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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 1 APRIL, 2010

AT 10.20AM

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ASSISTANT COMMISSIONER: Thank you. Please be seated. Yes, Ms Ronalds.

10 MS RONALDS: I apologise to everyone for the delay. There's been a small technical hiccup in the production of Exhibit 86, which we've been endeavouring to sort out. And I've spoken to those of my friends who it involves, I hope, I think, and the position currently is in relation to 86, we don't rely on the month of April and during the break we will recheck it and reproduce it. And there's a bit of a double up in it's break but, if those who intend to do any cross examination or any form of evidence on it, don't use April.

ASSISTANT COMMISSIONER: All right.

MS RONALDS: All the other is fine, it's just that there's a double up from Optus. Optus has provided some wrong information.

ASSISTANT COMMISSIONER: All right.

20 MS RONALDS: Well, some inexplicable information in relation to April, so, and I've explained to the others and I think they understand that, so, and I apologise for the delay in start while we tried to sort it out.

ASSISTANT COMMISSIONER: Thanks, Ms Ronalds.

MS RONALDS: So I recall Mr Becerra.

30 ASSISTANT COMMISSIONER: Yes, Mr Becerra, you remain on oath and the section 38 declaration remains in force for your evidence today.

MR HANLEY: Yes, thank you. Commissioner, yes, in relation to that Exhibit I did notice that there were doubling up of some of the numbers. Commissioner, I've prepared a chronology which I wanted to show the witness to sort of speed up cross examination in relation to that Exhibit and Exhibit 78. But I won't go near that, and I don't rely on any of my chronology, if that's the case and I'll provide copies of those, if that's
10 suitable. Mr Becerra, I just want to put a number of propositions to you. The project in relation to the units at Edwin Street, that was for profit wasn't it?---When you say, yes, for profit.

You want to make money out of it?---Yeah, of course.

And part of that profit was to have the units converted from what common title into strata?---Eventually that was one of the proposals. Yes.

20 That would increase their valuableness?---Yes, it would.

And the other thing was to presumably get them renovated as quickly as possible so tenants could come in and reduce the costs that you and your partners may have been paying in relation to any mortgage?---Yes, it was. Some of the units were in bad state of repair, so, yes.

Part of January had you done any work on the first two units, what's been called the first stage?---Yes, we had.

30 And had they been substantially renovated?---Substantially, yes.

Was there a decision then made between you and your partners that to offset some of the costs it may be convenient to use members of Council and the Council equipment?---No, it was never the intention, it was to complete the project.

And in completing it I want to suggest that those two options Council employees and equipment were taken into consideration?---No, it was not.

40 There was certainly a meeting I think initially that you're aware of between Mr Romano and Joe Giangrasso?---Was aware that they had, might've had meeting with Joe and Mr Child, yes.

Well, I'm suggesting first there was just one with Mr Giangrasso and Mr Romano. Were you aware of that or not?---I was aware of it.

And he was being approached to do some work in relation to the units wasn't he?---He was to find out if we can get some tradesmen to complete the units 3 and 6, sir.

This is Mr Giangrasso?---Sorry?

This is Mr Giangrasso?---He was one of the people that we discussed with, the other one was Steve Child.

You knew that Mr Romano had known Mr Giangrasso for some time?---No, I didn't know of their relationship, I knew he was a Council worker, yes.

10 So I want to suggest that it became apparent to you and Mr Romano that if you were going to use Council staff in Council time to work on the units it was essential that Mr Child be brought into the operation wasn't it?---It wasn't essential, no, it was trying, as I said to you before, it was trying to get a tradesman that could complete the units 3 and 6 for those minor works, the plasterboard, gyprocking and some fixtures.

20 And you also planned to do some work around the gardens which required a backhoe didn't you?---There was some discussion on that but it wasn't one of the priorities. The priority was to complete unit 3 and 6 with the minor works.

I want to suggest Mr Child was approached to be involved with the unit's restorations because it was essential as supervisor that he be involved to ensure the Council workers and equipment could be utilised during Council hours?---No, it was, he was requested to provide tradesmen to complete the work on units 3 and 6 not to provide Council staff or equipment.

30 You had a look at Exhibit 86 overnight have you?---Yes. Is that the telephone records you're referring to?

The telephones records?---Yes.

And putting aside some doubling-up of calls do you agree with them?
---There was quite a few telephone calls that I do not agree with, no.

Have you identified them to your counsel?---Yes, I have.

And do they involved Mr Child?---Yes.

40 You're disputing that they occurred?---I'm disputing the times and where the telephone calls were made to and to whom, the telephone numbers that appear on it, yes.

And are they involving calls to your parents' home?---That's correct.

Any others?---Yes, to my son's mobile.

Any other - - ?---To my home.

Counsel, I don't think I can proceed if he's going to make this dispute.

ASSISTANT COMMISSIONER: No, not on the topic of the phone calls. It's probably better to - - -

MS McDONALD: I understand that those calls were made in April which is the month not being relied upon.

10 THE WITNESS: That's right.

MR HANLEY: It's only April - - -?---There was quite a few calls in April that are in dispute, yes.

I'll leave April aside. Putting April aside and any calls suggesting a connection between you and Mr Child during that period would you accept that between January and May there were a number of calls made by Mr Child to you as reflected in Exhibit 86?---Yes, but not the times as sometimes they're referred to in 86, in Exhibit 86. Not the times that you referred to in Exhibit 86, no.

Are you disputing that outside of April?

MS McDONALD: Can the witness be shown Exhibit 86.

MR HANLEY: Certainly.

ASSISTANT COMMISSIONER: Yes, it might be quicker.

30 THE WITNESS: These are no in chronological order so they're all over the place so (not transcribable). Just a minute.

MR HANLEY: Could I assist? I've prepared a chronology which incorporates 78 and 86. If I could hand that as an aid maybe and my friends at the bar table give them a copy as well and you as well, Commissioner, and counsel assisting.

Commissioner, I have noted a page number for 86 but that's not noted on the exhibit, that was merely for my convenience and easy identification.

40 Does that assist you, Mr Becerra?---Yes, it does.

Are you trying to identify times that you disagree with that are contained in the records?---I'd need a bit more time to go through this.

Well, have you been through 86? Have you identified those times?---Yes, we prepared our own spreadsheet.

All right.

ASSISTANT COMMISSIONER: Are there times outside April that you disagree with as well? I think that's what we should - - -?---Yes, there is.

- - - concentrate on because everybody - - -

10 MS McDONALD: Perhaps I could assist. We did prepare our own spreadsheet which my client's probably more familiar with. Perhaps if I could hand that to him and then he could locate the specific calls in Exhibit 86 that he may be concerned with.

ASSISTANT COMMISSIONER: Yes?---There is one that you'd referred to here which is the 13th, sorry, 1 May, to my parents' home.

MR HANLEY: Do you dispute any calls made by Mr Child to your parents' home?---Yes, I do.

20 Thank you.

ASSISTANT COMMISSIONER: So are the, the yellow ones disputed calls on the schedule you've prepared?---They're disputed calls. The one with the grey column is less than 30 seconds and the highlighted blue or, sorry, aqua coloured column is work that was done, calls that are received after the units were leased, the first batch, 3 to 6, and between that and unit 2.

30 All right. Well, I think if we can just concentrate on the calls that you dispute were made to you?---A lot of them, a lot of them I can understand why because there were made, calls that were made to my home, they were made to my parents' home, they were made to my son's mobile.

So this reference to Albert's mobile, is that not your number, on the front page there's several highlighted that - - -?---No, that's my number, is my number.

That is your mobile?---Yes, it is.

40 But why are they highlighted?---That's a number of calls we, that were made to me from Steve regarding that, that time, I just, the times that I can recall conversing with him.

MS McDONALD: Commissioner, can I just assist so that you're not being misled that the yellow highlights are in fact calls that we've identified that may have been made outside of work time?---That's what - - -

(not transcribable).

ASSISTANT COMMISSIONER: So they're not disputed?---No, but they're - - -

MS McDONALD: They're not disputed, no.

ASSISTANT COMMISSIONER: Well, but, well, is there something on this which says what are the disputed calls apart from the April period? No, there's not?---Not, not - - -

10 MS McDONALD: Not (not transcribable) Mr, Mr Becerra will have to identify those if there are any.

MS RONALDS: I've just been advised that all calls from 5 April to 4 May are the wrong ones.

ASSISTANT COMMISSIONER: All right.

MS RONALDS: So that's the, when I said April it's actually from 5 April to 4 May.
20

ASSISTANT COMMISSIONER: All right. Well, I, I must say I don't see much point in any cross-examination about the phone contact until we can get an accurate list of the phone contact.

MR HANLEY: I think that's correct.

ASSISTANT COMMISSIONER: So, which I think we're working on and once that's available then people will be given leave to cross-examine about the phone contact.
30

MR HANLEY: Thank you.

ASSISTANT COMMISSIONER: And I just think the clarity about what we've just been discussing we, I'll tender, I'll accept as exhibits the list provided by Mr Hanley which will be Exhibit 96 and the list prepared by Mr Becerra's legal representatives which will be Exhibit 97.

40 **#EXHIBIT 96 - BURWOOD COUNCIL INQUIRY – CHRONOLOGY FROM EXHIBITS 78 & 86**

#EXHIBIT 97 - SPREADSHEET OF CALLS LISTING MR STEVE CHILD'S CALLS TO MR ALBERT BECERRA AND OTHERS

ASSISTANT COMMISSIONER: But, yes, I think if you move onto something else, Mr Hanley, might be the best way to go.

MR HANLEY: Well, my cross-examination was going to be principally - -
-

ASSISTANT COMMISSIONER: About the contact?

MR HANLEY: - - - the call, the contact, yes, and limited to that and I was hoping to do it in a very short form by using that document.

10 ASSISTANT COMMISSIONER: Yes, yes. I'll, that probably can still happen but it won't happen today.

MR HANLEY: No, thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Yes, Ms McDonald.

MS McDONALD: Mr Becerra, I first just want to explore briefly the ownership of the Edwin Street units.

20 Perhaps if the, could I ask that the witness be shown Exhibit 69.

Now, the units, you've given evidence the units were owned by Befaro Pty Limited, that's correct?---That's correct.

And the shareholders of that company are who?---Camilla Romano, Maria Fasanella and Poppy Becerra.

So there is no company that is a shareholder of Befaro?---No, there is not.

30 Okay. So yesterday when you gave some evidence that you had an interest in the holding company that, that was not correct?---That's not correct.

Because there was no, there is no holding company as it's owned by individuals, correct?---That's correct.

But what did you mean when you said you had an interest in the holding company?---Because there's a next tier of shareholders, not shareholders, of entities that hold trusts, trusts.

40 So let's be clear. If you turn to page 20 there'll see that there's a, it's a business name search there?---That's right.

And you'll see that there's an entity registered as a trustee- -?---Trustee, Befaro Property Trust.

- - - of the Befaro Property Trustee?---Ah hmm.

Is it your understanding that Befaro is a trustee for the Befaro Property Trust?---That's correct.

And the document that commences at page 22 of Exhibit 69, that's a trust deed?---That's right.

That establishes the Befaro Property Trust?---That's correct.

And Befaro Pty Limited is the trustee of that trust?---That's correct.

Now, that's a unit trust?---That's right.

10 Okay. Can I ask you to turn to page 49 of that exhibit. Now, is that, does that explain there that there are 90 units in the unit trust?---That's correct.

And you'll see that there's a table there, can you explain what that is?---It shows the units that were allocated to each of the trusts.

Right. Can you identify in that list entities that are either yourself or related to you?---Yes, the, the Becerra Super Fund and APJAC Pty Limited.

20 And when you say the Becerra Super Fund, it's not actually that in the first instance, is it?---No, it's Manuel now but Becerra, Manuel Albert Becerra and Poppy Becerra as trustees for the Becerra Superannuation Trust.

Okay. So let's focus on that first. So you and your wife Poppy own 15 units as a trustee. Is that correct?---That's correct.

Trustee for a superannuation fund?---That's correct.

Do you have any beneficial interest in that superannuation fund?---Yes.

30 Yes. With others?---Yes.

Who?---My wife.

Just your wife? Is she the only beneficiary of the superannuation fund?
---No, my children and - - -

And you children?---And, and, yes.

40 And the other entity is APJAC, A-P-J-A-C Pty Limited?---That's correct.

As trustee for the AMP Becerra Family Trust?---That's right.

So that's your family trust?---That's correct.

That's a discretionary trust. Is that right?---It is, it is a discretionary trust.

And is it the case that at commencing, I think, page 51, is the deed of settlement for that family trust?---That's correct.

Sorry, can I just step back. APJAC is a company, the shareholders of whom are, who's the shareholders of APJAC?---APJAC is my wife, my poppy and myself.

Poppy, yourself and Mrs Becerra?---That's right.

So there's units held by that company as trustee for the family trust?
---That's right.

10

And the family trust is a discretionary trust?---That's right.

And if you turn to page 93, item 2 on page 93, sub-section A, can you tell me what that is a list of?---Page 90?

Sorry, 93, I think. It's got at the top a schedule?---No.

ASSISTANT COMMISSIONER: Well, that's not 93?---That's not 93.

20

MS McDONALD: Sorry, is it 70, sorry, my numbers are all out of order. 70, please?---Yes, 73. Yes.

73 at item 2A?---Yes.

There's a list there what's that?---That's a list of the beneficiaries for that company, for that trust.

Okay. And it says there, we've got spouse, children - - -?---That's right.

30

- - - brothers, sisters, parents. Roughly, how many people potentially are beneficiaries under this family trust?---Over 20, 25 people.

Over 25 people?---Yeah. Immediate family.

Immediate family?---Yes.

Brothers, sisters, wives of brothers and sisters?---Yes.

Their children?---Yes.

40

So you are one of potentially over 20 people - - -?---That's right.

- - - that is a beneficiary under this trust?---Yes.

So between the units at Edwin Street and yourself, we have five or six different legal entities before you're entitled to any interest in the units. Is that correct?---That's right.

I know that to some extent this has been covered well and truly by everyone else that's asked questions of you. I want to just ask you specifically and briefly, when was the first time you became aware that anyone from Council at all was going to be involved in the work on the Edwin Street properties?
---Who did the physical work, that was late January when I saw John Vadala.

10 When you saw John Vadala?---When I met, when I met with John Vadala and organised him to do the plasterboard and gyprock work.

So he was the first person that you had any contact with?---No, not contact with. I had contact with Mr Child and Mr Giangrasso prior to that.

Sorry. Prior to that, that was my question?---Sorry.

When was the first time and who was that contact with?---It was with John Giangrasso and it was early January, 2008.

20 So it was Joe Giangrasso?---And Steve Child as well. Both of them I had contacted both of them.

Okay. And why did you contact them both?---Pat Romano had given me his, their details to find out if I can discuss with them if they had tradesmen to carry out the works in unit 3 and 6.

And what was your understanding from your discussions with Pat as to why those two gentlemen were going to be involved?---They knew tradesmen that could assist us in doing those fiddly jobs.

30 I see. Was there ever a meeting between yourself, Mr Romano and Mr Giangrasso?---No.

Was there a meeting between yourself, Mr Romano and Steve Child prior to any work being done on the units?---Prior to it, yes, we did meet to discuss the project.

Yes. And you met at the site?---At the site.

40 Then you gave, I understand some keys to Mr Child?---Yes, I did.

And why did you do that again?---To allow him access to units 3 and 6.

I see. So yesterday it was explored at some length as to then was it your expectation he would be given access to people during his working time?---I don't know when he was going to give access to the units, but it could've been during working time, yeah.

I see. Did you, did you make, did it concern you or did it cross your mind at all about anything improper about him doing that during working time?
---No, because he said that he could, there was times where he had shift work and he could get to the units, so I didn't think it was an issue.

Did you ever drive Mr Giangrasso to the site?---No, I did not drive Mr Giangrasso to the site.

10 What type of car did you drive in say the period January to June, 2008?---I had a silver CR-V with the leather interiors, sports pack.

And what model was that?---2003.

2003. So in 2008 it was roughly five years old?---That's correct.

Did you ever pay any money to Mr Child?---No, I did not pay money to Mr Child.

20 Did you ever have coffee with Mr Romano and Mr Child?---No.

Did you ever have coffee just with Mr Child?---No.

Did you ever have coffee with Mr Giangrasso?---No.

Can, I'm just going to put a list of names to you and ask you some questions in relation to each of those people. First of all focusing Mr Giangrasso. Did you know Mr Giangrasso at the beginning of 2008?---I knew that he was, of him, yes.

30 How?---He was Council, he worked at Council.

Okay. So you knew he worked at Council?---Definitely.

Did you ever ask him to physically do work on the units?---No, I did not.

What, what did you ask him to do?---If he could assist in providing the names of tradesmen to carry out some of those minor works that I explained before.

40 Did you ever seen Mr Giangrasso working on the site?---I did see Mr Giangrasso working on the site (not transcribable) call it, the second batch of units, which is unit 2, where he said he was doing some clean up and tipping.

And what day of the week and time was that?---It was a Saturday when I went past the units early Saturday to have a look.

Did it concern you that he was working there?---I asked him and he said that he did that sort of work on the weekend.

Did you ever pay him money?---No, I didn't pay Mr Giangrasso money.

Mr Barry Webb, I'll ask you about him. Do you, did you know him at the beginning of 2008?---No, I didn't know.

10 Do you know him now?---Only by the transcript that I've read, not before, I didn't know he was working on the site.

Did you ever ask him to work on the units?---No, I did not.

Did you ever see him working on the units?---No, I didn't see him working on the units.

Did you ever pay him any money?---No, I didn't pay Mr Webb any money.

20 Mr Vadala, did you know him at the beginning of 2008?---I was introduced to John Vadala in the beginning of 2008, but I knew him from, again, being working in Council.

So at the point where you were introduced to him on the basis he was going to do some work, you knew he worked for Council?---That's correct.

Did you ever ask him to do work on the units?---Yes, I met with Mr Vadala and arranged for him to do some work on the units that's described before.

30 What did you think about that arrangement, that he was actually physically going to do some work on the units, but he was employed by Council?---He assumed me that he was going to be doing the work after hours or on the weekends. He actually specifically said, I'm going to, this is going to take, when I met with him, approximately two weekends to do.

Did you ever pay him any money?---Yes, I did pay him, so - - -

40 And what did you pay him?---Initially I paid him \$800 for the work that was done. Some time later he did some extra work on the units, extra work beyond what we had agreed.

Yes?---And some time later he asked for some more money and I did pay him some more money.

Now you would've heard some evidence that he says you paid him \$900. What's your explanation for that discrepancy?---He did say that he wanted \$900 for the two weekends work. But because he hadn't completed the first, when he asked for some money, 'cause he said he was going on holidays, the work was not complete, so we agreed that \$800, and that he

would come and complete the work (not transcribable) and the balance would be paid after that. But he also did some additional work and that's why the next balance was \$200.

I see. Mr Ammer Issa, did you know him at the beginning of 2008?---No. I knew he was a Council worker. I've seen him around, yes.

Did you ever ask him to do work on the units?---No, I did not.

10 Did you ever see him working on the units?---No, I did not see him working at the units.

Did you ever give him any money?---No, I did not.

Mr Youssef Saad, did you know him?---I did know him. I knew him as a different nickname, but I did know - - -

What did you know him?---He was affectionally known as Irish Joe.

20 Did you ever ask him to work on the units?---No, I did not.

Did you ever see him working at the units?---No, I didn't see him working at the units.

You saw him at the units?---Definitely saw him at the units.

But he wasn't working?---No.

30 Did you every pay him any money?---No, I did not.

Ms Helen Cet, did you know her in the beginning of 2008?---No.

Did you ever ask her to do any work on the units?---No.

Did you ever see her working at the units?---No.

Did you ever pay her any money?---No.

40 So the only person that you asked to do work and the only person that you saw doing work - sorry, you didn't see Mr Vadala doing work. Is that right? ---No, I did see him on a Saturday morning, yes, because that first weekend when he was doing the work he requested some screws and POP rivets and I made a couple of trips to the local hardware to buy him that equipment.

So he's the only person you specifically requested do work?---I arranged to do work, yes.

Yes. And you saw him working?---Yes.

And you paid him money?---Yes.

And the only other person you saw do work is Mr Giangrasso?---Yes.

But you didn't ask him to do the work?---No.

And you didn't pay him any money?---No.

10 Was there a meeting held some time late in 2008 between yourself and Mr Romano, in fact a meeting of the Befaro shareholders, directors and other interested parties at which Mr Romano asked if Mr Child could get a share of the Edwins Street property?---I remember the conversation that Mr Romano opened by saying, I think I know the answer to this but I've got to ask anyway. Steve Child asked if he could take a share or be part of the units.

And what was the response?---Directors didn't want to, majority of the people did not agree to that position. As I said Mr Romano said he felt he had to ask but - - -
20

Was there any discussion about why he felt he had to ask?---Because Steve Child had asked him and he thought he'd ask us.

I see. In 2008, and I know this will be explored in more detail later so I don't want to get bogged down to any degree but in 2008 how many hours were you required to work for Council?---The contract was to work at Council for eight hours during the week and the balance of that normal working week to be in Council for any meetings that were requested,
30 whatever they wanted me to do, work on the design and other work as, as per contract to work on the civic precinct project.

So doing the best you can do you think that the time you spent doing work on the units during the normal work day meant that you were in breach of your employment conditions, requirements?---I don't believe so. I don't believe so because I also did work, you would call, outside of those, your normal office hours, I worked beyond the 5 o'clock closure if you want to do on Council projects.

40 Were you ever during this period cautioned or disciplined or spoken to about the amount of work you were doing for Council?---No, I was just asked what was I working on, just asked what I was doing - - -

No one suggested to you or queried or said to you that you weren't spending enough time on Council projects?---Not at all.

You would've seen I think it was Exhibit 78 with the various emails that were sent from the Council email address some of those during normal

working time. As I understood your evidence, just correct me if I'm wrong, you weren't aware at the time of the Council's email policy?---No, I was given that some time later.

So when some time later - - ?---In the next contract that I received I got given a schedule of policies of Council.

10 And when you were using the email system during 2008 did it occur to you that you shouldn't?---No, I was responded to them as I would any mail that I receive, I was also responding to emails from Council also outside Council hours as well so I didn't have that block of time that I had to do certain things so I was answering emails regarding the (not transcribable) yes, during the day and I was also doing work for Council late at night or after hours.

So you made up time?---You could say, yes, I made up the time because if I answered that and I had a duty to do I'd just do the duty and if it took beyond the 5 o'clock closure I still did it.

20 And I think lastly could the witness be shown Exhibit 78 please. If I can ask you to turn to page 19 of that Exhibit. This is an email that starts out it's from you and sent to Pat with a list of tradespeople. Why were you sending that email to Mr Romano?---'Cause I was requested by Mr Child to get some details of other tradesmen that have worked on the units 3 and 6.

And why was he asking for that list as you understood it?---He wanted to compare prices between his tradesmen and these guys, he wanted to say can these guys do the work and if they couldn't he would get alternative prices to do - - -

30 There's prices listed here though is there?---No, there wasn't, these are the people that we used.

Right. And what is it you say that Mr Child was going to do?---He was going to arrange for tradesmen to do this work roughly based on the same scope, an electrician, a plumber, a plumber had already been appointed, the painting.

40 And that email then gets forwarded on and Mr Fasanella adds something to that list?---Yes, I didn't have all the contacts of, as it says there I didn't have all the contact details of some of the tradesmen so Mr Fasanella added to that list.

So you weren't, were you telling Mr Child to use those tradespeople?---No, I was saying that that's the tradesmen he used and if he could get other tradesmen to, to do the same scope of work. If you can another electrician so be it, if you can get another kitchen manufacturer, I just gave him the details of the contractors that we used.

Did he ever say to you that he had mates that would do it cheaper?---He did say that he had mates who could do it cheaper but basically this also outlined the scope of work, the trades that we, we used.

I have nothing further.

ASSISTANT COMMISSIONER: Thank you, Ms McDonald. Yes. Does anybody else need to examine Mr Becerra at this stage?

10

MS RONALDS: I have nothing further with this witness at this stage.

ASSISTANT COMMISSIONER: So he can be stood down for now? Mr Becerra, can I just ask before you go if I understood your earlier evidence you became involved in these units because you were interested in getting an investment property but didn't have enough funds to do it on your own. Is that right?---Not of this size, no.

20

No?---Not a project of this size, no.

So that's why you've got the others involved or went into partnership if I can use that loosely with the other groups of people?---Yes.

Who, which legal entity took out the loan to get these units?---Befaro.

The company?---The company.

So it was the only entity responsible for the loan?---That's right.

30 Thank you. Yes, Ms Ronalds. You're stood down now, thank you, Mr Becerra.

<THE WITNESS STOOD DOWN

[10.58am]

MS RONALDS: I call Mr Romano.

40 ASSISTANT COMMISSIONER: Yes, Mr Romano, you remain under oath and the section 38 declaration applies to your evidence.

MS RONALDS: Mr Romano, just before we get to the units there's just several other matters. Do you recall on Monday, 22 March, 2010, that was the first day you gave some evidence about having some photos compiled to make it look like Mr XXXXX and Mrs Romano were together?

---Yes.

10 And you said that you took the background photos, that is, the photos that formed at Observatory Hill and Balmain?---Yes.

Do you recall that?---Yes.

I suggest to you that that was wrong wasn't it?---No.

That you travelled with Mr Nick Tantaro and he took those photos would you agree?---Yes, I apologise, yes, that's correct that I was with him.

20 That you were present with him?---Yes.

And you said, and Commissioner, this is page 48, line 15, you said that he did it as a favour?---That's correct.

Do you recall giving that evidence?---Yes.

And I suggest to you that was false, wasn't it?---No.

30 That, that he didn't do it as a favour he was paid. Would you agree?---No, I asked him for a favour.

Well, I suggest to you he was paid for the work and Burwood Council paid him for the work. Would you agree?---I'd disagree.

And when you gave that evidence that was false evidence, wasn't it?---No, I disagree.

40 And you knew it was false at the time you gave it, would you agree?---No, I disagree.

And that, would you agree, that the compilation of the photos were entirely done so you could send them to Mrs XXXXX?---Yes, that I do agree with.

And had no connection with Burwood Council at all, did it?---That is correct.

There would be no basis, would there, for Burwood Council to pay the bill for that work?---That is correct.

And I'd suggest to you you organised for the payment of that bill by Burwood Council, would you agree?---No, I, I disagree.

I'll show you this document, now it's in a statement and I'll just ask you not to turn to the other pages at this stage and just turn to the, just look at the page I'm handing you. You see that? That's an email from Mr Taranto to you, see down the bottom?---Yes.

10 I hope your presentation went well and I suggest that you asked him to compile these photos with a false story. That's right, isn't it?---I told him that it was as a joke and if he could do it as a favour to me, yes.

And that was false, wasn't it? It wasn't a joke?---Well, yes, it was false.

Thank you?---I, I've said that before.

Yes. And so he's asking you how it went and then he says the cost of the digital - - -?---No, sorry.

20

- - - manipulation is \$650?---This is not in relation to that.

Well - - -?---Mr Tantara did lots of work for Council and myself and I don't believe this refers to those photos.

Well, Mr Taranto believes it does?---Well, I, I - - -

Tantaro, sorry?---I dispute that.

30 Mr Tantara and if you look through the front of the document you'll see is a statement from Mr Tantara and he says this is an invoice for that work in short form and if you turn back to where I had you a moment ago and you look behind you'll see there is an account that has been processed by Burwood Council?---Yes, I saw the account. I, I, I did pay it but it was not my understanding it was for those photos. I thought it was for something else.

Well, Mr Taranto says it was for those photos and you'd agree - - -?---Well, I, I - - -

40

- - - wouldn't you, that the dates are in accord with when it was done?
---Sorry, where are the dates, counsel.

Well, the date of the invoice and the date of the email in November 2007, if you turn back to the invoice where I had the document open?---Yes, just give me a few moments to find it.

It's the third page from the back. You'll see that email, you say give to Vera for my approval?---Yes.

That's an email from you, you don't dispute that?---Yes, no, I don't dispute this. I paid this bill.

And you agree that the dates are the dates in which you had the manipulation done?---So where are those dates?

10 Well, look at the top of the email, Monday, 5 November, 2007?---Well, I can't recall but I would assume it was around about that time.

And then if I could ask you to turn to the next page, you'd agree that's your handwriting in the middle that says, "This account to be paid from GM budget"?---Yes, I agree.

That's a budget that you had for discretionary expenditure?---Well, and, and other things, yes.

20 And you had this account paid out of that amount, would you agree?---Yes, I don't dispute paying this.

And you see that Mr Hullick has signed it as receiving officer?---Yes.

And you've signed it as the approving officer. Is that correct?---Yes, that's right.

And I'd suggest to you this is an invoice for the digital manipulation that was done by Mr Tantaro in order for you to send those photos to
30 Mr XXXXX, would you agree?---No, I dispute that and if I can clarify during that period we, we were preparing for Councillor workshops that were coming up and it is my opinion that this, this fee was in relation to some work he did for that work.

Well, so you disagree with Mr Tantaro's explanation?---Well, I, I don't know what Mr Tantaro has said to you. I haven't had time to read his statement but I disagree that this fee was for that work that you're suggesting.

40 Thank you. If I could tender the statement.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 98.

#EXHIBIT 98 - STATEMENT OF NICOLA TANTARO DATED 30 MARCH 2010

MS RONALDS: Could the witness be shown Exhibit 58?---Yes.

You've given some evidence previously in which you claim that two eggs were thrown at your house. Do you recall that?---Yes.

Could you identify the window that you say that that occurred at?---On this photo?

Yes?---It'll, it'll be the window on the left.

10

The window on the left, the double window?---Yes.

It appears to have some sort of gauze on the front, a security device?
---Sorry, I don't understand what you're saying.

Well, there seems to be something on the right-hand side of that window?
---It's a, it's a flyscreen.

It's a flyscreen?---Yes.

20

Yes. And where do you say on the left and right of the left-hand window?
---It's on the right-hand side of the window.

Right. And what room is that?---That's my bedroom.

It's your bedroom?---Yes.

So were you in bed at the time?---Yes.

30

So you claim that you heard the eggs arriving when they landed on the screen. Is that correct?---When they hit the window and the screen, yes.

Could the witness be shown Exhibit 40.

You see that's an email that was provided through your counsel?---Yes.

I suggest to you that it is a fake email, that is, that you've made it up for the purposes of these proceedings. Would you agree?---No, I'd disagree.

40

You see that it is alleged to have been sent by you on 24 October, 2007 at 11.22am. You see that, the main one?---Yes.

And then the second one is meant to have been sent on Wednesday, 24 October at 11.26?---Yes.

Do you see that?---Yes.

I'll hand you this document. You understand that the Commission has access to your email records?---Yeah, I'm, I'm happy to provide my laptop, you can have a look at my laptop and take this off the laptop.

So you say this is on the laptop?---I believe so, yes.

Well, I just ask you to look at this document and the material that is in black is 24 October, 2010 at around the time when you are sending and receiving emails. Do you see that?---(NO AUDIBLE REPLY)

10

That is, you logged onto the Burwood system, you see on Wednesday, 24 October, you see started where the black line starts at 9.40?---Yes, yeah.

And you see one line, the column is from and then to and you see you're sending some and receiving some?---Yes.

And it covers the period where both of these emails are purported to have been sent, do you see that?---Yes.

20 And neither of them are recorded?---Well, I - - -

You see that, so you're active during this time, sending and receiving emails?---Yes.

But this particular email is not there. Do you see that?---I can't explain that but it's not a fake.

And what I'm suggesting to you is it's a fake email that you've made up for the purpose of these proceedings?---No, I disagree.

30

So how can you, do you have any explanation of how it is that it wouldn't be on the email records which record that you are working on the computer and receiving and sending emails at that time?---I, I can't explain that, I'm not an expert in computers. I don't know.

And might, and I'm putting to you my explanation is that it's a fake email and you invented it for the purpose of these proceedings. Do you understand?---Counsellor, I did not create this as a fake.

40 Right?---I absolutely refute what you're saying.

All right. Well, you see there's one that refers to Richard Mailey, Mayor's house, you see there, you see on the, on the list down there?---Yes.

It's about the (not transcribable) one done?---Yes.

I'll show you - - ?---Can I, may I interrupt you. I have two email addresses that I use for work.

Yes?---Which one is this one?

Pat Romano?---Okay. I do have another one, it's pat.romano.

Okay. So is it likely that you would, this is it as I understand it?---Oh, okay. Well - - -

10 Would it be likely that you would be using different ones at different times even though you're working at the same time?---Absolutely.

Just look at the, Richard Mailey, Mayor's house, do you see that one that's listed there?---Yes.

That's the one I've just handed you. Do you see that? You've sent, you've received and sent an email?---Yes.

And that's the one that's recorded there?---Yes.

20 But that's not the one that is Exhibit 40 is it?---I don't have Exhibit 40 any more, sorry.

I'm sorry. I thought you had Exhibit 40. So this is all emails sent from your work mailbox, Mr Romano. Do you understand?---Yeah.

30 So it wouldn't matter which email address you were using, it's from your work email?---Well, I can't explain what you're suggesting, but this email, Exhibit 40, is not a fake. I retrieved it from my laptop. You're welcome to have a look at it. You can even look at the recipients laptops and see if you can find it on that.

Thank you. If I could tender those two documents.

ASSISTANT COMMISSIONER: That will be Exhibit 99.

40 **#EXHIBIT 99 - PRINTOUT OF EMAILS CONTAINED IN ROMANO COUNCIL MAILBOX AND EMAIL DATED 24 OCTOBER 2007 RE RICHARD MAILEY – MAYORS HOUSE FROM MS KARPOWICZ TO MR ROMANO**

MS RONALDS: Do you recall previously I was asking you about your personal lawyer, that is Mr Gorry and Henry Davis York and the Maddocks then, at the beginning of this saga. Do you recall that?---Yes, I do.

And I was suggesting to you there was a confusion and that it was improper. Do you recall that?---You suggested that, yes.

And you rejected that?---I did.

I just want to show you the minutes of a meeting and it's called the Burwood Executive Legal on Monday, 22 February, 2010. Now, as I understand the minutes, this meeting has four members of Council staff, Mr Baird and Mr Baraka. Is that right?---Yes.

10 And it opens at 9.30 and closes at 12.30 on 22 February, 2010. Do you see that?---Yes.

And you're present?---Yes.

And it's held in at HWL Ebsworth?---Yes.

So you all, the four of you all go in to Ebsworth for a meeting. Is that right?---Yes, sometimes we do.

20 On some occasions?---Yeah.

And could I ask you to turn to page 2 of the document. You see it's headed ICAC Investigations Insurance Claim?---That's correct. Yes.

Now have you seen these minutes before?---I can't recall, but I may have, yes.

What's the process with minutes? Would you sign off on them as correct?
---Oh, not necessarily, no.

30 Who produces them? Not you?---I don't, no.

Who produces them?---Well, when we're at Ebsworth they would be produced by someone in Ebsworth.

So Mr Baird would take responsibility for their contents would he?---Well, I would assume so, yes.

40 So you, but you don't?---Well, I don't, I don't make a habit of signing all sets of minutes that come through. I have a lot of paperwork to get through a day, and I take minutes to be correct, unless I read through them and then pick something up, I don't issue it.

All right. Just go down to, see the heading that I took you to?---Yes.

Just take a minute to read through that rather than me read it out loud to you and over the page. And see if you agree that it accords with your recollection of what was discussed at that meeting?---It appears to be

generally the discussion that took place. I don't know that I agree with every word of it.

But you'd agree (not transcribable) knew that you had engaged Henry Davis York as your lawyers to protect your interests and personal assets?--- Amongst other things.

10 But that was the primary role they were to play. Would you agree?---I wouldn't of described it in those words, but I don't disagree that in part that is correct, yep.

And is it a correct reflection of your view that Mr Romano did not consider it necessary to give any information to the ICAC unless it is required under legislation on the basis that this is an issue between Mr Romano and his employer?---I was referring to the letters that I'd received from the insurance company's lawyers in relation to fees and other things that they were paying.

20 I understand that. I just asked you does that correctly reflect the view you stated?---If you do it in the, if you're saying that in the context of what I've just described, then yes.

Is it correct?---If it is described in the context that I've just described, yes.

And Mr Baird supported you on that in that he advised there's no such requirement under legislation?---It would appear to state that in the notes, yes, I agree.

30 Well, do you recall Mr Baird saying that?---Yes, I do, I do.

So it was your view was it that the co-operation you provide the Commission was what was required under legislation and nothing more. Is that correct?---In relation to the issue of the letters between the insurance company and my lawyers, yes.

40 And more generally?---No, I've assisted this Commission on many occasions. And on this occasion, on many occasions at will, without request. You'll recall counsel, that earlier in the piece last year, I forwarded freely disclosures and statements to the Commission. I'm always willing to help.

Do you understand that I've put to you that those statements contain a number of false statements?---Well, that is your opinion. If you can point out them in detail, I'm happy to discuss them with you.

If I can tender that.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 100.

#EXHIBIT 100 - ` MINUTES OF BURWOOD EXECUTIVE LEGAL MEETING HELD AT HWL EBSWORTH MONDAY 22 FEBRUARY 2010

MS RONALDS: (not transcribable) shown Exhibit 35. Now, you understand this is a document produced by the Commission going through your expense accounts and compiling where you've claimed parking for Maddocks and for HWL Ebsworth. Do you understand that's what it is?
10 ---Yes.

And where it says it's in your handwriting on your expense accounts?
---Yes.

And so it's taken off what you've written on your own document. Do you understand that?---Yes.

20 And you've heard Mr Baird's evidence. Were you present when Mr Baird gave evidence that he said that when he was at Maddocks, they provided free parking and that it was not necessary for you to pay?---I did hear his evidence.

And that's correct isn't it?---In part it is.

Well, can you explain how you have this number of claims for parking when you're supposed to be at Maddocks if Maddocks provided free parking?---I attended Maddocks on many occasions as you're aware. On occasions either Mr Baird or one of his officers or possibly even the, the girl at the desk would offer a voucher when I was at Maddocks for parking. And I think in total I might've accepted two or three of those vouchers over the period that I was there. It was my practice though, not to accept those vouchers after the meetings. And I certainly did not ring Mr Baird in advance or others in advance to seek those vouchers. I was only ever, I only ever took those opportunities up when they were offered. Otherwise, I would pay through my corporate card for the business meeting that was being conducted at that premises.
30

40 Well, Mr Baird gave some evidence that on occasions you've called him and said you're coming into town, could you have some free parking?---No, he's incorrect.

You deny that?---I deny that.

Now, you'll see then there are, over on page 2, some lists for parking for Henry Davis York?---Yes.

And you see over the page there's some there as well. You see that?---Yes. Yes.

Now, I'd suggest to you there were occasions when you've claimed for Henry - sorry, HWL Ebsworth meetings when you were not there. Would you agree?---No.

10 All right. Well, I'll show you a document that's been kindly produced by our friends at HWL Ebsworth?---Sorry. My apologies, if I can clarify that. I have had occasion to park there but go and do other business of Council elsewhere in the city, yes.

And the notation on your expense account is false isn't it, that is, you were not at a meeting at HWL Ebsworth on some occasions?---Counsel, I, I would agree that my notation on some of my receipts might not be totally clear, yes.

It was wrong was it?---Could be wrong, yes.

20 You see, Ebsworth have looked through and they found for a number of them that there was no record of you attending any meeting on those dates. You see where it says, No HWL Ebsworth meeting, on the document you've just been handed?---Yes, I can see that.

You see that?---And there would've been occasions where I parked at the Maddocks building where I didn't attend meetings at Maddocks as well.

30 So is it correct then that the notation that you make on your expense account is unreliable?---Well, it's a short, it's a small, you try and document quickly in as short a possible number of words what the business reason was. I, I, you know, there wasn't much room on the receipt to put a song and verse on it. It was just a description, a descript of a prompt memory and to provide information.

But it's a false descript, you weren't at a meeting at all?---No, I dispute that. Well, I might not have been at, at a meeting with those people but it was common practice for me to park in the city in various locations for whatever meeting I was attending to.

40 And you've put on your expense account that you were at Ebsworth and what I'm putting to you - - -?---The Ebsworth building or at the Maddocks building doesn't dispute that it was business meeting that I was attending in the city.

See, what I'm putting to you, Mr Romano, is it's not possible to know is it what you were doing?---Well, I could go back to my diary and provide a more accurate description if you would like.

Well, what I'm suggesting to you is this. The records on your own, in your own handwriting, on your own expense account cannot be relied on to properly describe what the expenditure was for. Would you agree?---I think that some of the descriptors on there could be misleading or wrong at times, yes.

10 And that where you say you were at Maddocks you may not have been there or you might've been there?---I could've been at the Department of Planning for a meeting, I could've been at Governor Macquarie Tower for a meeting, I could've been anywhere. I choose a parking station which is usually central to where I'm going and sometimes I attended more than one meeting in the city and it was my common practice to do that because I didn't want to be wasting time travelling to the city for one meeting.

What do you think is the role of financial records in a Council?---I'm not sure what you're asking me. If you could be more specific.

20 Well, you're aware aren't you when you complete your expense account that you are reporting for transparency reason on the expenditure of public funds?---I would agree with that, yes.

And it's important to be correct isn't it?---I would agree with that, yes.

And what I'm suggesting to you is that you are not correct on repeated occasions. Would you agree?---I do make mistakes, yes.

30 And that there are occasions when you record things on your expenses that are simply wrong. Would you agree?---On occasions I have been wrong, on other occasions when I make a descript I could've been better, yes.

Thank you. If Maddocks was offering you free parking why wouldn't you accept the vouchers?---I like to pay my way, Counsel.

ASSISTANT COMMISSIONER: But you weren't paying were you, the Council was paying?---On behalf of the Council I felt obliged to pay for parking. You know, that's just the way I operate. The number of times I accepted vouchers from Maddocks was very, very limited, in fact, - - -

40 Council was paying Maddocks an enormous amount in legal fees weren't they? Why wouldn't you get a little bit of it back through the free parking? ---It didn't occur to me, Commissioner.

MS RONALDS: But you weren't paying for it, Council was paying for it? ---I felt, I felt and I do feel responsible for Council's funds.

Mr Romano, is that your serious evidence?---Absolutely.

Commissioner, I note the time, I'm just about to move on to the units.

ASSISTANT COMMISSIONER: Yes. Do you want to tender that Ebsworth list?

MS RONALDS: Yes, sorry, if I could tender the Ebsworth document.

ASSISTANT COMMISSIONER: That will be Exhibit 101.

10 **#EXHIBIT 101 - LIST OF PAT ROMANO PARK CLAIMS AT HWL EBSWORTH**

ASSISTANT COMMISSIONER: And we will now have a 15 minute adjournment.

SHORT ADJOURNMENT

[11.24am]

20 MS RONALDS: Mr Romano, in relation to your, in relation to your relationship with Mr Becerra, you heard his evidence yesterday?---Yes.

And he explained a previous business arrangement you'd had about a property?---Yes.

Was that evidence correct? I'm just trying to save time?---Yes.

You don't disagree with anything he said?---Apart from some of the detail but generally correct, yes.

30

So that was a business arrangement you had in 2000 and you sold the property when, do you recall when?---It was approximately March/April 2002.

And do you recall the sale price?---It was in the order of \$380,000 I think or thereabouts.

380?---I think so.

40 He had it a bit elevated did he?---I think so. It was about right.

So you made about 100,000 each, each family?---Gross, yes, there was capital gains tax and other things, yes.

We're not worried about CGT for a moment, just as a gross profit. And then you talked about other business opportunities you and Mr Becerra? ---As part of that particular proposal that we were looking at there was an opportunity that came out in relation to a car parking device that I had come

up with and we explored the possibility of producing a commercial product of that sort but we never, never really came to fruition.

And then Mr Becerra found Edwin Street, is that right, or had you decided you would all look for, the three of you, a property to develop between the three of you?---No, there were no clear arrangements after the sale of that first proposal. There were opportunities that came along after that that we explored, some of them we looked at seriously, some we didn't.

10 And you decided to go together because you could combine your funds and therefore increase your commercial opportunities - - -?---It was affordability basically. None of the families in their own right could afford a substantial amount of money so it was convenient from a commercial point of view to come together and combine our resources.

Do you agree that you are a beneficial owner of 187 Edwin Street?

MR BLAKE: I object, Commissioner. That is a very complex legal question and to ask Mr Romano to express a view about that one just needs
20 to look at the legislation, the Local Government regulation at the time it's definition of interest refers to powers of appointment, things in law or in equity, it's not going to help this Commission for Mr Romano to express a view as to a complex legal question.

ASSISTANT COMMISSIONER: Well, I mean, to my way of thinking it's not really that complex a legal issue, I mean, that particular issue might be but I mean at the end of the day if we get down into the real world this was an investment opportunity and entities associated with Mr Romano and the others were eventually going to benefit. I understand that was the purpose
30 was to try and get some money into the super fund or whatever.

MR BLAKE: Well, the real world, Commissioner, is to apply the law and I hadn't seen anything that suggested to me that there was a beneficial interest either at law or in equity that's attached to Mr Romano. I don't believe a discretionary trust would fall into that category nor unrealised superannuation interests. And it's just an unfair question in my submission to - - -

ASSISTANT COMMISSIONER: Whether he's a beneficial owner or not
40 he stood to benefit on anybody's definition or suffer detriment if the project all went bad.

MR BLAKE: The definitely that's appropriate to apply in my submission is the one that's under the Local Government regulation, it's not what anyone thinks.

ASSISTANT COMMISSIONER: Well, that only applies to declaring a pecuniary interest doesn't it? That's a completely separate issue whether

somebody could use their position and work interest for a personal benefit as broadly defined as anything that might benefit you. We're not talking about whether he breached a pecuniary interest regulation at this time.

MR BLAKE: In my submission there is no utility in having some popular understanding of beneficial interest if it's to be put that there is some beneficial interest as the law understands it that's one thing but there is, I cannot understand how any popular definition of beneficial interest can in any way help this Commission.

10

ASSISTANT COMMISSIONER: Well, it goes to his state of mind as to whether he thought he had a beneficial interest or might benefit at the end of the day from whatever happened with this project. I mean, I agree that I don't think it is appropriate to say as a matter of law did he think he had a beneficial interest but to ask him a more general question I think is permissible so perhaps Ms Ronalds you can revamp your question.

20

MS RONALDS: It was your view, was it not, that you and your family might financially benefit in the long run from an investment in 187 Edwin Street?--I'm not sure that I can answer that question in a yes or no arrangement but if you'll allow me to maybe elaborate a little bit I'm, I'm happy to give you my opinion and what I thought.

30

The short version?--I'll try to be as short as I can. The property trust that was set up as Befaro was meant to be a, an investment tool for all three families. Our keen interest, my family interests, were probably from a superannuation point of view. 99 per cent of the funds that were injected for the other entities that were there from my family's point of view were superannuation funds. It was my expectation that at some point in time through that superannuation fund that we were self-managing, that there would be a retirement pool. Not necessarily from what was happening with this particular site but maybe from other ventures that we might get involved in as Befaro Property Trust. At, at this point in time I, I don't believe and my memory could be wrong but I don't believe that we've nominated in our super funds who will benefit from our superannuation fund. But, for example, if I were to pass away it's quite possible that my wife and boys would be the beneficiaries of my superannuation funds. So in my mind I don't believe I have a direct benefit through the Befaro.

40

ASSISTANT COMMISSIONER: Well, there is at least some possibility you will benefit from your super fund eventually, isn't it?--Yes, Commissioner I - - -

If you don't, if you don't die before it becomes available or whatever?
---Yes, well, I would hope so. I would hope that the Edwin Street site that we're talking about here and others, if they come about, would be part of my retirement package, yes.

That was, that was part of the reason for this investment, wasn't it?---It was one amongst others, yes.

To try to put your super fund in a good situation?---Well, I'm working towards our retirement for my family, yes.

Yes, I'm not, I'm not critical of that. I'm, I'm just saying - - -?---Yes.

10 - - - that was part of the reason, wasn't it?---Yes, and also to provide - - -

And that you and your family might eventually get some financial benefit out of it?---Yeah, and, and, and a nest egg in the event that, you know, something might have happened to me, yes.

Yes, all right.

MS RONALDS: And your superannuation for your Council employment is paid into the Janet Superannuation Fund, isn't it?---That's correct, yes.

20 And that is your self, you and your family's self-managed superannuation fund?---That's correct, yes.

And Janet Holdings Pty Limited is the trustee for the Janet Family Trust? ---That's correct.

And that is a family trust of you and your family?---It's a discretionary trust, yes.

30 And of the 90 units, the Janet Superannuation Fund holds 15 units?---I, I can't recall the exact detail but it sounds right.

And Janet Holdings Pty Limited holds 15 units?---That sounds about right, yes.

So but you say most of the money came from the super fund?---Yes.

But the split as between the family trust and the superannuation fund of the holdings in Befaro are equal?---Yes, the family trust is one per cent holding.

40 Sorry?---The, the family trust only contributed one per cent of funds.

But it has an equal number of units in Befaro as does the super fund?---I, I would believe so, yes.

And the reason you were willing to put time and effort into 187 Edwin Street was you were endeavouring to increase it's value, weren't you? ---Absolutely.

And you'd been appointed, you and the husbands, if I can call them that, had been appointed as the agents to manage the renovations?---Yes, at a meeting of the Befaro directors it was agreed that the husbands, if, if you want me to use those words, had certain skills that they could contribute to that particular investment, yes.

And the female partners were in, I was going to say sleeping partners, it's probably not a very good example, they don't play an active role in the renovations?

10

MR BLAKE: Well, Commissioner, I don't think that's an accurate description. The whole concept of partnership, I mean, that just doesn't describe this arrangement.

MS RONALDS: I'm sorry, with the greatest respect, I was using partner in the sense of one's living partner to move away from the pejorative of wife and husband but if that's going to offend my friend I'll return to wife.

MR BLAKE: Well, I think that would be better.

20

MS RONALDS: The wives didn't play a, to adopt not the modern vernacular, but to go back a step, the wives didn't play an active role in the renovation project, did they?---No, I tend to slightly disagree with you on this occasion. We all, we all were attributed roles.

Right?---For example, my wife took on the responsibility of keeping the accounts. She managed transfer of some of the funds between the accounts that were held by Befaro and she also was aware of some of the payments that were being made because of that role. Mr Fasanella's family, for example, his wife had some of the banking arrangements as well so she would have been aware of some of the activities on the unit as well. So in terms of hands-on organisation of trades and phone calls and the like, yes, they husbands were the ones that managed the day to day activities, yes.

30

All right. If the witness could be shown Exhibit 78, I'm endeavouring to move through this a bit faster, Mr Romano, so just excuse me if I (not transcribable)?---No, I'm at your disposal.

You'll see page 1 of Exhibit 78 is, is an email from you dated 6 May, 2008 to Becerra and Fasanella and copied to Mrs Romano and you say, Hi gentlemen, can we meet on Thursday night et cetera at my house at 7.30 and then you're going to discuss three things?---Yes.

40

And that was because it was the three of you who were making those sorts of arrangements addressing those matters. Would you agree?---No, no, that's not quite right, although Tony Fasanella and Albert Becerra and myself had day to day knowledge of what was going on our wives were also included in discussions.

So it says gentlemen so then - - -?---I, I was referring the people, the recipients on the email, yeah, but not necessarily who would be at the meeting.

Oh, I see. So was everyone at the meeting?---I'd have to look at the minutes but generally from time to time everyone was there.

10 Now, have you had an occasion to look through Exhibit 78 since it's been tendered?---No.

It's a bundle of emails and what I'd suggest to you is this, that these emails demonstrate that you and Steve Child exchanged emails about the renovations over a period of months. Would you agree?---I would agree with that.

And you sent them during the working day?---Are you referring to my working day?

20 Yes?---My working day is a lot longer than what most people would work.

You sent them during the course of what would be any usual working day, that is, 9.00 to 5.00 on regular occasions, didn't you?---I would agree with that but they're not my working hours.

You sent them between 9.00 and 5.00 on regular days, on regular occasions? ---Well, I'm, I'm, I take, take that as said if that's what you say, yes.

30 And Mr Child answered them when you knew he was at work, would you agree?---Oh, no, I don't agree with that. Mr Child was working shift work during that period, there was lots of night works and extended hours that he was putting in. I wasn't aware of when he was taking breaks between shifts and I wasn't aware whether he was responding during a break, a lunch break or it might not. So I, I can't answer that in the positive, no.

40 Mr Romano, I suggest to you that you sent emails to Mr Child during the course of the day and he answered them during the course of the day when you knew he was engaged in activities for Burwood, paid activities for Burwood Council, would you agree?---I can't answer that because I don't know what his movements were.

So if your answer no?---In my opinion I'm not able to answer that because I don't know what his movements were during the day. I, I didn't manage him from a minute to minute basis.

Excuse me for a moment. I put it to you that you were well aware when you sent him emails that he was on the Burwood Council payroll at the time you

sent it and at the time he answered them. Would you agree?---I totally disagree.

t

You only ever sent emails to Mr Child at his work email address didn't you?---That's correct. That's the only address that I knew that he had.

And I suggest to you, you knew didn't you that Mr Child didn't have remote access to his email?---I wasn't aware of that, no.

- 10 You see, I suggest to you the only time that Mr Child could answer his email was when he was in his office at the depot and you knew that didn't you?---I knew that he could only answer them while he was at the depot, that's correct, yes.

So when he answered you, you knew he was at the depot?---When he answered me he could've been on a break at he depot, yes.

But you knew he was at the depot?---I mean it never occurred to me at the time, but I would believe so, yes.

20

And you well knew that he was answering during his paid time for Burwood Council didn't you?---No, I wouldn't of been aware Council, I would've expected Mr Child to have answered when he had the opportunity and in his own free time. It was never my expectation that he would do anything within the working hours that he attributed to Council.

That's your position is it?---That's my belief, yes.

- 30 I suggest to you that on the facts of what occurred between you and Mr Child, that is an untenable proposition isn't it? You well knew that he was performing work for the units from early February, 2008 and during the course of 2008, he was performing that work when he was on the payroll and supposed to be working for Burwood Council?---No.

In early, in January, 2008 you approached Mr Giangrasso and told him that you had a friend who needed some help with some residential units. Do you agree?---No, I don't agree with that. Can you be more specific with the time in January?

- 40 Well, do you recall ever having a meeting with Mr Giangrasso in early 2008 where you asked him, where you told him you had a friend who needed some help with some residential units?---No, absolutely not.

So you deny it happened?---I deny that it ever occurred. Yes, that's right.

Why does it matter what day it was?---Because I was on annual leave in early January. I wasn't even in the country in early January. So a meeting

with Mr Giangrasso could never have happened unless he was overseas with me.

What date do you say did you return to work in January, 2008?---I think it was about 12 January.

Sorry?---12 January or thereabouts or 13, 14 January, thereabouts. Whatever the first working day after the 11th was. I think the 11th was a Friday.

10

You knew Mr John Vadala worked on the units?---I became aware that he was working on the units, yes.

And you knew he was a Council employee?---At the time that I saw him at the units, his face was familiar and I wasn't sure if he worked for Council. When I met him at the units it was some time in late February, it was a Saturday, I think. Sorry, late February on a Saturday. I'd gone to have a look at the operations that were happening there and I saw him. I thought I recognised him. I asked him do I know you, we had a small exchange of words and I realised at that point in time that he was a, definitely a worker at Council.

20

Excuse me. Now you've given evidence before about thinking, sorry, I'll go back a step. Do you consider yourself bound by Council policies? ---Absolutely.

And therefore you consider yourself do you bound by the secondary employment policy?---I would think so. My contract actually also refers to other employment, so I had obligations to inform my employer.

30

Now I've searched through your personnel file and I've been unable to find any secondary employment declaration. Could you assist me about where I might find one?---I've never lodged a secondary employment notification.

Well, you'd agree that during the course of your working day, however long it may be, you were on occasions engaged on work for Befaro?---I did not consider that to be paid work and I wasn't employed by Befaro. We were organising work on behalf of the Befaro directors.

40

Did you ask Mr Baird for some legal advice about that?---Not about that specific issue. But in terms of my (not transcribable) interest return, I did ring him - - -

I'm not asking you about that at the moment am I?---I'm not sure what you asked me.

I'm asking you about secondary employment?---No, I never asked Mr Baird for advice on secondary employment, no.

Well, how did you form the view that you didn't have to complete a form?
---I didn't believe that any of the activities that I was doing in relation to Befaro was secondary employment.

Well, you see I suggest to you that perhaps the politest version is that you were a hypocrite about secondary employment weren't you? That is you were regularly engaged during the course of the working day with Befaro business, but you hadn't completed a secondary employment form?---I
10 disagree with that. And the mere word employment that indicated in anyone's mind, any reasonable person's mind that there was some sort of employer, employee relationship including a payment. I wasn't doing that.

You were endeavouring to increase the value of the units weren't you?---It was an investment property.

Yes?---Yeah. Lots of people do work outside of work hours and sometimes in work hours on investment opportunities.

20 I'm not worried about lots of people, Mr Romano. I'm only interested in your activities. Do you understand that?---Yes. And I don't - - -

Now, I'm putting to you that the activities you conducted on behalf of Befaro was such that you should've completed a secondary employment form?---Well, I disagree with that.

But you didn't take any advice from Mr Baird about that?---I don't recall taking advice from him, no.

30 You didn't take advice from anyone else about that?---Not that I can recall, no.

Can the witness be shown Exhibit 56. You see now this is a letter that was sent to Mr Giangrasso. Did you receive the same letter?---I don't recall receiving a letter similar to this, no.

And you saw yesterday a letter in relation to Mr Child dated 2006. Do you recall that?---I do recall it, yes.

40 Did you receive one in 2006?---I don't recall, but probably not.

Why wouldn't you receive one if it was being sent to employees?---With respect, in relation to the staff at Council, they are my employees. I had issued an instruction to our HR group that my employees be issued with this notice. If I had been issued with a similar letter from my employer, who are the elected Council, I would have responded.

Well, that's what I'm trying to explore with you, whether you consider yourself bound by Council policy?---Well, I think I answered that.

10 In relation to the secondary employment policy, do you consider that applies to you or do you only rely on the terms of your contract?---I rely on the terms of the contract principally and also the policy. If the Mayor of the day or the elected Council were to impose that policy in a question or a letter form to me then I would respond to it. But, but this particular letter and the other correspondence that was sent over a number of years to my employees, were instigated by me.

And you don't send it to yourself in essence?---Well, I didn't, it wasn't meant to be extended to me in that instance. It was meant to be extended to the staff that report to me.

20 So is it your position that unless Council specifically says we want you to consider yourself bound by a particular Council policy, then it doesn't apply to you it only applies to your employees?---No, no, it, no, I have an understanding in my contract and, and also with the policies at Council that if in relation to secondary employment, if I were to take on or attempt to take on secondary employment, my first step would be to seek approval of the Council. I did not consider the activities, the activities that I was involved in with the Befaro group as employment.

You see I'd suggest to you that the hours of work, that is, the activities you were engaged in for the Befaro conflicted with your work duty didn't they, that is, - - -?---I disagree.

30 - - - during the course of your working day when the ratepayers of Burwood Council could properly expect you were devoting yourself to their interests you were devoting yourself to your personal interests. Would you agree? ---I'd disagree. I, I spent a considerable amount of my time in what I would think, most reasonable people would think is personal time working for Burwood Council matters.

Can I show you this policy? This is the email and internet policy?---Yes.

Do you consider yourself bound by this policy?---At the moment, yes.

40 And during the course - you see this one's dated December 2008. There was an earlier version wasn't there?---I'm not sure, I can't recall.

You don't know?---No.

All right. Well, if it can be returned?---Counsel, just for the record that policy there was instigated by me.

Thank you. I suggest to you that you were at all times aware from February 2008 through to October 2008 that when Mr Child was at, being paid by Burwood Council on occasions he was working for Befaro or for the units. Would you agree?---No.

And that when he put in timesheets without any time extracted from his time that he'd spent on the units they were false timesheets and you knew that didn't you?---I had no knowledge of the timesheets that he was putting in.

10 That's not the question is it?---Beg your pardon?

I said to you that wasn't what I asked you was it, Mr Romano?---I don't know - - -

What I asked you was this. You knew that Mr Child was putting in timesheets that did not remove from it the time he was spending on the units during his working day?---No. No.

20 And you'd discussed that with him hadn't you?---No.

And you'd approved him doing that hadn't you?---No, absolutely not.

And you were aware were you not at all times that some Council staff were working on the units during Council time?---No, that's not correct.

And you had authorised and directed - sorry, I'll withdraw that. You'd authorised Mr Child to organise that hadn't you?---No, that's not correct, that's not right.

30 And you were fully aware at all times that that was happening and you directed him to do that. Would you agree?---No, absolutely not.

You knew that Mr Barry Webb attended there with a Council backhoe during working hours and perform work at the units? You were aware of that weren't you?---No. No.

And you directed Mr Child to do that?---No.

40 And you knew at the time that it happened didn't you?---No.

And you knew that Mr Giangrasso was performing work at the units during time when he should have been working for the Council?---No.

And that he travelled there and worked during paid Council time. You were aware of that at the time weren't you?---No.

And you directed Mr Child and Mr Giangrasso that that should occur?---No.

And you were fully aware at all times?---No.

And you knew that when Mr Giangrasso put in timesheets without deleting the time he'd been working at the units that they were false timesheets and you knew he was doing that didn't you?---No.

And you directed that he do it?---No.

10 You were aware that Mr Issa worked on the units on 7 and 29 February, 2008?---No.

And that during that time he was being paid by the Council and you knew that at the time didn't you?---No.

And you directed that Mr Child do that, organise that work?---No.

And that you knew when Mr Issa put in a timesheet without extracting that time that he was putting in a false timesheet to Council?---No.

20 And you directed that that occur didn't you?---No.

And you knew that Ms Helen Cet went one afternoon to clean the property didn't you?---No.

And that she took some Council equipment to do so?---No.

And that she cleaned the property and was paid by Mr Child?---No.

30 And you later repaid Mr Child for that amount?---On 31 October I met with Mr Child regarding costs for tradespeople that he introduced and I, I can't recall exactly but there may have been a cleaning cost in that set of payments that were made.

Thank you. And you're aware that Mr Giangrasso worked at the units in his own time, that is, on weekend time?---I did find out at one point, yes.

And he was paid for that?---My understanding is that he was paid, yes.

40 And Mr Vadala was paid?---I understand that Mr Vadala was paid as well.

And that was out of the Befaro funds?---All payments were made out of Befaro funds.

And you were aware that Mr Saad undertook some work during the course of the day when he should've been working for Burwood Council?---Not aware of that.

And you knew that at the time?---No.

And you directed Mr Child that that should occur?---No.

And you knew that when Mr Saad put in a timesheet that it was a false timesheet - - -?---No.

- - - and you directed that that occur at the time?---No.

10 And you were aware were you not that Mr Child was spending a significant amount - sorry, I'll withdraw that. That Mr Child was spending time during the course of his working day on the affairs of Befaro in terms of the renovation of the property?---My understanding was that he was doing that in his own time.

Well, you knew didn't you during the course of 2008 that there were concerns about the hours that Mr Child was working?---Absolutely.

20 You were aware were you not that there had been occ' health and safety issues raised about the fact that he was working day after day 18 hours a day?---I'm not sure, not sure about the number of hours but yes, there were concerns and I was aware of them.

And that was around the middle of 2008 wasn't it?---I can't recall exactly but it probably would've been around about mid 2008, yes.

And he was working on what I understand is known as the Railway Parade project?---That was one of his projects, yes.

30 And that was causing a lot of work to be done from the depot?---Yes, absolutely.

And there was pressure on it to finish it quickly?---All projects are required to be finished within a particular timeframe and that was no different to any other one.

Was there pressure on it to finish it before the election?---It was expressed to me by a number of the councillors that they would've liked to have that project finished by, before the election, yes.

40 And did you consider that setting an election date was an appropriate date to work a capital project around?---Just because an elected member expresses that doesn't mean that, you know, that's a major factor in our decision making process. It's, projects are scheduled, they're programmed, they're on a capital budget, some work can be done during normal working hours, some projects require night work. Railway Parade is a (not transcribable) road under the RTA specifications or categories, got a large number of vehicles that run down Railway Parade and it caused or the fact that the

number of vehicles that use that road caused a lot of work to be done at night.

So it wasn't just to speed it up that it was done at night?---No.

Well, you knew he was working very long hours for some period you'd agree?---There's one thing I can't criticise Mr Child on and that is his work ethic - - -

10 That isn't the question, Mr Romano?---And yes, he was working very long hours for a long period of time.

Mr Romano, if I could just ask you to listen to the question and respond to it, sir?---Yes, counsel.

You're being unresponsive. You were aware he was working long hours for Burwood Council and being paid for long hours by Burwood Council?
---Yes.

20 So when did you think he was doing the work for Befaro?---The award and the Council practices require him to have breaks. I was aware he was doing shift work and it was my assumption that in his breaks he would dedicate some time to the assistance that he'd offered.

You were aware that he was working extremely long hours?---I was not aware that he was working 18 hours a day but I did know that he was working long hours, yes.

30 And is it your serious evidence to this Commission that you thought during his breaks while working these very long days that he was doing the Befaro work?---The understanding I had with Mr Child was that he was assisting us with the provision of tradespeople which at worst would've required him to have made some phone calls, coordinate quotes between those people and, and the Befaro agents. I don't think that that is an excessive amount of work to be done on a break but - - -

So is your answer yes?---Sorry, I - - -

40 Is the answer yes?---Could you ask the question again, I'm not sure what I'm answering yes to. I think you asked me that you think that - - -

I'll just move on, Mr Romano. He had a set of keys, didn't he?---I believe he was given a set of keys, yes.

Well, you knew that at the time, didn't you?---Which time are you referring to?

From February 2008 through to October 2008?---No, I wasn't aware in February, possibly some time after that I was aware, yes.

And he let you in on occasions, didn't he?---No.

You met him there on a number of occasions, didn't you?---I would have met with him there, yes.

10 You met him there on a number of occasions, didn't you?---Well, I can't recall how many times I met but it would have been - - -

Well, do your best. How many do you recall meeting him there?---Maybe up to half a dozen over the few months.

And I suggest to you that when you met him there it was during the course of a normal working day, would you agree?---No.

20 And you were aware, were you not, that he was, one of his jobs was to let tradesmen in the property?---No, I wasn't aware of that.

Well, why do you say he had a set of keys?---I believe that at one occasion he was, well, maybe one or more occasions he was letting tradesmen in to provide quotations. They needed to see the units and they needed to get an appreciation of the work and he may have met them there. I don't know when he met them there.

So he'd have to be there to do that, wouldn't he?---I said yes, he would have had to have been there, yes.

30 Excuse me for a moment. Now, you completed, you were required, were you not, to complete a pecuniary interest declaration?---Yes, that's correct.

And you completed one in 2005 and one in 2007 and 2008?---(NO AUDIBLE REPLY)

I'll just show you the 2007 one. I handed to you your 2007 and your 2008, just to save time. That's your handwriting?---Yes.

40 So you completed this yourself?---Yes.

And you said earlier, did you, that you took some advice at some stage about completing it?---In 2008 prior to completing my return, it might have been 2007, I, I sought some advice, yes.

And that was from Mr Baird?---I rang him, yes.

And that was personal advice, wasn't it?---No, it was in regards to filling out the pecuniary interest form which is part of my job.

So you considered that that was part of your job?---Well, filling out the pecuniary interest form was part of my job, yes, I'm a designated officer of Council and that's a requirement, yes.

For your personal matters, isn't it, you are required to set out your position. Is that what you understand it to be, you're required to disclose certain matters?---I'm required to disclose any interests I have, yes.

10 And you'd agree that in 2007, July 2007, you didn't disclose under property, under real property, Befaro?---I couldn't - - -

187 Edwin Street?---I didn't consider the Befaro property as a direct interest of mine.

So the answer's yes?---So yes, that I didn't fill it in, didn't put it in the real section, yes, real property section, yes.

20 And I, you see there, discretionary disclosures?---Yes.

Is that what Mr, Mr Baird, did Mr Baird advise you what to put in that? ---We had a discussion about the type of words that could be used, yes.

And so you wrote this, did you, on the basis of his advice?---Yes.

Thank you. And you'll see that the 2008 one, you see there's two pages and then there's another two pages, do you see that?---Yes.

30 And that's August 2008, it has the same words. Did you re-consult Mr Baird or did you just copy it from the previous year?---No, I, I, I used my previous year's form to replicate.

If I could tender those documents.

ASSISTANT COMMISSIONER: Yes. They'll be Exhibit 102.

40 **#EXHIBIT 102 - MR ROMANO'S 'DISCLOSURES BY COUNCILLORS AND DESIGNATED PERSON RETURN' FORMS FOR THE YEARS 2007 AND 2008**

MS RONALDS: Did you consider that Mr Child's role was that of a project manager?---It's my belief that, that the words project manager are probably too prescriptive for what he was doing.

Well, how would you describe what he was doing?---He was helping us in obtaining tradespeople for the purpose of activities at Befaro. Project

managing has a, a greater role and a vast number of other duties attached to it in my mind.

And you didn't pay Mr Child any cash, did you, for the work he did?
---Well, I don't believe he did any work at the Befaro units other than assist us with quotes and obtaining tradespeople but he wasn't - - -

10 So you don't consider that work?---Well, I, I suppose one could consider it as work but in my mind he was a friend. He was helping me out as a friend so I didn't consider it as work, no.

Well, he was the maintenance supervisor at the depot?---Yes.

20 How do you say that he was such a close friend he would spend hours doing duties or jobs for you as a friend? How do you, how do you describe the relationship as being that close?---He, we were friends. We, we talked about many things throughout the time that I frequent with him. I didn't believe that he was doing hours of work at, at the property. Had I known that that's what he was doing I, I would have intervened.

Well, how did you think the work was getting done? You weren't doing it?
---No, but there were three, three people involved from the Befaro point of view which were the agents and it was my understanding that myself and the other two agents would coordinate activities as required to get the jobs done. I had no idea that he was spending that kind of time at the property.

30 Mr Romano, I'll ask you over lunchtime to review the emails that are the exhibit I said to you and I would suggest to you on a fair reading of those emails you were fully appraised of what Mr Child was doing on a day to day basis because you were giving him the directions on how to do it?---Well, I don't think they were directions on how to do work at the property. They were directions in terms of obtaining trades and coordinating trades in and out and they're on occasions where I asked him to pick him up some of the materials before and after work. I don't consider those actions as being doing work at the site. Work at the site means physically nailing nails into a bit of plasterboard or timber or excavation.

40 All right, well, just let me stop you there. I don't want to go back to the transcript, we don't want to trouble the transcript person. If I said work at the site, I think I said work on the site and I'd suggest to you organising the people to be there is work for the site, isn't it?---Yes.

Yes?---I would agree with that.

And Mr Child was undertaking a significant amount of work for the site, would you agree?---He was doing a, a fair amount of work, yes (not transcribable).

And a fair reading of the emails shows that you were giving him directions about who to ring, what to do, whether that quote was too high, et cetera. You were fully apprised of what he was doing, weren't you?---I'll respond to your first part of the question, yes, there were emails exchanged of that sort. There were many emails exchanged between the agents and Mr Child throughout a number of months. In terms of what he was doing at the site, no, I wasn't aware of what he was doing at the site, other than what I had thought he was doing which was to coordinate trades and maybe drop off the odd material here and there.

10

Mr Romano, I suggest to you that that's just simply untenable evidence, isn't it? You well knew what he was doing because you were telling him what to do?---I wasn't telling him what to do in relation to work at the site. I was communicating instructions in relation to coordination of trades and quotes and maybe picking up the odd material.

That's right, that's what he was doing, wasn't it?---Yeah, I don't deny that. That, that - - -

20

And you knew he was doing it because you were telling him to do it?---In regards to those emails and, and what I've just described, yes, but not in terms of doing physical work at the site, no.

Well, I'm not suggesting he did any physical work?---Well, it's implied.

Well, he did do some physical work, didn't he? He made a garden?---Well, I'm aware of it today and in the last week or so, yes, I wasn't aware at the time.

30

So how did you think the garden magically appeared?---(NO AUDIBLE REPLY)

How do you think it got there, Mr Romano?---Well, I, I'm trying to give an answer which is tempered and correct. There were discussions with Mr Child about landscaping on the site. He said that he had a tradesperson that could do that work. Time transpired between the first time I spoke to him and the next time I was there. It could have been two or three weeks. When I went to the site to see the works the landscaping had been done so in my opinion he had organised a tradesperson to do what we were talking about.

40

Well, did you ask him who was the name of the trades person?---I did. On two occasions.

And how much you owed him for doing that wonderful work?---Absolutely, I did.

And how much did you pay for that work being done?---I can't remember what the, whether it was on the 12th or the 31st, but there was about thirteen hundred dollars paid for that work.

For the garden?---For the garden and the landscaping, yes.

That included the cost of the plants didn't it?---Yes.

10 And what do you say was the labour component?---Look, I'm going on past experience it would've been a fifty, fifty split.

You don't have any recollection, you're just guessing?---I'm guessing. I don't know.

You hold a high degree of animosity towards Mr Child now don't you?---I don't believe that the words that you're using are quite right.

20 Well, you're angry with him?---I'm upset with him. I'm disappointed with him. I'm disappointed that I've been put into this situation.

And you blame him for that don't you?---No, I blame myself.

I suggest to you that you're angry with him and you would say anything against him. Would you agree?---I'm not that type of person, counsel. I am disappointed in him, I'm upset with him, but I won't belittle myself to do things like that.

30 Well, Mr Romano, I'd suggest to you that Mr Child didn't know anything about the surveillance of the Councillors did he?---Sorry, could you just explain - - -

The issue of the surveillance of councillors had nothing to with Mr Child did it?---I don't believe so.

No. And the issue of the surveillance of Mr XXXXX had nothing to do with Mr Child did it?---I'm not sure where you're going with the questioning.

40 Well, just answer the question?---I don't see how that had anything to do with Mr Child.

Don't worry about where I'm going? No. Thank you. You blame him though the fact that you're sitting in the witness box don't you?---No. I blame myself for being here. I made some poor choices.

Poor choices in friends?---Poor choices in some of my decisions. I take people on face value, so - - -

Well, what I suggest to you Mr Romano is that you in fact are a person who tells lies on frequent occasions. Would you agree?---Counsel, if anyone stands here and says that they've never lied or don't lie, then I would say they're a liar. I'm a human being. I do tell lies. I do make mistakes. That's what we are.

I'd suggest to you that you tell lies to cover your tracks whenever convenient. Would you agree?---I don't believe so.

10 Do you recall the, that you put some three statements into this Commission, and we looked at one earlier?---Yes, I do recall those.

And the one in relation to Befaro is, is, I'll just show you this one, signed by the three of you?---Yes.

That is Mr Fasanella, Mr Becerra and you?---Yes.

Now if you say you had, I understand your position is you had no legal interest in the units?---Yes.

20

So why did you think it was appropriate that the three of you sign a document to come to this Commission about Befaro?---Because what's said in those statements relates to activities that the agents were involved in. And the directors of the company may not have been privy to some of those activities or discussions, so it was more appropriate for the agents to sign the statement.

And the directors haven't signed the statement. Is that correct?---I don't believe so.

30

It's only the three people who aren't directors?---That's correct.

And I'd suggest to you that indicates that you had an interest in the property. Would you agree?---No, we had an interest in that statement and what was said in that statement.

All right. Well, I'll show a copy of it. And again in an endeavour to shorten this, I suggest to you that paragraphs 6 to 14 contain false statements and false accounts of conversations between you and Mr Child.

40

Would you agree?---No, I disagree.

And paragraphs 15 to 18, sorry, paragraph 16 is a false account of a conversation. Would you agree?---No, I don't agree.

And that the conversations from 32 on about the receipts et cetera are partly correct and partly not correct. Would you agree?---Well, can you clarify which parts are correct and which aren't?

All right. Well, the conversations with Mr Child, I suggest to you are not an accurate rendition of the conversations. Would you agree?---In, in my mind, it's my belief that that discussion as printed is the best recollection of what occurred, yes.

Now you've seen some texts that were sent. Have you had a chance to look at those?---Not in detail, but I saw some of them, yes.

10 And you agree that you sent those texts?---It would appear that they were text messages that I sent, yes. I'm not sure about dates and times and so on, but the words seem right.

And so you agree that, and what I'd suggest to you is this, that you used to text Mr Child when you knew he wasn't at work because you knew that it was only when he was at the depot that he could have access to the computer and the email?---No, that's not right.

20 Well, why do you say you texted him on some occasions?---Because I was in and out of the office quite a lot. I, I have an iPhone and my, my iPhone has email ability as well as other functions. There were times where I sent him a text message where I might've been out of the office. I didn't have a lot of time to deal with the type of issues that were going on at the time, so it was just easier to send a text message.

Now this statement doesn't include, sorry, I'll go back a step. Do you agree that you met with Mr Giangrasso in January?---No.

And that you gave him Mr Becerra's phone number?---No.

30 You say that didn't happen?---No. Not, not the way you're describing it. If you'll allow me some leeway and I can explain what happened.

Could you just answer the question, please, Mr Romano?---No, I didn't - - -

Did you meet in January with Mr Giangrasso?---No.

And did you give him Mr Becerra's phone number?---Not to my recollection, no.

40 And I'd suggest to you you met with him and you discussed the units with him didn't you?---No, that's not right.

And you gave him Mr Becerra's mobile phone number?---No, I don't believe that occurred.

Did you give Mr Becerra Mr Giangrasso's phone number?---I can't recall if it was me or Mr Child that gave Mr Becerra that number. But there was a meeting between Child, myself and Mr Becerra. I think it occurred at the

units, in fact, I'm fairly certain it did occur at the units because we were showing him the property. And it's possible that either I or Child might've given Mr Becerra the phone number. I don't, I don't recall whether I had his number at the time, so I'm not sure.

See, I suggest to you that happened later. That is that you gave Mr Becerra Mr Giangrasso's number in late January, 2008. And you didn't do it through the conduit of Mr Child. Would you agree?---No.

10 Mr Child in fact was on leave in late January and - - -?---That's correct.

- - -I'd suggest to you the evidence shows that Mr Giangrasso and Mr Becerra had a number of telephone calls. Do you remember that evidence?
---I remember the evidence but I spoke to Mr Child when I got back to leave, which was around about the middle of January. He told me that he was going on leave. In that discussion, the reason he told me that was because we were talking about the possibility of him providing a gyrocker for the units. I, I had a chat with him and I said to him, look, you know, I'm having problems with getting trades people. And he offered to, to help out.
20 He did say to me at that, at that discussion that he wouldn't be around and that possibly Joe Giangrasso could assist. And that he would organise Mr Giangrasso to, to get in touch either with me or somebody about that. I'd expressed that Mr Becerra was actively involved in the site and it would be more appropriate for that discussion to occur with him. And that's what took place. Child went on leave. He didn't come back until I think early February and at that point in time, we met at the site, Child, myself and Becerra.

I'd suggest to you that your recollection is flawed and that Mr Child had
30 nothing to do with the initial stages of contact between Mr Giangrasso and Mr Becerra. Would you agree?---No, I don't agree.

And that it was you who gave Mr Becerra Mr Giangrasso's phone number following a conversation you had with Mr Giangrasso?---I can't recall if I did or not but I'd say probably not.

Can the witness be shown Exhibit 71. The calls start on 22, between, the calls initiated by Mr Becerra to Mr Giangrasso, were you here when that evidence was given yesterday?---Yes, I was here, yes.

40 They don't start with Exhibit 71 until the 22nd and I'd suggest to you that it was on or about the 22nd that that phone, those phone calls started?---It appears that from the records you're showing me.

And I'd suggest to you that it was on or about the 22nd that you provided the number to Mr Becerra. Would you agree?---I can't recall how Mr Becerra came into possession of Mr Giangrasso's number. But in terms of the timing, in terms of the timing it appears to be, you know, in sync with what

I've just told you and it's possible that Mr Child had discussion with Giangrasso and that contact between Mr Becerra and he occurred some time after that, yeah.

And Mr Becerra recalled that you gave him the number and for reference that's page 829 of the transcript line 37 if Mr Becerra recalled that you gave him Mr Giangrasso's number then it's likely he's correct isn't it?---It's possible, yes, I didn't say that I didn't give him the number I just can't recall.

10

If I could tender the document headed Protected Disclosure Befaro Pty Limited.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 103.

#EXHIBIT 103 - DOCUMENT TITLED 'PROTECTED DISCLOSURE – BEFARO PTY LTD' – DATED 4 MAY 2009

20

MS RONALDS: Now, when Ms Kate McClymont rang you on or about 3 April, 2009, that is, the article was in on the 4th, you spoke to her on the 3rd didn't you?---That's sounds about right, yes.

And you made certain statements to her?---We had a robust discussion, yes.

And it's correct isn't it that before you spoke to her you spoke to Mr Becerra?---I can't recall whether I spoke to him first or whether she rang. I can't recall.

30

Well, what I'm suggesting to you is that you spoke to him first before you spoke to her. Do you recall?---No, I don't recall whether I spoke to him first, no.

And what I'm suggesting to you is this. That you and he then worked out what your response would be in relation to the units?---No, that's not right.

Well, do you recall that you in fact - sorry, I'll go back a step. Could the witness be shown Exhibit 62?---Yes.

40

You see there's a quote, see under, in the second column along it starts Tony Fasanella but then goes, and it purports to be you, "The unfortunate thing for me and I'm being very, very honest with you I've got nothing to hide here is that these people ended up on a property that I'm part owner in." Do you recall saying that to Ms McClymont?---I can't remember if they were the exact words but it sounds about right.

Well, so then on 4 April you considered yourself a part owner. Is that correct?---They were words in response to questions she was making. I think that from a legal point of view that wouldn't stand up.

“The Council staff should've declared to him they were undertaking secondary employment.” So you considered that that was an issue that they needed to attend to?---Sorry, did you say that the staff needed to - - -

Mmm?---Yes, yes, I do believe that's the case.

10

And you say, “I don't know why it was that Albert wasn't told by the staff that these people were Council staff, I never entered into that discussion.” So what you're doing is blaming Mr Becerra for what happened. That's correct isn't it?---Ms Ronalds, Ms McClymont quoted the words as she wanted to quote in this article, there was a robust and lengthy discussion with her and my words - - -

So did, Mr Romano, please?---I'm trying to answer your question.

20

You're not trying to answer my question?---Well, I am.

You're trying to give us a lecture all the time. Would you please answer the question? Do you say you didn't say that to Ms McClymont?---My words were taken out of context, they were twisted - - -

Do you say you didn't say it?--- - - -and they were placed in an article to suit her story.

30

Do you say you didn't use those words with her?---I don't remember the exact words I used but the words have been taken out of context.

Well, do you say you did not use those words?---I'm saying that the intent of my discussions with her has not been expressed in this article properly.

That's not what I'm asking you is it, Mr Romano?---Well, I (not transcribable) your question.

40

It's a very simple question?---I said the words looked like the type of words I might've used but they were taken out of context in terms of the article.

And what you're doing on those words is blaming someone else?---No, that was not my intent.

But you well knew that you'd been sending Mr Child a lot of emails about how to do the work and what to do. You knew that didn't you?---I knew exactly that I was doing that and I've expressed my view on those emails. I haven't denied that.

Well, it would be difficult for you to deny the existence of the emails wouldn't it, Mr Romano?---If I wanted to hide those emails I wouldn't have sent them on a work computer.

Well, you had to send them to Mr Child at work didn't you, that was the only email address he had?---Well, if I wanted to hide this issue I wouldn't have sent him any emails.

10 You never thought anyone would come looking did you, Mr Romano?
---With my experience of the Commission I knew that the Commission could come looking anytime. The fact is I had no reason to hide this.

The fact is you thought you could do what you liked didn't you? You thought you were the boss and you could tell people what to do and no one would stand up to you because if they did you bullied them. That's what happened isn't it?---No, it's not.

20 And you thought you could direct the depot staff to be your workers to do your work for your personal interests and you weren't worried about being found out were you?---Absolutely not.

Because you thought you'd intimidated everyone within the place so that no one would stand up to you. That's the reality isn't it?---No, it's not.

Because everybody who did take you on was isolated, ostracised and dismissed. Would you agree?---No, I don't agree.

I notice the time, Commissioner.

30 ASSISTANT COMMISSIONER: Yes. All right. We will adjourn until 2 o'clock.

LUNCH ADJOURNMENT

[12.59pm]