yes. He actually said that in front of Saxon Hill and myself and Simon Taylor that he had completed his business case or his recommendation to council that they should proceed with PICS. And I again found this highly unusual because all of the steps that I'd indicated in earlier emails as activities outstanding, some of those activities hadn't even been commenced. So I find it very difficult to think that a proposal could legitimately go to the council to say yes, let's go ahead with this technology, the first of its kind to be introduced into New South Wales, based on you know, the three meetings that were hardly conclusive at that stage.

20

Do you recall whether Mr Chau said anything during that meeting about whether there would actually be a need to go ahead with the survey at all? ---Yes. There was some contention about the survey. We raised the political, during the discussion, the political question of how it may be seen by the people living within the council municipality. Simon Taylor specifically asked the question I believe regarding had there been any injuries or accidents involving pedestrians in the area. And you know, what was the sense of how this was going to be approved, because there is a reluctance among councils that I had determined in Sydney to necessarily be seen to be involved in blatant revenue raising and so a question that was lingering in the back of my mind and I know, I believe I could consider this to Saxon as well, how we were going to politically see this project approved, on what basis the business case would be presented and completed and on what basis would the survey data support us to enable us in good faith to put a proposal to the council and to go forward together in a partnership.

30

40 Is it correct that after the conclusion of that meeting on 3 September, you drove Mr Taylor to the airport as he was going to fly back to Melbourne? ---Correct.

And in the course of that trip to the airport did you telephone someone? ---Yes. Immediately we hopped into the car, it was agreed that both Simon and I would call from my car to Scott Farlow to tell him what had transpired that morning and to describe our disappointment with the events. Certainly that was my feeling. Mr Taylor was less than impressed at that point as

well. And to say to Scott Farlow, Scott, these are the things that have transpired. We're very disappointed. What are your thoughts? And at the conclusion of that conversation it was agreed that the matter would be referred to David Backhouse and referred to the Commission.

And were some arrangements made for a meeting which you were to attend?---There was no further meeting for me to attend. The action was upon Scott Farlow to reach out to David Backhouse as originally it was Scott and Mr Backhouse who had begun the engagement. Scott
10 representing us to see if there was interest on behalf of Strathfield Council. So it was back to David Backhouse to say after three or four weeks of engagement, Mr Backhouse here's where we're up to. Here are the problems. Here's how this project has now been compromised and that was left as an action for Scott Farlow to take with David Backhouse.

But before there was a meeting between Mr Backhouse and Mr Farlow do you recall there was a meeting that you were to attend with Mr Hill and Mr Farlow?---We had discussion on the phone. I dropped Simone Taylor that
20 afternoon back to the airport. He headed back to Melbourne. And I returned over to the offices at North Sydney and I caught up later that day with Saxon Hill, essentially to say Saxon, you won't believe how the rest of the morning unfolded. He was not privy to the discussions that Michael Chau had put to me nor was he privy to the discussion that I've had with Simon Taylor. So the discussion was between Saxon and I together, in a sense debriefing as was our regular custom after every customer visit to see how the meeting had gone, to compare notes. And it was an update to Saxon Hill.

And that's on, sorry, that's on the afternoon of - - -?---That was the
30 afternoon.

- - - of 3 September?---Yes. Correct.

And if you take it from me that that day was - - -?---Friday.

- - - Friday?---Yes.

Do you recall that on the following Monday that you attended a meeting in
40 North Sydney with Mr Farlow and Mr Hill?---Again, without the benefit of my diary here that may have occurred. I'm not 100 per cent certain. But I'd be happy to be advised.

Well, just before I move to that, if I could ask you to have a look at the document which is at page 64 of Exhibit 1. Putting aside the top part, which is a forwarding on of an email on the 6 September, do you see that that's an email from you on 3 September at 1.33pm to Mr Chau?---Yes.

And that was an email further in relation to the arrangements for Mr Ianni's possible trip to Melbourne?---Yes.

Can I ask you, at that point, given that this was after the meeting on 3 September, what was the purpose of sending the email regarding the arrangements for the trip to Melbourne?---It was to um, at that stage, take forward the engagement, but it was subject to ultimately a discussion between Simon, Saxon and myself as to whether or not that this was really a nonsense and that my courtesy letter here may have been basically to no effect. Um, but it was sent and you can see here I just said, "The invitation to Frank", 'cause at this stage, when I inquired about Frank travelling to Melbourne, the question was who would pay for it, and it was suggested that we should pay for it. Should it be on a particular day, oh, make it either a Monday or a Friday. So all I've done here basically is feed back to Michael Chau to put Michael Chau basically, to hit the ball back into his court and say, well, here's how the meeting's ended today, can you tell us what further requirements you might have for Frank's travel et cetera, and it was to basically hit the ball back into the tennis court for Michael Chau to see whether or not he had approval, whether or not he had authority and whether or not in fact the morning's arrangements were to come to anything or nothing, but our suspicions were very high at that stage and it was something that was being completed as part of routine housework on our side.

Can I ask you then to have a look at a document which is at the end, towards the end of Exhibit 1 It's actually the first page of the file notes. You won't have it in front of you, Mr Armstrong, it will be on the screen if you look at the screen in front of you?---Yep.

Do you see an email from you to Scott Farlow on Monday, 6 September, 2010 at 4.23?---Yes.

And the heading of that or the subject is, "Notes re Friday September 3 meeting with Michael Chau?"---Yes.

Now, is that an account that you sent to Mr Farlow of what you recall having occurred during the 3 September meeting with Mr Chau?---Yes. And it was also a summary of some of the discussion points that were raised in the phone conversation that Simon Taylor and I had with Scott Farlow from my car, driving Simon back to the airport.

And was that something that Mr Farlow had asked you to prepare?---No. It was, it was done for the benefit of my line management. You can see here I've copied Simon Taylor, Robert Donato is Simon's boss and Rebecca Power is the managing director. So I've copied the entire upline who were all interested to see whether or not Strathfield Council was a legitimate opportunity and I felt obliged to record here in a sense my notes of the

conversation that both Simon and I had had with Scott and a summary of the activities that had occurred on the Friday.

And sorry, just for my benefit, if you tell me again the other people you've copied the email to. Mr Hill we know?---Yep.

10 Mr Taylor we know?---Now, Robert Donato was Simon Taylor's boss in Melbourne and Rebecca Power, the managing director of Tenix Solutions. So I've copied my upline as a courtesy to let them know that these are the matters at hand.

20 And are you satisfied that this represents an accurate summary of the events that had occurred on 3 September, 2010 with Mr Chau?---Yes, I do, given that they were, you know, contemporaneous notes as I've indicated and that I had put them down for the benefit of my own understanding of what had occurred but also as a courtesy to my upline to let them know exactly where we're at and also Saxon Hill, our business partner. So everything was put forward here and Scott Farlow, as I said, had agreed to take an action to reach out to David Backhouse, so it was for Scott's benefit in his subsequent conversation with David Backhouse as well as a note to file for Tenix.

Looking at that, does that, I withdraw that. Do you have any recollection now of having met on the morning of Monday, 6 September with Mr Hill and Mr Farlow in North Sydney?---It, it doesn't specifically trigger but my diary would clearly confirm it. It would be something that I could assist you with perhaps overnight or later today to - - -

30 Do you not have your diary with you?---I don't have it, I'm sorry but if, if, if as you're saying the meeting was with Saxon and Scott, well, both of those would confirm my presence so - - -

And from that point on is it the case that you had no further contact with Mr Chau?---Absolutely correct, no, no further dealings with Michael Chau.

And the contact with council was then taken over by Mr Farlow?---Yes. He had taken an action to discuss the concerns and the events of Friday, the 3rd with David Backhouse. As far as I was concerned no further dealings with Strathfield Council.

40 If I could ask you to have a look at page 65 of Exhibit 1, leaving aside the top part of that email exchange do you see that it's an email from Mr Chau to you of 6 September, 2010 at 9.44am?---Yes.

Where Mr Chau is asking you to use 24-hour cameras?---Yes. That had been one of the subjects of discussion. There was a preference for infrared cameras that could detect after-hour offences in low light environments. I imagine that was a housekeeping matter that Michael took upon himself to send.

And just dealing now with the top of that email, is that something that you forwarded on to Mr Farlow that day?---Can I see the top please, if you could just scroll down.

I'll just scan down?---Yes, it, it has been forwarded by me, yes.

Thank you, Mr Armstrong.

ASSISTANT COMMISSIONER: Thank you.

10

MR DOWNING: No further questions, Commissioner.

ASSISTANT COMMISSIONER: Yes. This may be a convenient time I think to take the morning adjournment. We will adjourn for ten minutes. Thank you.

SHORT ADJOURNMENT

[11.27am]

20

ASSISTANT COMMISSIONER: Thank you, please be seated. Yes. Does anyone wish to apply to cross-examine Mr Armstrong?

MR McILWAINE: I do.

ASSISTANT COMMISSIONER: Mr McIlwaine, yes.

30

MR McILWAINE: Mr Armstrong, I represent the interests of Mr Chau. Now, Mr Armstrong, your position as Business Development Manager at Tenix as at September 2010 was part of your remuneration based on the number of contracts, the income that you were able to bring in for the business, is that - - ?---There was a variable component of my remuneration based on sales success.

And I think you described at one point in your evidence your position as a sales (not transcribable) at least in part?---Correct.

40

Now, if I could take you to the meeting on 18 August, 2010 at Strathfield Council which I think you've said was your first contact with Mr Chau, that's correct?---Correct.

Now at that meeting was Mr Chau introduced to you?---Yes, he was by David Backhouse.

And can you recall what Mr Backhouse said about Mr Chau and why he might be at the meeting?---Not specifically. He was there along with the two other gentlemen that were identified as being there, Patrick Wong I

believe and one other gentleman. Michael was one of three officers there with David Backhouse.

All right. Now, were you aware that Mr Robert Bourke was the Director of Operations for Strathfield Council?---Yes, I'm reminded that's the case, yes.

Okay. And Mr Patrick Wong was the Director, Technical Services at Strathfield Council. Is that - - -?---Correct.

- 10 Now you know that now, did you understand that at the time of the meeting?---They presented business cards at that time so yes, that's correct.

So this meeting to your observation was a fairly high level meeting, you had two directors, you had the general manager and you had Mr Chau?---Yes.

I take it you drew from that that Mr Chau was a person of some importance in respect of council?---Yes. To be at that meeting indicated you had some degree of position of authority and power to speak on behalf of the council.

- 20 Yeah. Now, from the council's side, I think, am I correct in saying that from your company's side you did most of the speaking, is that correct?---I didn't dominate the entire discussion, there was input from Mr Farlow, bridging and joining the meeting and describing why we were there and also at different times input from Mr Hill describing the product in more detailed technical terms.

Because that was his area of expertise, the technical side, correct?---Yes, correct.

- 30 Now from the council side do you agree that Mr Chau spoke?---Yes, Mr Chau spoke at the meeting, yes.

And do you agree that he asked a specific, made a specific inquiry about the availability of 24-hour use of the cameras?---I don't recall that at the first meeting. I do recall Mr Chau raising it subsequently, informing there was a preference for 24-hour coverage.

- 40 But it could be the case that he raised it straight from that first meeting, do you agree, concede that possibility?---That's possible. It wasn't my recollection however.

Now after the meeting was completed I think you have given evidence about an email you sent on 20 August at 1.10pm just thanking the various attendees for their, for their time. Is that correct?---Yes.

And that's part really of the sales process, a bit of follow up on the meeting, correct?---Yes, correct.

And I suggest to you that another part of that sales follow up was for you to contact Mr Chau a few days later?---No, that's not my understanding of the process. The meeting was addressed and chaired by David Backhouse. The other three gentlemen attended at his invitation and my email was specifically sent to Mr Backhouse to thank him and as a courtesy to also indicate my appreciation for the attendance of the other three people.

10 I suggest to you that some number of days after the initial meeting you called Strathfield Council and left a message, you weren't able to speak to Mr Chau but you left a message for him to call you?---No, that's not my understanding. My understanding is that Michael Chau contacted me.

So is it your evidence that you made no phone call to any person at Strathfield Council subsequent to your email of 20 August, 2010 prior to Mr Chau speaking to you?---That would be my recollection.

20 You said it would be your recollection but could you be wrong in that recollection?---As I've indicated earlier in my evidence, the email was my first formal contact after the initial meeting. We were in a mode of waiting to see what degree of interest there was because my email specifically said can you let us know what interest in effect there is to have further discussions. It was not my manner or general practice to continue to follow up unnecessarily so I had other councils to engage with, other activities to attend to. I was waiting to see what interest was coming from Strathfield Council.

You've spoken there about your general practice and procedure - - -?---Yes.

30 - - - and that may well be the case but can you exclude the possibility that you made a phone call to someone at Strathfield Council following up on your email prior to Mr Chau contacting you?---I do not recall making such a phone call.

Can you exclude the possibility that it occurred?---Anything's possible.

40 Thank you. And you said in your statement that you met Mr Chau again on 27 August at Gloria Jean's Coffee Shop. This is the first meeting, I think. This is paragraph 7. Just open it for a minute?---Yes, I'm just referring to it. Yes.

This is the first meeting at Gloria Jean's Coffee Shop?---Yes.

And in paragraph 8 you relay a conversation that you say Mr Chau said to yourself and Mr Hill?---Yes.

I suggest to you that conversation did not take place in those terms?---That's not my understanding. I stand by what I have in point 8.

Now I take it you made no notes of that conversation on 27 August?---I took a mental note and I am confident in my recollection of that discussion.

Well, are you confident that that's the exact words that were used?---Words to the effect would be a more appropriate description.

Right. Words to the effect of ?---The words that I've presented here.

10 Now I suggest to you, you spoke about a discussion of percentages to be paid to Tenix in your - - -?---Yes, I've given evidence to that effect.

And you indicated that Mr Chau mentioned a figure of 35 per cent?
---Correct.

When did do you say that figure was first (not transcribable)?---At the Gloria Jean's Coffee Shop meeting.

The first meeting?---Yes. Yes.

20 Now is it the case that Tenix could provide two types of services. One where they simply recorded the infringements taking place and provided information to council to take appropriate action. And a more, a larger service where they actually would process the whole operation of issuing the infringement notices. Is that - - -?---No, that can't occur because in New South Wales to issue a parking infringement notice you need a class 12 authorised officer or a police officer to actually issue the infringement notice. Tenix were not offering or at any stage contemplating providing that service. We were however as part of the table offering prepared to assist in presenting the photographic evidence of each individual offence for due
30 consideration by a council officer to then take the step of issuing the parking infringement notice.

Whatever detail it was there were different models of service you could provide. Is that correct?---There were a couple of choices. One choice the council buys the hardware outright and owns the cameras and the poles and is responsible for their deployment. The second part that would go with that is that we would provide the retrieval service for the data collected by the camera. These cameras take a photograph every one second. So we would then provide a summary of potential infringements to be assessed by a duly
40 approved council officer. So yes, you could either buy the hardware or you could have the hardware, software and services all bundled and we would provide a total solution.

And for those two different services the percentage that your company would expect to be remunerated would vary?---In the first, in the first model with the purchase of the hardware, that would just be a pure transaction of a commercial sale of product, but there would be a services on it that would need to be determined specifically and in the case of the bundled offering it

was our practice to take a fee for service from the total infringement revenue. So like there were two choices.

10 All right. So I don't misunderstand that, as I understand it each of the services in this particular case you were negotiating with Strathfield Council about a percentage of revenue collected as being the payment to your company. Is that correct?---We weren't negotiating at that time because no definition of the requirements had been agreed upon, no survey data had been considered, no technical due diligence had been completed. The business case was at a extremely elementary or beginning position.

But you agree in your email to Mr Chau, you yourself used a figure of 35 per cent?---That was to confirm- - -

Is that correct?---Yes, to confirm the figure that he'd raised.

MR DOWNING: The witness has answered the question?---Well, my - - -

20 Commissioner, the witness should be allowed to answer the question because it was asked in a way that really tied into a yes or no response to something- - -

ASSISTANT COMMISSIONER: Yes. I must say, Mr McIlwaine, I think in that case saying he raised the figure of 35 per cent does not fairly represent his evidence in any case that it was not he who raised it initially but- - -

30 MR McILWAINE: I was just concerned the witness was becoming somewhat unresponsive.

ASSISTANT COMMISSIONER: Well, I'm a bit concerned that, Mr Armstrong, I think leaving aside whether you were ready to proceed or there was a business case, as I understand what Mr McIlwaine is trying to ask you is with either of those two options you've canvassed, that is you just give them the stuff and they do it all themselves or the second one where you take more of a role in providing summaries of what the software shows, would a percentage be negotiated in both those cases and would the percentage differ?---Yes. It certainly would differ because there is different degrees of work required.

40 So even in the first case where you've sold them the package, as it were, for them to do whatever they like, you would still try to negotiate a percentage of the parking infringement notices?---If, if I could help you there, you couldn't just sell the software as an outright offering, you would need the interpretive service and support that we would provide around that software. Given that these cameras are capturing an image every one second, they're capturing tens and hundreds of thousands of images per camera per day in any 24-hour period and you're looking to find a vehicle that has offended in

a zone that the camera has caught. So there's a lot of threshing of the wheat and the chaff. You only want to present to the council the summary data, not all of the images. So there's an essential role for us to play in delivering those services. So it's the hardware, the software and the services element that goes with it. So we were offering a total solution that would involve no capital cost to the council.

10 Well, what is the difference between the two options? You've agreed with Mr McIlwaine that there were, there were two options. What were they getting with the first option?---The first option, if they had have stated a preference, was to buy the hardware, that is the camera and the poles- - -

Yes.---?- -and to pay a software licence fee- - -

Yes.---?- -as a charge. And the second element would be for us to assist them with the processing of the data that's captured from those cameras. That's the essential- - -

20 Well, that's why I'm confused, because you seemed to be saying that you couldn't just do the first option and leave it to them to analyse the software because they wouldn't be capable of doing it?---We have subject matter expertise that we would apply and that wouldn't readily be something that the council would want to sit through and employ operators to go through hundreds of thousands of one-second image of each particular vehicle or each particular camera. You'd just have so many, you'd just be swamped with data.

30 Well, then you seem to be saying that the first option wasn't really an option?---Yeah. We were discussing a no capital outlay, and that's what was presented to Mr Backhouse up front as a, as a distinct advantage and benefit to them. We weren't focused at all on selling stand-alone hardware and other services. We wanted an integrated offering that would involve no capital outlay for the council, just our recurrent services to be provided for a fee.

Thank you. Yes, Mr McIlwaine?

40 MR McILWAINE: (not transcribable) Do you agree that the percentage that your company would seek to recover could vary, depending on the level of service that you were asked to provide?---Absolutely. It would vary.

Now, after the meeting of 27 August, do you agree that you telephoned Mr Chau? Firstly do you agree you contacted him after that meeting of the 27th?

---No, I do not agree. Mr Chau contacted me to advise that he was now representing Strathfield Council in further ongoing discussions.

Well, I suggest to you that you telephoned him and you asked him in relation to proposal, "Will it get past the council and is the council friendly?" Do you recall saying that to him?---No, I don't.

And I suggest that he said to you, "I can't discuss that?"---No, I do not recall that.

10 And at some point in time you suggested to him that he should meet your director, Mr Simon Taylor. Do you agree that was- -?---That was after the meeting of 27 August. The next logical step was to, on my side of the equation, confirm the bona fides of the engagement that we were having with Mr Chau.

ASSISTANT COMMISSIONER: Excuse me, Mr Armstrong. You've already given that evidence?---Sorry.

I think if you just listen to the question- -?---Sorry.

20 - - -that you were asked, which was fairly simple, and answer it as simply as you can?---Okay. Sure. Okay. Please restate your question.

MR McILWAINE: Restate the question?---If you could, yes.

Certainly. There came a point in time where you suggested, and I agree it was after 27 August meeting, that Mr Chau should meet your director, Mr Simon Taylor?---Correct.

30 And that was arranged to take place on Friday, 3 September. Is that correct?---Correct.

And a meeting took place, which you've given some evidence about, and about the persons who were present?---Correct.

And at one point at the Gloria Jean's café, yourself and Mr Chau were alone. Is that correct?---Yes.

40 And I suggest to you at that point Mr Chau said to you, "You asked me on the phone if council was friendly." What do you say to that?---No, that didn't occur.

And he then continued, "It all depends." What do you- -?---No, I'd say that didn't occur.

I suggest you asked him, "Who makes the final decision, is it the general manager?"---That may have occurred.

And he responded, "Yes?"---That also may have occurred.

So would you concede that it's likely you were aware that the final decision is made, would be made by the general manager of Strathfield Council?

---Yes, that is a fair thing, yep.

10 And you told us in your evidence that prior to attending, correct me if I'm wrong about the dates, but I'll ask the question a different way. Prior to attending the meeting on 3 September, had you had the discussion you had, you say you had with Mr Scott Farlow about the problems with Strathfield Council?---We had as part of our business arrangement a regular discussion about prospects and opportunities. Strathfield Council had been introduced to us by Mr Farlow, given he had a relationship previously with that council and knew Mr Backhouse. He facilitated the meeting and the introduction to Strathfield Council. It was a normal and routine thing for Scott and I to discuss the progress of the sale and to see whether or not his services had been beneficial to Tenix.

ASSISTANT COMMISSIONER: Mr Armstrong, I'm sorry, that's not really responsive at all to the question?---Okay.

20 Which is simply whether you can recall whether prior to the meeting of 3 September you had discussed with Mr Farlow possible problems with the council. That's as I understood the question. Do you know what that, what's being asked of you? Can you- - -?---Um, could you describe what possible problems means? Could you- - -

MR McILWAINE: Well, perhaps I'll ask in a different way?---Yes.

ASSISTANT COMMISSIONER: Ask a different way.

30 MR McILWAINE: Prior to the meeting of 3 September - - -?---Yes.

- - -had you had any discussion with Mr Farlow about political problems at Strathfield Council?---Yes.

In term of, in terms of the resignation of an alderman?---Um- - -

Had that been discussed prior to 3 September?---We had discussions around the difficulties with the council and I understood there was a bi-election coming up.

40

And that, you had that understanding prior to 3 September?---Yes.

Right. Firstly, why was that, if it was, a concern to you about the political problems in Strathfield Council?---The nature of selling traffic infringement products are by definition quite political and every council is made up of elected public representatives. Debate and discussion inevitably takes place for any major infrastructure investments that are made. The normal process as I understand it is a project officer would prepare a recommendation, the

brief would be reviewed internally by a general manager and then submitted to council for due approval. So all steps along that process, potentially to me as a sales executive, the deal could be derailed or deferred. And so it was my duty to be cognisant of all of those steps and processes.

Did you have a concern that this bi-election situation may in some way interfere with the progress of your business proposal to Strathfield Council?
---I wouldn't say it was a concern, no.

10 (not transcribable)?---It was a, it was an element of consideration but it was beyond my scope and it was beyond Mr Farlow's scope as I understood it, we're not political representatives. It was more background information.

But certainly you had conversations about this subject with Mr Farlow?
---Yes, I had and it was along the lines of will this proposal ultimately be politically acceptable to the council given we had no other New South Wales customers.

20 You see, I want to suggest to you that at the meeting on 3 September you said to Mr Chau, "Scott told me that there's a problem with the council?"
---No.

Do you agree you said that?---No, I do not.

But in fact it is the true situation that Scott had told you there was a problem with the council, isn't it?---Well, I don't know unless Mr Chau is clairvoyant because I certainly did not communicate any of my discussions that may have been held with Mr Farlow.

30 Mr Armstrong, the question I asked you the statement that, "Scott told me that there was a problem with the council," whether you said it or not to Mr Chau was in fact a true statement?---I did not say it to Mr Chau.

Mr Armstrong, I'm not asking you whether you said it or not, I'm asking you whether in fact it was a true statement of the fact, namely that Scott had told you there was a problem with the council?---I don't understand your question. Can you help me?

Well - - -

40 ASSISTANT COMMISSIONER: Mr McIlwaine just is asking you to accept that whether you said it or not it was, it would have been true to say that Scott had told you there was a problem with the council?---Yes, I - - -

Factually that was correct?---That's correct, we had had a discussion along those lines, yes.

MR McILWAINE: Thank you. And I suggest that when you said that to him that Mr Chau said, "They're having a by-election, it's going to cost a lot of money." Do you recall him saying something like that?---I'm sorry, could, could you - - -

I'll repeat?---Yeah, rephrase your question, please.

10 I'm suggesting Mr Chau said to you, "They're having a by-election, it is going to cost a lot of money?"---I recall Mr Chau saying that there was a by-election coming, I do not recall him saying it was going to cost a lot of money.

And I suggest you respond to that, "How much is the by-election going to cost?"---Absolutely not.

Thank you. And he said to you, "\$10,000. You are a friend of Scott, you can donate that money. You can give it to me or you can give it to Scott direct?"---Absolutely not.

20 And your response was, "That would be all right?"---Absolutely not.

Now Mr Farlow had in fact, was in fact a former mayor Strathfield Council, is that correct?---My understanding, yes.

And he's a significant member of the New South Wales Liberal Party, is that your understanding?---I'm aware of that.

30 Now, I suggest to you that after that conversation, shortly after that conversation the group left the café and I suggest to you that you then approached Mr Chau and said to him, "I will give it to Scott for reasons of probity?"---Absolutely not.

And he responded, "You can give it to me or give it to Scott?"---Absolutely not.

Then the group proceeded to inspect the site, is that correct?---Correct.

Now, paragraph 18 of your statement, if you could turn to - - -?---Yeah, yes.

40 In particular you see the words in your statement, "Chau, in a soft voice, 'Frank would not like a nice lunch and a massage'?"---Yes.

Okay. Now, I want to suggest to you that the question of massage had been raised by other persons in the group prior to that statement being made by Mr Chau?---Absolutely not.

There wasn't some, in a joking sense, perhaps we could organise a nice massage for him?---Absolutely not.

Now, I think on the, you've given evidence that quite shortly after this incident on 8 October, 2010 your employment was terminated and your evidence was it had nothing to do with this matter. Can you tell the Commission what was the reason for your termination?---Yes, I had failed a Victoria police probity check.

And what caused you to fail that probity check?---A New South Wales criminal record.

10

MR DOWNING: I object, I object to this question.

ASSISTANT COMMISSIONER: Yes, yes.

MR DOWNING: Commissioner, there's a, there is a matter that I anticipate this answer will go to which I'm satisfied has no relevance at all to these proceedings. If, I've spoken to Mr McIlwaine about it this morning. If it is a matter that he wishes to take further I'd ask that it be done in closed session.

20

ASSISTANT COMMISSIONER: Yes, I must say, Mr McIlwaine, I am aware to some extent of the circumstances of this matter. I don't consider it relevant.

MR McILWAINE: Commissioner, if the matter my friend told me about was the matter and was the only matter I, I concede but I don't know that. I'm relying on my friend's - - -

30

ASSISTANT COMMISSIONER: Well, I think you can take that up with counsel assisting but I am not willing to let you ask the witness further questions about it.

MR McILWAINE: I certainly (not transcribable) my friend.

MR DOWNING: (not transcribable) relevant I agree.

ASSISTANT COMMISSIONER: Well, the basic situation is as you'd know it's a matter for counsel assisting what evidence is placed before this Commission and what information and obviously in fairness to you he's - - -

40

MR McILWAINE: He has (not transcribable).

ASSISTANT COMMISSIONER: - - - he's provided information to you. I don't think the matter should be taken any further, as counsel assisting indicated if you wish to argue otherwise we will go into closed session.

MR McILWAINE: Commissioner, if I could just make this clear, counsel assisting quite properly and promptly informed me of something. I wasn't aware that there was (not transcribable) for privilege, that was not something I was aware that fell from the witness and that's why I asked the question. Thank you.

10

ASSISTANT COMMISSIONER: Thank you. Thank you. Does anyone - - -

MR McILWAINE: (not transcribable)

ASSISTANT COMMISSIONER: Yes. Does anybody else seek to cross-examine this witness? All right. Mr Armstrong, thank you for your evidence. You are now excused from further attendance?---Thank you, thank you.

20

MR DOWNING: Sorry, Commissioner, there was just one matter I wanted to ask, I do apologise and I promise it won't take long.

Mr Armstrong, Mr McIlwaine asked you a question before in relation to the phone contact between you and Mr Chau after that first meeting at council and suggested to you that you in fact had called and left a message?---Yes.

30

Can I ask you, and in response to that you indicated that what you'd done was sent an email to Mr Backhouse who you understood to be the person who was responsible for the meeting?---Yes.

And as a courtesy you copied it to the others?---Correct.

At that stage, that is shortly after that first meeting at council if you had telephoned anyone or if you were going to telephone anyone at council, who would you have called?---David Backhouse.

Thank you.

40

ASSISTANT COMMISSIONER: Can I just ask you, Mr Armstrong, it's your evidence as I understand it Mr Chau telephoned you?---Yes.

Did he have your telephone number?---Business cards were handed out to everyone at the first meeting.

And did your business card include your mobile telephone number?---Yes, it does.

Thank you?---Yes.

Yes, well, you're now excused?---Thank you.

THE WITNESS EXCUSED

[12.18pm]

10 ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Commissioner, I call Saxon Hill.

ASSISTANT COMMISSIONER: Yes, Mr Hill, thank you. Please take a seat. Now, you've been called here to give evidence in this inquiry, you're aware of the general nature of the matter we're inquiring into?

MR HILL: I am.

20 ASSISTANT COMMISSIONER: You are required to answer all the questions that are put to you. However, you can seek a declaration under section 38 of our Act if you think that any of the answers might tend to incriminate you and you can seek a declaration that you're answering under direction and then the evidence can't be used against you. Do you wish to seek such a declaration?

MR HILL: I do not.

30 ASSISTANT COMMISSIONER: Thank you. You're required to take an oath on the bible or make an affirmation. Do you have a preference?

MR HILL: I'd prefer to make an affirmation.

ASSISTANT COMMISSIONER: Yes. Could the witness please make an affirmation.

<SAXON JOHN HILL, affirmed

[12.20pm]

ASSISTANT COMMISSIONER: Thank you Mr Hill. Yes, Mr Downing.

MR DOWNING: Thank you, Commission. Mr Hill, if you could just tell us your full name?---Saxon John Hill.

And your date of birth?---27 May, 1966.

10

You've prepared a statement for the purposes of this inquiry dated 13 October, 2010. Do you have a copy of that statement?---I do.

And can I ask you if there's anything that you wish to add, correct or change in that statement?---There is nothing.

All right. Commissioner, I tender the statement.

20

ASSISTANT COMMISSIONER: Yes, Mr Saxon Hill's statement of 13 October, 2010 will be Exhibit 3.

#EXHIBIT 3 - STATEMENT OF MR SAXON HILL DATED 13 OCTOBER 2010

ASSISTANT COMMISSIONER: Yes.

30

MR DOWNING: I've tendered that statement.

ASSISTANT COMMISSIONER: I've marked it as Exhibit 3.

MR DOWNING: Thank you, Commissioner. Mr Hill, in paragraph of the statement you've set out your position with VMS and some detail of the relationship between VMS and Tenix Solutions. Sorry, you just need to give an audible response?---Yes.

40

Right. And you worked in Sydney out of the same offices as Mr Armstrong as at August/September 2010?---Yes.

Do you recall the meeting which you've referred to in your statement on 18 August, 2010 at Strathfield Council?---I do.

Attended by you, by Mr Armstrong and Mr Farlow?---Yes.

And by various council representatives?---I do.

Do you recall Mr Backhouse being there?---Yes.

And Mr Chau?---Yes.

Did you speak at that meeting?---Briefly.

All right. Did Mr Armstrong do more of the speaking about the various products and particularly PICS?---He did.

10 And that meeting was in the nature of a sales pitch that you and Mr Armstrong provided for, for PICS and other products?---Correct.

And it's correct isn't it at the end of that meeting there was no commitment on behalf of council to proceed with anything at that point?---It is correct.

20 At paragraph 5 of your statement you've referred to the, to Mr Armstrong coming to speak to you after that initial meeting and telling you that he'd received a phone call from Michael Chau. Do you have a confident recollection that that was what Mr Armstrong came and told you?---I do have a confident recollection that that's what Mr Armstrong told me.

And at that point the idea was according to your statement that the trial was to proceed some way further?---Yeah, my understanding was that the, that the phone call resulted in a meeting in which the possibility of a trial would be discussed.

And the next meeting was the first meeting at Gloria Jean's on 27 August? ---Yes.

30 And at paragraph 6 of your statement you've set out your recollection of that?---That's true.

And in particular you've set out in the first three or four lines that Mr Chau indicated at that meeting that David Backhouse wanted PICS to be installed at Strathfield Square and that Mr Chau had been given the responsibility for that project?---That's, that's certainly my recollection.

And further in that paragraph you've indicated that you were, you had a PICS review tool present with you at that meeting?---Yes.

40 And is that something that you sometimes use in demonstrating the way PICS works to potential clients?---That's right. The review tool is a software application that an authorised officer would use to make a determination about whether the evidence that the system had gathered could be relied upon to issue an infringement notice.

And you've said towards the bottom of that paragraph that Mr Chau wasn't really interested in seeing the PICS review tool?---He was not.

Is that something you'd offered for him to look at?---I did.

Were you surprised that he wasn't interested?---Very.

10 The clients contemplating buying or installing PICS typically want to see some detail about how it would work in practice?---Well the crucial thing is to be confident that the evidence that the system collects can be relied upon. And for that reason any prospect who is serious about purchasing this sort of technology wants to establish beyond reasonable doubt that the system can be depended upon because it's this evidence that will result in potential infringement notices being issued. And so it's a very serious matter.

Do you recall there being any discussion at that meeting, the first meeting at Gloria Jean's on 27 August about the way in which revenue might be shared between the council and Tenix Solutions and VMS if PICS were to be installed?---No.

20 You don't have any recollection of that at that meeting?---I do not.

On, in paragraph 7 of your statement you've referred to an email that you sent because Mr Armstrong had server problems?---Yes.

And that appears, if you could have a look at pages 59 to 61 of Exhibit 1. And do you identify that as the email?---That's it.

The next meeting which was, which you attended was held on 3 September again at Gloria Jean's?---Yes.

30 And you've dealt with that in your statement at paragraph 9 and following? ---Yes.

Now it's correct isn't it that you arrived some minutes late at that meeting? ---That's true.

And can you recall what was happening when you arrived?---When I arrived at the meeting?

40 Yes?---I recall meeting Simon Taylor, Phil Armstrong and Michael Chau. I don't recall whether Frank was present when I arrived, but I do know that in, whether it was in that meeting or soon after the meeting I was introduced to Frank.

In paragraph 9 you've set out there your recollection of matters that were discussed at the meeting?---Yes.

And particularly you refer to the fact that you suggested it would be a good

idea to conduct a survey to measure the extent of the parking problem at Strathfield Square?---Yes.

So the council could get strong evidence of the parking safety problem before committing to a fixed camera solution like this?---That's correct.

And you've then set out what Michael said to you and that is, Mr Chau said, no surveys are needed as I've already completed a report for councils planning committee recommending that PICS be installed?---Yep.

10

And do you have a confident recollection that he said those words?---Yes, I do.

Were you surprised by that?---Very.

20

Why?---This, this system is all about changing behaviour of drivers who either disregard or are ignorant of safety related parking offences. And so in ensuring that this system is implemented smoothly and with the full knowledge of the community, it's very important that evidence, and that is empirical evidence not just hearsay, but empirical evidence of a problem can be established. And so for that reason it's customary for us to gather evidence of a problem as the basis for implementing this sort of solution. And it's, it's, it's potentially quite, it puts the council in a difficult position if, if it were to choose to do such a thing without having established the extent of the problem in an objective manner because this is controversial. These are cameras that are taking images of, of drivers every one second. Some members of the public have concerns about privacy and unless the council can be extremely confident that a safety problem exists, implementing such a system can be controversial and potentially quite harmful to the reputation of the council.

30

As at 3 September, 2010, are you able to say either exactly or roughly how many councils you'd presented PICS to?---I would say it would be between six and ten.

40

And at any of those presentations have you had a council where there's been a commitment to or a recommendation that council had got the system without any form of survey or data gathering taking place?---No, no.

You've also in paragraph 9 set out something else that you say Mr Chau told you which was that the council wanted the cameras up and running by the end of October, 2010?---Yes.

Was that something that surprised you?---It did. Yeah, that's very quick.

Refer to paragraph 10 of your statement, I'll withdraw that. Do you recall any discussion at the meeting itself with you and Mr Chau where Mr Chau

said anything about the upcoming bi-election or any suggestion of offering some, Tenix or anyone else paying some money for the purposes of the bi-election?---Can I just get you to clarify which meeting?

Oh, sorry, 3 September?---3 September. No, there was no mention to my recollection.

And you've said in paragraph 10 that at 12.36 you received a call from Mr Armstrong?---That's true.

10

Where he recounted to you what had happened with Mr Chau during the meeting?---Yes.

And what was your response to that?---Well very surprised. Somewhat disturbed.

And did you have any discussion with Mr Armstrong about what would happen next?---No, I don't believe we talked about that in that particular telephone conversation. My recollection is that Phil was in the car. He was either on the way to or returning from the airport. And we agreed that we would discuss it at length upon his return to the North Sydney office.

20

And did you speak to him later that day about it?---I did.

And did he recount to you the details of what you refer to at paragraph 10, that is Mr Chau asking to make a \$10,000 donation to a Liberal party candidate for the upcoming Strathfield Council bi-election?---Yes.

30

Do you recall there being a subsequent meeting on the following Monday, if you accept from me that 3 September was a Friday?---Yes.

On Monday, the 6th, do you recall having a meeting with Mr Armstrong?---I do.

And was Mr Farlow also present?---He was.

And what was the purpose of that meeting?---To determine how we should handle the situation.

40

And do you recall what, what decision was made at that - - -?---The decision was made for us to, us, when I say us I mean collectively VMS, Tenix to cease any or discontinue contact with Mr Chau and for Scott to take the matter up with David Backhouse.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Yes, thank you. Does anyone wish to cross-examine this witness? Mr McIlwaine?

MR McILWAINE: Commissioner, I've just been handed the witness statement. My client hasn't seen that statement. He's obviously heard his evidence, I need time to take some instructions. I doubt whether there'll be any questions.

ASSISTANT COMMISSIONER: Yes, we'll have a brief adjournment. Will five minutes be sufficient?

10 MR McILWAINE: Ten.

ASSISTANT COMMISSIONER: Ten minutes.

MR McILWAINE: Thank you.

SHORT ADJOURNMENT

[12.34pm]

20 ASSISTANT COMMISSIONER: Thank you. Yes, Mr McIlwaine?

MR McILWAINE: Thank you, Commissioner. Mr Hill, you've spoken about a presentation you wished, you suggest that you made on 27 August at the meeting at Gloria Jean's. Do you recall that, paragraph 6?---Yep.

I suggest that Michael might like to see a demonstration. That presentation or parts of that, I withdraw that. On the Website of Tenix is there material about the system?---I don't know.

30 You don't know. So do you know whether or not the material you sought to present to Mr Chau was in fact available on your employer's Website? ---Are we talking about Tenix now or my employer?

Tenix, sorry?---Well, I know that the information that I was going to share with Michael was for certain not available on Tenix's Website and indeed on any Website.

40 Now, I want to suggest to you that, did you understand that purpose of going to that Gloria Jean's café on 27 August was a site inspection? ---Ah, yes.

And do you agree that it may not have been appropriate to make the presentation that you were suggesting in a public café?---Oh, that's possible.

I suggest a more appropriate place for such presentation would have been at council's premises or Tenix's premises or somewhere private. Do you agree with that?---No.

Now, you say at paragraph 9 of your statement that Mr Chau said to you words to the effect, No surveys are needed as I have already completed a report to council's planning committee recommending that PICS be installed. That's your evidence?---That's my recollection.

Well, I want to suggest to you that at that meeting on 3 September with Mr Chau you identified a position where a camera could be installed for the purpose of the trial. What do you say about that?---We discussed and considered various positions within Strathfield Square that could be appropriate for the installation of these devices, yes.

But I'm suggesting that one particular position, namely facing The Boulevarde at Strathfield in the water fountain area was discussed by Mr Chau with you as being an appropriate position for a trail of the system to be undertaken?---It's possible that Mr, Mr Chau suggested that that is an appropriate location.

For a trial?---By my, I have no recollection of it being for a trial.

20 Do you deny it?---No.

In regard to the dates, you say that Mr Chau said, "Council wants the cameras up and running by the end of October 2010." I suggest to you that what Mr Chau said to you was, "If council approve it today, could it be up and running in say six weeks, October 10?" What do you say to that? ---That's not my recollection.

Well, do you concede the possibility that what he said to you was, effectively hypothetically, "If the system was approved today, could it be up and running within six weeks?"---That's not, I, look, no, I do not accept that that's what he said and I don't accept it as a possibility.

Nothing further, Commissioner.

ASSISTANT COMMISSIONER: Thank you, Mr McIlwaine. Yes, if there's nothing further- - -

MR DOWNING: Only one or two, Commissioner. Mr Hill, Mr McIlwaine asked you some questions about the discussion on 3 September, sorry, I withdraw that, on 27 August, in relation to the PICS review tool?---Yes.

And about the possibility that it may have been more appropriate to have a demonstration of that in a private setting rather than a public café?---Yes.

Do you recall Mr Chau expressing any concern to you about it being demonstrated in public?---None whatsoever.

Do you recall him asking or requested that you might be able to do that more appropriately in a private setting?---No. There was never any inference that there was a privacy issue at all.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you, Mr Downing. Yes, that concludes your evidence, Mr Hill. You are now excused from further attendance?---Thank you.

10

Thank you.

THE WITNESS WITHDREW

[12.48pm]

ASSISTANT COMMISSIONER: Yes, Mr Downing?

20

MR DOWNING: Commissioner, the next witness is Scott Farlow.

ASSISTANT COMMISSIONER: Yes. You are Mr Scott Farlow?

MR FARLOW: That is correct.

ASSISTANT COMMISSIONER: Take a seat. Mr Farlow, you've been called here to give evidence and you are required to answer all of the questions put to you. You can seek a declaration under Section 38 of our Act. Are you aware of the effect of that declaration?

30

MR FARLOW: I am.

ASSISTANT COMMISSIONER: And do you wish to seek such declaration?

MR FARLOW: No, I do not at this stage.

40

ASSISTANT COMMISSIONER: Thank you. As you're not legally represented I should just point out that the effect of that declaration would be that none of the evidence you give here today could be used against you in any future proceedings. And you don't wish to seek such a declaration?

MR FARLOW: Not at this stage.

ASSISTANT COMMISSIONER: Thank you. Now, you're required to take an oath or make an affirmation?

MR FARLOW: I will take the oath, please.

ASSISTANT COMMISSIONER: Thank you. Could the witness be sworn, please.

<SCOTT GLYN FARLOW, sworn.

[12.49pm]

ASSISTANT COMMISSIONER: Yes, Mr Downing?

MR DOWNING: Mr Farlow, if you could tell us your full name, please?
---Scott Glyn Farlow.

And your date of birth? 20 October, 1983.

10

You've prepared a statement for the purposes of this investigation dated 12 October, 2010?---That's correct.

Do you have a copy of it?---I do.

And if I could ask if there's anything in that statement that you'd wish to add to correct or change?---No, I stand by my statement.

20

Just dealing chronologically with your involvement with Strathfield Council regarding Tenix Solutions, your first contact was the 10 August, 2010 email?---That is correct.

And have you been present this morning when some evidence has been given about that email and you've seen, seen it on the screen?---Yes, I have.

So it was an email contacting, and this is at pages 55 to 56, Exhibit 1, an email that you sent to Mr Backhouse?---That's correct.

30

And following on from that introductory email if I could describe it that way there was a meeting that was held on 18 August, 2010?---Yes, I believe that's the case.

And you've dealt with that meeting and given evidence about what you recall of it in paragraph 7 of your statement?---Yes.

I tender the statement at this point, Commissioner.

40

ASSISTANT COMMISSIONER: Yes. Is this the statement dated 12 October, 2010?

MR DOWNING: It is.

ASSISTANT COMMISSIONER: Yes. All right. Mr Farlow's statement of 12 October, 2010 will be Exhibit 4.

#EXHIBIT 4 - STATEMENT OF MR SCOTT FARLOW DATED 12 OCTOBER 2010

MR DOWNING: Just dealing then with paragraph 7 that sets out your recollection of the 18 August, 2010 initial meeting at the council?---That's correct.

And you knew Mr Backhouse from your prior time on Strathfield Council?
---That is correct.

10 And do I take it that your reason for emailing him initially is that you believed that he would be the most appropriate person that would need to make a decision in relation to something like PICS or PODS or one of the other products that Tenix might offer?---I'd noted an article in the paper in regards to some issues that Strathfield Council had been having with parking and drop-offs around the Strathfield town centre and in discussions with Phil Armstrong of Tenix Solutions deemed it to be appropriate to then email David, request a meeting with him as the general manager of the council.

20 Yes, but why David as, Mr Backhouse as general manager why was he the person that you contacted?---In all of our contacts we would either go to the higher levels of the council, either the mayor or the general manager and in this case I deemed that it would be appropriate to meet with David Backhouse on that matter.

And when you attended the meeting you saw that there were other representatives of council who were present?---Yeah.

30 Mr Chau, Mr Wong and Mr Bourke?---When we first entered into the meeting the only people present were David Backhouse and Michael Chau. I was somewhat surprised that Mr Chau was the person that we were meeting with.

Why was that?---Because from my experience in council I did not think that that was Mr Chau's role. As the meeting progressed David Backhouse then actually arranged with his PA to bring in two further people, being Patrick Wong, the Director of Technical Services, and Rob Bourke, the Director of Operations.

40 Now when did you time on Strathfield Council end?---September, 2008.

And were you aware at that point what position Mr Chau was working in at the council?---At the time I think he was a multicultural engagement officer or the like at council and also did some work with community safety.

Right. If you assume from me that as at the date of the meeting in August 2010 that Mr Chau was the Manager of Community Services - - -?---Yeah.

- - - were you aware of that at that time or not?---I would have received a business card to the effect but I still thought in that role that it wasn't necessarily the, the area we were talking about and I think there may have been a misapprehension that perhaps it was more to do with community safety rather than parking operations.

You mean misapprehension on the part of council?---Yeah, on behalf of Mr Backhouse.

- 10 In any event at the end of that meeting and you've said this in paragraph 7 of your statement, your recollection is that whilst you believe the offer of the trial had been received favourably there was no commitment made, that Mr Backhouse had indicated he'd be back in touch?---That's correct, yeah.

At paragraph 10 of your statement you refer to a phone conversation with Mr Armstrong on 1 September?---That's correct.

And you've indicated that that was you who made the telephone call?---Yes.

- 20 And can you explain what was the nature of the call?---As Phil is engaged a client of CPR Communications who I worked for we'd have regular conversations about the progress on certain projects we were working on together. Strathfield Council was one of them. It was a general conversation about the nature of where we were up to with certain things. As part of that conversation we discussed Strathfield Council. Phil indicated to me that he was meeting with Michael Chau later that week and had some concerns because things had been moving along very quickly.

- 30 Were you surprised that Mr Armstrong was meeting with Mr Chau of the other people that had been at the council, sorry, of the other council representatives who had been at the meeting?---As Phil had already had previous meetings with Mr Chau we assumed that he was the one who was assigned with the job.

And you've indicated in paragraph 10 that one of the things Mr Armstrong communicated to you was that Mr Chau had said to him or reiterated that Mr Backhouse wanted this project, that is PICS to happen?---Yeah.

- 40 And that he was the man, that is Mr Chau was the man, who'd been assigned to make it happen?---Yeah. That was a concern and it was a concern for us because having previous experience of David Backhouse and, and the council and councils in general they're not usually things that move terribly quickly and knowing David, he's quite a cautious person and I couldn't have imagined a statement like that to have been made by David Backhouse.

So as at this conversation on 1 September you are what, somewhat concerned about Mr Chau's involvement in the PICS project?---I wouldn't

say necessarily we're concerned about the involvement but we weren't sure if necessarily he, if, if the rest of council were as committed to the project as what Mr Chau was saying to Phil and the Tenix Solutions representatives so at that point in time Phil asked me to check with David Backhouse following their meeting to ensure that effectively both of them were on the same page.

And that was to take place after the meeting that, which you understood was to happen on 3 September?---Yeah, yes, correct.

10

In paragraph 11 and following you've dealt with your next contact which was a phone call you received on 3 September?---That is correct.

And do you recall receiving that phone call?---I do indeed.

You've set out the detail of it in paragraph 11 and 12?---Yeah.

20 Were you surprised by what you were told?---Incredibly surprised. I think my words to the effect down the phone were that is completely inappropriate and I think I reiterated that several times because I was quite shocked by the request that was made.

Did you believe that that was in any way part of Mr Chau's role at council? ---Of course not. I don't believe that's part of anyone's role at council to be soliciting any funding for a political candidate or any funding whatsoever.

30 Well, what did you, what was the next step after that phone call?---So I had a conversation and the conversation was between Phil Armstrong and Simon Taylor of Tenix Solutions. At the end of that conversation I think I advised Phil and that to have no further contact with Mr Chau and that we would meet on Monday, as it was a Friday afternoon, to, to go through what had actually happened because I think Simon needed to get on a plane relatively quickly as well.

And that meeting on the Monday, did that occur?---It did occur.

And who attended?---It was myself, Phil Armstrong and Saxon Hill.

40 And what was the nature of the discussion at that meeting?---The nature of the discussion was effectively what to do about this situation. So initially Phil outlined to me everything that had transpired. Saxon also gave us some of his insights from some of the previous dealings they'd had with council and some of the previous requests and concerns that things had been moving a little too quickly and that it wasn't, and that, you know there was a report prepared already and they didn't believe there was enough information. I then advised them of what I thought were their options in dealing with the situation. Firstly, that they could just pretend it didn't happen which I advised against, secondly that they have no further contact with Mr Chau

and that I seek for David Backhouse to deal with the matter himself and thirdly that I, sorry, second, that he deal with it himself and that then that we would tell David Backhouse what occurred and what had happened and thirdly that they'd take the matter directly to ICAC.

And in your statement at paragraphs 13 through to about 17 - - -?---Yeah.

- - - you've set out the detail of that meeting?---That's correct.

10 I think in your evidence a moment ago you made reference to the fact that one of the concerns expressed in relation to Mr Chau that was a report had already been prepared?---Yeah, that's correct.

Who do you recall telling you about a report having been prepared?---Saxon Hill.

20 And is that a report by Mr Chau?---It was a report to go to council so it was envisaged that if, if a project that they were undertaking was to be approved the full council would have to meet and deliberate on that and vote on it and they were quite surprised without the requisite information the need to prepare such a report that Mr Chau had appeared to have already prepared the report or at least had indicated that to Saxon and Phil.

30 And you've made reference in paragraph 17 that you attempted to telephone Mr Backhouse on that afternoon, sorry, on that day, that is 6 September?---Yep. Both in the presence of Phil and Saxon I attempted to call David Backhouse to set up a meeting with him so I could relay to him what I had been told. At that point I couldn't get through to him. I then tried to call his office and was told that he was in a conference. He then phoned me back soon after.

And you've indicated that at that, also at that meeting at the end of it, this in paragraph 17 that it was agreed that some records would be made of the events?---Yep. We'd all discussed that in order to take to David a collection of information that Phil would primarily make a file note on what had occurred and that I would take that file note to him and any other documents and that I would also prepare a file note in regards to what I have been told and the sequence of events.

40 Okay. I'll just ask you have a look at a couple of documents. And these are the file notes which you which appear at the end of Exhibit 1, after page 95. It's the six pages that follow from that. They start, if we can scan to the top of that, please. No, if we go back a few, I'll start there. Do you recognise that document, that is a file note as a document that you prepared?---That is correct. With an error of the first one being Wednesday, 1 October, which should have been Wednesday, 1 September.

And is that your account of the events from dealing with your involvement with Mr Chau and well more appropriately, I'll withdraw that. More specifically the report that had been made to you of the events that had happened at that meeting on 3 September, 2010?---Yes, that is correct.

And did you prepare that on 6 September?---Yes, I prepared that. I came back to the office. I had a meeting after I met with Phil and Saxon in North Sydney as well and came back to the office around 4 o'clock and prepared that that afternoon.

10

And if I can ask you to go back three pages to a document which is a file note and is headed at the top, well we've got a heading of the email, the subject is Notes Re Friday, September 3 Meeting With Michael Chau? ---Yes.

And do you recognise that as an email that Mr Armstrong sent to you? ---That's is correct.

20 And the time indicated on there or the date and time, 6 September, 2010 at 4.23pm?---Yep.

And was that following on from the meeting that you'd had with Mr Armstrong earlier in the day?---Yep. That's following on from our conversation of what we agreed to do.

And that, did that email set out the account that he'd given you of what had occurred?---Yes, I believe so.

30 Did you subsequently attend a meeting with Mr Backhouse on the 7th?---I did.

And you've referred to that in your statement?---I do, I believe. Paragraph 19, yes.

And were those emails or the email and the file note that you've just seen were they documents you provided to Mr Backhouse?---I provided him those documents. I also provided other documents which I believe are attached to a statement which outlined some of what Phil I think described as the audit trail of his communication with Mr Chau.

40

So they're annexures to your statement?---Yes.

And they contain earlier email communications between Mr Hill, Mr Armstrong and Mr Chau?---That's correct.

And you presented those also to Mr Backhouse?---Yes, that's correct.

And you've described in your statement then what occurred at that meeting with Mr Backhouse?---Yes.

You've made reference in paragraph 20 of your statement to your knowledge of what was actually happening in relation to the upcoming bi-election at Strathfield Council?---Yes.

10 And is that through your involvement in the Liberal Party?---That is true. And I was also, having been a former Mayor and Councillor I had an interest in Strathfield Council.

So I take it that, well tell me if this is correct, as at September, that is 3 and 6 September, that you were personally aware that there'd been no Liberal Party candidate selected for the upcoming bi-election?---There was no candidate selected at that stage.

And Ms McLucas was the candidate who ultimately stood and was elected? ---Yes, that is correct.

20 And at that point she'd made to your knowledge no decision about whether she would run?---She had definitely been sought out as to whether she'd run or not, but she had at that stage made no, well to my knowledge at least, she had not made a decision as to whether she'd run or not.

And had you spoken to her about that?---I hadn't personally, but I had known of people who had.

Thank you, Commissioner

30 ASSISTANT COMMISSIONER: Thank you. We'll be adjourning for the luncheon break. Will this witness be required for cross-examination after lunch?

MR McILWAINE: I have some questions which I could ask now.

ASSISTANT COMMISSIONER: Yes, if you - - -

40 MR McILWAINE: They're pretty short. Mr Farlow, I represent the interests of Mr Chau. You have your statement in front of you?---I do indeed. You said that when you first met Mr Backhouse on 18 August, it was only Mr Chau was present and you were a little bit surprised about that?---That's correct.

Because what you understood about Mr Chau's role when you were Mayor of Strathfield Council. Is that correct?---That is correct.

But some time had passed I take it?---Some time had passed, but I expected probably there'd be a parking, either a director of operations or someone in regards to parking who would be there at the meeting.

I just want to take you, you have in front of you a bundle of documents which you've been asked some questions about including some email at page 55?---Yep.

Do you have that?---It might be attached to my statement.

10

ASSISTANT COMMISSIONER: (not transcribable) I don't think - - -

MR McILWAINE: I don't know if this bundle has been - - -

MR DOWNING: It's on the screen.

MR McILWAINE: It's on the screen. Right. These are some emails between yourself and Mr Backhouse. Is that correct?---That's correct.

20

Part of them. Now if we turn to the next page, if you start at the bottom of the page - - -?---I don't know if it's part of them, I think that's all of them.

Right. Well, I'll take you particularly to, on the screen now we have the original email of 10 August. Okay?---Yep.

And you used the words, in the second paragraph about Tenix has some solutions useful in improving safety in the area, you used the word safety. Agree?---Yes. That's correct.

30

And then in the next paragraph you use the words (not transcribable) important community safety issue?---Yep, that's correct.

And I think you conceded the possibility that the nature of your correspondence with Mr Backhouse lead him to understand this was an issue about community safety - - -?---That's correct.

Okay. And you will see if you scroll up on page 55, you'll see that Mr Backhouse responds to you that he has to check when the safety officer basically is going to be involved?---Yep.

40

So I take it from those emails that you would have understood that when you arrived at the meeting and Mr Chau was the only other person there that he was the council officer responsible for community safety?---That's a reasonable, that's a reasonable assumption, yes.

MR McILWAINE: Now, in paragraph 7 of your statement you speak about what took place at the meeting and you say that at one point Mr Armstrong

indicated to the council that they'd be happy to show a Strathfield Council staff member the technology in use in Melbourne?---That's correct.

Do you remember that conversation?---I do.

Was there any discussion at that stage firstly as to who would pay for that visit?---I don't believe there was at that stage.

10 Nothing have been said from your experience what did you understand, who did you understand would pay for such a visit?---I, I was not necessarily aware of who would pay. It was something that I had not discussed previously with them. I don't there's any hard and fast rule with that.

All right. So you wouldn't be surprised by the proposition that a company trying to sell a product to a council would invite a staff member to travel to another location to inspect it at their expense?---No, no, I wouldn't be.

20 That's not unusual commercial practice?---Not unusual commercial practice but maybe unusual for a local government authority.

And there was no suggestion as to who it was that should go to Melbourne to see (not transcribable)?---No, not at all.

Now - - -?---There may have been a joke from, actually there was a joke I think from the Director of Operations, Rob Bourke, that he'd go down to Melbourne but that was all and it was said completely in jest.

30 Now prior to the, you appreciate that there's a very important meeting which took place on 3 September which the Commission, has Gloria Jean's Café which there's been some evidence about. Prior to that meeting had you had any discussions with Mr Phillip Armstrong about political problems in Strathfield Council perhaps impacting on the progress of, of this project? ---I would not call it political problems, I'd talk about the political situation on Strathfield Council. There was definitely an impending by-election that was coming up and I advised Phil Armstrong firstly that that may hamper any progress in terms of moving forward with negotiations with council purely because council would be, I would have thought, somewhat distracted on the by-election and secondly that effectively we did not want to proceed with anything too quickly when there was a by-election
40 occurring.

And that conversation was certainly before 3 September?---We had several conversations about Strathfield Council. It was definitely before 3 September, yes.

In fact in annexure C which you've been shown today which is the third last document in those bundles of documents which you corrected the date from 1 October to 1 September?---Yeah.

You talk about a conversation with Mr Armstrong. Was it during the course of that conversation?---No, I think it would have been, that was a phone conversation. I think it would have been in one of Phil and my weekly meetings we would have held face to face.

All right. So you had conversations prior to the 1st?---Yes.

10 And you believe that the political situation in Strathfield Council could cause some delay or problems with the project?---It wasn't necessarily about delay or problems, it was about effectively managing their expectations as to what could and would transpire in, in the timeframe that we were looking at.

20 What do you mean by that?---Well, in terms of, well, in, like it wasn't, to my mind I didn't think it was going to happen overnight that there was going to be something moved upon because there was going to be a council by-election, you'd expect the council proceedings during that time to maybe slow somewhat.

You'd expect there'd be some delay because the council might be distracted by having to deal with this by-election?---By-election, yes, correct.

Nothing further, Commissioner.

ASSISTANT COMMISSIONER: Thank you. All right. In view of the time we'll resume at 2.15. I'm sorry, you're excused?---Thank you.

30 **THE WITNESS EXCUSED** [1.11pm]

LUNCHEON ADJOURNMENT [1.11pm]