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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 8 JUNE 2010

AT 10.05AM

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

ASSISTANT COMMISSIONER: Thank you. Please be seated. Mr Hullick, if you could go back.

MS RONALDS: Whilst he's doing that, following a conversation with Mr Blake after the conclusion of the hearing yesterday and while I don't agree with the point I'll tender an email from Mr Todd Neal to me dated 28 April at 5.39am to end what seems to be some confusion and I note for the record that this investigation referred to in here never went ahead because of instruction from ICAC, from this Commission, that it not go ahead and so it came to nought.

ASSISTANT COMMISSIONER: Yes. The email from Mr Neal dated 28 April, 2009 will be Exhibit 300.

**#EXHIBIT 300 - EMAIL FROM MR TODD NEAL TO MS RONALDS DATED 28 APRIL 2009 RE APPOINTMENT**

MS RONALDS: Mr Hullick, how do you define the term conflict of interest?

MR EURELL: Sorry, Commissioner, it's remiss of me but the declaration hasn't been made again today as far as I heard.

10 ASSISTANT COMMISSIONER: The form of declaration we make now covers all of the evidence that a witness gives during the inquiry so there's no need to make it every time the witness returns to the box. The intention is that it will cover the entirety of the evidence.

MS RONALDS: We'll just start again like that didn't happen. How would the define the term conflict of interest?---Something that, that conflicts in the, in the work you are doing with, with, with the way the, with the way the operation, with the way the operation works that might influence it some way to or might be seen to, to, to be of some advantage to yourself or  
20 somebody else and without making some sort of formal declaration that is sort of some, some conflict.

And you understand didn't you that the reason you were appointed as Acting General Manager in relation to the Cummins Harmers letters was because there was a conflict of interest in relation to the General Manager?  
---Yes.

And what did you identify as the conflict of interest arising for the General Manager in relation to that matter?---Because the General Manager was in a  
30 situation, had been in a situation with Mr Cummins for quite some time in relation to his employment, in relation to his performance and for that reason he separated himself as well as the fact that Mr Cummins mentioned things in his letter of, Harmer letter of whatever you want to call it, in that particular letter that mentioned his, mentioned, you know, it was all, it was all to do with, all to do with him.

Well, it was a bit more than a mention wasn't it?---Yes.

It raised serious allegations - - -?---It did.

40 - - - about the conduct of the General Manager?---That's correct.

Some of which you now understand had a solid foundation?---Yes.

And at that time you didn't understand that?---No.

You understood that it was more than just the near that you were the Acting General Manager and that Mr Romano should have nothing to do with it? You understood that didn't you?---Yeah.

Because you understood there was a very substantial conflict of interest from Mr Romano having anything to do with the employment status of Mr Cummins - - -?---Mmm.

10 - - - due to the nature of the allegations made by Mr Cummins?---That's correct.

And so that was what was important wasn't it that Mr Romano needed to be quarantined from the issues in relation to Mr Cummins?---That's correct.

And that didn't happen did it?---Well, pretty much did, yes.

I'm suggesting to you that decisions made about Mr Cummins were made in consultation with Mr Romano. Would you agree?---No.

20 So you take responsibility, sole responsibility for matters which were, for example, initiated by Maddocks in pursuit of property to be returned from Mr Cummins?---Through, through Mr, through Maddocks and through HR and myself, I was the, I was the one that, yes, yes, that's correct, yeah.

30 Can the witness be shown Exhibit 155 please. Mr Hullick, if I could ask you when you receive it to turn to page 43. And this letter sadly is missing the second page and it just never, despite multiple copies of tonnes of documents has never resurfaced but you'll see there, do you have page 43, it should be a letter dated 22 June from Ebsworth's?---24 June, yes.

Oh, well, the typed date's the 22<sup>nd</sup> and - - -?---Sorry, yes, yes, sorry, yeah.

- - - the stamped date's the 24<sup>th</sup>. Do you see that, from actually from Ebsworth's not from Maddocks, I withdraw that?---Yes.

To Harmers?---Yes.

40 Seeking return of documents of a, a USB drive and 50 blank Sony DVDs? ---Yes.

Did that happen on your instruction?---I would have discussed that with, with HR.

Did that happen on your instructions?---It would have happened in consultation with, with Ebsworths, yes.

You knew Mr Cummins was ill?---Maybe, yes, I wasn't, I wasn't 100 per cent sure that he was very ill but I understand now that he may be but I, I

didn't necessarily believe that he was, he was that ill. He was quite okay a fortnight before he went off but, you know, but I mean that happens to people so I, I didn't sort of consider that he was that ill.

Had you seen the medical certificates he was putting in?---He was putting medical certificates in, yes, they got a bit, a bit more serious later on but - - -

10 This is June so he's been gone for several months. He went in the middle of February?---He also made some claim that anything that, that he was suffering from would be immediately remedied by Mr Romano leaving.

Just leave that aside for a moment?---Yeah, well, that was just my opinion and I, I didn't think he was, I didn't think he was that ill but, again, maybe I was wrong.

So what, you thought his doctors were foxing when they signed the medical certificates saying he was unfit for work?---Well, yeah, possibly, possibly.

20 Well, that was a pretty serious thought, you were in charge of the matter, what did you do about that?---I didn't do anything about that.

You instructed the workers compensation insurers to fight the claim for workers compensation?---That was done through, through HR.

You were in charge of the matter, Mr Hullick?---Yes, yes.

You accepted responsibility for the fact - - -?---Yes, I accept responsibility for that.

30 - - - that the workers compensation claim was resisted?---Yeah, which is, and it was refused, yes.

And do you now understand that Mr Cummins was genuinely unfit for work?---Yes, I believe so now, yes.

And that the views you may have held at the time were invalid?---Well, I didn't, to my mind they were correct at the time.

40 On the basis of nothing other than just your personal view?---Yes.

In the face of what his medical practitioners had advised the Council in the form of medical certificates?---Bearing in mind that his workers compensation claim was refused.

Partly refused because of the documents you provided, would you agree? ---I don't know what the, what the process is with the, with StateCover but I wasn't involved in that side of it.

Well, we'll turn to some documents in a moment. You knew after Mr Cummins went on leave that Mr Romano wanted to get rid of him, didn't you?---(NO AUDIBLE REPLY)

That is, he wanted to terminate his employment?---Mr Cummins and Mr Romano had been having quite some serious run-ins if you like for the previous 12 months so that was quite a possibility.

10 Mr Romano made it clear to you, didn't he, that he wanted Mr Cummins out, that is, to no longer be employed by Burwood Council?---Yes.

And when did he first convey that to you?---No, I can't remember that.

After he went on leave, when he went on sick leave, mid-February, 2009? Was it after that or before that?---Probably after that.

And he said it to you in a direct way?---Yeah, I suppose, yeah, pretty much, yeah.

20 Were others present?---No, I can't remember.

Did he state it to you on more than one occasion?---No, probably not.

You understood that that was what he wanted?---Yeah, I think so, yes, I think that was probably the case, yes.

And one of your jobs as Acting General Manager in relation to Mr Cummins was to achieve that outcome, wasn't it?---Well, Mr Cummins had already indicated that he didn't want to come - - -

30 Mr Hullick, please - - -?---Sorry.

- - - just listen to the question?---Yeah.

One of your functions as the Acting General Manager in relation to Mr Cummins was to achieve the end of the employment relationship with Mr Cummins, wasn't it?---It was to resolve the matter with Mr Cummins.

40 And one of the ways you endeavoured to do it was to send a letter about the IT issues with a threat at the end of it to his employment?---There was a letter, yes.

We'll just go through that process. Can the witness be shown 242. Now, you're not responsible for the IT area, are you?---No.

And so your involvement in relation to this letter came about solely because you were the Acting General Manager in relation to Mr Cummins?---Yes.

And when I say Mr Cummins I'm just using shorthand for the issues arising that were put in the Harmers letters and which had to be addressed by Council?---Yes.

But we don't have to do that every time, okay?---Ah hmm.

So are you a member of the IS cross functional team, sorry, I've gone completely blank?---I was, I was a member but I didn't attend, I hardly ever attended any of the meetings. I might have - - -

10

No, you don't seem to have much of a presence in it - - -?---No, no.

- - - and I say that without being rude. Are you a nominal member, are you?---Yeah, mmm.

If you could turn to, you've been given a volume?---Yep.

20

This is, you understand Mr Romano's put in a series of statements and this one's about Mr Cummins. If I could ask you to turn to tab 25. Have you got tab 25 there?---Yes.

It's an email from Romano to Baird and Gardner dated 24 March?---Sorry, I might have the wrong one, 26 - - -

25 sorry, 25?---25.

And attached to it - - -?---This is an email to everyone are you talking about?

30

No, it's tab 25?---Yes, yes, sorry.

You got that? Now, do you remember whether you saw this at the time? There's issues attached to it. It's not addressed to you, not, this particular version isn't sent to you but, and then there's a note attached to which (not transcribable)?---I probably did see that from Matthew Walker but no, it's not, it's not sent to me I agree.

40

No, it's not sent to you but I just wonder whether you recall seeing it. If you could turn then to tab 26?---Yes.

You see that that's an email from Romano to Baird, Gardner and various other people but not you about IT investigations, do you see that?---Yes.

And it raises the issue with Baird and Gardner about writing to Mr Cummins, do you see that in the covering email and that's from Mr Romano?---Yes.

So that that seems to be the first record anywhere of the suggestion of the letter that flows through and becomes your letter of 24 April, do you see that?---Yes.

Now, did you have any discussions with Mr Romano prior to 24 March about the idea of sending Mr Cummins a letter about IT issues?---No, no.

So you had no input into this proposal?---No, I can't remember that, no.

10 But you ended up being the one who carried it through because later, I think it was 28 March, you were made the Acting General Manager?---Yes, I signed the letter. That's correct.

And if you could turn then to tab 27?---Yes.

Do you remember seeing this at the time?---I did read this report, yes. I can't remember what's in it, but I did read it.

20 And that's dated 30 March, so that's some time before 24 April isn't it?  
---Mmm.

And did you attend any meeting at Maddocks about this matter?---No, I can't remember that. I don't think so, no.

There seems to have been a meeting, but you don't seem to have been there?---No. No.

Would that be correct?---That could be correct, yes.

30 Can the witness be shown Exhibit 155, please. I'm sorry we're going to have to jump two, just leave that one open. Oh, you have 155?---Yes.

And if I could ask you to turn to page 60?---Yes.

Now, that's the letter you signed?---Yes.

See on page 62?---Yes.

40 Dated 24 April?---Yes.

Now there was a process that went on before that wasn't there, of getting some advice from Mr Gardner about the contents of the letter?---That's correct. Yes.

And if, and you produced yesterday and provided to the Commission an email and a letter with what's called track changes marked on it?---Yes.



If the witness can be shown Exhibit 298. If I could ask you then to turn to page 3 of that bundle, though they're not numbered, but the third page in, it starts at the bottom and it appears Mr Macklin prepared the first draft. Do you see that? And he's sending it on 23 April at 7.00 to Mr Gardner, copied to you and Mr Dencker?---Yeah, I think they would've prepared it between them, yes, I, that's correct.

And did you have any input into the letter at that stage?---No.

10 And then Mr Gardner replies, if you flip over to the second page. He replies on the 24<sup>th</sup> at 10.31. And then you make some suggested amendments at 12 o'clock. Do you see that?---Yes.

So you have input into the letter at that stage?---That's correct.

And then you say, see about above then at 2.26, following my previous draft, I've now had some additional feedback from Ian, meaning Mr Dencker, I assume?---Yeah. Yes.

20 And perhaps should be incorporated, see additional comments, et cetera?  
---That's correct.

And that's the copy that's attached isn't it?---Yeah.

(not transcribable) a draft letter - - -?---Yeah. Yeah.

- - - that you provided to the Commission yesterday, that's - - -?---Yeah, I'm pretty sure that's it, yes.

30 That's, that's the track changes and when it says in green is that the - - -?---  
The shaded area.

- - - the shaded area on the second page?---Yeah. Yeah.

So that was Mr Dencker's contribution was it?---Add in, yes.

40 And then what's been inserted, if I could ask you to turn to the third page of the letter is, as the director responsible for information services, your written response to these issues is vital. Do you see that? The second last paragraph?---Yes.

And then should you fail to respond, it will be taken into account as to whether Council can reasonably continue your employment?---Yes.

Now you were responsible for including that material weren't you?---That came directly from Mr Gardner.

All right. But you understood that that - - -?---The wording came exactly from him, yes.

But the idea came from you?---Oh, no, I'm not sure the idea did.

Well, once you accepted it and signed it do you accept responsibility for the contents of the letter?---Yes, I do, I did. Once I was convinced that the, the legal aspects of it were covered entirely, yes.

10 You see what I suggest to you is this, that that assertion in, in the letter was out of proportion to the issue that Mr Cummins was being asked about. Would you agree? That is a failure to answer the letter could not possibly form a proper basis for the termination of the employment. Would you agree?---Well, that's in (not transcribable) with the, with the legal response that's sitting there in front of us.

Mr Hullick, please listen to the question?---Yeah, sorry.

20 What I'm putting to you is that the possibly that termination could arise from not answering a letter like this from an employee who is on sick leave is out of proportion. Would you agree? That is that it was not an appropriate thing to put to Mr Cummins?

MR EURELL: I have to object, Commissioner. The purpose of the question proceeds from illogicality. The sentence itself says it will taken into account, it doesn't say it will form the basis of, to the extent that any proposition is being put to Mr Hullick, that it alone would have constituted sufficient grounds for termination is simply not fair. That's not what the letter says.

30 ASSISTANT COMMISSIONER: Well, to me a fair reading of the letter is that termination would be considered if he didn't respond to it. How else could you read it?

MR EURELL: Well, as a, as a basis for termination alongside any other matter. That's what the letter is saying.

40 ASSISTANT COMMISSIONER: Well, I don't think that's what the letter says. But perhaps if you put to him that what was in the letter was unfair (not transcribable).

MS RONALDS: The draft letter at this point says, should you fail to respond it will be taken into account as to whether Council can reasonably continue your employment. Making it clear that a failure to respond to the letter would be the basis for the consideration of continuing or not continuing employment. Do you agree that that's a fair reading of that sentence?---Sorry, could you say that again? I just missed that bit.

Should you fail to respond it will be taken into account as to whether Council can reasonably continue your employment? It's not suggesting along with any other issues is it? It's suggesting that Council will, can reasonably continue, consider whether they'll continue the employment based on his failure to respond to the letter?---No, not necessarily. I don't agree with that.

All right. And what I'm - - -?---It's talking about this as part of it.

10 What I'm suggesting, well there's nothing about part of it is it? It doesn't say along with any other issues does it?---The issues that are raised in the letter, not the failure to respond.

Should you fail to respond. It's pretty clear isn't it Mr Hullick?---I don't agree with that. My reading of that is that the issues that, the issues in the letter are serious. The issues that were raised in the, in the report are serious and the response would then assist with, with whatever, with whatever direction Council wanted to take in relation to the issues. Not the fact that you don't answer the letter.

20

ASSISTANT COMMISSIONER: Mr Hullick, that's completely contrary to the clear meaning of what is there. I mean at the time you must've understood what that sentence was meant to convey. It doesn't say anything else about other issues, this will be taken into account with other issues? ---Well, I'm sorry, that's the way I read it. The issues, issues are serious it says. And the failure to respond will be taken into account. Sorry, but that's my interpretation.

30 MS RONALDS: See, I suggest to you the only reason that these last two paragraphs were included in this letter to Mr Cummins was because he'd made a complaint against the General Manager. That's correct isn't it? ---No.

And it was a reprisal for what he'd done wasn't it?---No.

That is you were looking for a way to get rid of him from Burwood Council employment and you were seeking to use this avenue. Would you agree? ---We were looking at all the issues relating to the, relating to the IT and the whole, the whole division that Mr Cummins controlled.

40

Is that answer to the question?---Oh, sorry. Yeah, we were looking at all the issues.

I understand that. Mr Hullick, if I could ask you to listen to the question and answer it rather than talk about something else. Okay. Mr Gardner then gave you some further comments on 24 April at 2.51. You then sent him back the final, asking for any final comments and then at 155 page 60 to 62, is the final letter that was sent to Mr Cummins. Do you see that?

---Yes.

Now, the letter was hand-delivered to Mr Cummins at his home, that was your decision?---I don't know whether it was my decision or, or HR's decision. It's, it's reasonably normal sort of practice to, to make sure that the person that has to respond to a particular letter actually is known to have received it so - - -

10 You well knew that he was legally represented at the time?---Yes.

And you well knew that he was on sick leave?---Yes, I knew he was on sick leave.

Did you consider that it was inappropriate to have a letter hand-delivered to him at home when he had legal representatives?---I didn't at the time.

Well, that was an important matter to think about, wasn't it?---Possibly.

20 Did you exercise any care at any stage about Mr Cummins and his status?  
---As I indicated earlier, I didn't think that he was necessarily that sick. I thought it was a, basically a, a strategy for him to get what he was, what he requested in his letter of 16 March or whatever it was.

Did you send a similar letter to Mr Ernie White?---Mr Ernie White wasn't, wasn't working for Council.

Did you send a similar - - -?---No.

30 - - - letter to Mr Ernie White?---No.

Why not?---He was no longer working at Council.

Well, he was the person who had supposedly not performed, wasn't he? That was one of the fundamental issues that was being looked at?---In the, yes, possibly, yes.

40 Well, there's nothing possible about it, is there? That was what had happened, the performance of Mr White was in question, wasn't it?---I think it had been. I think Mr Cummins and Mr White had had some, had some problems, yes.

Mr Hullick, could you please listen to the question. It was the performance of Mr White that was one of the two critical issues in your letter, wasn't it? ---It was the performance of Mr Cummins in relation to his responsibility as the director.

It was the supervision of Mr White that was one of the critical factors, wasn't it?---Yes, it probably was, I'd have to read the letter again, yes.

And what I'm asking is why was no correspondence entered into with Mr White and your answer is because he'd left?---Mr White had left some months before. Yes, I, I wasn't, I wasn't asked to chase up Mr White at all, Mr White had already gone.

And was there any discussion with anyone in HR and yourself about following up with Mr White?---No, I can't remember that.

10 To give him a chance to say what he might want to say about what was being said - - -?---No, I - - -

- - - about the issues raised by Mr Phegan?---Unless Mr Phegan did that, no, I didn't, no.

And then there was a reply, now if you could go back to 242 which is the Henry Davis York folder and go to tab 28. Do you see that, and turn to the second page?---Yes.

20 There's a email from Mr Macklin to Mr Gardner and to yourself dated 5 May at 8.51. Do you see that?---Yes.

Now, Mr Cummins was required to reply by 4 May at 5 o'clock?---Yes.

And did in fact do so but at the time that Mr Macklin sent this it appears he didn't know that. Do you understand that to be the position?---I think that's the position, yes.

30 And did you see this email before he sent it?---No.

And I'd suggest to you it accurately reflects the situation at the time, would you agree?---Yeah, that sounds like the conversation that probably was held between Mr Gardner and Mr Macklin, yes.

40 Well, the second-last paragraph, "You would also appreciate that Les and I will be under pressure to terminate his employment in accordance with what we said in our letter." Now, that pressure I'd suggest to you was coming from Mr Romano, wasn't it?---Early on I've said that Mr Romano did say that he didn't want Mr Cummins back in the, in the office, that's correct.

And so when Mr Macklin is saying we'll be under pressure, that pressure was from Mr Romano, wasn't it?---Well, according to Mr Macklin it was, yes.

And you understood that Mr Romano wanted to find an avenue to terminate Mr Cummins' employment?---Yes.

And then it turned out that Mr Macklin had jumped the gun and if you then turn to the next few pages you'll see there is a detailed reply from Harmers?  
---Yes.

Do you see that?---Yes.

And you saw that at the time, didn't you?---I would have read it, yes.

10 And what I'm going to suggest is that then nothing happened about that issue, did it? That was the end of the matter. Mr Cummins wrote back, there was never a final report done by Mr Phegan?---That's the report of Mr Phegan that you have here but - - -

Yeah, that's 30 April, that's written long before any input from Mr Cummins. What I'm suggesting to you is that after - - -?---Oh, a report after that, yes.

20 Mr Cummins puts in his reply on 4 May, nothing happens to the issue?  
---No, I think this was all put on hold then because of this inquiry coming up so, yeah, you're right, nothing happened, yes.

And nothing happened, has happened since, has it?---No.

And you say that's because of this inquiry?---Yes, it was all put on hold, yes.

30 This is early May, there was nothing from this Commission about any IT issues to warrant putting it on hold at that stage, was there?---I thought there was, I thought there'd been some dialogue between ICAC and, and Maddocks in relation to how we, we could progress some of these matters, if we could or if we couldn't and this, this matter was going to be progressed earlier but ICAC stepped in and said they didn't want us to do the other inquiry, for want of a better word, so, yeah, it was put on hold, yes.

And it's never progressed, has it?---No.

40 Now, if the witness could be shown 252 and there's two bundles and the bundle of exhibits at the back. If I could ask you to turn, when you're given the bundle, to the third last page and to go back a step, it was clear to you from 6 April, wasn't it, that Mr Child had been one of the persons who'd spoken to Ms McClymont and caused the Sydney Morning Herald articles to come about?---I suspected he was one, I said earlier that I thought that it probably came from Mr Cummins but - - -

I understand that's your view but at the time did you also identify Mr Child?  
---I thought there's a possibility that he was, that he was one of the other ones. There was a few other possibilities as well that, that haven't been mentioned by I certainly thought that he was one, yes, possibly.

And you understand Mr Child has given evidence it was him?---Yes, yes, I know that now, yes.

And there's not a shred of evidence that Mr Cummins ever spoke to Ms McClymont in, in this inquiry, is there?---No, not that I've seen no.

10 And Mr Romano made it clear to you, didn't he, that he didn't want Mr Child back in the workplace?---I'm not, I'm not so sure about that. I, I didn't get involved too much in the, in the depot, the depot stuff even though I was on that, on the CFT. I more or less took direction there from the people that were intimately involved in that particular process but I think there was a general feeling that, that, you know, Mr Child was, was a bully and, you know, that he, he was out of his depth but, but generally I, I didn't have a, didn't put my mind to a great, a great deal to Mr Child at all.

20 What about Mr Giangrasso. Did you turn your mind to his role?---No. I, I, I barely knew Mr Giangrasso. I probably met him a couple of times at a couple of our social things and probably, you know, hardly, no, no, I didn't really, didn't really know much about him at all.

All right. Well, if you could turn to the third last page of the bundle you've been given?---252?

Yes, 252?---This big one?

Yes. Sorry, I'll (not transcribable) everything else up in a minute and - - -?  
---Third last page.

30 It should be an email, the first one is dated probably 12 June. See there's an email from Macklin to Azer, HULLICK, Dencker, Romano and Wilson?  
---Yes.

And do you remember receiving this email at the time?---It's marked to me. I probably would've, yes.

40 And Mr Macklin is putting forward ideas about what should happen if Child and Giangrasso wanted, present themselves as fit for work and what Council should do. Do you see that?---Yeah.

And that reflected, didn't it, discussions that had been had at the Executive about what should happen if that should arise, that is, if Child and Giangrasso wanted to return to work?---I'm not sure that happened at the Executive. There probably was some talk about it but - - -

Well, if not at a formal Executive meeting - - -?---No.

- - - there was discussions amongst members of the Executive about a strategy was needed, wasn't it, to keep them out of the workforce, out of the workplace, sorry?---Yeah, I think there was a genuine belief that they were, they were pretty disruptive in the workplace and there was, my sort of read on it was that there were sort of two camps at the depot. One camp was sort of praying that Child and Giangrasso didn't come back and the other camp was sort of probably ambivalent about it so that's sort of my, my understanding but apart from that I didn't have a great, great deal to do with it.

10

But Mr Romano, I suggest to you, had made it clear that he didn't want them back as it were, at the depot, would you agree, by June - - -?---Yeah, he probably did, yeah, mmm.

And so you don't seem to have responded to this email. Would that be correct?---Probably, yes.

20

And if the witness can be shown Exhibit 241 and perhaps if you shut up all the ones you've got and we'll clear those away. Sorry, you're drowning in paperwork. If you could turn to page, and I see there's some tiny little numbers down the bottom on the - - -?---Yeah, yeah.

If you could turn to page 9. I mean it starts actually at the bottom of page 8 and this is the David and Darren email. Do you see that?---Yes.

Now, you've read that during the course of these proceedings?---Yep.

30

But you received it at the time - - -?---Sorry, I better make sure that's - - -? ---Yes.

See it says, "I have", second paragraph down. "I've met with the Executive, Hullick, Dencker, Azer and it's Council's preferred position that if either of these employees, Cummins and Child, attempts to return to work they are to be suspended." Do you see that?---Yes, I see that.

40

And that reflects, does it not, a meeting that you were at and a decision you were party to to develop a strategy to keep Child and Cummins out of the workplace?---Yeah, possibly. It, I, I, I don't remember that meeting. I, I, when I think I saw this before I, I, I've got no record of a meeting on 29 June that occurred with the Executive and there's no Executive minutes for that particular meeting.

So it could have been an informal meeting?---If it was it certainly would've been an informal meeting, yes.

But you don't disagree with the fact that at some stage that was a decision made by the Executive?---Well, as I say, I'm not sure it was a decision made by the Executive but it could've been an informal meeting, yes.



Well, you received this email. You don't write to anyone and say, hang on, that wasn't a decision, we didn't decide that?---No, I didn't. Well, I don't think I did, no.

And that, what I suggest to you, it accurately reflects the view of the Executive as at 29 June, would you agree?---Yeah, possibly, mmm.

10 Well, it says Cummins, "Currently Council has asked Cummins to respond to issues of maladministration and to date his responses have been unsatisfactory." Now, we've looked at the Harmers letter in reply dated 4 May which is a detailed response. You were in charge of the Cummins matter. Where do we find your assessment or an assessment you commissioned that permits that view to be formed about the Harmers letter?---There was some discussion about that but I, I can't now remember, "to respond to issues of maladministration and to date his responses have been unsatisfactory." I, I'm not sure, are we talking about the same, the responses in relation to the, the IS report? I'm, I'm, I'm not sure.

20 Well, was there something else about maladministration that had been put to Mr Cummins and his response was unsatisfactory?---I can't remember, no, I can't remember that.

The only issue, as far as I know, that had been put to him apart from the return of \$100 worth of property was the 24 April letter to which he responded in detail on 4 May. Now, you were Acting >General Manager - - -?---Yeah.

30 - - - in charge of the Cummins matter?---That's right.

What I'm suggesting to you is that this summary is unfair, would you agree?---Yes, I think I'd probably agree.

Well, you don't - - -?---I, I, I didn't, I didn't write that, I didn't write that sentence but yeah, it's, I mean, we didn't, from my recollection we didn't look at the responses in any details because everything was put on hold so I suppose it's probably a bit unfair to say that the responses were unsatisfactory without actually analysing that.

40 Well, completely unfair, isn't it?---Mmm, yeah, probably.

You're asking for advice from Mr Gardner about suspending him for something that was not an accurate statement of the facts. That's what happening, isn't it?---Yeah, I suppose you could read it that way, yes.

And in relation to Mr Child advice is being asked about "Mr Childs", which, there is only one of him, "has made numerous phone calls to the Sydney

Morning Herald journalist" so certainly Mr Macklin, reflecting the view of the Executive team on 29 June, was of the view that Mr Child had made numerous phone calls to Ms McClymont. Do you see that?---Yes.

And advice was being sought about whether that was an appropriate basis upon which he could be suspended?---That's right, yes.

And I would appreciate if you could liaise with both Ian, that is Mr Dencker, and the General Manager. Now you're not included in that?---No.

10

But as far as I can tell from the documents you're still purported to be the Acting General Manager in charge of the Cummins matters. Was that your view of your role by 29 June?---I'm not sure when the, when the Cummins matter was put on, on ice, if you like. But, yeah, I was, the Cummins was, was my, in my area and not so much this other stuff.

20

Well, it's pretty clearly about how to suspend Mr Cummins isn't it? That's what the advice has been sought?---That's, yeah, and I, and I've already agreed. I think that's, you know, that's a bit unfair if the responses had not been, had not been looked at. It was put on hold, yeah.

No. I understand that, but I've moved on to another issue?---Oh, right.

What I'm seeking to explore with you is why is it and did you do anything about this, that you're meant to be the Acting General Manager in relation to the Cummins matter, but it is not suggested that Mr Baird should liaise with you, ie, he should only liaise with Dencker and Romano?---Yeah, well, that's true. It probably should've been separate, yes. It should've been separate, but (not transcribable)

30

But you would've been the real Acting General Manager in the relation to Cummins. You should've been in there shouldn't you and not the, not Mr Romano?---Yeah, well I can't, as I said, I can't understand that sentence really, because I think the matter was put on hold so I can't see why we were, why it was being progressed at all.

Well, just turn over the page, forward, page 8?---Yep.

40

You'll see Mr Dencker after for the legal advice incorporates this matter, that is, a possible suspension. Do you see that?---This is on page?

8?---8.

Do you see the email at the bottom of the page? The second bottom one from Dencker?---From Dencker to - - -

Gardner?---Gardner?

Ah hmm. Hi Darren, being Mr Gardner, please ensure that the legal advice you're providing incorporates this matter. This matter being the suspension or a strategy for suspension. Do you see that?---Yes.

And then up the top Romano says, gentlemen, please ensure that all these matters are endorsed by you prior to action being taken. And you're one of those people who are being asked under the (not transcribable) of gentlemen. Do you see that?---Yeah.

10 What did you understand you were meant to do then?---Yeah, well, as I said, I, certainly not, certainly not to progress the Cummins matter.

Would it be correct to say that by 29 June you'd given up any thought to be Acting General Manager in relation to the Cummins matter?---No. As I said it was put on hold so there was no, there was nothing, there was nothing more to do in relation to Cummins.

20 Will you please listen to my question, Mr Hullick. Is it by 29 June, that you thought that you were no longer Acting General Manager in relation to the Cummins matter?---Yeah, well I suppose I was if there was nothing to do. Yeah.

And when do you say the nothing to do arrived?---When we got advice from, when we got advice that we weren't to progress the Cummins matter. And I can't pick the date of that, whatever the date of that was.

And that was advice from this Commission was it?---I, I think so, yes.

30 But you don't remember - - -

ASSISTANT COMMISSIONER: This email, sorry?---Sorry?

This email, this email is discussing progressing the Cummins matter isn't it? It's discussing suspending him, grounds for suspension?---Yeah. That's an email from Mr Macklin.

40 Yes. Well, they (not transcribable) to be the results of a meeting with you and that, doesn't it?---As I said, I, I didn't, I don't remember that meeting. I'm not saying that it didn't, it certainly wasn't a formal meeting and I had a look and I couldn't find any reference to, to an Executive team meeting in that morning. And I've already indicated that I felt that what is written there is, is probably unfair because the Cummins matter hadn't progressed. So it was difficult to say the responses were unsatisfactory if nothing had progressed to see whether they were satisfactory or not. Mr Macklin was involved with, with all matters, I suppose so, I didn't see that it had anything more to do with, in relation to the Cummins matter.

MS RONALDS: When you say the Cummins matter, what do you mean?

---Well progressing the whole, the whole issue that, that had been originally raised from Cummins and the, and all the, the responses and the, the letters that were sent out in relation to the workings of that, of that whole division.

Well there were two things weren't there? One was the allegations made and the second was his ongoing employment status?---That's right.

So when you say the Cummins matter, do you mean both of those?---Yeah.

10 And you don't answer at any stage and say, hey, hang on, I'm Acting General Manager in relation to Cummins and we've been told to put this on hold. Why are we discussing suspending him?---No, I didn't respond.

There's no, I mean there's no, no email like that here?---No.

We're not missing one are we? That is, you don't take any intervention do you?---I can't remember, but, no. No, I probably didn't.

20 Sorry, I'm sorry, I didn't meant to cut you off?---Yeah.

You were aware from at least 6, sorry, 8 April that Mr Child at least had made a protected disclosure to this Commission, would you agree?---No, no, I, I don't agree with that. I mean I found out later but certainly on 8 April or whatever that date, that was just, wasn't that around about, that was around about the time that the articles appeared in the paper. I wasn't aware that he made a protected disclosure then.

30 Well, there's a specific article that says depot workers have made a complaint to this Commission. Do you remember that one?---Yes, I, I - - -

And did you turn your mind to who that might be?---Well, as I said earlier, I thought that that was probably coming from Mr Cummins. Bearing in mind that Mr Cummins was in charge of the depot up until probably six months before that so he would be well acquainted with, with the people at the depot but I did, I didn't, I probably had, you know, I mean, there was conjecturing, I probably had four or five others, four or five other people that I could have said may have been involved as well.

40 At some stage you became aware of who had made protected disclosures to this Commission. Do you agree?---Yes, yes, later on, yes, much later.

And do you recall when that happened?---No, I don't.

Well, can the witness be shown Exhibit 297. Now, if you turn to page 2 of that exhibit - - -?---Yes.

Do you see there's a letter, Les and Ian, an email sorry, from (not transcribable) Davis. Do you see that, page 2, over the page there?---Over the back?

6 October, 2.15?---Yes.

Have you got that?---Yes.

10 And this is sent to the Independent Commission Against Corruption and sets out in detail - - -?---Yes.

- - - advising the Commission about Giangrosso, Child and Cummins?  
---That's right.

Do you see that?---Yes.

20 So that certainly by October you knew who they were, that is, that there'd been protected disclosures from those three people?---Yeah, I think it was - - -

But you knew a lot earlier than that, didn't you?---No, I'm not sure that I knew a lot earlier than that but yeah, I probably knew a bit earlier than that, yes.

Well, I suggest to you by May you were aware that three protected disclosures had been made, sorry, protected disclosures had been made by those three people, would you agree?---No.

30 Now, in terms of the 24 April letter, can the witness be shown 155?---That's the 24 April one, that's the Cummins one, is it?

Yes?---Yes, yes.

Now, if you could just turn to page 71?---71.

40 Well, actually, turn to page 69 and you'll see it's a letter to Cummins from StateCover. Do you see that? And as I understand it these letters are sent to the employer as well. Would you agree with that?---They've probably, yes, I, I presume they are, yes.

And you see this is setting out his rights under the dispute review notice and it's dated 18 February, 2010. Do you see that, on page 69, have you got that?---I've got page 69, I'm just looking at the date, 18 February, 2010, yes.

And if I could ask you to turn to page numbered 71 then?---71, yes.

You'll see documents relevant to this review and decision and you'll see the fourth, the third block down - - -?---Yes.

- - - is your letter of 24 April?---Yes.

And that's the letter we've been looking at about IT?---That's right.

10 So you provided that to StateCover as a relevant document you said to take into account when they were assessing the workers compensation claim for Mr Cummins?---That appears to be the case.

And that's a document submitted, as I understand the way it's set out, by you but what doesn't seem to have been submitted is the 4 May reply, do you see that's not listed anywhere there?---No, I can't see it, no, that's right.

And to be fair to Mr Cummins, it would have been fair to give not only your letter but his reply, wouldn't it?---Possibly, yes.

20 Because otherwise one could get a distorted picture, would you agree?  
---Yes, possibly.

And if I could ask you then to turn to page 75, there's a letter dated 25/6/2009, so this is much earlier, do you see that?---Yes.

And that's about again the dispute review notice and if I could ask you to turn to page 76 you'll see that your letter of 24 April is a document relied on to dispute Mr Cummins' claim?---Yes.

30 Do you see that?---Yes, I see that.

About halfway down the page?---Yes.

But there's no reference to his reply dated 4 May, is there?---No, not that I can see.

And again it would have been fair, wouldn't it, if you were providing your letter to StateCover to also provide the reply?---Possibly but I didn't, I didn't compile this but yes, I agree.

40 Well, the document was provided by Council to StateCover, that's how it got there?---That document, yes. My letter, my letter, yes.

Yes, and you were in charge of the Cummins' matter, you were the Acting General Manager so you must have been responsible for forwarding it to StateCover, would you agree, whether you physically did the act yourself or not?---I, I didn't forward it. It, it was obviously included as part of the workers compensation matter but - - -

And you were responsible for the conduct - - -?---Of the letter.

- - - of, of the Cummins' matter, weren't you?---Not the workers compensation.

So where you say you were Acting General Manager in relation to the Cummins' matter including his employment status, do you say you, you weren't responsible for workers compensation?---Well, the, the workers compensation was, was undertaken by HR and through, through StateCover.

10

Mr Hullick, do you understand that someone had to be responsible for the decisions made and HR is not, unless there was a deviation from your Acting General Manager-ship?---(NO AUDIBLE REPLY)

Was there? Was there somewhere another document that I don't have that says Mr Hullick is Acting General Manager in relation to Mr Cummins except for WorkCover matters and they are now the responsibility of HR? ---Well, all WorkCover matters are the responsibility of HR.

20 Yes, and you remained at all times the Acting General Manager in charge of the Cummins' matter?---That's right.

And I'm suggesting to you that while HR may have conducted the correspondence et cetera you were ultimately responsible, do you agree? ---I didn't see my role as being involved in any decisions on workers compensation.

So you're disagreeing?---(NO AUDIBLE REPLY)

30 Is that right?---Yes.

Can the witness be shown 281. Can the witness be shown Exhibit 281, shall I risk going back a step when I've found the document (not transcribable). You see this is an email dated 29 May, do you see that? ---Yes.

And it's, issues for discussion with ICAC and you see it's version 3, input from Les, Khaled and Ian, that would be the three of you, and it addresses Giangrasso, Cummins and Child. Do you see that?---Yes.

40

So what I'm suggesting to you is at least by 29 May, 2009 you were aware that those three people had made protected disclosures to the ICAC, would you agree?---No, I didn't know. I, I, I mean I was, I suspected but I certainly didn't know.

Well, why did you think that you were revising a document involving those three out of the 100 employees of Council?---Again, weren't these, weren't we told that we weren't to progress these matters?

Don't worry about that, just look at the document. You've had some input into it according to the front of it and it addresses only those three people and all I'm suggesting to you is that by 29 May you were well aware that those three people had made PDs to this Commission, do you agree?---Well, I certainly thought Cummins did and yes, I, yeah, probably.

10 Because otherwise why would you be producing this document covering just those three people, not the whole depot for example?---Because these were three matters that were, that were, related to other things that had occurred from, from early on. There was, there was serious complaints about Mr Child and Mr Giangrasso. There was a movement by Council to try and resolve some matters at the depot, the Cummins' matter where there was a, there was a need there to progress those, to progress that matter, that's, you know - - -

And that's why you thought you were doing this document?---Well, certainly, yeah.

20 Have you still got Exhibit, if you could just shut that up, have you still got Exhibit 155 there?---I don't think I have. I think I gave that back. I'm sorry, yes.

You've got it. If you could go to page 35?---Yes.

You see that's, and then behind it is a report on a search of Mr Cummins' computer, laptop computer, do you see that?---Yes.

30 And as I understand it you authorised that search. Is that correct?---Yeah, I probably did.

And do you say it was your idea or was it Mr Romano's idea?---I'm just trying to think why, why we were looking for this, looking at this.

Well, point 1 of the letter says the search of Cummins' computer did not identify any emails or documents or documents indicating that Cummins' communicated commercially sensitive and privileged information outside of Council. That appears to have been what the objective was?---Yeah, yeah.

40 Whose idea was it to do this search?---I can't remember now where that came from.

Well, was it yours?---I'm not sure, I'm not sure.

Was it Mr Romano's?---No, I can't remember Mr Romano talking about it.

But this was done because Mr Cummins had made complaints against Mr Romano, wasn't it?---I, I, I just don't know whether this, I'm just trying to,



trying to grapple with what this, what this is all about because it could've been to do with, it could've been to do with information in relation to invoices and the use of these so-called outside consultants that appear not to have, could've been something to do with that, about the - - -

Well, just turn to page 38 and look at the last paragraph. What was concerned was Mr Cummins has communicated confidential commercially sensitive and privileged information outside of Council including possibly to his lawyers, his legal representatives. Do you see that?---Yeah.

10

It was a very focussed search (not transcribable)?---Yeah, yeah, yeah. I can see that now.

Had nothing to do with the other IT - - - ?---No, I can see that now, yes.

It was, it arose solely because Mr Cummins had made a complaint which included serious allegations against the General Manager and this was an attempt to try and, to adopt the vernacular, dig up some dirt on Mr Cummins, wasn't it?---I don't know.

20

Well, it's being sent to you and somebody authorised the expenditure of Council funds on this matter?---Yeah.

And that was you, wasn't it?---It probably was, yes.

And why did you think it was a valid exercise to expend Council funds on this review?---Yeah, I, I suppose it was just seeing, well, really just getting, getting some decent background on Mr Cummins, what he might have been doing, yeah, to - - -

30

You were trying to find out some bad things about him, weren't you? ---Yeah, there was a lot of, there was a lot of, there was a lot of discussion about various things that had happened in, in the IT area.

ASSISTANT COMMISSIONER: This doesn't seem to be about the IT area, Mr Hullick?---No, no.

It seems to be about finding out what he's told his lawyers or if he's been telling tales out of school about the Council. Wasn't that the whole purpose of it?---I, I suppose, yeah, the way it probably is there, yeah, yeah, but he'd already told Council everything that he, he'd told his lawyers, surely.

40

Well, I don't know, Mr Hullick, I'm trying to find out what (not transcribable) - - -?---Yeah, I, I, I, sorry, I just don't, I just don't remember, I can't remember the whole, the, the detail of this at all.

MS RONALDS: See, I suggest to you it was not proper expenditure of Council funds, would you agree?---No, I disagree with that.

And that it was trying to find things on Mr Cummins solely because he'd made a complaint against the General Manger, would you agree?---No, I disagree with that.

ASSISTANT COMMISSIONER: Well, what was the proper purpose of it, for Council?---As I said, I, I can't, I can't recall at the moment.

10 Well, if you don't know what it was meant to achieve how can you say it was a proper use of Council funds? You don't even know what it was meant to achieve?---Well, I didn't believe at the time it was inappropriate.

MS RONALDS: Just give me a moment. Sorry, Mr Hullick, I'm (not transcribable). Now, you could just close those matters up. Do you have responsibility for providing the answers to the Section 22 notices issued by this Commission, do you agree?---Yes.

20 And just explain the processes you undertook in relation to that responsibility?---When I received the Section 22 notice I, I got, well, I mean, obviously I got as few a people involved as I possibly could and I contacted the various people that might be associated with it, for instance, if it was a whole host of phone things or a council, whatever, I'd get the, those people involved. If it was to do with HR matters I'd get those involved. If there was individual things like diaries or whatever you'd have to obviously ask the people that, that had those particular items. So that's generally how it sort of worked.

30 Are you able to explain how it is that Mr Romano is able to produce a significant body of documents that properly came within the 9<sup>th</sup> June, 2009 Section 22 notice which have not been produced by the Council?---That he's produced in the - - -

During the course of this inquiry?---Well - - -

He's produced a number of documents that had never been produced by the Council but clearly came within the Section 22 terms. Now, there's two parts to it?---Yeah, I - - -

40 Do you, can - - -?---Yeah.

- - - can you explain to the Commissioner, I'm sorry, I'll go back a step. You understand that Section 22 notices are very serious documents?---Yes.

There's two issues. One is, how is it that the documents weren't produced by Council and the second is, how is it they are in Mr Romano's possession so that he can produce them but Council failed to, and that was your responsibility as the person in charge of the Section 22 notices. So taking them one at time?---Yeah, okay, well, yeah, okay.

How is it that significant documents were missed by Council and not produced to this Commission?---Well, I don't know which documents were missed. I mean, it was, it was very, we were, we were as thorough as we could possibly be. The only suggestion I have that any documents that were asked of Mr Romano that he didn't, he said he didn't have them but - - -

10 Well, I'll show you this document. This is just one example and there are a vast number and I don't want to waste the time of the hearing to pursue this matter but if I could show you this document?---Yeah.

Now, this is one document that has been produced by Mr Romano and it's in the confidential bundle at tab 20 for those who have 245?---Yeah.

But it was never produced by Council. Do you see that? Now, it clearly fell within the terms. It's an email from Mr Romano on 5 April, that is the day after the Sydney Morning Herald articles - - -?---Yeah.

20 - - - asking Mr Azer and Mr Macklin to provide him with a whole series of documents and then it's Mr Macklin's response. Do you see that?---Yeah.

And attached to it are a whole series of documents?---Yeah.

30 Can you explain to the Commissioner how it is that this document was not produced to the Commission by the Council?---I'd have, could I have a look at the Section 22 notice just, on this particular one so that I could, it might jog my memory because, I mean, there'd be no reason why, there'd be no reason why we wouldn't produce every document that was asked. We'd have no reason not to produce the documents. I haven't seen these documents before.

That's what I'm trying to explore with you. How is it that Mr Romano has documents that he can produce that weren't produced by the Council?--- Well, maybe - - -

40 There's two parts to it?---Sorry. Well, maybe he had them on his system but we didn't have it on the general, on the general system maybe. I don't know, I don't, there would be no reason whatsoever why we wouldn't produce documents that we were asked to produce. We went, we went over and over and over them and I had people working overtime, weekends going through miles and miles and miles of vouchers, emails going back years trying to get, make sure that we covered everything. We've got, we'd have no reason not to.

Can the witness be shown 158. Well, that's what I'm trying to explore is how it could've happened and this is just one example as I say there are a vast number of others?---Yeah.

I just want to give you an opportunity to explain if you can?---Yeah, okay. It's the notice.

This is the first big one?---The big one, okay. Yeah, yeah. Yeah, that's right, I remember this was a massive, massive job.

This was the first one?---Yeah, yep, okay. And what you're saying is that - - -

10 This or later ones - - -?---Some of these documents weren't produced.

Yes. Well, this document that I've given you was never produced. I'm sorry, I have to go and get the ones that it does relate to but just take it for a moment that it does come within one of the 22s?---The, the - - -

I'm just trying to explore with you what your understanding is of how Mr Romano has accessed the documents that, that you as the person in charge of 22s don't appear to have?---I, I, I don't know, I can't answer that.

20 Did you ask him for all his documents?---Well, we searched right through the system, I, I didn't specifically ask Mr Romano for, for - except for documents that he had to provide. I didn't specifically ask him for anything else because everything's, I presume everything's on the system that we had.

Do you recall when he was taken off the system? I assume he's now off the system?--- Oh - - -

30 Sorry, is it correct he's now off the system?---Yeah, that's right.

I'm assuming that's correct?---Yes, that's correct, yes.

And he was taken off prior to his termination wasn't he?---Around about that time I believe, yes.

You weren't in charge of that?---No.

So you don't know when that happened?---No, no.

40 So not belabour it. Is the answer that you simply don't know?---That's correct. I mean, I thought I bent over backwards to make sure that everything that ICAC asked for they were given. As I said I had people working weekends, nights trawling through things, trawling through them again to make sure that we got everything we could possibly get and, and with the volume of, of stuff that was required there was always going to be the odd chance that something would be missed but, you know, that sort of stuff I, I can't see why that would be missed quite frankly.

That's why I'm intrigued?---Yeah. And, you know, it certainly was never, certainly was never any intention of Council not to provide every, everything that we possibly could. We had no reason not to do that.

If I could tender that document.

ASSISTANT COMMISSIONER: This email from Mr Macklin dated in April will be Exhibit 301.

10

**#EXHIBIT 301 - EMAIL FROM MR MACKLIN TO MR ROMANO DATED 6 APRIL 2009**

MS RONALDS: Can the witness be, perhaps everything that he's got removed and, now, I wanted to show you a series of emails which concern Mr Cummins', and this is what we were looking for a minute ago, Mr Cummins' Centrelink application and the Council's response to that. Do you recall that issue?---(NO AUDIBLE REPLY)

20

If you go to the end - - -?---Mmm.

- - - when one puts it all together what happened was Mr Cummins applied for social security - - -?---Yes.

- - - that is for sickness allowance because, if you could just listen to me for a moment?---Sorry.

30

He'd been on sick leave, he'd run out of sick leave, he had no income, his workers compensation claim had been disputed by Council and then by StateCover and so he applied for sickness benefit. Do you recall that?---I think I can remember something about that, yes.

And Mr Romano writes an email, if you go to page 2 of the document I've just handed you?---Yes.

40

And he sends it to Mr Macklin also but he includes you in it, "How is it possible for Mr Cummins to receive social security benefits when he's still employed by Council." Do you see that?---Yes.

So you were still the Acting General Manager in relation to Cummins, did Mr Romano discuss this with you at the time - - -?---No.

- - - before, just wait, before he sent this email?---No, no, I don't - - -

It should have had nothing to do with him, should it?---No.

That is, by 13 July you say things were on hold but there's no document that revokes your Acting General Manager-ship, if we can call it that and then Mr Macklin replies, "From my understanding he's able to claim benefits, he's not getting paid"?---Yeah.

10 Romano says, "That doesn't make sense. What do the lawyers say?" Now, you then send it to the lawyers. Do you see that? You then put in a detailed reply of some four or five paragraphs?---Yeah, I think I was asked to see how much leave and that he had, we'd just see if he wanted to, you know, without reading it, I better read this first before I - - -

What you're trying to do I'd suggest is stop Mr Cummins from receiving the sickness benefit. That was your purpose, wasn't it?---No. He's, he got 15 days, he had 15 days accrued, accrued sick leave there and I'm saying he should be paid for that.

20 It's pretty clear that Mr Romano considers that he shouldn't be able to get sickness benefit, isn't it, from what he's saying?---From what's he saying, yes.

Yes. And you were following up on that, weren't you?---I was talking about the sick leave.

And a car but you send it to Mr Gardner, you're responsible for that?---(NO AUDIBLE REPLY)

30 Why did you consider that it was a proper expenditure for Council to seek legal advice about whether Mr Cummins was entitled to receive a Commonwealth social security payment?---I'm not sure I'm saying that there.

Well, it's pretty clearly what Mr Romano wants, isn't it and - - -?---Yeah, but I - - -

40 - - - clearly what Mr Gardner answers?---I think it was just the fact that Mr Cummins still had sick leave, annual leave, long service leave that he hadn't taken. I suppose it was just a, a thing of why is he entitled to Centrelink benefits when, you know, he, he didn't accept that he could have taken long service leave or annual leave.

Well, that's a matter for Centrelink, isn't it?---Yeah.

Well, why is - - -?---But I think I'm just making those comments about that so - - -

You were doing more than that, you're sending it to Mr Gardner and he responds?---Yeah.

Mr Gardner doesn't respond for free, does he?---No.

So you're expending Council funds to find out whether Mr Cummins is entitled to claim from Centrelink, that's what you're doing, isn't it? Isn't it, Mr Hullick?

MR EURELL: Commissioner, I have to object to that. I mean, the email clearly, it describes Mr Hullick asking whether or not Mr Cummins, and says Mr Cummins should be paid his sick leave benefits.

10

ASSISTANT COMMISSIONER: No, what it says is, "Should we advise Centrelink that he's entitled to sick leave, annual leave", the purpose of which would be Centrelink wouldn't pay him any more because he should use up his leave. Isn't that what your email's all about? If he's entitled to leave from the Council you should - - -?---He shouldn't be getting Centrelink.

- - - (not transcribable) Centrelink so that they won't pay him any more?  
---Yeah, I think that's basically what I was saying.

20

And Ms Ronalds is asking you why was Council money being expended chasing that up?---I can't remember why that was sent to Darren Gardner now but, I mean, obviously for his advice but - - -

MS RONALDS: Just an act of vindictiveness against Mr Cummins, isn't it, Mr Hullick?---No, I wouldn't say so.

Well, you've already given evidence you didn't think he was sick?---13 July I was probably starting to change a bit but yeah I didn't really, I must admit.  
30 I, I always thought that he probably wasn't near as sick he was making out to be.

ASSISTANT COMMISSIONER: Mr Hullick, when Ms Ronalds started her examination of you this morning, she asked you whether in fact Mr Romano's standing aside from the Cummins matter wasn't in fact a sham, that he'd never actually stood aside at all and you didn't agree with that at the time?---Mmm.

Do you recall that?---Yes, that's right.  
40

Now, we've seen several emails this morning which have either been initiated by him or he's been included in them about the Cummins matter. You've been referred to his statement where he says he went and had a meeting with lawyers about the Cummins matter you weren't at. It seems to me that he was never excluded or stood aside from the matter in any way at all. What do you say about that?---Yeah, he, he did aside. We're talking 13<sup>th</sup> of - - -

But how did he stand aside? He continued to be informed about it, he continued to express views about it, he continued to initiate actions in respect of Mr Cummins suggesting certain things should be written to him. How did he stand aside? In what way?---He was updated on, on where things were at at times but - - -

10 How did he stand aside?---Well, I considered that I had the responsibility to progress this matter. I, I, I considered that I had the responsibility to progress this matter so that's, what we're talking about here is after the, after the thing was put on hold.

MS RONALDS: If the Commission formed the view that this was an act of reprisal against Mr Cummins, are you saying you take sole responsibility for it?---I don't, what I've written here I, I don't consider that as a reprisal. I, I just asked the question of why if he, if he's got all this leave, how can you, how can you get Centrelink payments? And that's, that's, that's the tenure of my, of my email there.

20 ASSISTANT COMMISSIONER: And you asked - - -?---He also - - -  
- - - Mr Romano, wanting to know?---Sorry?

You asked if, because Mr Romano wanted to know?---Mr Romano sent that to, he sent it to a number of people.

He initiated this inquiry, didn't he?---Sorry, the - - -

He initiated this inquiry?---Yes.

30 MS RONALDS: I tender that document.

ASSISTANT COMMISSIONER: Yes, that will be Exhibit 302 and we will adjourn for 15 minutes.

**#EXHIBIT 302 - EMAIL FROM MR HULLICK TO MR ROMANO,  
MR MACKLIN, MR GARDNER AND OTHERS DATED 13 JULY  
2009**

40

**SHORT ADJOURNMENT**

**[11.34]**

ASSISTANT COMMISSIONER: Thank you. Please be seated.

MS RONALDS: Mr Hullick, do you still have 155 there?---No.



Can the witness be shown 155 again. I just want to take you back to the letter of 24 April and after that we will then move forward. Could I ask you to go to - page 60 is where the letter starts?---Yes.

Page 62 is where I want to take you to?---Yes.

10 You see the second last paragraph says, "As the Director responsible for Information Services to Council your written response to the (not transcribable) is vital to the IS Cross Functional Team's investigations and will assist Council in its final deliberations." Do you see that?---Yeah.

Now, Mr Dencker has given evidence about that it wasn't vital to him at all but let's leave that aside for a moment. At no stage did this Commission ever express any view about the activities of the IS Cross Functional Team and direct Council to cease any review being conducted by it did it?---Not with the Cross Functional Team, no.

20 And there was no reason therefore to stop processing this matter was there in relation to any direction from this Commission?---Except that it involved Mr Cummins.

Yes. But it didn't involve any of the issues identified in relation to Mr Cummins at this Commission did it?---My understanding was that the whole matter of Mr Cummins was put on hold and this was vital to his tenure at Council.

30 But the letter says it's about an investigation of the IS Cross Functional Team not about Mr Cummins?---Well, it is because the Cross Functional Team related to a number of matters that were the responsibility of Mr Cummins.

And he answered the letter and nothing happened with it?---Because it was put on hold.

What I suggest to you is this letter was a sham wasn't it?---No.

It was a ruse to find an avenue to sack Mr Cummins?---No.

40 And he defeated you by answering the letter and therefore couldn't be progressed any further because it was never a genuine investigation was it? ---I disagree with that.

Now, you can shut that up. In relation to the inclusion of HWL Ebsworths on the legal panel that was your responsibility. Is that correct?---How do you mean my responsibility? The Council makes that decision, yes.

Yes, but someone had to manage it within the, within the Executive and it was my understanding that that was you, is that not correct?---I wrote a brief report to Council.

Mmm?---I did that, yes, I did that.

10 And you wrote a letter to Ebsworth's (not transcribable) through it all but what did you understand was your responsibility?---My responsibility was to put a letter, put a report to Council and let Council decide if they wanted to include Ebsworths on a panel.

20 Did you take any advice, legal advice, from anyone?---I didn't take legal advice as such. There was a, a civic precinct meeting a couple of, probably a couple of weeks before where a couple of announcements were made even though I actually wasn't at that meeting but I do remember seeing the minutes where the probity auditors advised that they were going to move from Deloittes to their own probity company, for want of a better word, and Mr Baird was going to move from Maddocks to Ebsworths and that all those matters that related to the civic precinct project would all move over with those, with those people. There was an, I did see a letter from, I don't know whether it was from Ebsworths or, or Maddocks where the, there was an agreement with, between Maddocks and Ebsworths that those matters relating to the civic precinct would, were handed over, if you like, to, to Mr Baird and, and Mr Barakate when they moved over to Ebsworth's so they, Maddocks said that they would, when they move over they would take those matters with them so there was a letter that, that indicated that so I had to do a quick report to Council and I understand that Mr, Mr Baird and possibly, it might have been Mr Barakate, I don't know but certainly Mr Baird would attend the Council meeting and would explain the situation basically saying that it's really just a, a formality.

30

Did you turn your mind to the terms of section 55 of the Local Government Act?---Yes, I understand, well, yes, I sort of understand 55 of the Local Government Act.

A council must invite tenders and then certain things are set out?---That's correct, yes.

40 And did it concern you that the legal services to be provided potentially by HWL Ebsworths fell within section 55?---No, I, I didn't see that. I - - -

Why not?---Because it was something that was already being provided by Maddocks and Maddocks have all, had said we, we are happy for this particular service to go over with, with, with Mr Baird over to Maddocks, over to Ebsworths.

There's no chance for provisions in the way you're suggesting in section 55, are there?---No, probably not, probably not.

It's a statutory responsibility to invite tenders before entering into any of the following contracts and what I'd suggest to you is that if you fail to follow the provisions of section 55 in relation to the steps taken to advise the Council about adding HWL Ebsworths to the panel?---As I said, my, my role was purely, was purely to provide a report, a brief report to Council so the matter would get on the, on the business paper. Mr Baird would attend the Council meeting and would explain to the Councillors the process and then Council would decide. That was it.

10

Well, Mr Baird couldn't advise about the process, could he? He had a very direct conflict of interest?---Well, he was invited to the Council meeting.

Mr Baird couldn't have provided advice on the, on the process, could he, because he had a conflict of interest?---Well, I suppose he did, yes, I suppose.

Did you think that you needed to go to an independent firm to get some advice about how to manage the process?---No, I didn't.

20

Did you discuss that with Mr Baird at all?---As I said, as far as I understood it, the previous, the previous meeting, there was, it was talked about as just being a, a, simply a, a step that just had to, you know, just had to be taken. It was just a, a formality. I, I didn't think about it any further than that and as I said, I just provided the report to Council and I left Council to decide so I don't - - -

You're there to advise Council, they're not, they don't take things on their own initiative, do they?---No, that's why Mr, that's why Mr Baird was invited along to the meeting, to explain it.

30

But Mr Baird had a very clear conflict of interest, didn't he? It was his services that were being discussed?---Yes, that's right, yes, and, and, and that was, that was explained but because he had been involved in the precinct committee for probably four years - - -

No (not transcribable) about that, Mr Hullick?---Yes.

I'm worried about the process, what I'm trying to turn to your mind to is this: section 55 has a statutory responsibility on the Council?---That's right.

40

What I'm suggesting to you is that you can't just add a firm to the panel, that doesn't meet the requirements of section 55 and that when HWL Ebsworths purportedly were added to the panel it wasn't a valid action under section 55, would you agree?---I don't know, I'm not a, I'm not a, I'm not a lawyer. I mean, there are, I think there are provisions under section 55 for certain circumstances where that can, where that can happen.

Indeed there are. Do you say that you turned your mind to that and decided that what, it was an emergency?---Not necessarily an emergency but certainly in the best interests of Council for that, for the, the knowledge they had acquired over the previous three or four years in relation to the civic precinct be transferred over, you know, that, that not be lost so that, that was my, that was my thoughts on it and as I said, the same thing happened with the probity auditor as well.

It may give rise to more problems than it solved, Mr Hullick?---Sorry?

10

Can the witness be shown Exhibit 299. But what I'm suggesting to you is this, there was a clear breach of section 55 and that you were the responsible Council officer for providing the advice to, to Council which permitted them to make a decision that breached section 55, that's the proposition I'm putting to you?---The, the responsibility for all reports that go to Councillors is the General Manager.

And you understood that the General Manager wanted Mr Baird to remain in the capacity to provide legal advice to Council?---Yes.

20

He'd made that clear to you?---In, in relation to the civic precinct, yes.

And more generally?---No, not necessarily more generally. I, I was only, I was only interested in the civic precinct side of it. I mean, that was my, that was really my area so - - -

But the grant, once they were on the panel it wasn't limited to that, was it? ---At the end of the day I don't believe it was, no, no, I don't believe it was but that, that was certainly the intent.

30

Do you see, if you look at page 1, have you got the bundle of documents (not transcribable) - - -?---Yes, that's right.

- - - which is the lead up dated 4 June, 2009 to the General Manager - - -? ---Yes.

- - - from David Baird?---Yes.

Setting out that he's moved to HWL Ebsworths?---That's right.

40

And then if your turn over the page there's a report from the Council's legal services panel. Now, the panel already existed, didn't it?---(NO AUDIBLE REPLY)

The legal services panel already existed, didn't it, Mr Hullick?---Yes, that's right, yes.

And so this was an attempt, what happened, whether it was proper or not, but what happened was that Ebsworths were in essence tacked onto the panel after it had been in existence for some year or so. Is that correct?--- Yes, that's correct.

Now, if I could ask you then to turn to page, now, whose signature is that on page 2?---Page 2.

In the middle of the page, well - - -?---Not mine.

10

No, it doesn't look - - -?---I can't, I can't recognise it, sorry, it's not mine. I don't think it's, it's not Mr Romano's. I don't know whose it is.

I didn't think it was yours?---No.

If you just turn to the next page there's some handwritten notes on, you see it says up the top, "To ensure continuity a number of current matters are being dealt with by both lawyers, Council wishes to include HWL on its panel," and crossed out are, is, are the words "to complete those matters"?

20

---That's right, yeah.

And then down the bottom so the proposal in the middle isn't changed, though it clearly, for consistency it should've been, and then the recommendation. Do you know whose handwriting that is down the bottom?---Not mine, I don't know.

And is this, did you recall whether these changes were made during the course of the Council meeting discussion? You see, it's a report by you, sorry - - -?---Yeah, the report's by, yeah, no, I, I can't recall that, I can't recall.

30

The report's by you and then there's some changes made to it. Do you see that?---Mmm, yeah.

And then if you go over the page it's, there's the minutes record, see down the bottom of page 43?---Yes.

Up the top of page 5?---Yes.

40

In essence the changes that were incorporated, sorry, not, not incorporated, so to complete those matters and then it's resolved that the firm be added to the legal services panel and then a report be forwarded to Council regarding criteria compliance (not transcribable) all further engagement of new services. So the proposal is that the existing services will continue and then there be a proposal in relation to new services. Do you see that?---Yeah, that's right.

And that was what happened on 24 June, isn't it?---Yeah, yeah.

And then there was a further report to Council on 28 July. Do you see that?  
---28 July.

Next page?---Sorry.

And that attaches - - -?---No, I haven't, sorry, I haven't got that - - -

10 Page 6? Sorry, these are in the order that they were provided?---Page 6 is just a - - -

Cover sheet?--- - - - a cover sheet.

Yeah, and then attached behind that, do you see on page 7 is a provision, is a tender document which was closed on 16 April, 2008. It was clearly completed in June or July, 2009?---That's right, yeah, (not transcribable) that, yeah.

20 And do you know who completed that?---How, how do you mean it's completed? I - - -

It's little ticks all the way - - -?---Oh, yeah, no, I don't, I don't know, I don't know where the, where that's document's come from. I, I, I, I don't know what they mean.

Wasn't it, there was a tender that shut on 16 April, 2008?---There was, yep.

HWL Ebsworths were not in that tender?---That's correct, yes.

30 And they later, someone later completed this form, even though it was some over a year later?---I, I don't know about that document.

You don't recall who did that?---No, no.

All right. Well, then go to page 13?---Yep.

Do you agree this is a letter by you?---Yes.

40 And that sets out a series of questions?---That's right.

So that they're advised that at the meeting on 25 June Council approved Ebsworths Lawyers being added to Council's legal services panel. Do you see that?---Yeah.

And that's not quite the resolution, is it? The resolution was for existing matters and then something to happen for any new matters?---That's right, yeah.

But you don't, don't tell them about at that point, and then you ask a series of questions?---Yeah.

And then what was, and then on 28 July do you see - - -?---There's another meeting, yeah.

10 There's another meeting. And what goes before them is the proposal from HWL Ebsworths and what I've just included at pages 18, 19 and 20 for, to save trees although it might be a bit late in this inquiry, is the cover sheet, the index and the summary. Do you see that?---Yeah.

And then there was a whole pile of documents that went behind it that I haven't reproduced?---That's right, yes.

And so it seems to be that your questions are incorporated into the detailed proposal for legal services that was put by Ebsworths, do you agree (not transcribable)?---That's right, that's, that's right, that's what Council wanted, yes.

20 And that was then led to, on page 16, you see a report by you?---Yes.

The proposal being to include Ebsworths on the legal services panel? ---That's right.

But the odd thing was that that had already been decided, hadn't it, the previous meeting?---Well, yeah, except that the previous meeting was, the previous meeting was for all those matters, the resolution of the previous meeting was that before engagement on new services.

30 That's right?---Yeah. And so this report - and Council wanted a report which is this report that they got which is only a brief report but of course it had a 48 page summary or something attached to it.

And the proposal was that they be added to the panel. And did anybody, any Councillor raise an issue with you about how you add someone to an existing panel and to make sure you meet the requirements of section 55? ---They, they certainly didn't ask a question to me but Mr Maddock, Mr Maddocks, Mr Baird was certainly at that meeting.

40 Yes. But he wouldn't have been the person to ask would he?---I don't know.

Well, he had a clearly identifiable conflict of interest didn't he? The whole proposal related to the work he was generating and working with Council on it?---Yes, it's true.

It was a, if anything, a clashing conflict of interest wasn't it, that is, it was so obvious it would shine brightly?---Yeah, accept that, yeah, yeah, okay.

Well, do you agree or not?---As I said it was, it was more the, to capture the intellectual knowledge that they had from Maddocks to ensure that, you know, we, we retained that for the civic precinct. It was as simple as that. I mean that's the way - - -

It wasn't that simple was it?---Well, - - -

10 It's not limited to that at all is it?---No, this says it's not, I agree.

No, it's at large?---It is at, I agree it's large, I mean, that's obviously the decision the Council made, yeah.

And when one looks at the matters like in Mr Walker's statement that are addressed about the matters that have been briefed with but they're certainly not restricted to the Council precinct project are they?---No, Ebsworths have involved in, in a lot of other matters most, mostly relating to this particular inquiry but that's true, yes.

20 That's got nothing to do with the Council precinct project has it?---That's nothing to do with the precinct, I agree with you.

What I'm suggesting to you is this that the process that was followed was not a proper one that section 55 required. Would you agree?---No.

And that Mr Baird should not have been at the meeting as there was a clear conflict of interest. Would you agree?---I just thought it was a, no, I don't, I don't agree.

30 So do you say he had no conflict of interest?---I just thought it was more a technicality, it's, Maddocks had already said that they would transfer those matters over to, over to Ebsworths.

And that was all that troubled you. Is that right?---Yes.

40 If I could ask you to turn to page 24. See there's a letter that you write saying, "HWL Ebsworths Lawyers be included on the Council panel, that was what was resolved on 28 July."?---That's right, that's what I wrote to Council.

That was the end of the matter?---Mmm.

Can the witness be shown Exhibit 261 and return that one. Have you got that?---Yeah.

It's not the actual version that was in the Herald but it's an article in the Herald where you're quoted as saying certain matters. Now this arises as I understand it where a firm inadvertently paid Council twice for \$240,000.



Do you recall that matter?---I do recall that matter. I did a, I did an investigation of the matter, yes.

And then it says that you sent an email. See in the middle of the page just near the, you sent an email to the Mayor and Councillors last week informing them that the matter had been finalised and that a confidentiality agreement had been signed. What purpose was there to sign a confidentiality agreement when it was a simple matter of an overpayment?--  
10 -I remember being, I remember talking to David Baird about this. Off the top of my head I can't think, can't think why there was a confidentiality agreement but it was suggested that a confidentiality agreement be signed. I mean, it was clearly a, it, it, it was quite a, quite a mess up really.

Why?---Well, the whole matter was quite a mess up. It was, without going through the whole, it took me about probably two to three weeks to get to the bottom of it and, and to do a report and it was quite a, it was quite a mess. It was really a mix up on both sides.

Wouldn't it have been important for transparency reasons for that to have  
20 been made public?---Again, I took advice that, you know, there should be a confidentiality agreement. It didn't, to me, it didn't, it didn't matter all that much. It was a mess up on both sides. I, I, I, that, that was - - -

I'm trying to explore with you why you, as the person who appears to have made the decision, didn't think transparency was paramount and that a confidentiality agreement was in any way required and you have no, you can't assist the Commissioner with an explanation, is that correct?---Well, the only thing is, I, I, I didn't think it was necessary to be, to be splashing it over the paper.  
30

Well, it had already been in the paper, hadn't it?---Yeah, yeah, I didn't think, I didn't think there was any necessity for it to, to go to the paper again. It was obviously, obviously a mistake on both sides and, you know, I didn't see any point in it, in it being a - - -

For transparency reasons it would've been useful, wouldn't it, to say, well, we all made a mistake. What's wrong with that?---Possibly, yeah.

The ratepayers were entitled to know what had happened, weren't they, after  
40 the original Sydney Morning Herald article was (not transcribable)?---Yeah, I suppose they were.

But they were denied that?---Well, the ratepayers were. The Councillors were, were advised.

Now, in relation to Mr Giangrosso, you were aware, were you not, that Mr Romano didn't want him to return to the workplace?---Yes, yes.

And when do you say you first became aware of that?---Probably one of our, probably one of the, the CFT meetings. There was some belief that Mr Giangrasso was, there was a number of things he was supposed to have been doing which have all been raised here today so, not today, during this inquiry.

And you were part of discussions in the Executive about the strategy to keep Mr Giangrasso out of the workplace?---I would've been involved in that at some, yeah, would've been - - -

10

And what role did you play?---Again, I, I was, I didn't have a major role in the, in the depot, the depot matters.

I'm not talking about the depot matters generally, I'm talking about Mr Giangrasso's employment status?---Well, that would've been raised in, in, may have been raised in the, in the depot CFT I would think.

Well, it was raised, I suggest to you, with the Executive, not as part of the CFT. Do you recall that?---I can't remember it coming up at the Executive.

20

All right. Can the witness be shown 285 and 286. Do you see that's to the Executive team, that's you, isn't it?---Yes.

Do you remember receiving this email and the one below it or the substantial one below which is over the page?---I would've received it, yeah, I, I, I'd have to - - -

Do you recall receiving it at the time?---I would've been, well, obviously I was included in on the, on the email.

30

All right. Well, not to be unfair to you. Go to the next Exhibit 286 and go to page 2 and you'll see there's an email from Macklin to Baird, to Gardner, sorry, although it's addressed to David but to Baird and probably to Gardner and everyone else and then you then intervene. Do you see the one above?--  
-Yeah.

We need to send this letter out ASAP. Now, why was it that you were the person who intervene on 3 September at 4.31 in this matter? Why were you concerned about we are reaching the point of no return on this, with this matter?---That was just my, my, my thoughts, yeah.

40

But did you have some responsibility for it? Why are you sending Mr Baird emails, that email?---Well, I'm just, I suppose I was just responding to the email I received.

Well, you're not responding, are you? You're giving him instructions. Got to do it ASAP (not transcribable) ?---Well, we had to do something ASAP, yes.

You're doing much more than just reading it. You're playing an active in it. Why were you playing an active role in the matter at the time? What responsibility did you have?---That was 3 September. Well, they were basically just my comments in relation to what was happening with Mr Giangrasso. I hadn't been involved with, with him even though I had been updated on, on various aspects of it but - - -

10 Well, I'm trying - - - -?---That was just my thoughts.

I'm trying to explore with you why you thought it was appropriate to - - -? ---Well, I just thought I'd put my, my thoughts in.

Why?---Well, they just, that was just what I thought, simple as that.

And then Mr Baird answers. Do you see that?---Yeah.

20 Do you remember that, do you then discuss it with Mr Macklin?---Mmm, I can't remember, no.

Now, in relation to Mr Child, you played some role in, as a member of the cross functional team, would you agree, in terms of - - -?---I certainly attended some of those meetings, yes.

30 And you were a party to the decision about redesigning the job in April, 2008?---I was involved, yes, I, I'd heard the discussions about that and I, my understanding from what I'd heard that he was pretty poor on the, on the management side of things and that role really needed somebody that, that could do that, that aspect of the job better. That was, that was my understanding.

And you'd agree that during the course of April there were discussions in the depot reform cross functional team about changing the duties of the job?---Yes, I do.

40 And there was an open discussion, wasn't there, about that making Mr Child's position redundant?---I didn't see it as being made redundant but I still thought there would, would be possibly a role for Mr Child in the organisation provided he had somebody, I, I, I thought he was a bit out of his depth. That's, that, that was just my, my opinion from what I'd been told.

But you didn't have any direct experience about what was happening in the depot?---Well, not, probably not at that stage but there was a lot of - I, I got a lot of feedback from the other, from the other people involved in the CFT, different other, different other people.

What did you see your role was on the CFT? Why were you there?---Well, I suppose I was a member of it and I, I used to go along, well, I was asked to be a member of it so I went along to, to a number of the meetings, I didn't go to all of them but I did go along to, to a number of them.

And you played - - -?---It was my, it was my, sorry?

And you saw yourself as playing an active role?---Yeah, some role anyway, yes.

10

And staying informed about what the decisions were and the basis for the decisions?---Sorry?

And staying informed about what the decisions were and the basis of the decisions?---Yes.

And being a party in the discussions?---Yes, I had, I would've had some, some say in the discussions, yes.

20

And in relation to Mr Saad's contract you played an active role in that discussion. Would you agree?---In his employment you mean, yeah. My role there and I think it's already been documented here there was a, I knew that was a directive that we had to cut down the senior, senior staff, we had to cut down the casual staff including, including agency staff across the organisation. Tends to happen when you're getting, getting towards the bottom end of your financial year. And it was already agreed that the, that all the casual staff should, should go. At that particular meeting my understanding of that meeting was that Mr - there was - nobody was in disagreement about Mr Saad going as a casual. A couple of members of the, a couple of members there wanted Mr Saad, wanted us to hang on for I think two weeks before, before he went and I didn't think that was - because they, they felt that Mr Saad was a person that could stand up to Mr Child and it was a better balance in the depot and they wanted a couple of weeks to sort of sort that. I, I, I didn't accept that as a, as a good enough reason, I thought well, people in charge of the depot should be able to run the depot, you shouldn't, you shouldn't be playing around with this sort of thing and I saw no reason why, why Mr Saad should be allowed to stay for another two weeks.

30

40

People who ran the depot are the people who wanted to keep him on. So the people with the hands-on knowledge wanted to keep him on but it was you - - -?---For that reason.

But it was you and Mr Dencker who determined that he not stay on or his contract was to be extended?---Well, that was, as I said they didn't, they didn't indicate that they wanted to keep him on, they wanted to keep him on for a fortnight until they could, for another fortnight and I didn't think that

was a good enough reason, that was just my, I agreed with, I agreed with Ian I didn't think it was a good enough reason.

And you knew that Mr Saad had raised issued about Mr Romano earlier in the year didn't you?---I didn't, I, I didn't know a great deal about Mr Saad, I'd heard - - -

Can you answer the question, Mr - - -?---No, he could've, yes, he could've, I, I, I can't recall that, yeah.

10

You knew that didn't you? You knew that by April didn't you?---No, I didn't relate to Mr Saad in that - he was a bit of a strange character Mr Saad.

I'm not asking you whether you related to him I'm suggesting to you that by 27<sup>th</sup> of April, 2009 you were well aware that Mr Saad had made allegations against the General Manager and Mr Becerra?---I'd heard, I think I heard that Mr Saad said something about he'd worked on Mr, on, worked on some units that they had, that's about all I know, all I knew then. Sorry?

20

You knew that?---I'd heard that, yeah, I, I actually had - - -

You knew that at the time?---Sorry?

You knew that in February didn't you?---I could've heard it in February, could've, yeah.

That's when it was being discussed informally amongst the executive wasn't it?---Could've heard it then.

30

Well, you did hear it then didn't you?---I'm just not sure on the exact time but I did hear it but I can't, you know, there was a lot of, a lot of sort of rumours going around.

You heard it around the time that Mr Saad raised the matter didn't you? ---No, I don't think I did, I, I, I wasn't, from, from what I see, from what I've read in the, the transcripts and that and when, apparently when Mr Saad was supposed to have, have approached Mr Macklin or whoever he approached - - -

40

Mr Dardano?---I thought it was, I thought it was Mr Macklin.

All right. Your evidence, I'm not - - -?---Yeah, well, anyway, but around about that time, I was, I was, I was on, I was on leave around about the time that's supposed to have happened?

When did you go on leave in 2009?---February I was on leave.

The whole month of February?---No, not the whole month, no, no. No, it wasn't the whole, I can't remember the exact times but I, well, I did hear, I did hear about it, yes, I did - - -

You heard that before 27 April, (not transcribable)?---Yeah, I would've heard it before 27 April, yes, I would've.

10 And it was one of the reasons why you decided that Mr Saad's contract should not be extended. Would you agree?---No, no, he, I mean it wasn't a, he was a casual employee and there was, there was also a number of things about Mr Saad which have been raised here and my thoughts were that what's the point in keeping, you know, he's supposed, he was supposedly a disruption in the, in the depot, he, he'd been accused of stealing, he'd been, there was talks that he'd been in gaol, he'd, this is a casual employee we're talking about, I didn't think there was any, any necessity to keep him on any longer. I mean, you know, we, we, there's plenty of other employees, plenty of other people that might be, require, require a job that we, we, we didn't, we didn't need him but - - -

20 There was a discussion wasn't there that he'd been making complaints that weren't valid?---Yeah, I think there had been, there had been a number of discussions about - I wasn't, wasn't necessarily involved in those discussions but I think there were a number of stories about Mr Saad saying things that, you know, turned out not to be true and other things that people are saying about Mr Saad and, that, it's, it's, the whole depot culture, you know, it's a different world, there's all sorts of things that - and I really, and I really wasn't involved in it so, but I do know that, you know, you're always getting all these sorts of rumours et cetera coming out of it so, you know, it doesn't surprise me anything that was, that Mr Saad might've said  
30 or might not have said or whether it was true or untrue, it's, you know, it's -  
- -

Can the witness be shown 249. If I could ask you to turn to the beginning of the trail if you see what I mean?---Yeah, over the page.

See email from Romano to Macklin, - - -?---Yes.

- - - you, Dencker and Azer - - -?---Yes.

40 - - - about investigations of complaints against him or allegations against him. See that? Don't worry about that?---Yep.

And do you recall receiving this?---I would've received it, yes.

Do you recall receiving it?---No, I don't recall receiving it but obviously I did.

Do you recall noticing that Mr Cummins was not included on it?---I must admit I didn't notice that until it was pointed out to me, no.

And when was it pointed out to you?---At the, this inquiry.

Right?---I mean it's something that I wouldn't have, it would have just been in my emails that, I, I was away at the, in this, in this period so - - -

10 But this was the, well, you might have to help us a bit more about when you were away and - - -?---Yeah.

That wasn't all February?---No, it wasn't all February, it was from about, probably about the 4<sup>th</sup> till about the 16<sup>th</sup>, I think, something around about that time.

And do you remember discussing this with Mr Romano at all?---No.

20 Did you have any response to this?---No, because I think by the time I got back and saw it which probably would have been a week or 10 days later I think the matter was over, if you like, if I remember correctly but I'd probably have to have a look at the rest of this but - - -

Right?--- - - - I think it was sort of over. Things had moved on.

Now, in relation to the allegations in the Sydney Morning Herald, if you can just put that aside and don't worry about that any more?---Mmm.

30 Do you recall that you had a conversation with Mr Romano after the first article was published on 4 April, 2009?---Yes, I would have.

And what did he say?---Oh, he denied everything. He said it was a, a conspiracy theory that all these people that we were looking at in relation to reforms in the, in the depot were conspiring to get him and he, he'd done absolutely nothing wrong.

And that's what he told you at the time?---At the time.

40 Did you, do you remember him telling you that Council workers had been present but that he hadn't been aware?---I'm not sure he told me then but he did tell me another time that that was the, yeah, I do remember him saying that at one stage.

When did he tell you that?---Oh, it would have been possibly around about that time, it might have been a little bit, around about, probably around April sometime I'd say.

So he - - -?---I think the, yeah, my, my recollection was I think the first time that it was just categorically denial of everything and then it might have

been a bit later on about, if they were working there I didn't know about it but if they were it was weekends, you know, and I've done nothing wrong.

And you were involved in some of the meetings that are referred to as either strategy or legal meetings in the lawyers' offices in town, do you recall that?  
---Yes.

During the course of 2009?---Yeah, I went to a few of those, that's correct.

10 And what was your role in attending those meetings?---Oh, well, I suppose just as part of the Executive I went along.

Did you have any specific reason to be there?---Well, again, just probably as part of the Executive.

Well, you were Acting General Manager in relation to Mr Cummins?---I was and, yeah, but Mr Cummins, the Mr Cummins' matter dropped off I think, had it dropped by then? I can't remember. No, maybe, maybe not in the early days it didn't. It dropped off a bit later.

20

Well, one of the issues being addressed was regularly, I'd suggest to you, Mr Cummins?---Yes, it, I think it was in the early, probably in the early couple of meetings we had.

Well, continuing on, indeed in August and September Mr Cummins is being discussed at those meetings. Do you recall that?---It could have been, it could have been. I mean, there were so many things going on that, that, you know, I, I can't remember dates and times.

30 But you appear not to have been going to those meetings once they got a bit further on in August and September, 2009?---Well, as I said, I went to a couple but I, yeah, I, I can't remember which ones I went to.

And who decided who would attend and who would not attend?---I may not have attended because I was maybe busy with, with what I was doing. That could have - - -

Who decided whether you attended or didn't attend?---I think I, well, I, I decided whether I went or not.

40

So you didn't have any discussion with Mr Romano about it and how you weren't needed any more?---No, I think it was probably because I was possibly busy, busy in another meeting or, or doing other things in relation to the matters I had to look after and, and I couldn't be in two places at once. That could have, it could have been that. I, I mean - - -

You see, the letter of - - -?---I don't, I don't, sorry.



- - - 19 August traverses matters about Mr Cummins along with others but it appears you didn't attend so was it that you'd really stopped worrying about Mr Cummins, you thought that was all on hold?---I thought Mr Cummins was on hold but 19, was it 19 September, it was - - -

You can think that way but 19 August you were at a meeting where Mr Cummins was discussed?---Okay, yeah, but as I say, I can't, I can't remember all the details of those meetings.

10 And do you recall that Mr Romano was present at those meetings?---He was in and out. He, he could have been, he could have been, I'm not sure he was at all of them and even the ones he was at he wasn't there for all the meeting.

Did it occur to you that it was inappropriate for him to be there as some of the issues being discussed involved allegations against himself?---Well, my understanding was that any matters that came up in relation to that, he was segregated from the, from, from the meeting.

20 And who made that decision?---It was mainly the, the legal people sitting around the table. It wasn't me.

So when matters arise, arose relating to Mr Cummins, for which you were the Acting General Manager, did you direct that Mr Romano leave the room?---No, I wouldn't have I don't think.

Why not?---I think it was all matters that, it was quite confusing at the time and we were just taking advice on, on what the legal people were telling us, you know, he can be involved, here he can't be involved and, you know, we were, we were just following that so - - -

30

You were the Acting General Manager in relation to Mr Cummins?---Mmm.

Why didn't you tell Mr Romano to leave the room when issues about Cummins were being discussed?---Well, I suppose it depends what issues were being raised but I didn't, yeah.

It didn't matter what issues, did it? You were the Acting General Manager in relation to all the issues for Mr Cummins?---Well, mainly to do with the, as I said, early on with the, with the inquiry and a lot of those matters that were put on hold and so - - -

40

There was no, I've not seen any documents that revokes your Acting General Manager-ship?---Mmm.

Are you aware of one?---There's no official document that revokes it, no, I agree with you.

And there's no date saying you're no longer doing it from a particular date?  
---No, I agree with that.

And that suggests, I suggest to you that that meant it was ongoing and you so had ongoing responsibility you'd agree?---No, I don't agree with that.

Well, why not? How did it stop magically?---Because everything on, on Cummins was put on hold.

10 But it wasn't put on hold, was it? On 19 August you're having discussions in a general meeting of the Executive and lawyers, you're talking about it?  
---Well, I don't know what we were talking about there in relation to him. I don't know what it was. I mean, he was still off.

Yes?---I'd say - - -

20 But there was a discussion about it and you were the Acting General Manager in charge of Cummins and his employment so it wasn't on hold at all, was it?---Well, all, all the matters that I was investigating early on or involved in (not transcribable) there, they were all on hold, as far as I was concerned they were on hold. I don't know what was discussed at the, at the meeting in August.

His employment status was still actively being discussed in these group of meetings, wasn't it?---His employment status possibly was because it was getting to the stage where, you know, he was, he'd been off for months and months and months.

30 And that was the matter, one of the matters, that you were supposed to be the Acting General Manager for?---Not necessarily that. More to do with, more to do with all the, all the investigation and everything.

Well, how did you form that view?---(NO AUDIBLE REPLY)

That is, that you were limited in some way?---Well, I did, I, I, I - - -

40 How did you form that view?---Because when I was, when I was first asked to look after Mr Cummins I was, the original one was the, the, the letter, the, you know, the famous extortion letter or whatever you want to call it. That was my original, the original thing that I had to look at then there were a number of matters then in relation to the IT, various matters that came up there in relation to payments, et cetera, and they all, they all got put on hold so that's, you know, all that, all that got put on hold.

But his employment status was the subject of those strategy or legal meetings on occasions, would you agree?---Yeah, it possibly was, yes.

And you were supposed to be the Acting General Manager, weren't you?  
---As I said, I, not necessarily for those matters.

Well, what I'm trying to find out from you is, what was the basis for your view that you were a fluctuating General Manager in relation to Cummins, that is, you were there sometimes and other times it was someone else?

10 ---Well, it was only in, as I said, it was in relation to those, to those matters that I was asked to do earlier but I mean, Mr Cummins was still an employee of Council. All those other matters were put on hold but I mean, the point is he was still, he was still not coming to work. He'd been off for months and months and months, so I, I don't know exactly what was discussed in relation to him in those meetings. I can't remember what was discussed but, but anything that, anything where the, the lawyers thought that Mr Romano should not be there, he was asked to leave.

And you didn't have a view? Did you ever express (not transcribable)?  
?---Well, I, I, I took the advice of, of the lawyers sitting around the table.

20 I have nothing further, Commissioner.

ASSISTANT COMMISSIONER: Yes. Is there an application to cross-examine, Mr Hanley?

MR HANLEY: Yes, Commissioner.

30 Mr Hullick, when you saw the article in the Sydney Morning Herald on 4 April, 2009, were you struck by the amount of detail in it that appeared to verify what the article was purporting to allege against Mr Romano?---I'd seen, I think I'd seen some of that detail in the letter that I'd got from Mr Cummins.

I'm talking about the article?---Yeah, I know you - - -

(not transcribable) the article. Did you see in very bold letters in the middle of it particular references to text messages sent by Mr Romano to a Council worker which seemed on the face of it to support the allegation that he was requesting work to be done, such as tiles being collected - - -?---In the article, I can't remember that in the article.

40 Can't remember that at all? Could the witness be shown Exhibit 62?---If I have a look at the article it might refresh my memory.

Yeah, 62. If you have a look at the front page you'll see, "Off his block: Council boss uses staff for his flats"?---Yeah, yeah, I can see that.

Then you can see in the middle of it in bold letters - - -?---Oh, yes, I do, I remember this now, yeah, sorry, yeah, go on.

It jumps out at you, doesn't it?---Yeah.

Doesn't it?---Yeah.

Well, when you read this article on the 4<sup>th</sup>, you have had some inkling of several allegations made back in February by Mr Saad, hadn't you? That's your evidence this morning - - -?---Yeah, yeah, that's, that's right, yeah.

10 Did you think, well, that's interesting, here's another person making similar allegations about the General Manager?---Yeah.

You did?---And I, yes, that's right, yeah.

And it appeared to, on the face of it, the article, to have pieces of objective evidence such as text messages that seemed to verify the allegations being made, didn't it?---Yeah, possibly, yeah.

20 What do you mean possibly? It's fairly clear, isn't it, it refers to text messages, quotes them, and on the second page refers to emails, discussing matters of some particularity in relation to the renovations of units, quoting times. Do you see that?---Yeah.

Quotes Mr Romano, do you see that?---Yeah.

Quotes workers who depict apparently conversations they had with Mr Romano?---Yep.

30 Raises the allegation about the driveway, quotes again Mr Romano with not being aware employee was using private contractors. Talks about il Buco Restaurant. Had a great deal of particularity that article, didn't it?---Yes.

And is that, the contents of that article, are they some of the matters you spoke to Mr Romano, as you've just told counsel assisting, where he denied and claimed there was a conspiracy?---That's right.

40 Did you raise with him the fact that you were aware from rumours or otherwise that a similar allegation had been made by another staff member of the depot back in February of 2009?---I don't think I said that to him but I certainly asked him about the article.

And did you ask him about the particulars recited in the SMS messages?---I can't remember whether I asked him about the particulars of those SMS messages.

Well, did you just accept that he said, that this was a terrible conspiracy by depot managers?---Yeah, well, that's what, that's exactly what he told me, yes, I did, I accepted that, yes.

You didn't query him about any of the particulars asserted and apparently supported by objective evidence in the article?---Well, I mean, I didn't know how, you know, how much truth there was in the article but I, I took Mr Romano's word that he, you know, he categorically denied doing anything wrong. He, and as I said earlier that he categorically stated that this was a conspiracy.

Well, did you say what, are these messages made up or is there an innocent explanation for them maybe?---I didn't ask him that.

10

Was this just a private conversation you had with him?---Initially it would've been, yes. I, I'm not sure that we, we necessarily talked as a group to him but I think it was, it might've been a bit later on there was, where he, he spoke to a few of us and, I think as Mr Dencker said he, he sort of broke down and cried and, you know, reiterated again that all this was all a conspiracy and how innocent he was.

20

No, no, was that after the, was that a meeting amongst the Executive after the article on 6 April in the Sydney Morning Herald which also forms part of Exhibit 62?---Well, obviously it would've been after the article but I can't remember the exact date that, that occurred.

30

Well, do you remember a meeting which involved the executive and Mr Romano about these allegations in the Sydney Morning Herald?---Not, not a specific meeting, I, I think I, I think I remember going to maybe an executive meeting and, and as a preamble to that he, he gave a, he gave us all a speech about, you know, how innocent he was and so forth, et cetera and then, then we generally moved on to the business, the business of the, business of the executive.

40

After these articles were in the paper I want to suggest that you and other members of the executive would've been talking to each other about, either in the presence or independent of Mr Romano?---There was a fair bit of conjecture going around probably for, for a couple of days, yes.

What about concern about allegations going to the heart of the integrity of the General Manager of the Council?---There was certainly concern about that but as I said Mr Romano constantly reminded us that, that he'd done nothing wrong it was all a conspiracy.

And it would appear he was not challenged in any way to address the particulars of the allegations by you or any other member of the executive. Is that right? As far as you're - - -?---There is another article and I don't know where it is, I can't see it here but anyway it's probably - - -

There's one on 7 April?---There was - - -

Sorry, go on?---There was an article and I'm sorry I can't see it here. There was an article where it was alleged that he owned property in, in Burwood, they were talking about all this property that he's supposed to own around the place and I, I saw that he was supposed to have owned a couple of properties in Burwood that he hadn't declared or that was what the article was saying that he hadn't declared so before I spoke to Mr Romano about it, I intended to speak to him about it I checked the, checked the property register to just see if these properties were in his name. The properties were mentioned, the names of the properties were mentioned.

10

And that particular allegation was later recanted by the Herald (not transcribable) - - -?---Yes, because - - -

- - - publication?---Yes, because I, when I discovered it, when I investigated it I found that it be not correct.

So did you investigate all the other allegations with such determination?  
---No, because that was one I could easily, I could easily verify and that put in my mind that what Mr Romano is saying is, is correct.

20

Were emails for the Council workers available if you wanted to get hold of them?---Sorry, what was that?

Could you get access to the emails used by the Council workers?---I could've, yeah.

But you didn't. Not as part of the evidence said to have been relied upon was it in the articles? In fact part of the allegation in the articles I want to suggest was that the emails sent by Mr Romano and received by him from the Council worker were in fact from the Council worker's workplace weren't they?---I don't know, I, I, I can't - - -

30

In any event you didn't investigate that aspect of it. Is that right?---No, because (not transcribable) could do and do it quickly I, that satisfied me that what - and I had no reason to - I mean I'd worked with Mr Romano for, up to that stage probably five years and I had no possible reason to think that he would be doing anything wrong and - - -

(not transcribable).

40

ASSISTANT COMMISSIONER: Yes, thank you. We'll adjourn until 2 o'clock.

LUNCHEON ADJOURNMENT

[1.02pm]