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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 9 JUNE 2010

AT 10.30AM

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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. I apologise for the delay in commencing. We'll try to pick up the pace to make up the time. Mr Blake, on you.

<LESLIE JAMES HULLICK, on former oath

[10.21am]

10 MR BLAKE: Could Mr Hullick be shown Exhibit 285. You've seen this series of emails before, Mr Hullick?---Yes.

I'd like to deal with them in chronological order, so go to the one last first, an email from Mr Macklin to Mr Romano copied to yourself, sent on Monday, 31 of August, 2009 at 11.13am. You saw that email on or shortly after 31 August?---I would've, yes.

20 And you were read Mr Macklin's report that, and you'll see under the first sentence on the second page, under Mr Giangrasso, sorry, in the first paragraph, at the end of that first paragraph, Mr Macklin said, Council will be required to suspend him from duty pending the outcome of the employment issues currently outstanding?---Yes.

And you saw that Mr Macklin was proposing under the first timeframe seven days in bold print at the bottom of the email that Mr Baird would prepare a letter to ICAC on the various employment matters re Cummins, Giangrasso and Child with input where needed from Maddocks and Mr Macklin?---Yes.

30 And on 2 September, Mr Macklin sent an email to, at 2.41pm to Messrs Romano, Dencker, Azer and yourself. Do you see that at the top of - - -? ---Yes.

You received that email?---I would've, yes.

And it was addressed to the executive team. You saw that?---Yes.

And Mr Macklin was seeking instructions as to whether the executive team was happy to proceed with the suspension from duty of Mr Giangrasso with pay pending the investigation?---Yes.

40 And you for your part gave that instruction didn't you?---Yeah, I didn't, I don't think I disagreed with it, I can't, I don't know if I sent anything back.

Yes. And you regarded it in the best interests of Council that the serious allegations against Mr Giangrasso be investigated before he returned to work?---Yes.

And in coming to that view were you influenced by your belief that Mr Romano wanted Mr Giangrasso out of the workforce?---No.

Could that exhibit be returned and can Mr Hullick be given Exhibit 286 please. You just tell me when you've had a chance to look at that, Mr Hullick?---Yes.

10 And again, Mr Hullick, I would like to deal with this exhibit in chronological sequence. You'll see the first three pages is a sequence of emails?---Yes.

I think your answer was yes?---That's right, yeah.

Yes. I think you were just drowned out by a cough behind you, that's all. And the first email was one from Mr Macklin addressed to Mr Baird sent on Thursday, 3 September at 3.46pm copied to Mr Gardner and Messrs Romano, Azer, Dencker and Rudd, Ms Langshaw and yourself?---Yes.

20 And attached to that was a draft letter prepared by Ms Langshaw which had been vetted by Maddocks and by Mr Macklin?---Yes.

And you saw that Mr Macklin was seeking advice from Mr Baird as to whether this investigation could be recommenced given the involvement of ICAC?---Yes.

And that was a matter of concern to you at the time?---Yes.

30 And in response to that email you sent an email to Mr Baird on the same day at 4.31pm which was copied to Messrs Romano, Macklin, Dencker and Azer. You see that?---Yes.

Your concern to resolve this matter ASAP was that from your perspective it was imperative that the Council should know whether it could proceed with the investigation against Mr Giangrasso but without being thought or perceived to be taking reprisal action against Mr Giangrasso? ---Mmm. Yes.

And you were concerned that that matter be clarified with ICAC?---Yes.

40 And from your perspective you saw the Council as being in an untenable position if the Council was prevented from undertaking that investigation? ---That's right.

And one of your concerns at the time was that Council had put on an additional staff member to cover Mr Giangrasso's position?---That could've been one, yes.

And Mr Baird responded to you the following morning at 9.03am, copy to Mr Macklin and you read that at the time?---Yes.

And subsequently that day at 9.32am you read the email from Mr Macklin to Mr Baird and yourself and copied to others responding to Mr Baird's question about Council having a policy in place?---Yes.

And on that basis you were happy for the letter to be sent to Mr Giangrasso?---Yes.

10

That exhibit can be returned and can be Mr Hullick be shown Exhibit 297 please. Mr Hullick, can you again read this to yourself. You'll see that the first two pages are a series of emails?---Yes. Yes, I've seen this before.

Yes?---Yeah.

And again, dealing with the emails in chronological sequence, the first one was an email to you and Mr Dencker from a Timothy Davis, a lawyer at HWL Ebsworths and copied to Mr Baird. You saw that at the time?---Yes.

20

And attached to it was a draft letter to ICAC?---Yes.

And you then subsequently that day at 2.33pm Mr Davis sent you a further draft letter that included Mr Leggat's comments?---Yes.

And you read that at the time?---I would've, yes.

30

And you considered the letter, the draft letter and you made a number of changes yourself?---I made a few changes as I said there. I can't remember what they were. I think they were just maybe a couple of spelling things or, I wasn't sure, I can't remember now.

You'll see a number of underlinings in the draft letter?---Yeah.

Would those underlined matters be the changes you've made, the email said, "There are a few changes which I have highlighted"?---I'm not sure if they were all mine but they could've been.

They could've been?---Yes.

40

Yes. And at 5.27pm on Friday, 2 October, you forwarded the marked-up version to Mr Davis?---Yes.

And at 5.28pm provided a copy to Mr Romano?---Yes.

And if that can be returned and if Mr Hullick can be shown Exhibit 305. And you'll see the first five pages are a letter on the letterhead of HWL Ebsworths dated 6 October sent to the solicitor of the Independent

Commission Against Corruption that was in the same terms as the final draft letter that you'd sent to Mr Davis?---Yeah, I, yeah - - -

And if you go to page 5 you'll see that it was copied to Mr Dencker and yourself?---Page 5? Sorry, page 5?

Page, sorry, I beg your pardon, page 6?---Oh yes, sorry, yeah, down the bottom there. Yep.

10 And you received that at the time?---I would've, yes.

And there was, if you go to pages 7 and 8, you'll see a letter from ICAC of 7 October, addressed to Mr Baird?---Yes.

That was provided to you by HWL Ebsworths on or about, on or shortly after 7 October?---I'm not sure, but it could've been, yes.

20 And I suggest that you became aware, sorry, I'll withdraw that. And if you go to pages 9 and 10, you'll see a letter of 13 October from HWL Ebsworths to the solicitor of the Independent Commission Against Corruption and on page 10, copied to Mr Dencker and yourself?---Yes.

And you received a copy of that letter on or shortly after 13 October?---I would've, yes.

And pages 11 through to 13, a letter from Mr Mackenzie, principal lawyer of the Independent Commission Against Corruption to Mr Baird. Do you see that?---Yes.

30 And you were provided with a copy of that on or shortly after 16 October? ---Yes.

And, and reading that you became aware that the Commission's position was asking the Council to refrain from taking further action in relation to a series of issues raised in correspondence to Mr Giangrasso in letters of 20 April and 29 April, 2009?---Yes.

And Council has acceded to your knowledge, acceded to that request in relation to Mr Giangrasso and taken no action at this stage?---That's right.

40 That can be returned. Mr Hullick, I would like to go to an entirely different topic and that's Mr Becerra and put to you some conversations which Mr Romano has given evidence of. Conversations with you in Exhibit 289 and can Mr Hullick be shown Exhibit 289, please. Mr Hullick, can you go to page 10, sorry, you've had a chance to peruse Exhibit 289 as I understand it?---Yes, I did have a look at it the night before last.

Yes. And I want to take you to page 10, paragraph 31?---Yes.

And you'll see a heading immediately above paragraph 31, Conversation with Mr Hullick on 15 or 16 March, 2007?---Yeah.

Do you agree that Mr Romano has accurately set out the substance of a conversation he had with you on 15 or 16 March, 2007 in paragraph 31?---I don't necessarily agree with it. I agree with parts of it.

- 10 Okay. Are there any bits that particularly you disagree with?---I'm not sure that I made the comment about bringing in an in-house architect. I thought that came from Mr Romano, but, generally there was discussion about an architect being brought in on a, to look after the library project. I don't agree down the bottom there where he talks about conflict of interest with Albert. I don't remember that being mentioned. And again about the in-house person, I think there was some discussion about the, that if Albert left BKA, that he would be in a position where he could apply for any position that might, that we might be looking at. But yeah, but some of it, some of it I agree with, some of it I'm not so sure.
- 20 With the qualifications that you've mentioned would you accept that the paragraph otherwise accurately sets out the substance of the conversation?---Yeah, I think it was probably does. I mean I, I can't remember the exact conversation obviously but the, the intent, I think the intent was there where we were talking about if we lose - it wasn't so much - it was more that we needed an in-house architect and Albert through BKA had been doing some work on the project, had a lot of designs et cetera, et cetera so generally there's, there's some, you know, it's, generally I suppose, yeah.
- 30 ASSISTANT COMMISSIONER: Mr Hullick, in terms of conflict of interest at this stage what did you know about Mr Romano's relationship with Mr Becerra?---Well, the only, the only relationship as I've said in earlier evidence, the only relationship that I knew that they had was just a personal, personal relationship, they knew each other just personally, they knew each other. I had no, no idea of any, any other business interests or, or whatever.

MR BLAKE: And would you accept, Mr Hullick, you could be mistaken in your recollection of this conversation?---No, I, I, that aspect of it I don't think so, no.

- 40 Now, can I take you to paragraph 32 please?---Yep.

You'll see the heading Meeting at Council with Mr Baird and Mr Hullick on 19 March, 2007?---Yes, I see that.

And you attended this, a meeting with Mr Baird and Mr Romano on that day didn't you?---I can't remember the meeting. I may have, I've got no recollection of the meeting though.

So you have no recollection one way or the other of that meeting?---No.

Is that your position?---That's right, yeah.

Thank you?---It may have happened, it may have happened between Mr Baird and Mr Romano but I, I can't remember me being at that - - -

Right. Can I show you, can you look at tab 9 please of Exhibit 289?
10 ---Yeah.

What you'll see is an appointment, setting up an appointment?---Yep.

And required attendees Mr Romano and Mr Hullick?---Yeah.

Does that refresh your memory or not?---Not particularly. I mean it looks like I may have been there but I just can't remember the meeting, I, I don't know, I, I, I can't, I can't recall, particularly recall that.

20 Thank you. Now, can I ask you to go to paragraph 35 please and you'll see a conversation with Mr Hullick on 20 March, 2007. You see that?---Yeah.

And just to put it in context for you can you go to tab 12?---Yes.

Which is an email from Ms Lindy Richardson to yourself. Can you recall receiving that email letter?---Yeah, I do recall it, yeah.

30 And I suggest at about the same time you received that letter you had a conversation with Mr Romano and that that conversation, the substance of it is accurately set out in paragraph 35 of Exhibit 289?---Yeah, generally I'd agree with that, yeah.

Now, can you go to paragraph 37 of the affidavit, sorry, of the statement?
---Yeah.

And you'll see that Mr Romano says that around about March of 2007 you said to him in conversations that Albert Becerra is a potential candidate for the role. That's something that you said to him at the time?---Yeah, that could've, that could've been right, yeah.

40 And can you look at paragraph 38?---Yeah.

And do you agree that that accurately sets out the substance of a conversation you had with Mr Romano in late March, 2007?---Part of that's correct. There was no, there was no talk about, I'm sorry, "Did not discuss the successful, becoming a permanent employee." I don't think how he was to be appointed necessarily was, was discussed. In other words, whether he was going to be an employee or whatever, you know, I'm not sure that that

was discussed but there was some, yeah, there was some discussion along those lines.

So, with that qualification, do you agree that the paragraph 38 sets out the substance of what was discussed?---Yeah, I think it probably does, yeah.

And would you accept that you could be mistaken in your recollection about whether the issue of employee or contractor was discussed?---I'm pretty sure it wasn't because I was, I remember later on I was most surprised that
10 Mr Romano seemed to think that Mr Becerra ended up as a employee when, and, instead of a contractor when Mr Romano actually signed off on him being an employee.

Thank you. Now, can you go over to page 19. I want to take you to paragraph 64 but to put it in context for you, can you look at tab 31?---31?

Yes?---Sorry, I thought you said 19. 31, yes.

20 And you'll see, you've seen this document before, the briefing memorandum - - -?---Yes.

- - - and on the reverse side is the summary and recommendations of the recruitment firm Recruitment Edge?---Yes.

And I want to suggest to you that around the time those documents were created you had a conversation with Mr Romano and the substance of that conversation was accurately set out in paragraph 64 of Exhibit 289?---In sorry, paragraph 39?

30 No paragraph 64?---Oh, 64.

Sorry, not the tab, the paragraph number?---The paragraph 64.

It commences on page 19 of the statement?---Oh, page 19. 64?

Yes?---I can agree with a fair bit of that except the bit that says that, that the work that Albert did away from the library project is not to be done in the Burwood municipal area. That was never mentioned.

40 All right. So with that qualification you agree with - - -?---Generally, yeah.

Yes. And do you accept you could be mistaken that so far as the issue of work not being done in the Burwood municipal area?---No.

Thank you. Now can you, right about the same time, can you look at paragraph 68. And do you agree that that paragraph accurately sets out the substance of a conversation that took place between Mr Romano, Mr Becerra and yourself around 5 April, 2007?---Again, I agree with part of it,

but I don't, there was no suggestion about work in the Burwood, not doing work in the Burwood local government area.

Right. And do you agree you could be mistaken about that?---No.

No. Now Mr Hullick, I think we'll move over to 2008, the year 2008 and again to put it in context for you, can you go to tab 56 of Exhibit 289?---Page 56?

10 No, tab 56?---Tab 56?---Yes.

And you'll see, I think you've seen this email before, Mr Romano to Mr Becerra but copied to Messrs Dencker, Azer and yourself submitting some invoices?---I think when I said I saw this email before, that was earlier on in this inquiry. I, sorry, when this was put before me earlier, I thought I said I didn't, I hadn't seen this.

Right. You certainly saw the invoices at some, some stage didn't you?---I certainly haven't seen, I'm pretty sure I think I said I hadn't seen that email.

20 Right. But you saw the invoices?---I have subsequently seen the invoices, yeah.

I would like you to look at paragraph - - -?---Sorry, go on.

Paragraph 97 of Exhibit 298, which is on page 27?---Page?

27, paragraph 97?---Yeah.

30 And just read that to yourself?---Yeah.

Do you agree that paragraph 97 accurately records the substance of a conversation that you had with Mr Romano in around early March, 2008? ---Well, that's not actually talking about a conversation, but I disagree with, with (a). As a matter of fact I - - -

No, no. Paragraph 97?---Oh, 97, sorry.

It records a conversation?---No, I certainly can't recall having that conversation.

40 You say that conversation didn't happen?---Well (not transcribable)

Do you accept that you could be mistaken about that?---No.

No. Now Mr Hullick, I want to take you to now June of 2009 and again to put it in context can you look at tab 59, please?---Yes.

This is a briefing memorandum which you prepared and it's been shown to you before?---That's right.

Can you go to paragraphs 143 and 144 on page 35 of the statement of Exhibit 289?---143?

143, yes, 143 and 144. Just read those to yourself?---Yes.

10 And I want to suggest to you that there was a meeting of the Executive team on 17, Wednesday, 17 June, 2009 at which you were present. And at that, at that meeting a conversation took place which is, as to its substance accurately recorded in paragraph 144?---I think some things, yeah, something along those lines, probably occurred. Yes.

That Exhibit can be returned. And can Mr Hullick be shown Exhibit 290. Mr Hullick can you turn to tab 7, please?---Yes.

Can you just read that for the moment?---Yes. Yes.

20 And can you turn to paragraph 52 of the statement on page 13, going over to page 14. And just read paragraph 52 to yourself?---Yes.

All right. Do you agree that that paragraph accurately records the substance of a conversation you had with Mr Romano on 15 May, 2009 or about that time?---Pretty much. Yeah.

That exhibit can be returned and can Mr Hullick be shown Exhibit 242 please. Mr Hullick, again I want to ask you a question about paragraph 248. To put it in context can you look at tabs 35 and 36?---35?

30 Yes, tabs 35 and 36?---Yes, 35 and 36, yes.

And you'll see paragraph, sorry tab 36 is an email sent by Mr Romano on Friday, 27 March, 2009 at 5.26pm to Messrs Baird and Gardner and copied to yourself. And I want to suggest to you that it included the protected disclosure or statement of Mrs Giuseppina Viney. Did you receive that at the time?---Yes, I probably did.

40 Then can you go to paragraph 42 of the statement which is part of Exhibit 242 and read paragraph 248 to yourself?---No, I don't remember having that conversation.

Is your evidence you can't recall it one way or the other or it didn't take place, Mr Hullick?---I don't think it took place, no.

And do you accept you could be mistaken about that?---No, I don't think so.

No further questions, Commissioner.

ASSISTANT COMMISSIONER: Thank you, Mr Blake. Yes?

MR McILWAINE: Commissioner, I did indicate earlier that I do wish to - McIlwaine solicitor for Mr Giangrasso.

ASSISTANT COMMISSIONER: Yes, McIlwaine.

10 MR McILWAINE: There's one topic I wish to ask this question (not transcribable) and I'll need to come up to the mike. Mr Hullick, I represent the interests of Mr Giangrasso. Mr Hullick, whilst you were working at Burwood Council same time as Mr Romano and Mr Giangrasso did you observe anything about the nature of the relationship between Mr Giangrasso and Mr Romano?---How do you mean?

Perhaps I'll be a bit more specific. Did, Mr Giangrasso was a fairly low level employee in the Council. Would you agree with that? A team leader in the construction group?---Yeah, he was, yeah. Yeah, okay.

20 That's correct? Mr Romano was the most senior employee of the Council, the General Manager. Is that correct?---Yes.

Did you observe, for example, that Mr Giangrasso seemed to have an unusually high level of access to the General Manager?---I didn't see that. Mr Romano was, his office was upstairs, it was nowhere near where I, where I was so if he had access I wouldn't have, I wouldn't have seen it.

30 So was there any occasion - well, did you hear any comments by other members of staff commenting on the nature of the relationship between Mr Romano and Mr Giangrasso? Was it a matter of discussion?---Not really. Again the depot is not, it's not in my area, I, I wouldn't have heard too much about what was going on at the depot.

Mr Hullick, there was the odd - - -?---I think there was, yeah, might've been. No, I, I, I couldn't say that I've, I really heard anything about a relationship between Mr Giangrasso and Mr Romano.

Well, Mr Hullick, you seem a bit vague in that response. Initially you said not really?---Yeah.

40 Firstly, have you ever heard any other employee of Burwood Council comment upon the nature of the relationship between Mr Giangrasso and Mr Romano?---Yes, later, yes, sorry, I try and put it in context. I, I mean I heard probably three or four months ago that Mr Giangrasso used to walk around the depot saying that he's going over to Mr Romano's for lunch and this sort of thing but I think that was, that was shown not to be true but anyway I did hear that a couple of months ago but apart from that - - -

Going back prior to the publishing of the article in the Sydney Morning Herald, up until that time had you heard any comment by officers of Burwood Council about the relationship?---No, I, I can't recall anything there.

Can't recall, didn't happen?---No. Well, as I said it wasn't, it wasn't in my area, I can't recall any particular conversations about their relationship, no.

10 Were you present in an incident in the middle of 2008 when yourself and other senior officers attended at the boardroom of the Council Chambers in Conder Street, Burwood for a meeting and when you entered the, attempted to enter the boardroom Mr Romano and Mr Child and Mr Giangrasso were engaged in a conversation? Do you recall that happening?---I could've, I can't recall it, yeah.

20 And do you recall that Mr Romano said to the senior officers who were attending for that meeting, What do you want? And then having been informed that a meeting was to take place you said to them, When I'm finished with Joe and Steve you can have your meeting so go outside, go out and wait outside. Do you remember that happening?---That possibly could've occurred, yeah.

Well, not possibly, did it occur or didn't it occur?---Well, I, I don't know, I'm just trying to think but it wouldn't have been something that I would've (not transcribable) but it could've. Often we'd go, we'd go upstairs to a meeting and Mr Romano would be talking to somebody else and we'd have to wait till he finished, a number of occasions.

30 I'm putting specifically to you that you and other senior officers attended for a meeting where you went into the conference room, Mr Romano was having a conversation with Mr Child and Mr Giangrasso and he effectively told yourself and the other senior officers to go outside and wait until he was finished his conversation with Mr Child and Mr Giangrasso. Now, do you remember that happening or not?---I'm not sure, I'm sorry, I'm not sure.

Well, if it happened it's something you'd remember isn't it?---Not necessarily. Why?

40 Well, would it be everyday that you attend for a meeting at the conference room and the Mayor is having, the General Manager is having a conversation with two relatively minor officers and tells you and the other directors to wait outside while he finishes the conversation? Isn't that a somewhat unusual event?---Well, as I said he, he often did that sort of thing, it depends who he was talking to and he often asked us to wait because he was, he was talking to someone. I mean, they might've, they might've had an appointment with him, I don't know, I didn't even, didn't, didn't really cross my mind, we just waited outside if that was the case.

And I suggest to you that after that occurred there was some concern expressed by the senior officers about what had occurred. Can't remember that happening?---No, I can't remember, no.

Nothing further, Commissioner.

ASSISTANT COMMISSIONER: Thank you, Mr McIlwaine. Yes, Ms McDonald?

10 MS McDONALD: Yes. I just have four questions. Just to go back again, Mr Hullick, to the recruitment of Mr Becerra as I understand your evidence you were involved in discussions about the creation of an in-house position for an architect?---Yes.

MS McDONALD: You were involved in briefing the recruitment agencies and to select a candidate for that position?---Yes.

20 And you were on the panel together with Mr Macklin and Mr Dencker that interviewed the applicants and ultimately decided upon which, which candidate would be selected?---Yes.

At any stage during those processes did Mr Romano direct you to hire Mr Becerra either as an employee or an independent contractor on behalf of the Council?---No.

Thank you.

ASSISTANT COMMISSIONER: Thanks Ms McDonald.

30 MR CHALMERS: I'm acting for Ammer Issa. Could the witness be shown Exhibit 197 and specifically those pages numbered in black ink, page number 10. You see that the pages are marked in black ink at the bottom of the right hand page?---Yes.

Can you go to page 10, please?---Yes.

Can I, given that I'm acting Ammer Issa, can I particularly ask you to read paragraph 6 to paragraph 11 to yourself?---Yes.

40 Right. Now a copy of this email apparently was sent to you, if you look at the top email on page 10, cc Les?---Yeah.

Do you remember getting this email?---Yes, I would've got it. Yeah.

All right. In relation to paragraph, now looking at the context, this is 25 April, so this is after the Sydney Morning Herald articles, most of them in early April, 2009?---Oh, yeah. Yep.

And Mr Romano had been, had, as General Manager was still acting as General Manager, but wasn't, had some powers or some areas removed. Now, did this strike you as a very vindictive document at the time?---It seemed a bit over the top, yes.

Did you convey that to Mr Romano?---I didn't. No, I wouldn't of. This was, it looks it was sent on a Saturday.

10 Right. And being that as it may, you would've received it when you went into work?---Probably Tuesday or Wednesday.

So on Tuesday or Wednesday or Thursday or Friday the following week, you didn't raise it with Mr Romano?---No, I don't remember raising it with him.

Do you see in paragraph 11 he's asking that if, if there's no answers to secondary employment, if they don't respond we have a responsibility to report them to the taxation office. Do you see that?---I see that, yeah.

20 Did that strike you as particularly vindictive or unnecessary?---Unnecessary, I agree, yeah.

Now did you speak to Pat Romano at all in relation to this email or his relationship at that time with my client, Ammer Issa?---No.

Did you hear anything from any other people about the relationship between Pat Romano and my client, Ammer Issa?---No.

30 Were you aware that Ammer Issa was working at the Council Chambers in April, 2009?---Yes.

Okay. And were you aware that Mr Romano didn't want him working? Had anyone suggested to you that Mr Romano - - -?---I know Mr Romano complained about him being on the phone and walking around and, but, no.

Did he do that often?---No, not often, I don't think. I mean, did Mr Issa do that or - - -

40 I meant did Mr Romano complain often about Mr Issa's conduct with the telephone?---Oh, certainly not to me. Yeah.

And were you aware, and did Mr Romano, when he was complaining about that suggest that it would be better if Mr, if Mr Issa was not at the Council Chambers?---He didn't say anything to me about that.

All right. Did you hear, did you hear from any other people that he'd said something to that affect?---I believe there was a, an assessment done by a consultant that was brought in which he suggested that for, for the purposes

of worker's compensation, potential claim and, and payments that, that could generate, it would be better if he stayed at home.

All right. Now can you remember who that report was from and what date it, can you give any particulars about that report or who mentioned it to you?---I, the only reason I really remember it is because I, I didn't, I hadn't seen the report, it was a guy called Kerry Matherson who I'd actually used some years before and I was quite impressed with, so I was a bit surprised to actually see him there. That's the only reason I knew that that was the case.

10

And when was that?---Oh, I can't remember the date.

All right. And could that have been, and you didn't, how did you know he was there in relation to Ammer Issa?---I saw him and I ran into him and I was told that, that's what he was there for.

But you don't - - -?---Not, not just, not just him, but all the worker's comp claims.

20

Now he was looking, did he specifically remember Ammer Issa?---No. This was at the office when I saw him.

All right. So he basically said he was there to examine people on worker's compensation?---Worker's comp claims. Yeah.

And he didn't say specifically anything in relation to Ammer Issa?---No, not to me he didn't, no.

30

No. All right. And you can't remember when that was?---No, no. But as I said, it, I wasn't dealing with any of those matters at all. I can't remember.

All right. Do you know anything about some members of staff not being allowed to the Christmas party, specifically I'm talking here about Ammer Issa?---Well, I've heard - - -

40

It was the 2009 Christmas party?---I've heard some, I've heard the, heard the evidence in this inquiry and I did hear, I do remember hearing something along the lines of they didn't want, they didn't want any, any blues to occur at the Christmas party. And there was a chance of that if, if, I think Child and Issa, if they, if they went, if those two went there was a chance there was going to be blues. And they, they didn't want that. That's about all I heard.

Who said that?---Peter Mac said that.

Who was that?---Oh, sorry, Peter Macklin.

Was Peter Romano, sorry, was Mr Romano involved in that - - -?---No, not as far I know he wasn't.

Okay then.

ASSISTANT COMMISSIONER: Thank you Mr Chalmers. Yes, is there any other application to (not transcribable)? Mr Leggat.

MR LEGGAT: Mr Hullick, I want to ask you about secondary employment.
10 How wide spread in local government New South Wales in the practice of secondary employment?---It's funny you ask me that because I had just signed off this morning on one of the, one of my staff who wants to do, she's doing a course, I suppose it's sort of examinations of the papers and that for people doing courses, 10 hours, 10 hours a month I think it is. But we have, it's, it's quite, just a couple of examples in my, in my area, we have, I've got a guy in accounts that, that works at weekends for a bookmaker. I've got, one of my, my ex-pa was a, was a jazz singer. He used to perform in nightclubs. There's, I know there's guys in the outdoor staff that, that do early, early shift work and they finish about 10.00 or 11 o'clock and then they go off and they do their own, their own mowing runs and this, this sort of thing. It's quite widespread. They're just some examples in, in Burwood. But it's, it's generally pretty widespread and, and another guy that used to, used to run a bouncing castle thing. He used to, he used to do that on, on Saturdays and Sundays. And so there's, there's a whole range of, there's a whole range of things, a whole range of people that do that. I don't know how many there'd be at Burwood, but I suspect there'd probably be, you know probably 15, 20, maybe, that, that have secondary employment. Yeah.

30 MR LEGGAT: And how does the experience at Burwood relate with what occurs in other Councils that you've been involved with?---Yeah, pretty, pretty much, pretty much similar. There's guys that do, you know, carpenters that do work at weekend, carpentry, there's concreters that do weekend work, go concreting and this sort of thing. I had an accountant that used to do tax returns, you know. There's, so there's a whole range, yeah.

In your experience has secondary employment created problems for Local Government in New South Wales historically?---It has, there is a couple of occasions where I can remember that we, I was involved in, no, I wasn't involved in that but there was, I can remember two people being dismissed because they, their secondary employment overtook their main employment if you like. In other words they were doing, doing the work they should've been doing outside hours doing it, yeah, that that occurred.

And do you have a view as to whether it's advantageous or disadvantageous for Local Government employees in New South Wales to be permitted to carry out secondary employment?---Well, see, sometimes it's, sometimes

it's a matter of - a lot of people in Local Government are pretty poorly paid so a lot of times it's a matter of they've got to do, they've got to do other employment anyway so you don't want to sort of stifle that but sometimes you do get, sometimes you can get a bit of a crossover where for instance you might have building inspectors that start doing work after hours, weekends on other building sites outside the area and sometimes that can reach a stage where they're doing building works and preliminary stuff during working hours than they should so there is a, there are certain occasions where, where it is frowned upon, yes, but you've got to take each one on its merits really and that's what you try to do, you're trying to take them on their merits. I've got another one that lectures at TAFE at night as well, yeah.

10

All right. Thank you, Mr Hullick, thank you.

ASSISTANT COMMISSIONER: Thank you, Mr Leggat. Yes, Mr Eurell.

20

MR EURELL: Thank you, Commissioner. Mr Hullick we might start with the issues that counsel assisting examined you on in regard to Mr Cummins. Were you present and working at Council when Mr Cummins commenced employment with Council?---Yes.

And did you have any involvement in his selection or appointment?---No.

After he was appointed how would you describe the nature of your relationship with him?---Pretty good. Yeah, we had a, we were probably the, two directors that used to probably mix a bit more if you like with, with the other staff.

30

What do you mean by that?---Well, we'd go down, go down and have staff drinks on Friday night, that sort of thing. It was, Robert and I were always sort of pretty, pretty good that way if you like.

And it wasn't unusual was it for you and Mr Cummins, you refer to him as Robert, to drink after work and engage socially on a professional basis and that you were having barbecues at each other's houses?---No.

You were certainly friendly weren't you?---Yes.

40

You were friendly to such an extent that you were aware of the work he had undertaken whilst in the United Kingdom. Is that correct?---I had some knowledge of that, yeah, he didn't talk a hell of a lot about that but, yeah.

He had certainly shared with you his professional experiences in the United Kingdom and particularly some of the projects he had worked on that you were asked about yesterday relating to IT?---Yeah, yeah.

You were aware of that prior to receiving the Harmers response to the letter that had been drafted by Maddocks and sent under your hand asking for his input in relation to the review of the IT system. Is that right?---Yeah, I, I, I knew, I knew that he had IT expertise.

And that was confirmed was it not when you had a look at his resume that he had lodged with the Council in applying for the position of Director of Corporate Governance?---Well, that's the, that's the bit that was put in that, that report.

10

When you say that report you were asked yesterday about - - -?---Or that letter or whatever you like.

- - - 304. Do you recall that?---The, is that the one with the, that's the one with the shading in it or something is it?

20

Yes. Perhaps if the witness could be shown Exhibit 304. This is the report that you told Mr Blake SC had been prepared as an issue statement or discussion paper when this Commission became involved in the events that had taken place at Burwood. Do you recall that?---That's right. That's the, yeah, that's the one where that, that bit was added in, that's right.

30

When you say that bit we're talking about the section that says, "Mr Cummins also claimed that he has only had limited information technology knowledge but his resume states that he has contributed to the development of Government policy in the areas of information technology and during this employment at Westminster Council in the United Kingdom during 2004 to 2005. Successfully managed a diverse project team that included database administrators and IT managers. He has also completed a Master of Legal Studies majoring in Information Technology Law."?---That's right.

Now, you were aware of that weren't you as a result of being on friendly terms with Mr Cummins well before any of the events that precipitated his leaving the Council had occurred?---Yes.

Now, you have had opportunity to review the statement that Mr Cummins prepared for this Commission and has been tendered and is titled Protected Disclosure hadn't you?---Yes.

40

And you're aware aren't you that some of the matters that Mr Cummins has asserted and specifically matters relating to what it would seem is various forms of malfeasance or misconduct at the Council that run back to as early as 2007? You're aware of that aren't you?---I'd have to have a look at the document. Yeah, I think so, I think they run back, yeah.

Now, at any point in time during or before Mr Cummins separated from the Council did he raise any of those concerns with you?---Well, you mean the concerns he had with Mr Romano?

Any of the concerns he had with Mr Romano or any other activities that were going at Council. At any point in time prior to him leaving the Council on sick leave did he come to you and say to you, I have concerns about various events that were taking place in 2007 and 2008 in relation to corruption?---No, he didn't, he didn't raise those concerns with me.

10 Are you surprised about that given the fact that you were friendly with him that you were able to share a drink with him and that for all intents and purposes you were professional colleagues on friendly standing?---Yeah, I was a bit surprised.

Notwithstanding that surprise you certainly were never a party to any or a knowing party to any intent to take some sort of reprisal action against Mr Cummins for having made a complaint to this Commission were you?---No.

You were never asked to be involved in such activities?---No.

20 And had you been asked to be involved in such activities you'd have declined. Is that correct?---That's correct.

Now you, do you know why you were asked to become Acting General Manager in relation to matters that pertained to Mr Cummins? Why it was you that was selected to take that role?---My understanding was, I think, I think Mr Romano was going to ask Mr Dencker and because one of the complaints or one of the matters raised by Mr Cummins related to Mr Dencker, it was more appropriate for me to do it.

30 And no such complaints had been made about you?---None at all.

And you were on friendly terms with him up until that point in time?---I was on friendly terms with him until the day he left.

And you agree that you felt it was as a matter of propriety appropriate that you take the role of Acting General Manager in relation to investigating any matters that related to Mr Cummins?---Yes.

40 You were, at that point in time had it occurred to you that he might have made a protected disclosure to this Commission?---I, I thought that he may have when, after I saw the letter of demand and I just looked at the, the timing and the fact that Council had decided they weren't going to adhere to his demands that he was the one that probably went to ICAC. I thought that. And - - -

As a result of, sorry?---That's okay.

You're saying as a result of failing, as a result - - -?---As a result of Council deciding that they, that they would take those matters up that he raised and,

and not, as he suggested, hold them back and, and, you know, that he wouldn't either if he got paid, if he got it paid to his pay.

And mindful of - - -?---And I was pretty taken aback by that. Yeah, go on, sorry.

Mindful of the need to ensure that the Council's dealings with Mr Cummins and in fact any of the other employees that had suggested they had some form of grievance, did you, were you conscious to, to seek legal advice
10 whenever you thought that you might be treading into troubled waters?
---Always.

And in fact you went to Ms Ronalds, senior counsel, who at that point was not involved with this Commission to seek her expert advice in respect of how to proceed. Is that correct?---Yes.

And, I'm sorry, Commissioner, I know the time is convenient.

ASSISTANT COMMISSIONER: Yes. Ms Ronalds, do you have a
20 preference about whether we take the morning tea break or proceed?

MS RONALDS: I'm happy to keep going. If that's convenient for you?

ASSISTANT COMMISSIONER: Yes. If, does anybody else object to keeping going? In view of the late start I think that we should.

MR EURELL: Thank you, Commissioner. Now, when the ICAC became involved you have told the Commission that you regarded all investigations or actions, whether pending or potential or otherwise that might've involved
30 Mr Cummins to be off limits, did you not?---Yeah, they, they would, they would be suspended. Yeah.

And what you understood to be the case was that you should simply wait for the outcome of these proceedings before making any final determinations that might have an effect on Mr Cummins?---Yes.

In respect of Mr Child and we'll just deal with this very briefly. He was not part of your direct line of responsibility was he?---No. No.

40 But you were aware as a result of discussions that had taken place, both formally and informally that there were difficulties with the management of the depot?---Yes.

And it appeared at least to you that he was central to the problems that existed in the depot at that time?---That's the way it appeared to me, yes.

And in fact, that was consistent with some other information you had and which had been raised with you regarding Mr Child's employment. And

particularly issues of overtime wasn't it?---Yes. There was a, my chief financial officer was most concerned about the amount of overtime that was being undertaken.

And there were in fact occasions weren't there when Mr Child was claiming to have worked 18 hours on some days?---That's right. That's, that was the claim and again, it wasn't in my area, but I was always, I, it's, it's a long time for people to be working in those circumstances on, on the roads, 18 hours a day, constantly. I mean I just find it very difficult that people could 10 actually work those hours.

Are you able to tell this Commission where Mr Child stood in terms of fee earners within the Council? Where he was ranked as a fee earner? As a, as an income earner perhaps?---I don't know where he ranks normally, but when he was, when he was getting overtime he was, I think the third highest paid person on the Council.

Third only to who?---The General Manager and maybe one of the directors.

20 ASSISTANT COMMISSIONER: Mr Hullick, I've never heard the fact that Mr Child was earning overtime put forward as a reason for the restructure of his position?---No, no. I wasn't, sorry, I wasn't saying - - -

Well, what is the relevance of this?

MR EURELL: This, this is relevant to what Mr Hullick understood about Mr Child's employment and the conditions of his work at the time. It was, it's being suggested he might have been involved in some attempt to take reprisal and specifically it runs to whether or not he thought it was 30 appropriate that various measures be put in place to bring Mr Child into check, if you like.

ASSISTANT COMMISSIONER: Well, again, that's never been put forward as a reason for the restructure. It's never been put forward as a reason why his position description was changed. I think it's irrelevant. Perhaps you can move on.

40 MR EURELL: Well, with great respect, Commissioner, if, if counsel assisting this Commission and in fact this Commission itself is going to pursue a line of inquiry that involves Mr Hullick being involved in anything other than a proper course of work, it is directly relevant to what actions he took.

ASSISTANT COMMISSIONER: It's never been suggested, he was at meetings when this was discussed. This issue has never been raised by anybody either at those meetings or in their evidence.

MR EURELL: This is why I'm raising it now, Commissioner.

ASSISTANT COMMISSIONER: Well - - -

MR EURELL: It's very important that you be (not transcribable) of all of the facts that relate to Mr Child's employment, specifically having regard to the inquiry and the line of examination that has taken place regarding Mr Hullick's involvement in these matters over the last days.

- ASSISTANT COMMISSIONER: Well, it's important to be advised of relevant information. If we were advised of all of the information about 10 everything that happened at the Council during the relevant period, we'd be here for 10 years. I don't see the relevance of the overtime issue as far as Mr Hullick goes. Unless he's saying that, well, yes, what else do you want to ask him about that issue?

MR EURELL: I don't want to unnecessarily delay, but I did want you to understand what it was that Mr Hullick knew about the problems involving Mr Child's involvement in the depot. If you're satisfied that I've assisted you as far as I can in so far as his knowledge of Mr Child's extraordinary income, I would be quite content to move on.

- 20 ASSISTANT COMMISSIONER: Yes.

MR EURELL: Mr Hullick, you were never asked by Mr Romano to take any form of reprisal action against Mr Child, Mr Cummins or Mr Giangrasso. Is that correct?---That's correct.

You never understood that you were involved in any form of reprisal action against any of those three individuals?---No, I wasn't.

- 30 And had you been asked or had it occurred to you that you were involved in any activities of that kind you would have raised your concerns and/or reported it to this Commission, is that correct?---That's correct.

Moving on to the issue of Mr Baird's move to HWL Ebsworths. Mr Baird had been with the Council for some time providing legal advice to the Council for some time at the time he made the move from Maddocks to HWL Ebsworths Lawyers, is that correct?---That's correct.

- 40 And your involvement with Mr Baird had been in relation to provision of legal services that related to the civic precinct project, is that right?---That's correct.

What sort of matters did he assist you with exactly?---It was mainly, mainly property matters, some planning matters associated with it but there was quite some complicated property negotiations that, that were occurring, still occurring.

Did you consider them to be complex in nature?---Yeah, fairly complex, yes.

And was it your view that briefing other lawyers to take over the work that Mr Baird had, was already involved in and of which he was seized of a great deal of institutional knowledge would have expense to legal services involving the civic precinct project?---As well as doing that it would have, it would have set the project back quite some time, in my belief.

- 10 And so when it was proposed that the lawyers briefed provide those legal services, become HWL Ebsworths in lieu of Maddocks following Mr Baird, it was your view that both time and expense justified briefing HWL Ebsworths?---Yes, and, and, and the fact that there'd already been negotiations between Maddocks and Ebsworths that, where Maddocks agreed that those matters relating to the civic precinct would, would go with Mr Baird to Ebsworths.

- 20 And you were conscious, were you not, that the ratepayers of Burwood would receive a benefit from Mr Baird continuing to do the work that related to the civic precinct project rather than needing to brief other lawyers that would have to come up to speed, if you like, on what was involved in the project. Is that right?---That's correct.

Now, your understanding at that time was that Council could brief lawyers like any other service industry without going to tender provided that the cost that would be incurred did not exceed \$150,000, is that right?---Yes.

- 30 And you had become aware that the threshold was \$150,000 and that a tender was not required as a result of a circular which had been circulated by the Department of Local Government, is that right?---Yes, in 2005.

Can I show you this document. Now, is this the document that you had seen circulated in December, 2004?---Yes.

And it bears the dated 23 December, 2004, doesn't it?---Yes.

- 40 And if you turn to page 3 of that document, at the bottom of page 4 perhaps and the top of page 3, it was your understanding that this circular was indicating that as a result of, sorry, page 2 to page 3, this circular was indicating that the threshold of \$150,000 was the point at which Council would have to observe the formal tender process before engaging in any contracts?---That's right.

And you're aware, aren't you, that this particular regulation, Local Government Tendering Amendment Threshold Regulation came into force in September, 2005?---Yes.

And so at the date that the legal services moved from Maddocks to HWL Ebsworths, it was your belief that was entirely appropriate and lawful provided that the legal services were either, did not exceed \$150,000 or it was just justified by the extenuating circumstances, is that right?---That's correct.

And in fact you had read this particular circular before Mr Becerra was appointed as the principal architect, is that right?---I would've read it, yes, probably 12 months before, yes.

10

12 months before Mr Becerra was appointed?---Yes.

And if I can just move that for a moment. You were asked some questions by Mr Blake about conversations between yourself and Mr Romano in which it was proposed that the Council take on an architect, an in-house architect to complete the civic precinct project, is that right?---That's right, yes.

20

At the time of that conversation, you did not feel that there was anything improper or illegal about the appointment of an in-house architect?---No.

And at the time BKA had been, that is Baker Kavanagh Architects, had been providing much of the professional architectural services to Council involving the civic precinct project, hadn't they?---They'd been providing a fair bit of input, yes.

And the civic precinct project was perhaps your major or main task at this particular time as the Director of Executive Services?---It became my major task from early March, 2007.

30

And how was it that that came to be?---The decision was made to change the roles of the directors. Because the civic precinct was becoming such a major part of the, project was becoming such a major part of, of Council business and was something that the Councillors were really pushing, it was decided that a new position would be created or a new division would be created where the major focus was the civic precinct project and that's, I was moved from Director of Business and Corporate Services over into that division and that's when Mr Cummins moved up into the role that I had or not the same role but a, a, a similar sort of role to, to what I had.

40

Just to be clear. Before coming the Director of Executive Services, what was your role?---Director of Business and Corporate Services.

And when you moved into the Director of Executive Services role, some of your former responsibilities as part of Director of Corporate Services were taken over by Mr Cummins?---Yes, I, I basically took over, I took with me, if you like, I took the, the finance section with me and then I inherited a few other things as well, the swimming pool and special projects and the civic

precinct project and I also took property over with me but the rest of them stayed in a, in a different area where, where, where Mr Cummins came in.

We might come back to the structural evolution of the Council a bit later. For the time being or perhaps, Commissioner, if I can firstly tender that circular.

ASSISTANT COMMISSIONER: Yes. That circular will be Exhibit 306.

10

#EXHIBIT 306 - CIRCULAR NO 04/62: CIRCULAR TO COUNCILS – REVIEW OF LOCAL GOVERNMENT REGULATIONS

MR EURELL: Now, the Civic Precinct Project was also known as the Library Project wasn't it?---Yeah, started off as the Library Project, yes.

What was the Library Project? Perhaps we can - this is important because it relates to the invoices - - -

20

ASSISTANT COMMISSIONER: I'm sorry, Mr Eurell, I don't think it is important to go through the entire history of the structure of the Council or how the Civic Precinct came about.

MR EURELL: I don't intend to go through the entire history of it, Commissioner, but one of the - - -

30

ASSISTANT COMMISSIONER: Well, that's good to know but why do we need to know more about the Precinct Project than we already know which is that it was a big project that the Council was doing and that Mr Becerra had previously given advice on?

40

MR EURELL: I was about to indicate, Commissioner, that it is directly relevant to the issue of the invoices that Mr Hullick has been examined on. And you'll recall that I came into this matter a little later than everyone else and that Mr Hullick hasn't had an opportunity to really explain the circumstances or his thinking that surrounded those invoices. And one of the matters that's directly relevant to his involvement in signing off those invoices is what he understood to be specifically the Library Project of the Civic Precinct Project because that is referable to what other work might've been able to be involved in by Mr Becerra. I shall be brief, I don't intend to go through any prior history.

ASSISTANT COMMISSIONER: That's good actually. Before you do that can I just ask Mr Hullick something. Mr Blake took you to some conversations with Mr Romano earlier?---Yes.

And one of them was about hiring Mr Becerra and Mr Romano had you saying something like when it was first raised, He should only be working on the Civic Project nothing else, in effect, words to that effect. Do you recall that that was what you said when this issue was first raised? Was that your view that if an in-house architect was hired he should work only on the Civic Project and nothing else?---Yeah, the, the idea and I think I gave this in earlier evidence, the idea was that because the, because we needed an architect that was fairly experienced we, it was, there was a decision on how much we could, we could really afford to pay and a comparison about
10 whether we pay somebody to, to do this or whether we commissioned an architectural firm to do, basically, you know, to be, be on call and the idea was that to get someone in-house we could probably get away with paying him around about 140,000 as opposed to say 250,000 but the only way we'd do that is if they worked exclusively on the Civic Precinct but they could also do other work for themselves. So that's, that was the basis of why Mr -
--

So the short answer is as far as working for the Council was concerned it was your view that the architect should work only on the Precinct?---Yeah,
20 yeah, sorry, yeah, sorry.

That's all right. That's all I wanted to clarify. Yes, please go on.

MR EURELL: Thank you, Commissioner. Mr Hullick it's your understanding in fact isn't it and this is, it's not a mere nuance perhaps because there have been a few different versions about this that seems to be

MS RONALDS: I object. I'm trying not to object to the terrible leading
30 that's occurring because it means the evidence obviously is of limited use when the witness is led so extensively but perhaps if my friend could ask questions rather than editorialise along the way that would assist the process.

MR EURELL: Commissioner, with great respect this is the first time it's been suggested that leading's not appropriate and my friend has been, learned senior counsel assisting has been doing it for six weeks. That's an extraordinary objection.

40 ASSISTANT COMMISSIONER: Yes. Look, leading is fine, I mean, it depends on how it's led and it can take from the evidence if the witness is just, you know, accepting everything that's put to him. It's a matter for you.

MR EURELL: If it assists my friend I'm taking this from notes that Mr Hullick has given me and it's taken me some time to get to this. We'd simply be here for another two or three days if I had to lead it in the ordinary course. I'm simply trying to save the Commission's time. It was your understanding when Mr Becerra was appointed that you needed

somebody to deal specifically with the work involving the Civic Precinct Project wasn't it?---Yes.

And Mr Becerra was brought on for that purpose wasn't it?---Yes.

It wasn't your understanding that there was a prohibition on him working on any other matters but that his principal activity was to be the Library Precinct Project?---That's right.

- 10 And in fact it's your view isn't it having had a look at the contract that that's what was intended when the contract was drawn up that Mr Becerra be brought on to work principally on the Library Project? Was that your understanding?---Yes.

You didn't understand as you've said that there was a prohibition on him working on other matters for the Council?---No.

You certainly were never told that Mr Becerra could not work on, within the Burwood Council area?---No.

- 20 And when you received the invoices that Mr Becerra submitted for work and which you have on some occasions signed off as the authorising officers you understood those receipts to relate to work that didn't involve the Civic Precinct Project. Is that right?---That's correct.

Were you the most senior person at Council involved in co-ordinating the Civic Precinct Project? Was it your, if you like, baby?---Well, the General Manager was, had a fair bit to do with it as well but yes, yes, it was, I, I was, it was my main objective if you like.

- 30 And would it be fair to say that insofar as knowledge of what was involved in the Civic Precinct Project is concerned you were really the person who knew more about it than anybody else at Council?---The General Manager probably knew as much as I knew about it but certainly probably nobody else apart from us two.

Now, the invoices that you were examined about in your evidence on the first or second occasion, do you remember that? Invoices submitted by Mr Becerra? They're not Exhibit 145?---Yes, I remember them, yeah.

- 40 And at any point in time did it occur to you that there was anything improper about you signing those invoices, signing off as the authorising officer?---I'm not, I'm not sure that I signed all those invoices anyway but no, I didn't think there was anything improper.

Is there a policy or a procedure at Council that talks about what the function of the person who signs as the receiving officer or the authorising officer is?---No, there's not, there's no, there's no policy or particular guidelines.

There is a, it's more a, a practice I suppose. The individuals, individual people have authority to sign off to certain amounts of, up to certain amounts on their own.

- And in fact it's the case isn't it that this particular stamp that goes onto invoices requiring a receiving officer and authorising officer to sign off is a creature that is only known to Burwood Council, it's not a requirement of either the Department of Local Government, the Independent Commission Against Corruption or either, or a practice that's endorsed by Council's generally?---Yeah, I'm not aware of it. I mean it could occur in other Councils as well but it's, yeah, it's certainly at Burwood.

And was it the case that you understood the function of signing off as the authorising officer to be intended to tell accounts that it was okay to proceed to pay the invoice?---Yes.

- And do you understand the distinction between that understanding and one running to it being a matter of probity within the Council to make sure, do you understand the distinction between the two?---Sorry, can you just explain that?

Perhaps if I put it this way. When you signed off as the receiving officer, what steps had you taken to satisfy yourself that the Council should pay the money to the recipient?---Oh, you just, you just ensure yourself that the, that what's been asked for has been received.

And in some cases you would've had personal knowledge that the services had been received?---Yes.

- 30 And in other cases what action would you have taken or did you take to satisfy yourself that it was okay to pay or to sign off as the responsible officer?---Well, you just check with the appropriate, the appropriate person in the organisation that, that, that, that it has been undertaken, yeah.

And there was no, you, you said there was no policy or procedure that directed you that any action other than satisfying yourself either through personal knowledge or by making an inquiry of the authorising officer was improper?---No, there was no other practice, no.

- 40 Was that the standard practice?---Sorry, there was a practice, yeah, there was no, there was no policy or, or procedure.

And is the summary I've just made of your thinking accurate and correct? ---Yes.

You had worked, you, you, you told the Commission that you were involved in the selection and appointment of Mr Becerra as the principal architect? ---That's correct.

It was the case, wasn't it, that in order to complete the library and civic precinct project you required somebody to provide architectural skills?
---That's right.

And at that time Baker Kavanagh Architects was providing those services?
---They had been, that's correct.

10 And did you turn your mind to what it might have cost to continue providing, to continue receiving those services through an outsourcing model or through an external provider in contrast to having an in-house architect?---Yeah, well, I mentioned that earlier. It, I think there was some sort of estimate that it would, for, for what we wanted the, the amount of time that we, we wanted to ensure with the project it could cost Council anything up to probably \$250,000 a year by using an outsize, an outsourced architectural firm.

And so was it the case that you felt appointing an in-house architect would have the advantage of saving ratepayers - - -?---Yeah, certainly.
20 - - - the expense of those external services?---Mmm, yes, mmm.

Mr Becerra had, prior to this appointment had worked on the civic precinct project, hadn't he?---Yes.

That however was not alone the basis on which he was appointed as the in-house architect, was it?---No.

You were never told, as you've said, to appoint Mr Becerra?---No.
30 And in fact you were told to, and it had occurred to you that the proper way to proceed was to engage an external or two in fact external recruiting companies?---That's right.

And they were Drake - - -?---Yes.

- - - who you engaged?---Yes, Drake's and Recruitment Edge, yes.

40 And Recruitment Edge. And you interviewed three persons for that position?---The, the, the employment, the employment agencies interviewed three. We only interviewed two.

Which employment agencies interviewed three?---I think Drake interviewed one and the other, Recruitment Edge, interviewed two.

And it was the shared view of the, or after Drake and Recruitment Edge interviewed the three, they put forward two nominees, is that right?---Drake

said that the person that they had was not suitable. Recruitment Edge said they had two that looked like they'd, they'd fit the criteria.

You were also given some advice, weren't you, by Drake and Recruitment Edge about whether or not \$140,000 was a sufficient amount of money to secure the appropriate services of an architect?---For an architect of that experience and, and what Council required, yes, it, they, they said that it would be very difficult to, to find that sort of person.

- 10 Do you know why the sum of \$140,000 was decided upon?---No, I've been trying to think about that. I'm not, I'm not really sure. I, probably because it's, it's in the, it's in the upper echelon, if you like, of what people at Council were getting paid.

It's between a manager and a director, isn't it?---It's, yeah, it's in, it's in that, it's in that area, yeah, mmm.

- 20 But as far as you were concerned, it was open to Council to engage a person to provide those services without going to tender, given that the remuneration was not going to exceed \$150,000?---Yes.

And it was your belief, wasn't it, that having regard to the fact that the tendering threshold was \$150,000, that there was really no problem in your mind in engaging those services either as an employment contract basis or as a contract for services?---That's right./

- 30 And so you accept don't you, now, having heard the evidence before this Commission that there was a substantial degree of uncertainty amongst the various persons involved including Mr Romano, Mr Macklin, Mr Becerra and yourself as well as Mr Baird and the lawyers of Maddocks and in fact Drake and Recruitment Edge as to really what the nature of the relationship between Mr Becerra and Council would be and in fact was?---Yes, there seemed to be some sort of confusion about that, yes.

And you agree, don't you, that some of that confusion arose as a result of too many people being involved in that particular process, that is, the appointment of the in-house - - ?---Yeah, probably, yes.

- 40 And you have seen now, haven't you, that multiple people were giving instructions to the lawyers who were drafting the contract?---Yes.

And you have seen that various people were involved in giving instructions to Recruitment Edge and Drake?---Yes.

And is it the case that you would describe it as a situation where there were too many cooks spoiling the broth?---It appears so, yes.

You certainly hadn't had any specific conversations with either the lawyers or Mr Romano about what Mr Becerra's relationship to Council was, had you, that is there had never been a specific conversation in which it was said categorically that he was an employee or he was a contractor?---NO.

That sort of skipped everybody's attention, didn't it?---It, well, yeah, it, yeah, there was no, I think Mr Romano's indicated that he thought it should've been a contractor and he was convinced that it was a contractor but I was never, I was never privy to that view. As far as I was concerned 10 they could be either way. There was, there was no, there didn't seem to be any impediment to me for someone to be either an employee or a contractor. I realise now, of course, there is a, there is a difference in the, yeah, there's a difference in the relationship when someone is a contractor and someone is an employee but as far as the threshold of 150,000 it wasn't, it was a non-issue.

For you?---Yes.

And the reason that you responded to Mr Blake's question about the 20 conversation in which Mr Romano has described in his statement relating to the nature of that relationship is that you don't have any specific memory about a strategy meeting in which it was discussed one way or the other which Mr Becerra would be?---No. No.

Is that right?---Yeah, that's right.

You would remember that wouldn't you?---I would've thought so, yes.

When you authorised the payments to Mr Becerra outside and those are the 30 payments in the invoices in Exhibit 145. Do you recall those invoices? ---Yes.

It's the case isn't it that you, on each occasion, satisfied yourself that the money was owed to Mr Becerra?---Yeah.

That is he had performed the work and Council had an obligation to pay for the work?---Yes.

That it was work which was outside of the library or civic precinct project? 40 ---Yes.

But it certainly on its face did not appear to you to be an excessive amount for the services that were said to have been performed, albeit there were some irregularities in those invoices?---That's right.

And just finally, it is your evidence isn't it that having understood that Mr Becerra's engagement with Council was, and particular his retainer of \$140,000 was designed to be reimbursement or remuneration exclusively

for work performed on the civic precinct project that the payment of the other invoices were both lawful and appropriate?---Yes.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you Mr Eurell.

MS RONALDS: I just have a couple - - -

10 MR BLAKE: I want to fulfil a promise?

MS RONALDS: To whom though?

MR BLAKE: The Commissioner. Commissioner, I want to ensure that all the relevant information about the Christmas party is before you.

ASSISTANT COMMISSIONER: All right.

MR BLAKE: I have a document that has a green addition.

20 ASSISTANT COMMISSIONER: Oh, oh, yes. The green addition.

MS RONALDS: It's never been shown to me, but we wouldn't to break Mr Blake's habit of not complying.

MR BLAKE: In fact, I only received it a short time ago. But I think it probably should be tendered, so there is a complete - - -

ASSISTANT COMMISSIONER: Yes.

30 MS RONALDS: At least it's in Christmas colours. Thank you.

MR BLAKE: It probably could be conveniently added to the earlier Exhibit, but I can't recall what it is, so, maybe someone knows.

Mr Chalmers is going to say it's 278, I don't know.

ASSISTANT COMMISSIONER: Well, he is the Christmas party expert.

40 MS RONALDS: 278 apparently.

ASSISTANT COMMISSIONER: All right. So we'll make it part of Exhibit 278.

#EXHIBIT 278 - ATTACHMENT TO EXHIBIT 278: COPY OF LETTER RE ATTENDANCE AT DEPOT STAFF CHRISTMAS PARTY

MR BLAKE: Yes. I want to clarify one thing if I may?

ASSISTANT COMMISSIONER: Yes.

MR BLAKE: Can I also seek to clarify one thing?

ASSISTANT COMMISSIONER: One thing, yes, Mr Blake.

10 MR BLAKE: Just one thing. On page 20 of the transcript which is a very long time ago now, when Mr Romano was about to give evidence, your Honour, sorry, Commissioner, you made a section 38 declaration which in its terms refers to today's evidence.

ASSISTANT COMMISSIONER: Yes.

MR BLAKE: And I just want to clarify that, that it extends to the various statements which have been received into evidence by Mr Romano.

20 ASSISTANT COMMISSIONER: Yes, I noticed that each of the statements says on its face that it's being lodged under objection and I confirm that the section 38 declaration does extend to each of the statements Mr Roman has lodged.

MR BLAKE: Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you.

30 MS RONALDS: Mr Hullick, if I could just ask you a couple of questions in clarification that haven't been traversed. Do you recall yesterday Mr Blake was asking you some questions about an email on 12 June, 2009, from Mr Macklin which covered Mr Giangrasso and Mr Child and what the Council strategy should be about essentially keeping them away from the workplace. Do you remember that?---I think I do, yes.

And it was put to you, it relates to 12 June, 2009, and Commissioner, this is 2405, line 41 of the transcript, so as at 12 June, and Mr Blake said to you, And you were also aware that there were at that time allegations against Mr Child relating to his employment that had not yet been dealt with? And you said, Yes?---Yeah.

40 What allegations did you think on 12 June, 2009 had been made against Mr Child and not dealt with?---Oh, I can't think of the dates now. Is that the, is that ADB matter or is that - - -

Well, if it assists you, Mr Saad's complaint was not known to Council until the latter part of July?---Oh, okay.

So it wasn't that. I thought there were a number of complaints in relation to, to bullying and harassment that, that was still sort of out there, if you like.

Well, the specific question put by Mr Blake was that they had not been dealt with. And I'm trying to clarify - - -?---Oh, okay. I see what you mean.

- - - from you what you mean when you agreed with him, as you did?

---Yeah, well I suppose it's, yeah, I see what you're saying. It's the whole, I suppose it's the whole thing with, with Child hadn't been, hadn't been finalised. But, you know that's - - -

10

Do you want me to read you Mr Blake's question again? You were also aware that there were at that time allegations against Mr Child relating to his employment that had not been dealt with? Yes, well, yeah, you're recorded as saying, in fact?---Yeah, well I suppose - - -

What allegations do you say was the basis of your answer to Mr Blake?

20

---Yeah, well, I'd say that the fact that there were still matters that hadn't been dealt with, the Child's matters had still, were on hold. I can't specifically think what they were, but - - -

You see I'd suggest to you - - -?---that's, in that context I would've, I would've said it. Yeah.

But by 12 June, 2009 there were no allegations against Mr Child in relation to bullying et cetera that had not been dealt with. Were you aware of that?

---No. I wasn't, no.

30

But you're unable to assist really about what you meant when you answered Mr Blake's question. Is that correct?---Well, I suppose I made an assumption there were still stuff that was still outstanding. I, I - - -

You accepted that Mr Blake was putting a question to you did you that was factually accurate?---Well, yeah. I suppose I did, yes. Yeah.

In relation to the Acting General Manager roles - - -?---Yeah.

- - - you had been made Acting General Manager in relation to Mr Cummins, the Cummins matter?---Yes.

40

And you understood Mr Dencker was the Acting General Manager in relation to depot reform?---Yes.

Who if anyone did you understand was the Acting General Manager in relation to the Sydney Morning Herald allegations?---I don't know.

There wasn't one was there?---No, I don't think so.

And you were aware that the Mayor had announced that the General Manager had told her on the 7th, I think, that he was standing aside in relation to the allegations made in the Sydney Morning Herald? Do you recall that statement from the Mayor?---Yeah, I think I do, yeah, I've heard that.

I've not been able to locate anywhere that any of you were then formally put in charge as the Acting General Manager in relation to those allegations.
Do you recall that ever happening in relation to yourself?---Not in relation
10 to, no, not, not specifically the Sydney Morning Herald, I suppose the fact that I was put in charge of the Cummins thing which embraces quite, embraced some of those matters but no, I agree with you, yeah.

And in relation to this Commission's inquiries or investigation there was no one appointed as an Acting General Manager in relation to dealing with ICAC was there?---I think I was sort of given that role.

That seen as a roll-on from the Cummins - - -?---I think I was sort of given that role, yeah, to, to deal with matters with, for ICAC. I was the one that
20 they sent the section 22 notices to.

But that's only because they would've been - was there any formal delegation - in other instances there's emails from Mr Romano to you and to everybody saying Mr Dencker's doing this and Mr - - -?---Yeah, I can't recall a thing saying - - -

I've not seen any document that suggests there was any formal allocation?
---No, no.

30 But the letters to the Commission - this is in Exhibit 305 - came from HWL Ebsworths on the Council's behalf and was cc'd to you and Mr Dencker?---Yeah.

Does that suggest that you were sharing it with Mr Dencker in some way?
---Probably, yeah.

There was no formal arrangement was there?---Not as such, no, not - I was given the role of the, with ICAC to liaise with ICAC and make sure that the section 22 notices and that were - and I think they were sent to me so, yeah.
40 No, I'm just looking at it slightly broader than just the section 22 notices?
---Yeah, yeah.

And you've given some evidence that you understood that this Commission had said in relation to Mr Cummins and you know yesterday and today you've given some evidence about the IT and why it didn't progress and you've suggested that was because of what this Commission had directed. Are you able to assist me by taking me to the document that you say forms

the basis of your view?---I thought there was a document back from, I thought I saw that, wasn't there a document back from ICAC? I haven't got it with me.

In relation to Mr Cummins I'm talking about not Mr Giangrasso, Mr Cummins?---I thought Mr Cummins was mentioned as well.

I'm just trying to find from you what you say is the basis of the view that you've expressed several times yesterday and today that the Commission
10 had said that it was no go in relation to Mr Cummins?---Well, that was my understanding, yeah.

Yes, I know it's your understanding?---Yeah.

I'm trying to explore with you what basis you formed that understanding?
---Well, I thought there was some document that I, I must admit I, I, I can't, I thought there was something in writing that - if there wasn't something in writing there would've been something that probably came back through our legal people but I thought there was something in writing.

20 So you're not able to - - -?---I don't know what it is but, yeah, I'd have to, I don't know.

Can the witness be shown Exhibit 289. When you get this I'll ask you to look at paragraph 98 where you endeavoured to tell Mr Blake something but he was talking about a different paragraph and he didn't permit you to finish so I just want to give you the opportunity to finish what you were trying to say. Go to page 27, paragraph 98A. Do you have that?---98A, yeah.

30 Do you see Mr Blake was asking you some questions about 97 and you started to comment on 98A?---98, yes.

But you didn't complete it. What were you endeavouring to say in relation to 98A?---I was commenting on Mr, I was starting to comment on Mr Romano's view there.

Yes. And what did you want to say?---That 98A is wrong, that's all I said.

And why is it wrong?---Because I didn't commission the invoices.

40 Right. And in relation to D, sorry, B, C, have you got any comment to make on that?---No.

And D does that agree with your understanding at the time?---The first part of it is right but the fact that Mr Romano says he only had that belief because of conversations he had with Mr Baird and Mr Hullick was not correct.

Can you just shut that up. I can show you this document. See the bottom email is an email from Mr Macklin to you dated 18 August at 3.50. Do you see that?---Yeah.

And it attaches an agenda for the meeting and it says, Is this what you wanted? And then over the page there are two pages of an agenda. Do you see that?---Yeah, I do.

10 And then you send it on to Mr Romano. You send it to Mr Baird and copy it to Mr Romano. Why did you send it to Mr Romano?---Obviously for his information.

Can I ask you to look at the agenda items, to look at the headings of each. I'd suggest to you that for each of those Mr Romano had a conflict of interest. Would you agree?---Possibly, yeah.

And that in fact you shouldn't have been at the meeting at all. Would you agree?---Well, I don't know whether he was but - - -

20 What I'm suggesting to you is it's plain on the face of the agenda that for every item you discussed on 19 August Mr Romano had a conflict of interest and therefore should not have attended the meeting. Would you agree?---Well, as I said I don't know whether he attended the meeting or not.

No, but that's not what I'm asking you?---No, he probably shouldn't have attended, yeah.

Thank you. Could I tender that?

30 ASSISTANT COMMISSIONER: Yes. The email from Mr Hullick to Mr Baird dated 18 August, '09 and attachments will be Exhibit 307.

#EXHIBIT 307 - EMAIL FROM MR HULLICK TO MR BAIRD AND MR ROMANO DATED 18 AUGUST 2009 AND ATTACHMENTS

40 MS RONALDS: And can the witness be shown Exhibit 297. See that's an email and if I could take you to the top two emails you see that you make some comments or some changes in your email that you send on, the second email down, 2 October at 5.27. Do you see that?---Yeah.

And then you forward it to Mr Romano. See that, the top email?---Yeah.

Why did you do that?---Well, again just for information.

What was in it that you thought he needed to know about?---Well, I suppose it was just, just updating him on what I was, what I was doing and all that. I mean I regularly just forwarded stuff to Mr Romano for his information.

But they were matters about which he had a conflict of interest, weren't they? That is, you knew that protected disclosures had at least to some extent been made against him?---No, I didn't see any harm with just sending him, sending him the, for information.

- 10 Didn't turn your mind to the fact that it was contrary to the statements he'd made that he had stepped aside in relation to the allegations?---Well, it was just updating him. I mean, I, I didn't see anything wrong with just - - -

Did at any time did you turn your mind to the fact that the flow of information going to Mr Romano was inappropriate because he had a clear conflict of interest?---No, I didn't, I, I didn't think that at the time, yeah.

Can the witness be shown Exhibit 286. If I can ask you to turn to the second page of this - - -?---Yep.

- 20 - - - where there's an email from you, 3 September, 4.31. Now, you've given some evidence this morning that you had no involvement in the depot. Why were you involved in this matter? What was the urgency that you thought for a relatively low depot worker was a matter that you needed to get involved in?---I was just giving my, my comment there on that particular matter.

- 30 I know that's what you're doing. That's not an answer to the question, is it, Mr Hullick? Why were you involving yourself in depot affairs for a relatively modest depot worker and saying it needed to be urgent?--- Well, for the whole depot reform thing. I, it's, that was just my comment, that's all, I said that before.

I know. I'm not asking you that. I know it's just your comment. I'm asking you why you made it?---Well, it was my input into it.

I know that?---That's, that's all it was. It was just my input into the, into the - - -

- 40 ASSISTANT COMMISSIONER: Yes, you've said that three times, Mr Hullick?---Yeah.

You're not really listening to the question. The question is, why did you involve yourself and why did you think it was urgent?---Because I think all these, all these matters needed to be dealt with, all these disciplinary matters needed to be dealt with. The depot was in a, was in a, in a shambles. I was just putting my comments in. As I said, the depot didn't come under my

control but I could see that things needed to be done so I'm putting my comment in.

MS RONALDS: I have nothing further.

ASSISTANT COMMISSIONER: Thank you. Yes, well, Mr Hullick, you are now excused from further attendance.

10 <WITNESS EXCUSED

[12.33pm]

MS RONALDS: I call Mr Romano.

ASSISTANT COMMISSIONER: Yes, Mr Romano is to be recalled.

ASSISTANT COMMISSIONER: Yes, Mr Romano, you are still under oath and the Section 38 declaration still applies to your evidence today?

---Thank you.

MS RONALDS: Mr Romano, are you able to explain why it's not possible to locate a copy of your 2002 employment contract within Council premises
10 anywhere?---No, I'm not. I wasn't aware that there wasn't a copy.

Where would you say it should be found?---I would've thought on my personal file.

Well, it's not there. Can you explain why it wouldn't be held there?---As I answered before, Ms Ronalds, I, I don't know why.

You always treated your contracts as a very secret matter, didn't you?---I thought there were elements of my contract that were private, yes.

20 And you ensured that they weren't kept on your personnel file as a matter of process, didn't you?---Subsequent to 2002 I did keep copies in my office but I believe the relevant sections of the contract that related to operational matters were kept on my personal file.

Now, do you recall that you signed a new contract effective from 1 August, 2005?---Yes.

30 And you ordered a new car on 2 August, 2005, do you recall that?---I don't recall specifically but it sounds right.

And was there some specific change in your contract between the previous one and the one that became operative on 1 August that led you to order a car on 2 August, 2005?---I can't recall.

Now, you purchased a recall. It was a Honda CRV, is that correct?---Yes, that sounds right.

40 And it cost \$42,331, do you recall that?---That sounds about right.

34,239 for the car and 7,554 for the extras, do you recall that?---That sounds about right.

Now, I suggest to you you had no authorisation to expend \$42,300 to purchase a car, did you?---I don't agree with that.

Well, do you say it was in your contract?---I believe that my contract allowed me to buy or well, to have a car, and that Council's policy allowed

for the General Manager and other staff to have cars under certain arrangements.

Just leave other staff aside. You well know, don't you, that Council set your terms and conditions of employment?---In accordance with the contract and also in accordance with the, the policies, yeah, of Council.

- 10 And you didn't take to Council a report and seek their authorisation to expend \$42,331 purchasing a new vehicle, did you?---No, I did not but I, I believe that I had the authority within the contract to do that. They had approved my contract with those arrangements.

All right. Well, we'll turn to the contract in a moment. You privately sold that car, didn't you, while it was registered to the Burwood Council?---I did sell the car, yes.

And you had no authorisation to do that, did you?---No, I don't agree with that.

- 20 Well, you advertised the car on Carsales.com.au?---That's correct.

And you sold it for \$26,000?---That's correct.

After some negotiations with the purchasers?---That's right.

And you repaid Council a sum, didn't you?---Yes, I did.

And it was not the total sale price, was it?---No, that's right.

- 30 You repaid Council the sum of \$19,945?---That's correct.

And the \$500 deposit paid in cash, you kept that?---I, I might have, I'm not sure.

And the second bank cheque for the purchase for \$5,555 you deposited into your private bank account would you agree?---That sounds right, yes.

I'm sorry, your wife deposited it into your private bank account?---My wife?

40

Yes. She actually did the physical act of depositing?---Well, I don't know. I assume so but if you're telling me that but I can't recall.

And I suggest to you that you had no lawful basis to keep the \$6,055, would you agree?---No, I don't agree with that.

Because the property you sold was in the name of Burwood Council, wasn't it?---I understand that there was a process issue that occurred at the time that I should have been more careful with.

Well, it was much more than a process issue, wasn't it? You were selling property that was owned by Burwood Council, weren't you?---Yes, it would appear that way, yes.

10 Well, you didn't have any doubt about it, did you?---I understood I had authority under the contract that I have with Council as an entitlement to that vehicle.

Yes, you had an authority to purchase the vehicle, didn't you, yourself? ---My answer? I, I, I thought I had an authority within the contract to sell the car at the term of the contract or at any time within the contract under those arrangements.

20 Are you seriously telling the Commission that you thought you had the authority to sell Council property and keep a proportion of the sale price of that property?---No, I - - -

And to not disclose it to anyone, is that what you thought?---No.

Well, did you make a report to Council that said, I sold the car for \$26,000 but I kept 6,055 to myself?---Would you allow me to answer the question?

30 Did you make a report to your employer, the Council, that told them that you had privately sold a car registered to Council and hence a Council asset and kept part of the purchase price to yourself?---I thought I answered that earlier, but no I didn't.

And you didn't do that because you knew you'd done the wrong thing, would you agree?---No, I totally disagree.

And I'd suggest to you that there was simply no doubt that you did the wrong thing and you were fully aware at all times?---No, that's not correct.

You knew you had no entitlement to the \$6,000 didn't you?---No, that's not correct.

40 And you participated in providing documents to Council that contained false and misleading information about the price of the car didn't you?---No, that's not correct.

Well, we'll go through them, Mr Romano. I'll show you a bundle of documents, we'll work our way through them. They've got page numbers down the bottom in the usual fashion. Now the first few pages is your 2005 contract. Do you see that?---Yes.

You're familiar with this document?---Reasonably.

Now can you take me to where you say it authorised you to purchase, sorry, to direct that Council funds be used to purchase you a vehicle?---I don't believe that there's statements to that effect in there.

I beg your pardon? Sorry, there was a lot of noise at the back, I couldn't hear you?---I don't believe there are words to that affect in the contract.

- 10 No, I don't believe there are. So how do you say that you had authorisation to purchase a vehicle, order a vehicle on 2 August, 2005 and then purchase it? If it helps you page 13 has the matter about packaging a car and of being available to purchase it. But that's not what I'm talking about. That's the end of the process. What I'm talking about is the commencement of the process?---You're possibly right. I don't believe that the contract talks about the commencement of the process.

- 20 No. And I've been unable or we've been unable anywhere to find that there was ever a report by you from Council seeking approval that you purchase a car using Council funds for 100% of the purchase?---There was no - - -

That would be correct wouldn't it?---As I said earlier, I don't believe there was a report to Council. And the reason for that is that I believed that I was following Council's policies in relation to the acquisition of the car.

All right. All right?---Okay. So that's my response to you. I also understood in my contract that a car would be available for me to use.

- 30 All right?---And it would appear that, you know, the wording in these contracts is, is lacking of that information.

There's nothing there is there?---Well, it would appear that way. And look, it's been some now that I've looked at the exact words in these contracts, but it would appear that way.

- 40 Well, over the luncheon adjournment, I'd invite you to read your 2005 and 2007 contract and then when we come back we can perhaps return to that in detail?---I, if I may offer some more information. I thought there was a schedule within the contract, it doesn't appear to be here, that, that detailed the actual cash component and car (not transcribable). It doesn't appear to be in the copies that I have here.

Well, every schedule that's been referred to, as I understand it, there's schedule A, B, C and D. Do you see that?---Oh, okay.

There are other documents that I'll take you to later that set out in essence the accounting version of what your contract in 2005 say?---Yeah, I'm aware of those as well. But I, I believe, well, again, I stand corrected, this is

from my memory, there should've been a schedule which details the cash component, the super component and the car component. It doesn't appear to be in the documents I have here.

No. That happened in the 2007 contract. I think there was an - - -?---Well, then it could be that the anomalies in these contracts were being picked up along the way and they were being improved upon.

10 But I'm still seeking to find from you where you say you had the basis to authorise funds to purchase a car?---My understanding at the time was through Council's policies that allowed me to have a car.

What policies were they?---Council's car policy.

And if there's nothing in there about the General Manager can buy himself a car?---Well, our practice was to salary sacrifice cars at the time.

I understand that?---And, and it wasn't just me. There were other senior staff that, that were (not transcribable) to that arrangement.

20 You understand - - -?---My, my knowledge of the contract and I understood from my contract and my negotiations with the various parties, was that I was to have a fully maintained car under a salary sacrifice arrangement that Council would provide. And I understood that the policies of Council which have changed from time to time, would make a car available to me. Now if, if it was purchased, it was purchased. I assume it was purchased under the Council's policy arrangements.

30 Well, you were the General Manager. What other people did were determined by, were determined by you weren't they?---Sorry, could you just repeat that, I didn't hear?

If other people who were not the General Manager had cars that was because, that was determined by you, as part of your role as the General Manager. Would you agree?---I would partly agree with your statement. I had a role in, in making those decisions, but I would follow Council's policy.

40 But you didn't set your own terms and, or at least, sorry, I'll withdraw that. You were not supposed to set your own terms and conditions of employment were you?---I, I did in effect do that by negotiation with Council through their employment agent and through the committee of Council that was set up in terms of my contract. So, yes, I did have a hand in the terms in my contract and in the application of those terms. It was my understanding through those discussions and through the process that I went through, both at the time of my initial employment and later on at, on a number of occasions, through my review process and review of the, sorry, my performance review process and my renewal of contracts along the

way. So it was clear in my mind that I was entitled to a vehicle. Now, if the contracts don't reflect that accurately, then there's, there's obviously an anomaly with the contract. But I, I did not go out of my way to deliberately abuse my powers nor to spend Council money without authority. Now, I dare say that the committee of Council and the entire elected Council, if they would be asked today, was I entitled to car, the answer would be yes.

I'm not arguing about whether you were entitled to a car. What I'm asking you is the authority to expend \$34,000 of Council funds in purchasing a car.
10 That's the issue I'm asking you to address?---I, I understand that. And it was my understanding at the time that I had the authority to do that. Now I do acknowledge that it would appear that the contract is, is silent on that point.

If I could ask you to turn to page 44 of the bundle that you have. Mr Romano, it would assist if you would listen to the question and answer it?
---I'll do my best.

You see that that's the purchase order for the car?---Yes, I do.
20 And this is the one kept on the files, you see \$42, 331, they're the sums I put to you earlier?---Yes.

You see you had \$7,554.90 worth of accessories?---That's correct.

And you say that was authorised under the policy?---I believe I was entitled to it, yes.

And you'll see this document's not signed?---Yes.
30 And when you turn over the page the approval advice, payment approval advice isn't signed?---Yes.

Are you able to explain how it is that on the file copy none of them are signed?---No, I can't explain that.

If I could ask you to turn to page 46?---Yes.
40 And you'll see there's one of those stamps, the likes of which we've seen before, if you turn the page sideways?---Yes.

And that's the receiving officer?---Yes.

Is that you?---It's not my signature.

No, it doesn't look like you. And who's, well, who's the receiving officer?
---I can't tell from that signature. I don't know.

And who is the authorising officer?---It looks like Mr Hullick's signature.

It does look like Mr Hullick doesn't it? But you haven't signed off on it anywhere?---It doesn't appear so, no.

But it was for your private vehicle wasn't it?---It would appear that way, yes.

10 Well, have a look at it if you have any doubt it?---Well, yes it is. Sorry, my apologies, I'll be more direct. Yes, it is.

You then advertised the vehicle on carsales.com.au. Do you recall that?---Yes, I believe I've answered that question.

And if you look at page 47 in the middle of the page there's the details that you used. Now, you agree that the numberplate was A-U-G-3-8-H?---Yes.

Do you recall that?---Yes.

20 And if you could then turn to page 49 you'll see a copy of a cheque made out to Burwood Council for the sum of \$19,945. Do you see that?---That's correct, yes.

With a note saying, "Matthew", that's to Mr Walker?---Yes.

"This cheque for sale of Council car, rego number A-U-G-3-8-H."?---Yes, that's - - -

Now, that's strictly correct isn't it?---That's - - -

30 But it was only for partial price wasn't it?---It was a depreciated value of the car.

Yes. And you'd gone to great efforts hadn't you to find out what would be the depreciated value of the car?---I asked Mr Walker what that was.

There had been a number of emails and you'd raised it several times over several, over some time hadn't you?---Yes, that's right.

40 And I'll provide you later with these details but the schedule of depreciation I'd suggest to you showed that the price was within that vicinity, that is, \$19,945. See that?---That's right.

And I've just handed you a document which is just a short version of that. And having worked out that that was the price you worked out that you could sell the car and keep the extra bit if there was an extra bit?---Well, as I explained earlier I believe that I was entitled to sell the car and in fact, Ms

Ronalds, you pointed me to page 13 of these documents where it was clear that I had an entitlement to buy and sell the car - - -

With the greatest respect, Mr Romano, just have a look at what page 13 says. "Will be available for the employee to purchase at any point."?---Yes, and I do acknowledge there was a process error on my part.

10 But it was much more than - - -?---I should've purchased the vehicle from Council and then sold it and I agree with that but that doesn't mean that I went out of my way as it's been suggested to defraud the Council or the community. I, I did not do that.

Well, I suggest to you you did and you did it as a deliberate action so that you could make some money out of the sale which should properly have gone to the Council. Would you agree?---No, I totally disagree with that.

20 Well, that's the cheque and what I'd suggest to you you're endeavouring to suggest to Mr Walker was that that was the entire sale price. Would you agree?---No, that was the depreciation value that was put to me by Mr Walker which I believe that Council was entitled to.

And do you say there or anywhere else, by the way I made \$6,055 on the sale?---No, it didn't occur to me to put that information in there but it doesn't change the fact that that was the value of the vehicle that Council was entitled to.

30 Mr Romano, the vehicle was registered to Burwood Council. You kept money that you had no authority to keep. Would you agree?---No, I disagree with that. If I'd purchased the car from Council I would've purchased it for \$19,945, I then would've proceeded to sell the car in a similar fashion to what I did in the documents that you're showing me and I may or may not have made the amount that was indicated, the \$26,000 so the - - -

All perfectly possible?---So the outcome would've been the same, I did not defraud the Council nor the community and I did not abuse my powers.

40 Mr Romano, there's several flaws in that isn't there? First of all, you didn't do that, you sold Council property when you had no authority to do so. Would you agree?---I don't agree with that.

You, had you done what you suggested you could've done which was the only thing you could've done was to purchase the vehicle, you would've been required to pay sales tax on it wouldn't you? A stamp duty I'm sorry, you would've been required to pay stamp duty on the transaction. Would you agree?---I'm not sure, it's possible. Then if that's the case then I, I'm not aware of it.

Just turn, we'll skip ahead then. Just turn to page 56 of the bundle. You see that?---Yes.

That's the transfer?---Yes, that's right.

Sale price \$19,945. See that?---Yes.

Signed by you?---Yes.

10 That was a false statement wasn't it?---I didn't believe so at the time.

The sale price was \$26,000 wasn't it?---Obviously there's an error in my mind in terms of the transaction.

The sale price was \$26,000 wasn't it?---Yes, it was.

And that's not what you completed on the document is it?---No, it would appear not.

20 And when you got Mr Allsopp to sign the document did you tell him that the real price was \$26,000 but you kept the other bit?---I didn't see that there was a need for that.

Did you tell Mr Allsopp that the real - - -?---No, I didn't.

- - - price was 26,000?---No, and I didn't see that there was a need for that.

You had an argument with Mr Allsopp about this sale didn't you?---No, I did not.

30

He expressed to you extreme concern that you had sold a Council asset that was an unauthorised sale?---If I might correct you there. I believe that Mr Allsopp complained I think to either Mr Macklin or one of the other staff at Council about this transaction and it was conveyed to me that he was concerned about that transaction, yes.

And if you'd sold it - - -?---But it wasn't - - -

Sorry?---But it wasn't a discussion that I had with him personally.

40

If you'd told him the truth he would've been more concerned wouldn't he? ---And at the time I believe that I did make comments to at least Mr Macklin if not Mr Walker as well, I stand corrected here, I'm, I'm trying to recall the exact words that I, that I said and who I spoke to but I did at the time comment that, you know, probably the process that I used was in error. It was too late at that stage, I had already made the transactions.

Wasn't too late to pay the Council the extra \$6,000 back was it?---Ms Ronalds, I, I did explain it to you but if you would like I might repeat it. Would you like - - -

Mr Romano, there's no need to be smart is there?---I'm not trying - - -

I'm asking you - - -?---(not transcribable) Ms Ronalds.

10 - - - a quite separate question. You say that perhaps the process was flawed. You've sold a Council asset, you've kept some of the profits, why didn't you give the Council the \$6,055 when you realised the process was flawed? ---As I explained earlier had I followed the process the Council wouldn't receive the \$19,000-odd that's been indicated here. They would not have received anymore from me in terms of my arrangements within the contract, at least what I thought I understood my arrangements in the contract were. So there's no need for me to hand over a further \$6,000 to the Council because their entitlement was the \$19,945.

20 Did you ask Mr Baird for some advice about this?---No, I did not.

Why not?---I don't know why I didn't but I didn't think that that was, you know, a need at the time, didn't occur to me.

Just go back to page 50. You asked the purchasers to provide you with two cheques?---Yes, that's right.

One for \$5,550. See that?---Yes, I see that. It's 5,555 actually.

30 And made out to you and your wife?---Yes.

And just so that it's clear from the document the next one is an unrelated cheque for \$100 that you'd apparently won in the Melbourne Cup sweep, that was deposited at the same time. You then turn to page 52. You see the deposit slip?---Yes.

For, that's the extra \$100 but essentially the \$5,555. And then if I could ask you to turn to page 54 you'll see on 15 November, 2007 the second last entry. You see that?

40 The deposit, the cheque was deposited in your private account?---That's right.

Now by undervaluing the price of the car that meant that there was less stamp duty to be paid. Would you agree?---I, I don't know that I can answer that question because I'm aware that there was stamp duty applicable. But I don't know.

And if I could ask you then to turn to page 57. You see that's the receipt issued to the purchaser from Burwood Council isn't it?---That's right.

And it's issued to the purchaser of the vehicle?---That's right.

And it's for \$19,945?---That's right.

Now, Commissioner, it might be appropriate to suppress the personal details of the purchasers. They have statements at the back and their details are there and I don't think that they need to be exposed.

ASSISTANT COMMISSIONER: Yes.

MS RONALDS: So perhaps if I tender this bundle of documents and seek a suppression order in relation to the names, address and other personal details in relation to the purchaser of the vehicle. Is that appropriate?

ASSISTANT COMMISSIONER: Yes. I was just wondering too about the bank statement of Mr and Mrs Romano, which has a lot of other transactions in it. I think it should be suppressed except for the relevant deposit.

MS RONALDS: Yes. We did take the bank account number off so that it's not there.

ASSISTANT COMMISSIONER: Yes. Well, I just think the other stuff doesn't really add to it.

MS RONALDS: No.

ASSISTANT COMMISSIONER: So with the bundle of documents in relation to the car purchase and sale will be Exhibit 308.

#EXHIBIT 308 - BUNDLE OF DOCUMENTS REGARDING CAR PURCHASE AND SALE OF HONDA CRV – PAT ROMANO

ASSISTANT COMMISSIONER: And I make a suppression order in respect of the details of the purchasers and also in relation to unrelated entries in Mr and Mrs Romano's bank statement.

SUPPRESSION ORDER IN RESPECT OF THE DETAILS OF THE PURCHASERS AND ALSO IN RELATION TO UNRELATED ENTRIES IN MR AND MRS ROMANO'S BANK STATEMENT.

MS RONALDS: Thank you. Mr Romano, could I ask you to go to the last page of the bundle. I'm sorry, did you give a number, Commissioner?

ASSISTANT COMMISSIONER: Exhibit 308.

MS RONALDS: That was what purports to be a receipt. Do you see that?
---That's right.

In your handwriting?---That's correct. Yes.

- 10 And it doesn't have any value for the purchase of the vehicle does it?---No, it doesn't.

And I'd suggest to you that was a deliberate act on your part in order to deceive those at Council so that they would think you had sold the car for \$19,495. Would you agree?---No, that's not right. Because I, I don't believe that this receipt went on its own. There were other documents that went with it.

- 20 Well - - -?---And, you know, it was understood by the parties that I was dealing with, Mr Walker and others, of what I was doing.

I'd suggest to you there is not one document that is on a Council file that contains the correct sale price of the vehicle is there?---That might be the case, I don't know, but I was trying to explain - - -

And that's because you were endeavouring to mislead the Council and dishonestly obtain funds. Would you agree?---No, that's not true.

- 30 I note the time, Commissioner.

ASSISTANT COMMISSIONER: Yes. We will adjourn at this time until 2.00pm.

LUNCHEON ADJOURNMENT

[1.02pm]