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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION MAGNUS

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 10 JUNE 2010

AT 10.05AM

Any person without publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

ASSISTANT COMMISSIONER: Thank you.

MS RONALDS: Commissioner, before I recall Mr Romano, I've just got some documents to tender. The first is, is a statement of Mr Romano's called, Media Statements, that was provided, well to me late yesterday afternoon. And I understand to some of my friends things morning.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 314.

10

#EXHIBIT 314 - STATEMENT OF MR PAT ROMANO – MEDIA STATEMENTS

MS RONALDS: I tender some emails in relation to Burwood Council's dealings with Mr Giangrasso.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 315.

20

#EXHIBIT 315 - EMAILS AND DOCUMENTS RELATING TO MR GIANGRASSO

MS RONALDS: Okay. Sorry, in this bundle, emails in relation to Burwood Council's dealings with Mr Giangrasso, letter from StateCover to Robert Cummins, dated 26 May, 2009, letter from David Baird and Todd Neal to Les Hullick dated 7 May, 2009, extract from the New South Wales Ombudsman's publication protected disclosures guideline and transcript of the evidence of Tony Fasanella dated 9 March, 2010 and I've applied to lift the suppression order on that evidence and it starts at the bundle on page 37 of the bundle. So these are just a few loose ends we thought we could clean up.

30

ASSISTANT COMMISSIONER: All right. So that's all part of Exhibit 315.

MS RONALDS: Sorry, I misunderstood, I thought they were coming (not transcribable).

40

ASSISTANT COMMISSIONER: All right. Well, they're all made part of the Exhibit and the suppression order on the transcript of, whose evidence is this, sorry?

MS RONALDS: Mr Fasanella.

ASSISTANT COMMISSIONER: Of Mr Fasanella's evidence is lifted.

**SUPPRESSION ORDER ON THE TRANSCRIPT OF MR
FASANELL'S EVIDENCE IS LIFTED**

ASSISTANT COMMISSIONER: Ms Ronalds, before you recall Mr Romano, I might just address an issue that was raised yesterday about the topic of written submissions being provided, Mr Leggat.

MS RONALDS: Yes.

10

ASSISTANT COMMISSIONER: A submission was made that section 31(10) appeared to envisage that there would be a hearing of closing submissions as opposed to either a public or, sorry, to written submissions. Section 17 of the Independent Commission Against Corruption Act provides that the Commission shall exercise its function with as little formality and technicality as possible and in particular that the Commission shall accept written submissions as far as is possible. And compulsory examinations and public inquiries shall be conducted with as little emphasis on an adversarial approach as is possible. In 2008, the Commission also sought and obtained
20 an amendment to Section 112 of the Act to make it clear that the range of material in respect of which a non-publication order could be made included any written submissions received by the Commission, including but not limited to submissions made by counsel assisting the Commission.

In my view the effect of these provisions was to ensure that as far as possible written submissions would be made and that such submissions could be made subject to a non-publication order in order to protect the reputations of those who might be unreasonable adversely affected by premature publication of views expressed in such submissions.

30

I'm satisfied in the circumstances that there is nothing in section 31(10) which precludes the Commission proceeding by way of written submissions and I intend to direct that written submissions will be delivered in this matter on the dates previously indicated by Ms Ronalds. And I do make a non-publication order, that is the submissions will not be published except to the extent that it is necessary to prepare submissions in response.

40

**I DO MAKE A NON-PUBLICATION ORDER, THAT IS THE
SUBMISSIONS WILL NOT BE PUBLISHED EXCEPT TO THE
EXTENT THAT IT IS NECESSARY TO PREPARE SUBMISSIONS
IN RESPONSE.**

ASSISTANT COMMISSIONER: Thank you. Yes.

MS RONALDS: I recall, Mr Romano.

ASSISTANT COMMISSIONER: Yes, Mr Romano. Thank you.

MS RONALDS: Mr Romano, if I could just briefly return to the Honda CRV and its sale. You agree that had you taken the option to purchase it as was provided under your contract you would've needed to provide to the Council cash to pay for it, that is, the \$19,000-odd you would've had to pay in cash wouldn't you?---I agree that the process would've been different and I would've been required to have paid some monies, yes.

10

Yes. Well, almost \$20,000 you would've had to pay wouldn't you?
---That's correct. That's right.

And so by adopting the course you did you avoided having to put up your own money?---It wasn't my intention to avoid that process, I thought I was streamlining the arrangements but yes, in response to your answer, yes.

20

And then you would've had the car and you would've carried the risk of the time you could've found a seller. Do you agree?---Yes, if you put it that way, yes.

And whereas the course you took ensured that the Council carried the risk so if it took a month to sell then it wasn't a month of your money tied up in the vehicle. Would you agree?---I don't know that the Council was taking any risk but certainly there would've been a time lag between the time that I acquired the car and the sale.

30

What I'm suggesting to you is you avoided any risk to your personal funds. Would you agree?---I'm not sure that I know how to answer that question. I, I agree that there would've been a time delay and I would've been out of pocket the amount of money that I would've paid the Council although I would've had funds to draw on in terms of the money that I was putting aside from my pay so I'm not sure what you're getting at.

Well, what I'm suggesting to you is that the course of action you took ensured that you used a Council asset as opposed to your own funds?---I believe I had contractual rights to the vehicle, I acknowledge - - -

40

I understand that, Mr Romano, could you please answer the question?---I thought I was so I'll repeat what I was trying to say maybe in different words. Given that I had a contract with the Council I believe I had a contractual right to that vehicle. I do - - -

Mr Romano, you are not answering the question. Would you please listen to the question. What I'm suggesting to you is this. The process that you took ensured that you didn't spend any of your own money. Would you agree?---I would agree that my money was not spent in that process, yes.

And what you should've done if you wanted to sell the car was buy it yourself and pay approximately \$600 in stamp duty as the purchaser. Would you agree?---I'm not sure what the stamp duty calculation is but I'll take your word on it but yes, I would've had to have outlaid some money. I agreed yesterday that the process I followed was, was flawed.

That's now what I'm asking you about is it? I'm trying to identify with you - - -?---(not transcribable) understand what you're asking me.

10 - - - how you saved, how you obtained a financial, personal financial advantage by the process you undertook. Would you agree?---It would appear that way but it was not deliberately done that way.

So is the answer yes?---I'm not sure that I can answer yes or no.

Well, you didn't pay the stamp duty did you?---In the process that I adopted, no, I did not.

20 Thank you. And stamp duty was paid on one transaction only not on two. Would you agree?---Well, in the process that I undertook there was no stamp duty paid at all. I've acknowledged that.

Well, by you there wasn't, there was by the eventual purchaser?---I, I don't know what the process is beyond that point, I don't know.

30 Mr Romano, what should've happened but didn't was you should've bought a Council asset at a particular price and if you wanted, and at that point you would've paid stamp duty. You then if you wanted to would've sold it and that purchaser would've paid stamp duty on the price. The reality is that you've, the price you paid the Council was \$19,495, you should've paid stamp duty on that and when the purchasers purchased it for \$26,000 from you they should've paid stamp duty on that \$26,000. Do you understand that?---Yes. So is your question that the purchaser hasn't paid stamp duty?

No, what I'm saying to you is that the State Revenue was deprived the price, the full price stamp duty of \$720. Would you agree?---I, I'm not knowledgeable in that area but if you say that then that's correct.

40 Well, you filled out the form that put the price of the car for the purposes of the transfer of the vehicle at the 19,000-odd value didn't you?---Yes, that's correct.

And there's no document going into the RTA that says it was paid for 26,000 is there?---Yes, that's probably right.

Thank you. Now yesterday you provided a statement that was dated 8 June, 2010 and called by you or those you instruct media statement. You agree? ---Yes.

It's now been given a number 314?---Yes.

Now, in that statement you set out a position which essentially says you stand by all the public media releases that you made which defended yourself. Is that a fair reading of it?---Yes.

10 And for the record there's nothing in this statement that couldn't have been provided to the Commission a month ago is there?---I assume so, I (not transcribable)

Well, it's not like the statement you provided last week which was commenting on the previous week's evidence, this is commenting on evidence that goes back to March isn't it?---Probably, yes.

20 I'll move on. Can the witness be shown a copy of 314 if you have one. I'm sorry, Commissioner, we haven't been provided with sufficient copies so you'll just have to share for a minute. If I could ask you to go to page 8, 43(b)(v), you see that?---Yes.

That is the additional allegation that I breached Council's policy regarding the disposal and acquisition of a Council vehicle which was part of Council's fleet of vehicles. That's the allegation. Do you see that?---Yes.

And if I could you then to turn to page 9, 45(d) and take you to the last sentence of 49(d) you see where you say, "At that time I took up the option of buying and selling the vehicle."?---Yes.

30 That's a false statement isn't it, Mr Romano, you didn't buy the vehicle?---I would agree with the statement you're making but I will qualify that by saying that I have in the last two days said to this Commission that I did not follow an adequate process but my intention was to buy and sell the vehicle although the process that I followed was, I admit, not quite right.

Well, you never bought it, did you?---Well, you're right and that's why I've
- - -

Thank you?--- - - - said to you, I, I agree with you.

40 If that exhibit can be returned and the witness can be shown 301. What I suggest to you is this, at the time the Sydney Morning Herald first article was published on 4 April, 2009 you started a campaign of retribution against those that you considered were responsible for the contents of the article. Would you agree?---No.

And that the article, the email you sent which is at the bottom of the first page of 301 and over onto the second page - - -?---It's okay, my copy has the whole email.

Sorry?---If you're worried about the email, the email's here.

You've got it all there?---Yeah.

You're one head of me so count yourself lucky?---I don't think so.

10 That email I'd suggest to you, the one that you sent to Mr Azer and to Mr Macklin was the first step in your campaign of retribution, what you were seeking were documents relating to those who'd been employed at the depot, would you agree?---(NO AUDIBLE REPLY)

If you look at numbered paragraph 7 on the second page?---The email's quite comprehensive, I, I was seeking quite a vast amount of information including information about depot staff.

20 Yeah, so that you could start working out - - -?---But out of seven, out of seven items there's one item that, that specifically talks about depot staff, other than item 1 and 2 on the second page which refers to the work manager.

30 They all related to depot staff, didn't they, 1 to 7? What you were trying to find out is why did he leave, to see if Mr Child or Mr Giangrosso were named in those and in paragraph 7 you very specifically direct attention to Mr Child, Mr Quirk and Mr Giangrosso and say quite blatantly these are required by me for submission to Council's lawyers, my lawyers and third party authorities?---I became quite concerned at that stage that a lot of the rumours and allegations that I'd been hearing about certain individuals and activities at the depot might have some substance and given the articles I felt a need to inform myself of information that the Council had that related to the articles in the, in the Herald with a view of defending Council and myself.

What I'm suggesting to you, Mr Romano, is this is the first step in a campaign of retribution against those who you thought had spoken to the Sydney Morning Herald, that is, you were trying to find the dirt on them so you could undermine their credit in public. Would you agree?---No, I disagree. The purpose - - -

40 And you were endeavouring at that stage to protect your personal reputation and not the Council's, would you agree?---No, I disagree.

Can the witness be shown 197. Now, you see on the, on the first page is the email you sent on 5 April. Do you see that? Have you got 197?---Yes.

If I can take you to the second line, you say in this regard I wish to advise you that the claims in the article are totally false and unsubstantiated?---Yes.

That was not correct, was it?---It was correct at the time and I, I have put in qualifications in terms of some of the issues lately, particularly in regards to the car which you drew out yesterday and it hadn't occurred to me.

The emails weren't full, the text messages which were in bold in the middle of the story weren't false, were they?---The context in which they were placed were false.

10 The email, the text messages were not false, were they, Mr Romano?---The text messages were real and correct but they were taken out of context and misrepresented.

They were not totally false, were they?---They were misrepresented and that's what I was referring to.

They were completely accurate text messages that you had sent to Mr Child, weren't they?---I'll repeat my answer, they were misrepresented and because they were misrepresented I took them to be false.

20 What do you mean by the use of the word false?---False in that they did not reflect the truth.

They were real text messages that you'd sent to Mr Child?---They were misrepresented.

Each word was a word that you'd put into your telephone as a text message and sent to Mr Child, weren't they?---The text messages are real but they were misrepresented in the articles.

30 So they weren't totally false, were they?---If you're referring to the text and the words that were used in the text, they were not false - - -

Thank you?--- - - - but the context in which they were placed and the way in which they were portrayed were false.

If I could ask you to turn to page 11, please and look at paragraph 11?
---Yes.

40 Now, what I'd suggest to you is this: this was part of your campaign of retribution against those you blamed for the Sydney Morning Herald articles, wasn't it?---No.

The identification of the people from (a) to (e) were people you knew had worked on the units, weren't you, didn't you?---No, I had no idea that some of those people had worked on the units.

Well, I suggest to you that that is a false answer, isn't it?---No, it's not.

Well, you see, I'd suggest to you that there are no IPP reports that identify any individuals and in particular I'd suggest to you there are no IPP reports that identify those five people, would you agree?---I'm not sure.

Well, you state here, "The people I am aware of from IPP reports are," and then list a number of people. Do you see that?---Yes, I see that.

Well, I'd like you to identify for me which IPP reports you say identify individuals?---The verbal reports I was receiving from Mr Mailey.

10

So you say there was a verbal report that says Mr Barry Webb had done something?---He didn't call him by name but he called him, he identified him as being the guy that drives the backhoe.

You see, Mr Romano, I'd suggest to you this list is very clearly the people you knew had worked on the units and that's how you identified them, would you agree?---No, I do not.

20 And you wanted then to dob them into the Tax Office, that was a vindictive suggestion, wasn't it?---It wasn't a vindictive suggestion, I was looking at what our obligations as an organisation were.

And have you spoken to your accountant overnight about your taxation issues?---Yes.

30 Are you able to advise the Commissioner in relation to the 2007 withdrawal of funds that were supposed to be sacrificed for the purchase of the vehicle that we were looking at yesterday, what tax treatment you gave that in your '07/'08 tax return?---I explained the situation to him this morning because I wasn't able to reach him overnight, I sent him an email. He disagrees with you in part and we discussed him providing a, a report or correspondence to put his view across.

We look forward to (not transcribable)?---So I'm happy to provide that to you at some point in time if that's what you require.

40 We look forward to receiving it. Now, part of the retribution was the strategies that you instructed Mr Macklin and others to develop in relation to keeping Mr Giangrasso, Mr Child and Mr Cummins out of the workplace, would you agree?---Sorry, did you, just to clarify the question, I apologise, did you say the strategies I developed?

Yes?---No, I disagree.

Well, what I'm suggesting is you directed Mr Macklin to develop strategies to keep them out of the workplace, would you agree?---No, no.

And you made it clear to him that you didn't want Mr Child back in the workplace, didn't you?---No, I did not.

And you expected him to be able to come up with a mechanism to achieve what was your clearly stated objective, which was to keep Mr Child out of the workplace, would you agree?---No, I disagree with that in fact I referred to some emails that I sent over the course of 2009 yesterday and I'll repeat them again today, where I clearly, clearly instructed and suggested to the senior staff that they be very, very careful in terms of the actions and strategies that they were taking.

Well, can the witness be shown the annexures to 252, it's in two bundles. The third, sorry, it might be the first and last page, what an inconvenient way to have (not transcribable). The third page in the bundle. The email from Mr Macklin to you and others on 12 June, that we've been through a number of times. Do you see that?---No, not yet.

Sorry?---Not yet. If you might give me a moment, I'm trying to find it. There are two bundles here.

The fatter bundle. The one with the annexures to it?---Third last page.

Perhaps if they could both be provided to me and I'll find the document in question?---Is it the last, the fourth last page maybe?

Yes?---Peter Macklin to Azer, 12 June, 5.49?

Yes. Yes. Now you see that sets out certain proposals from Mr Macklin about considering what should happen if Mr Child and Mr Giangrasso wanted to present themselves as fit for work?---Yes, I see that.

And you see your response?---Noted.

Yes?---Yeah, I was just noting the information that's been provided. It wasn't - - -

Making any suggestion that they should immediately be allowed back into the workplace or you didn't need a strategy or anything like that did you? ---I didn't think there were any actions that were coming out of this at the time, so I noted it as information that was being provided.

What I'm suggesting - - -?---It's not, my, my word noted is not an approval of what was there.

Well, what I'm suggesting is you noted it because it was entirely inconsistent with the instructions you'd given Mr Macklin you said about developing a strategy for keeping them out?---No. I said to you earlier that I did not direct anyone in regards to strategies. So no, I disagree.

What I'm suggesting is you made it clear to Mr Macklin you wanted them kept out and left it up to him to develop the strategies. Would you agree?
---Sorry, you might repeat that question.

I'm suggesting to you that you made it clear to Mr Macklin that you wanted Child and Giangrasso kept out of the workforce and you left it to him to develop the strategies?---No. I never said to Mr Macklin that I wanted people out of the workforce, any persons out of the workforce.

10

You've heard his evidence in that regard?---I heard his evidence. His formulated opinions and I, I did express my opinions in terms of the activities that some people were undertaking. If he interpreted those to mean that I wanted people out of the workplace, then he's mistaken.

If the witness could be shown 241. If you could turn to page 8, which is the bottom of the email. This is the David and Darren email. You received a copy of this email?---Yes.

20

And it's set out there the basis upon which advice was sought. Do you see over on page 9, for Cummins and Child to be excluded from work, suspended. Do you see that?---Yes.

And I'd suggest to you that that was consistent with the views that you'd expressed in relation to Mr Child and Mr Cummins, that you wanted them kept out of the workforce. Would you agree?---No, I disagree entirely.

30

And can that be returned and the witness shown 272 and 295. If you could first look at Exhibit 272, which is the first entry, which is an email from you dated 14 May at 5.36 sending an email to Gorry, Herman, Neal and Baird. Do you see that?---Yes.

Now you see you're not listed as a recipient. Are you able to explain to the Commission how you received a copy of this email, such that you could send it on to others?---I'm unable to explain that. I don't know. I can guess if you like.

40

Well, at a guess or just (not transcribable)?---Well, I'm not a computer expert, other than what I explained yesterday but the only way that I can see that I would've received this is if I was blind copied in.

That was my suggestion to Mr Macklin, you might recall?---Yes. That's right.

That seemed to me the only way?---That's right.

And why did you think that you needed to send it to Mr Gorry and Mr Herman?---Well, this is reflective of my discussions about what was going

on at the depot and the behaviour and the tactics that were being adopted by the certain individuals in terms of disrupting the workplace, resisting the changes that were being implemented by management, intimidating individuals and I thought it was relevant and pertinent to the information that was being gathered to be put to the ICAC in terms of providing evidence of that sort of behaviour that was in my view, quite inappropriate.

10 That may explain why you sent it to Mr Baird and Mr Neal, but that's not what I asked you is it? I asked you why you sent it Mr Gorry and Mr Herman, your private lawyers?---Well, for the same purpose. I wanted to defend my position and I, I felt that this sort of information was important in that defence. But I also wanted to let Council's lawyers know.

Yes, I'm not asking you about the Council's lawyers. I'm asking you about your personal lawyers. Could you then look, turn to 295 that you should have there as well?---Yep.

20 You see that you sent that to Gorry and Herman, Messrs Gorry and Herman. Do you see that?---Yes.

Why did you send that to them?---For the same reason. I felt that it was information that was important in terms of my defence personally and as a General Manager of Burwood Council.

30 Well, I suggest to you that sending both of these reflects the confusion in your roles doesn't it? And that this was a Council document you should not have been sending to your private lawyers. Would you agree?---I, I think that anyone involved with this hearing and with the events that have occurred over the last two to three years would, would agree that there is a lot of confusion and lack of knowledge and experience as to what can and can't be done in these circumstances. I certainly have learnt a lot in terms of what I should've been doing. And if I had my time over again I probably would've done things a lot differently. But certainly I, I, it is difficult for me wearing two hats, one as a General Manager and one as a, as an individual person that was being put under scrutiny to be able to clearly differentiate those, those different issues and keep them entirely separate. That's why I went to a lot of trouble to ensure that there were meetings that were coordinated with lawyers, not just one law firm but a number of law firms that were representing different issues and different matters. It wasn't
40 clear, roles weren't clear. There weren't directions that were being issued by third party agencies. There was a lack of leadership in terms of all levels, including myself, in terms of what we needed to do, because it was unclear.

Well, you see the Code of Conduct in 10.8, says in regard to information obtained in your capacity as a Council official, and I'd suggest to you that's how you obtained those two, you must not use that Council information for

private purposes. Are you aware of that requirement in the Code of Conduct?---I'm generally aware of it.

And that was what, that was the reason for searching Mr Cummins' computer wasn't it, to see if he could be found to have breached the Code of Conduct?---Look, I wasn't involved in that exercise, so I can't answer. But in terms of me using personal information, I, I engaged HDY to represent me personally and also to represent me as the General Manager of Burwood Council.

10

Well, I suggest to you you have consistently breached clause 10.8 of the Code of Conduct in the way you have provided and used Council information with no authorisation to do so and provided it to your private lawyers. Would you agree?---I, I disagree entirely.

Thank you. In relation to Mr Giangrasso I'd suggest to you there were attempts to terminate his employment during the course of September 2009. You're aware of that?---I understand that the staff were considering termination, yes.

20

And that Mr Leggat's advice was sought?---I believe so, yes.

And then that that attempt stopped?---If it's the incident that I'm thinking of and I'm working on memory here I think I intervened and, and objected to what was going on.

In relation to the termination of Mr Saad I suggest to you you ensured that Mr Saad's contract was not extended to ensure he was out of the workplace after the complaints he'd made about you. Would you agree?---No, I disagree. I think it was clearly explained - - -

30

Thank you. And in relation to the complaint, the discrimination complaint made by Mr Saad you were aware weren't you that he was a man considered by some members of the executive to be a person of no credit? ---No, I don't agree with that. I think - - -

Thank you. Now, when you became aware that a protected disclosure had been made to the Mayor you were very concerned about that weren't you? ---Which protected disclosure are we talking about?

40

Do you think, how many do you think were made to the Mayor?---I don't know, there could've been a number.

Well, you're aware of the one that was made on or about 31 March aren't you, 2009?---I did not know at the time that there was a protected disclosure being made but I understand that there was staff that wanted to speak to the Mayor.

By 1 April you were aware that a protected disclosure had been made and you discussed it with Mr Baird didn't you?---No, I disagree with that. There was nothing that was ever put to me officially even today that would indicate that there were protected disclosures made. It's all hearsay from my point of view.

10 I suggest to you that you understood a protected disclosure had been made and you were desperate to find out what was in the protected disclosure weren't you?---No, I don't believe so I think it was quite clear that there were a number of allegations that were being made against me.

And that you were convinced that procedural fairness demanded that you were immediately provided the protected disclosure. Would you agree? ---No. What I was looking for was an indication of what, what the allegations were not the protected disclosure. I believed very strongly at the time that there procedural fairness requirements in situations of that sort and I was quite distraught that people were telling me that no, that's not the case, you don't have any rights, you're not allowed to, to get information, you're not allowed to defend yourself, you just have to sit there and cop it.

20

That's not what people were telling you at all is it?---It was, it was - - -

Who told you you had no rights and you had to sit there and cop it?---I was told by our law firm, David Baird in particular that it would appear from the information that he had that there were restrictions on the procedural fairness arrangements in matters of the sort that we were looking at. In fact - - -

30 It was a matter of timing wasn't it - - -?---Well, - - -

- - - and it was about when you receive information and the form in which you receive information?---And we discussed that at the time and I took steps to inform myself, I, I did go to the ICAC website, I downloaded some material, I also - - -

40

You, sorry?---I also sought information from the Ombudsman's office. I thought in my mind after reading that material that I was entitled to know what allegations were being presented against me, I understood that I wasn't allowed to, to know who the informants were and, and that, that wasn't an issue for me but I was quite concerned that I wasn't able to be given the opportunity to understand what those allegations were and to be able to defend myself or make, make a contribution in terms of negating the allegations or alleviating people's concerns about the allegations.

Well, you've referred in a document you produced to reading ICAC guidelines and I'd suggest to you there is no such document as the ICAC guidelines that you refer to?---Well, there was documentation that I pulled out of some materials that came from ICAC.

But you don't know now what you were referring?---Again I'm working off memory, there was a pamphlet or a document that I obtained and there was information in that pamphlet.

Is it possible that you're referring to the Ombudsman's guidelines?---Could be, you know, it's been a while now.

10 If the witness could be shown Exhibit 196. And the others can be returned. See, I'd suggest to you that because the Mayor wouldn't tell you what you wanted to know you were so angry with her that you just cancelled the regular fortnightly meetings. That's what happened on 1 April wasn't it?---No, that's not correct. I, I had a very good working relationship with Ms Furneaux-Cook, we, we agreed on some issues and we disagreed on many issues.

Mr Romano, please listen to the question. On 1 April you cancelled the regular fortnightly meeting. Do you agree with that?---Yes, I did.

20 And that was a unilateral action on your part. Would you agree?---No.

And it was done because you were so furious with the Mayor because she wouldn't tell you what was in the protected disclosure?---No, that (not transcribable)

And you were punishing her for that weren't you?---No, that's not true.

30 Thank you. In relation to the text messages, sorry, just excuse me. Remember the text messages you received about exposing your corruption et cetera - - -?---Yes.

- - - in February and March 2009? You'd previously in a protected disclosure indicated that Mr Baird had told you certain information. Do you recall that?---Yes.

And I'd suggest to you that Mr Baird was not the source of the information. Would you agree?---No.

40 You don't agree?---Sorry, this is what I thought the question was that Mr Baird wasn't the source of the information. He was the source of the information.

You say he was?---Yes.

You understood him to say he wasn't?---I heard his reply here in the hearing and I don't agree with that.

All right. Because I suggest to you there was simply never a shred of evidence to say that that property group and there's a suppression order on it and to save having to amend the transcript endlessly I'm not using the name, there was not a shred of evidence to suggest that the property group had anything to do with the text messages was there?---Well, it would appear that way at the moment but at the time in our endeavours to find out who was sending those messages but that was the name that was presented to me.

10 And you now understand that it was someone else entirely?---From the admissions that came out of this hearing I understand that, yes.

Now, in relation to the complaint by Mr Risteski - can the witness be shown 267. See, that's a bundle of documents that relate to various matters, I now can't find the one I want. You appointed Mr Dencker at one stage to be Acting General Manager in relation to this matter. Do you remember that? ---Yes, I do remember that.

20 But you see on 10 November that the report, see that's, sorry, the pages aren't numbered, it's about halfway through there's a report from Mr Macklin to you, see that, dated 10 November? Do you have that? If you can't find it hand me the bundle and I'll show it to you?---Yes.

And that was dated the 10th and that seemed to put the matter to bed didn't it? You see that? He made some recommendations?---Yes.

30 But on 18 November you appointed Mr Dencker to be in charge of the matter. What did you consider was still an ongoing issue that needed Mr Dencker to manage as at 18 November in light of the 10 November report?--
-I remember receiving a call from Mr Child bitterly complaining about, about the review that had been undertaken and the report and the findings. He, he was unhappy with, with the actions that were being taken and recommended against Mr Risteski and he wanted me to intervene. I had previously declared a conflict of interest because I was - - -

Yes, we've seen that?--- - - - acquainted with both of them and I attempted to stand aside and, and keep my distance.

40 Yes, we know that, if you could focus on the question?---I'm trying to get there so I was trying to give some context. So when he approached me and said he wasn't happy, which I believe he, was his right within the grievance process at Council I felt that I couldn't deal with that issue and I passed it on to Mr Dencker to deal with. I didn't follow up, it was a busy period and I was unaware that Mr Dencker had taken that up.

Thank you. In relation to the move of David Baird from Maddocks to Ebsworths, you made it clear, didn't you, to Mr Hullick that you wanted HWL Ebsworths to be included on the panel of lawyers?---No, no, I don't agree with that.

And he acted in accordance with your demonstrated wish, would you agree?
---No, I don't agree with that. We discussed the matter and it was agreed that they were a critical, an integral part of our business at the time and that they should be considered to be put on the panel and I believe that - - -

I have nothing further.

ASSISTANT COMMISSIONER: Yes, thank you. Yes?

10 MR HANLEY: Ms Commissioner, I - - -

ASSISTANT COMMISSIONER: Yes, Mr Hanley.

MR HANLEY: Mr Romano, you sent Mr Child during 2007/2008 many emails, didn't you, commending him and his team for the work they did, that's correct, isn't it?---Yes, that's correct. I, I never disputed his - - -

Just, that's correct, isn't it?--- - - - his work ethic, yeah.

20 I thought you said yesterday to Ms, sorry, counsel assisting, that you were concerned about the quality of the staff at the depot?---Some of the staff, yes.

Well, not Mr Child's staff, is that what you're saying, not his team?---May I explain or are you looking for a yes, no answer?

Well, I would have thought it's capable of a yes, no answer but - - -?---I don't believe so. When we're dealing with people we, we can't just give yes, no answers. I think that there needs to be some reference to a broader scope of issues. In terms of Mr Child's work ethic, there's not, no denying that he was a very good worker, he was very committed and loyal to the organisation but I did have concerns and those concerns grew over time and those concerns came about because of complaints and, and anonymous letters that I received in regards to his behaviour and his ability to actually deliver the work in a manner which was more sensitive to, to individual staff member needs and that was, that was a question that was quite heavily debated amongst the Executive and some, some of the Executive were quite vocal about that behavioural issue that Mr Child had but at the end of the day we, we all agreed that, that he was a good worker.

40

And a man who got the job done?---He was a man that got the job done.

He worked extraordinary long hours, didn't he?---He did.

To the point that you suggested that he may have to be given some form of temporary accommodation in Sydney to save him travelling back to his home?---No, I disagree with that. What, what actually took place was that

Mr Child approached me and asked me whether he could be accommodated in Burwood because he, he had to travel long distances.

But you disagree with it, do you?---I disagree that, in the way that you've put it. I may, I did discuss the matter with our HR officer, Mr, Mr Macklin and he advised me that it was inappropriate to, to have those arrangements. I, I did go in to bat for him but at the end of the day I took Mr Macklin's advice.

10 And in relation to the people who worked under Mr Child, you complimented them as well in relation to the quality of the work that they had done - - -?---From time to time - - -

- - - in 2007 and 2008?--- - - - on specific projects, yes.

Can I finish please? 2007 and 2008, didn't you?---From time to time, I did, yes, on specific projects.

20 And you, you caused Mr Azer to take them out for lunches at the expense of Council to reward them for their hard work?---Some of - - -

Correct or not?---Some of those occasions he did under his own volition but I did direct on some - - -

I'm only asking about you. Do you understand the question? Could you just answer that?---Yes.

30 All right. I suggest the attitude that you had towards Mr Child was one that you established so that you could have a more direct contact with him which was inappropriate in your position as the General Manager?---I disagree that it was inappropriate. I had an open door policy at Council and I invited all staff to, to talk to me.

And you deliberately, I suggest, went past those managers between you and the depot to deal directly with people such as Mr Child, didn't you?---I did do that and I did directly engage in discussion with Mr Child because I was unhappy with the performance of the works manager at the time who was an acting person in that role.

40 You deliberately sidelined the depot manager, Mr Macpherson, didn't you? ---I don't believe I sidelined him. I just bypassed him in certain issues in order to get the job done.

Yes, you did that because he had accused you of running the Council like Animal Farm and you took great offence to it being suggested you might be a, a pig, is that right?---The first I heard those comments was here at this hearing in the last couple of weeks. I find that an extraordinary comment.

You certainly eliminated Mr Macpherson from the line of command in relation to Mr Child, didn't you?---I didn't think that he was a competent manager and I did do that, yes.

I suggest one of the advantages of doing that was that you could directly approach, having established a relationship with Mr Child, for him to do work for private matters for yourself?---No, that's not true.

10 And that's exactly what happened, wasn't it?---No, that's not true.

You did that in relation to the units at Edward Street, or Edwin Street I should say?---No, that's not true.

So you prepared statements during the course of these proceedings where you deny that Mr Child was employed, is that correct, by you and your members for work at the units?---We didn't employ him. We never employed him.

20 You didn't employ him and pay him any money but you certainly employed him to project manage some of the units, renovations, didn't you?---I, I don't define the word employment in situations that there aren't pay.

(not transcribable)?---I didn't employ him but we did approach him to assist us with tradespeople and I believe that there might have been occasion where one of my partners or even I might have referred to him as project managing the job.

30 You, you and your partners had renovated some of the units but you'd found it a bit of a struggle with your own work commitments, hadn't you?---We all struggled with time.

Just answer the question, please, yes or no?---We all struggled with time, yes.

And as a result of those problems you decided to employ Mr Child to manage the balance of the renovations, didn't you?---No, that's not right. What we did - - -

40 He was very convenient, wasn't he for - - -?---May I answer the question.

I thought you had?---No, I hadn't but I would like to complete my answer. We, we didn't engage Mr Child to complete the renovations. We had difficulty in getting trades from time to time and particularly during the latter part of 2007 and early 2008 and in discussion with Mr Child one day, it was a casual discussion, he offered to assist with providing us some tradespeople that he knew.

You've made that clear in your statements, haven't you?---That's correct.

Yes. And I'm putting to you - - -?---And that's how he came to be involved.

- - - a different proposition, you disagree with that, do you?---I beg your pardon?

10 I'm putting to you a different proposition to that you've conveyed in your statement, you disagree with the proposition?---I disagree with your proposition and the context in which you put it.

I want to suggest that if you look at the emails that have been set out in Exhibit 78 between yourself, your partners and Mr Child, it is clear that these propositions existed in relation to those units. One, that he assisted in getting some quotes for you and your organisation, would you agree with that?---He did get some quotes, that's right.

20 From your, you and your partners previous experience with renovating the other units, you had a list of providers of particular items that were going to be installed in the units didn't you?---We did have a list and Mr Child suggested that he could get comparative prices.

I suggest that didn't happen. And what in fact happened and it's clear from that Exhibit is that you and your partners provided him with details of servicing the units, manufacturers of products and detailed various products that he should get to install in the units. Would you agree or disagree with that proposition?---I disagree that we asked him to install those products.

30 You provided him with the names of various manufacturers, manufacturers of items to be installed in the units and also the names of tradesmen didn't you, you and your partners?---We gave him that information because he had tradespeople that he introduced to the site that required those products. For example, a plumber was introduced by him at one stage and he needed pc items - - -

Please listen to my question?---He needed pc items in order to complete the job. And then a provision was provided to Mr Child to pass on to that person.

40 It is clear, I want to suggest, from any reading of the emails that you and your partners were passing on to him people he should contact to ensure that items were installed into the units?---It was for coordination of trades that were on the site. Some of which he introduced and some of which (not transcribable) contractors.

I'm not talking about trade, I'm talking about the specific items that he was given details about, who to contact, what sort of items to ask for and when, when they could be delivered and installed?---And as I explained a few

moments ago he was provided that information so that he could pass that information on to or provide that product to the tradespeople that were on the site, some of which he introduced.

You expected him to ring up these manufacturers in relation to the items that were being specified in particular by Mr Becerra for installation in the units didn't you?---He offered - - -

10 Look please, did you expect that or not?---No, I did not. He offered to do that because of his coordination role with the people that he introduced.

Did you think he was ringing up these manufacturing organisations in his own time or in Council time?---That was our expectation, yes, that he would do that in his own time.

20 It was clear wasn't it from the timing of the emails that he must've been doing it in Council time?---No, that's not clear because Mr Child was working a large number of hours. I wasn't aware when he was taking his breaks. When he was on shift or not on shift. So I wouldn't be aware as to when he was making those calls and whether those times were times that he was having a break or outside of a shift arrangement.

Well you provided him with information such as, and directions such as, we have decided to install the shower trays. Can you please arrange, didn't you?---He rang us in relation - - -

Did you give him that direction in an email?---I'm trying to answer.

30 21 July, 2008 at 2.26pm?---Would you allow me to answer or - - -

Well, I'm asking you (not transcribable)?---are you going to talk over the top of me? May I answer?

Did you give him that direction?---He rang us and asked for instructions as to what type of arrangements we wanted in the shower. The reason he rang us was because his plumber had asked the question. There were issues with the, the actual shower tray versus the shower arrangements that we had specified on documents.

40 ASSISTANT COMMISSIONER: Mr Romano, none of really what you're saying matters. I mean I think you're actually agreeing that you did. Why you gave the direction is not what you're being asked. You're being asked, did you send an email saying we want a certain shower tray. That's what you're being asked?---Yes, Assistant Commissioner.

Yes?---And I suppose why I'm trying to give context is that if I give a yes or no answer, it, it's a misleading arrangement, it doesn't really tell the story or the reason why those instructions were given. It's been alleged that, that

we did certain things that were inappropriate so I'm trying to put into context because I don't want my words to be taken out of context. And clearly my emails and text messages have been in the past and I'm trying to avoid that now, with your permission of course.

ASSISTANT COMMISSIONER: Yes. I don't, the reason why the direction was given is not relevant. And that's not what you're being asked about. I mean, do you understand that?---I, I believe that it is relevant. But if you tell me that, that I've misinterpreted the way this is being put to me,
10 then I bow to your experience and knowledge.

Yes. If you could just listen to the question and answer only what you're asked. I mean you have, you're represented by counsel and he will make sure that anything that needs to be put in relation to your position is put?
---Okay.

Do you understand that?---Okay.

Thank you.
20

MR HANLEY: Okay then, you also, I want to suggest through your partners provided him with details of tradesmen he should contact, such as Mr Andrew Matte of Shiny Floor didn't you?---Yes, that's correct.

And it was up to Mr Child to contact him and organise him to do the work at the, at the units?---I'm not, I can't recall exactly what we were requiring at that time, but he would've made contact with him.

The reason I suggest that Mr Child was being provided with details in
30 relation to tradesmen, manufacturers of products to be installed in the, in the units was because he was in a position, being a supervisor with his own motor vehicle around a very small Council, Burwood and in close proximity to the units, that he was readily available to go and let people in and out of the units at any time they required access. That's correct isn't it?---I disagree with that.

And that's why you used him?---I disagree with that.

He was a convenient way of overcoming the struggling that you and your
40 partners had in trying to manage the other units with your other work commitments. Correct?---I disagree with you.

He also was important, I want to suggest, because being the supervisor he could allow tradesmen from Council to work at the Council, sorry to work at your units during times they should've been doing Council work?---I strongly disagree with you.

And for those reasons he was given a key to the units - - -?---I strongly - - -

- - - to allow access at any time to tradesmen and manufacturers of products to install?--I strongly disagree with that.

He had a key didn't he?---That's correct.

And that was the reason he was given it?---No, that's not right.

10 Are you suggesting it was for some other reason are you?---That's correct.

And what's that?---He introduced tradespeople to the site. Those tradespeople on many occasions wanted after hours access. Some of those tradespeople were doing work on weekends, for example or of an evening and because of the coordination of it, that Mr Child had undertaken it was felt that he could be trusted to be given a key to allow for that coordination to occur.

20 Well I suggest that's a false answer. Mr Child lived some considerable distance away from Sydney didn't he?---He did.

You lived in close proximity to Burwood Council didn't you?---Yes, I do.

If any tradesmen needed access on weekends, you would be the most convenient person to allow them access wouldn't you?---Well, myself and the other two partners - - -

Yes, the other two partners - - -?---also did that sort of thing from time to time.

30 Yes, and you three or one of you would've been the more appropriate people considering you're close residential access to the units to allow tradesmen after hours or weekends?---It was agreed with Mr Child and amongst the partners - - -

Do you agree with that proposition or not?---No.

You were the most convenient people in those circumstances that you have described to allow tradesmen access to the property?---No.

40 I want to suggest that Mr Fasanella on one occasion at least had to contact Mr Child to get the key off him to get access to the units. Are you aware of that?---No, I'm not aware of that.

You stated in one of the statements you've produced in these proceedings that you got to a point of the renovations of the units where you and your partners were concerned about what it had all cost you and working out the budget?---I don't recall that.

Okay. Were you concerned about tallying up what it had cost you in relation to the units?---I think most people would be generally concerned - - -

Look, were you and your partners concerned about that (not transcribable)? ---I don't believe so, no.

10 Were there emails that you are familiar with from Mr Fasanella and maybe Mr Becerra in relation to sitting down and working out what it'd cost?---I think there might've been discussions about costs and tallying up of costs, yes.

Do you recall getting an email from or seeing an email from Mr Fasanella on 3 September, 2008 at 4.03pm where he raised with you the fact that contributions of \$10,000 per person, per family, I should say, by the end of September?---Yes. We regularly made contributions to the Befaro Trust Account.

20 Do, do you recall that email?---I don't recall the details but I, I do believe there were emails between us.

You've referred with some particularity to the emails in one of the statements you prepared in relation to these proceedings haven't you?---I've submitted a vast number of statements, I can't recall every detail but if you want to provide me with the email I'll have a look at it and I'll be more - - -

30 Do you recall that email and I want to suggest it referred to, "These estimates do not include any project management cost and the way the project manager has been speaking I get the impression is that there would only be out of pocket expenses." Do you recall him saying that to you?---I do recall an email to that effect.

The project manager he was - - -?---I think Mr Fasanella referred to Mr Child as the project manager, yes.

As you all did amongst yourselves?---Not all of us but from time to time some of us would.

40 And that was correct wasn't it, Mr Child wasn't being paid for this was he? ---No, he was, he was helping out, he made it very clear to me at the beginning that he would help out as a friend and I took him on his word.

You, I suggest, used your position with Mr Child and the other workers to cause them to act in the way they did in helping out at the units as a result of the fear that they held with you. That's correct isn't it?---No, that's not true. That's not true at all.

If there was any bully at the Council it was you wasn't it?---I don't consider myself to be a bully.

And you suggested here in evidence haven't you that Mr Child at some stage requested that he be given some interest in the property that you were renovating?---No, again, you're taking things out of context. If you'll allow me to elaborate.

10 I thought that's what you were suggesting that at some stage when you approached Mr Child as to whether he needed to be paid anything for his work he suggested that you might consider giving him some sort of interest in the property?---He, he asked to take an interest in the property, yes.

That's false isn't it?---No, that's quite true.

20 And very early in these proceedings I think you informed us that you had spoken to Mr Baird not long after the articles from the Sydney Morning Herald and that you, Mr Fasanella and Mr Becerra had prepared what you called a protected disclosure in relation to the work that had been carried out at the units?---That's right, on legal advice.

It was a very detailed statement wasn't it?---My knowledge of statements today - - -

Was it a detailed - - -?---With, with my knowledge of statements today I don't believe that those protected disclosures were very detailed. Yes, they covered a fair bit of information.

30 You went into emails and what you had done and what you had said to Mr Child didn't you with some particularity?---To some extent. To some extent. We were trying to address the issues that were in the articles.

And you were concerned as a result of the Sydney Morning Herald articles I suggest and the nature of the allegations that you deal with those allegations and explain in any way as to why Mr Child may have been there?---We attempted to explain our position in terms of the emails, yes.

40 And you neglected or omitted to include any reference to the fact that Mr Child had sought some interest in the units as a result of the work that he had performed didn't you?---There were many things that I - - -

Did you, did you delete that or omit that?---I hadn't recalled that instance at that point in time.

You hadn't recalled something that I would suggest to you is a very significant thing that would've stood out in your mind in relation to Mr Child's involvement there?---Mr Hanley, over the course of the last 12 months by looking at diaries and emails and other documents a lot of things

have come back to my recollection through those aids. At the time that we prepared the PDs back in April last year there were a lot of details I hadn't recalled.

See, what you suggest this request by Mr Child is quite an extraordinary one wasn't it?---It was a shock to me, in fact at one of our official Befaro meetings it was discussed and there were minutes to that effect. I, I realised at that point in time that Mr Child had an expectation which went beyond a friendship.

10

Despite that shock of being, of that suggestion being made to you at the time you completely forgot it when you made the protected disclosure with Mr Baird which your other partner signed. Is that correct?---I hadn't recalled it, none of us had recalled - - -

Not one of you recalled it?---It was a very stressful period in our lives.

I suggest the reason it wasn't included in that statement is because it is false and is something that you've made up during the course of these proceedings?---Well, as I said I have minutes of official Befaro meetings where it was documented. If you want to take up the challenge and see if those documents are false then I'd invite you to do that.

20

Mr Romano, you are a man who has created many false documents haven't you in which have been disclosed in these proceedings. That's correct isn't it? You are a man capable of using other people to create false photographs, to deliberately and falsely embarrass an innocent man. That's correct isn't it?---(NO AUDIBLE REPLY).

30 That's correct isn't it?---I would think that your questions are quite deliberately pointed at being taken out of context. I believe, I believe - - -

You know that you have created false documents in the form of photographs at least and that has been apparent in these proceedings?---I, I made my admissions to that, yes.

You're man who will go to extraordinary lengths to create false documents aren't you if it suits your purpose?---I disagree with you.

40 And you did so again in relation to the driveway extracting documents from other residents in the Burwood Council to falsely put with your submissions you said you made to Canada Bay Council. That's correct isn't it?---Other residents? I'm not sure what you're saying.

You extracted documents from the Burwood Council records that you falsely used to suggest they were your renovations. That's correct isn't it? ---My renovations?

To your driveway?---I'm sorry, I don't - - -

Your driveway?---Yes, I had a driveway built at my home, yes.

10 And did you falsely extract records from Burwood Council that were really the records of other resident's applications for driveway renovations?---No. I actually asked Mr Azer for a copy of a public liability insurance certificate, that's what I asked for and that's what he provided me. Now, on reflection, on reflection my actions which were totally innocent that, that request was probably inappropriate. So to answer your question I don't falsify things for my own gain.

You did in relation to the photograph didn't you?---If that's what you say, yes.

No, did you do that and did you do it for your purposes?---Yes.

Yes?---Personal purposes.

20 And the allegations against you in the Sydney Morning Herald which you've told senior counsel this morning caused you to access the private and personal records of employees at Council were done for your personal purposes as well weren't they?---No, I explained my situation.

And you told us about a diary which you had recourse to in assisting your recollections and there's voluminous statements that have been supplied on a regular basis to these proceedings. Is that correct?---Yes, that's correct.

30 And those diaries do they have dates on each page or are they just loose-bound, unnumbered, undated pieces of paper?---My diaries are all bound.

Do they have dates on them?---They have dates on some pages.

Dates you've put on?---The dates were placed in the diary at the time of the (not transcribable).

I'm talking about a real diary, you know one that has a date on every page? ---I have one of those as well.

40 Did you take any notes from that diary that has numbered dates on each page?---Yes, absolutely.

Do you also have a diary that has no numbered dates on each page?---I have a day file which I use as a diary.

A date file?---Day file.

It has no dates on it except what you insert on it?---A day file, D-A-Y file.

What does that mean?---It's a, it's a running record of notes and other material, phone numbers et cetera that I, I can't fit into my normal printed diary that I keep alongside of my printed diary as a day file.

And the accuracy of that and whether it is contemporaneous or not is a matter of accepting your word. Is that correct? Is that correct?---They're my documents, you take what you will out of them.

- 10 See, the reason you fell-out with Mr Child I want to suggest is that he and Mr Giangrasso refused to do anymore work on your units anyway?---No.

And the other reason was that you saw them apparently talking to Mr, sorry, some of the Liberal candidates who had recently been elected after the September elections and you thought that they were in fact consorting against your interests, is that right?---No, that's not correct, I was disappointed that they, they met with those people, they understood that contact with politicians was inappropriate.

- 20 You were, you were, it was explained to you, wasn't it, that this was just an unplanned meeting that took place when they were having a coffee and you didn't accept it, did you?---I did accept that it was an unplanned meeting but I did suggest to all of them at the time that the appropriate thing to have done was to have ended the conversation as quickly as they could and moved on.

You were upset about the results of the September elections at Council, weren't you?---No.

- 30 You were a Labor Party member weren't you, at the time?---No.

Not at all?---No.

Never been?---I have been.

Your interest was certainly in relation to favouring members such as Mr Faker remaining in his position, weren't they?---I think you're referring to Mr Faker.

- 40 Yes?---I would support any of the elected members on Council.

You heard what Mr Faker said about you popping your head into his office just prior to the election?---I do recall him saying it.

Is that true?---I can't recall.

That would be inappropriate, wouldn't it - - ?---Sorry?

- - - you doing that? That would have been inappropriate you doing that?
---If he was the Mayor at the time, and I believe he was, it was quite common for me to walk from my office into his office and consult him on issues from time to time, quite common and I did that with every Mayor that was in office.

About Council issues?---Yes.

10 But in relation to the election I want to suggest that you were concerned that support be given to the Labor Party members who were applying for positions?---That's not my business and it's not appropriate.

And as a result of that you asked Mr Child to organise some of the workers to hand out how to vote cards, didn't you?---No, I did not.

20 You recall that in early February, sorry, I withdraw that. Do you recall giving evidence about a conversation you with Mr Child and subsequently with Mr Baird in these proceedings earlier?---Sorry, could you restate that, I couldn't quite hear you.

Did you, do you recall giving evidence in these proceedings about that incident and talking to Mr Child and then speaking to Mr Baird about it?
---Sorry, which incident?

The request to hand out how to vote cards at the election in September 2008?---I do recall the discussions.

30 So you claim that Mr Child rang you up and said some staff members had approached him and wanted to hand out such cards. Is that correct?---That's correct.

You knew that was inappropriate, didn't you?---For the staff members to hand out, yes, I did and I made that known.

But you tell us that you rang Mr Baird about it?---I gave a commitment to Mr Child that I would get legal advice and confirm my instructions to him which were that the staff should not work in the Burwood area at polling booths during the election.

40 And you heard Mr Baird give evidence about that in, in his, in these proceedings?---Yes, I did.

And he said that you told him that look, some of the Councillors, and I think he might have said some of the Labor Councillors, but some of the Councillors wanted me to get a couple of boys from the depot to go down and hand out how to vote cards, that's different to your evidence, isn't it?
---I, I did not say to him Councillors.

Had you spoken to Mr Faker about that possibility?---I don't believe so.

You see, according to Mr Baird this was a conversation between you and him which was dismissed as illegal and ludicrous out of hand, wasn't it?
---Absolutely.

And I want to suggest that your recollection of what occurred then is false and it was you who approached Mr Child?---I disagree with that.

10 And you recall in February of 2009 receiving a letter from Mr Child about that particular issue, didn't you?---I do recall that correspondence, yes.

That on 23 March, 2003 - - -?---Yes.

- - - and it was headed Private and Confidential?---Yes.

And in fact what he was saying to you was look, I've been criticised for paying some workers overtime out of my own pocket, wasn't it?---Yes.

20 But I've done this before for you, that's what he was saying, wasn't it?
---Well, that's what he claimed.

Because he said I am sure you are aware that I have also paid staff members for overtime at your request on a election day?---And you'll recall - - -

Did he say that to you, we'll get to what you said?---Well, yes, his correspondence did say that. It doesn't make it true.

30 Well, if he was making a false statement to you that you clearly would have known was false, his letter would have had absolutely no benefit to him of assistance that he was seeking from you - - -?---And I - - -

- - - by referring to this precedent, wasn't it?---And I rebutted his comments in follow up correspondence.

40 My question is if he was making a false statement, which you clearly knew was false, the entreaty that he was making to you for assistance would have absolutely no basis of any success, would it?---I, I, I wasn't sure what to take his correspondence at the time. I, I kind of felt that there was an element of intimidation with that, that correspondence. He knew that my position on the election issue was quite clear and I almost felt that he was trying to intimidate me by bringing it up in, in the context that he did. In fact, I, I gave him the benefit of the doubt and in my response I took the position that he was actually referring to Council staff working on that day on official Council business and I, I responded in a, in a tone and in a manner which was well, if you did pay staff for official Council business on that day you were misguided and it was incorrect, that you shouldn't have done it and in fact if you read my response in full and I'd be more than

happy for you to read it out here today in full so that we get the full context
- - -

Can you just answer the question, please?---I'm trying to.

We'll get to your response in a minute?---I'm trying to.

10 Mr Romano, the point is it would not have worked as either a threat or a
entreaty if it was false. This is what Mr Hanley is putting to you. What
would be the point of his putting forward something like that either to
threaten you or to get your support if he knew it was false and you'd just say
well, that's not true, why are you writing that to me?---It seems to have
taken up some weight with this hearing and given - - -

We're asking why would he do it?---I don't know what was - - -

Do you understand the question?---Yes, Assistant Commissioner, I, I
understand the question. I don't know why he would do it.

20 All right.

MR HANLEY: Thank you. You knew precisely what he meant and you
were concerned about the fact that it might be disclosed that you had
organised, quite inappropriately, for Council members to hand out how to
vote cards for Labor Councillors at the September elections?---No, that's
not correct and I disagree.

30 And your letter, I suggest, that you sent back to him on 25 March doesn't
say look, I don't know what you're talking about or what's all this about,
does it?---I, I believe that it was quite, quite clear, as to what he was
referring to and, and what he was doing.

You see, what you said is, "In relation to your claim that I was aware that
you had paid staff overtime for working on election day last year, I advise
you that you are misinformed and incorrect"?---That's right.

I want to suggest that's a very curious response, isn't it?---I never gave him
direction to work on that day so it was quite an appropriate response.

40 I want to suggest that if you thought it had any connection to the phone call
that you got from him as you say asking to pay staff on election day to hand
out how to vote cards you would have refuted it in that statement?---As I
said a few - - -

And you would have reminded him of what you claim you told him?---As I
said a few moments ago, I gave him the benefit of doubt and assumed that
he had staff working on Council business on that day and if that was the
case and if he did pay those staff cash then he did that inappropriately. So I

gave him the benefit of the doubt. I, I put myself in a position where I thought well, hang on a minute, maybe there's another explanation to this.

So do you think it was about the election, the handing out vote cards when you made that response in your letter?---No.

10 You thought he might've, sorry, I'll withdraw that. You thought that maybe Council workers, back in 2008 had somehow done legitimate work for Council on the election day and hadn't bothered to put in overtime claims on Council. Is that what you thought?---No, not that they hadn't bothered to do it, that Mr Child had paid them for that overtime by cash, because that's what he was saying.

There was no restraint in 2008 on Council staff putting in for overtime was there?---No.

20 The circumstances that led to Mr Child paying workers in 2009 out of his own pocket was because of the restrictions that had been brought in in relation to overtime?---Yes.

Two completely different scenarios aren't they in relation to overtime for Council workers doing legitimate Council work?---I agree.

Well did you ring up Mr Child and say, what was the basis for you paying Council workers to do legitimate work on election day back in 2008?---No.

30 What did you pay them for?---No, Mr Azer and Mr Macklin had been in dialogue with Mr Child for some weeks over that issue and other issues. So I chose to respond to him in writing because he chose to write to me.

Mr Azer and Mr Macklin were dealing with a specific matter involving Mr Child paying overtime in relation to some concreting work that was in conflict with Mr Dardano wasn't it?---That was one issue. But there were a number of other issues as well.

Well, can we just deal with that one. And in effect what Mr Child was doing, if what you say is correct, is making an admission to you that he'd also done this type of thing before?---Yes. And it was highly inappropriate.

40 Yes. And if it was highly inappropriate, why didn't you ring him and ask him, what was the work, why were they paid by you, because this is becoming a problem as has been demonstrated in February this year with the current matter. Why didn't you say that to him?---I think I answered that earlier. He wrote to me and I wrote back to him.

Mr Romano, you've had (not transcribable) to ring - - -?---Mr Macklin and Mr Azer - - -

- - - him at any time you wanted to?---May I respond.

Well, I suggest you're not responding?---Well, I'm trying to respond, but you're talking over me again.

I'm asking you why you didn't ring him?---Because I chose to write to him.

10 And in choosing to write to him, you didn't ask him any questions about what appeared to be utter inappropriate behaviour compounding his mistakes in February in 2009, in paying other workers?---As I was trying to explain, Mr Macklin and Mr Azer were dealing with Mr Child and I did not want to intervene in an arrangement whether they had the authority to, to do what they were doing.

(not transcribable)

ASSISTANT COMMISSIONER: Yes, look, we will adjourn but we will be resuming at 11.45 sharp.

20

SHORT ADJOURNMENT

[11.33am]

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

30 MR HANLEY: Mr Romano, the letter or email sent to you by Mr Child on 23 May, about paying workers out of his own money was an entreaty to you to try and assist him in what he thought was an unfair allegation being made about his behaviour wasn't it?---Sorry, would you please repeat that?

Look, he was asking for your help, saying look, I shouldn't be being treated this way. It was necessary to do the work because of the concrete problem, wasn't he? He was asking you to (not transcribable) as General Manager because he thought he was being treated unfairly in dealing with an issue at the time that he thought he'd dealt with appropriately. (not transcribable) agree with that?---I agree he did want me to intervene, yes.

40 Yes. And he pointed out to you that there'd been this precedent where he paid the workers at your request on a prior occasion?---I agree with him.

Sorry?---I said, yes, I agree he had pointed that out in his correspondence.

And do you say that when you saw that, that you didn't think it had anything to do with the fact of paying Council workers to hand out How to Vote cards at the election?---No, because I'd made my opinion and, and given my instructions in relation to this were quite clear.

But you didn't think that, is that right?---No, I do not think - - -

It didn't jump into your mind at all?---No.

So your response to the letter would've been a fairly easy task wouldn't it, if Mr Macklin and Mr Azer were dealing with the matter. I can't help you. Refer to those dealing with the matter who are X, Y and Z?---No, I, I thought that he was making statements in his correspondence to me that deserved a reply.

10

You could've replied appropriately as a General Manager on that limited basis, I'd suggest to you couldn't you?---No, I can't hear you, Mr Hanley.

You could have replied to him as the General Manager in a limited fashion, I have suggested to you?---I disagree. I felt he deserved a, a reply.

20

And did you think it was of such import, your reply to this request to intercede that you should get Mr Baird's advice as to how the letter should be structured?---I did that because there were a number of circumstances that, well a number of events and issues that were occurring at the time which created a situation, a conflict between Mr Child, other depot staff and the management team. And I didn't want to be responding in a way which would cause complications should the dispute escalate.

What does that mean, that answer?---I beg your pardon?

30

What do you mean by that? Here was a man asking you to intercede on his behalf, something you would deal with one would've thought on a regular basis and quite expediently in your role as General Manager?---What I mean is that he deserved a response, I wanted to make sure that Council's position wasn't threatened in any way and I understood that Mr Macklin and Mr Azer were dealing with the matter so I did not want to intervene in any other way other than to respond in the fashion that I did.

But in any event when you did speak to Mr Baird and outlined what Mr Child was raising with you you raised with him that fact that he referred to this earlier payment on election day didn't you?---I said to him that I had specific concerns about that, yes.

40

What were your specific concerns about that?---That it was being raised in the context of a dispute that he was having with the management team.

And do you say that it was during that conversation that your memory was jogged by a response from Mr Baird that maybe Mr Child was referring to conversations that you say you'd had with him on 12 September, 2008? ---That's correct.

And you were concerned he might have ignored your instructions?

---Sorry, can you repeat that?

You were concerned he may have ignored your instructions?---That's correct, yes.

Those matters were never raised in your letter to him were they?---No. As I said earlier I gave him the benefit of the doubt.

You could've cleared it up couldn't you?---I thought I had.

10

By ringing him, speaking to him?---As I explained there were two other members of my staff that were dealing with this issue.

Because in one sense if your initial reaction to what he was saying about this earlier payment was that he had paid staff out of his own pocket at your request when they were doing legitimate work he was compounding the problems he was already facing with Mr Macklin and Mr Azer wasn't he by that admission?---I, I, I agree but disagree.

20

I want to suggest that you well knew he was referring to your request that you pay workers to hand out How to Vote cards on election day?---And I disagree in that regard.

And I suggest that that is why you coached the response in the way you did?---I disagree.

See, your response is that he must be misinformed and incorrect. His suggestion to you was that you had requested him to pay it?---And as I've explained I did not do that.

30

How could he be misinformed is that was the correct use of the word in view of the allegation or the matter he was raising to you?---Well, I was trying to say that he was incorrect in what he was saying.

I suggest the reason you didn't respond suggesting that you had told him that he shouldn't be paying Council workers to go to the election be totally inappropriate et cetera, et cetera you didn't raise any of those matters with him because if you did you were concerned he may reply setting out his position as to what had really occurred?---I disagree. He had his opportunity to put that experience or recollection of what he thought happened in the original correspondence.

40

In view of the concerns you were saying you were having with Mr Child in relation to the implementation of the depot reforms you sought no further explanation as to what this work was done on election day that he had paid for?---No, I assumed that it was erecting barricades and, and other activities related to the election which was quite normal for Council to do in those sorts of events.

That's not the point is it, Mr Romano? If he had paid workers to do legitimate Council work out of his own pocket that would indicate that this was a problem that went far beyond the incident in February and may have been an entrenched problem within the depot?---And that's why I raised the issue after the correspondence was received by me with my management team.

10 So you raised it with Mr Child to get any particulars about it did you?---I delegated that responsibility to my staff.

Did any of them report back to you that they'd spoken to him about that and received an explanation?---I believe it was discussed with him, yes.

Who, who by?---Mr Macklin and Mr Azer I believe participated in some discussions as well.

20 So this was another serious breach apparently by Mr Child that he'd paid workers to do legitimate Council work out of his own pocket, that it was discussed with him by Mr Macklin or maybe Mr Azer, is that correct?---My understanding is yes.

Did you receive any report about that?---No, I don't believe so.

Have you seen any disciplinary letters about that to Mr Child?---Not about that specific issue but about paying people in cash, yes, and also other behaviour that was inappropriate.

30 Do you know that Mr Azer wrote to him particularly in relation to the payment of the staff in February and he wrote to him I think in March of 2009 giving him a warning letter about that particular incident, didn't he? ---Yeah, I, I understand that, yes.

There's no mention of any other incident back in around election day of him doing that?---It would appear not, no.

No. It's never happened, he was never spoken to about it, was he?---I don't know that.

40 You spoke to Mr Child with Mr Dardano in February about the changes that were being implemented at the depot as a result of the Morrison Low report, didn't you?---Yes, there was a meeting.

And there was a detailed memo between, recording the memory, sorry, recording the meeting of the three of you?---That's correct.

Where Mr Child reiterated that he was in effect doing everything he could to comply, that's recorded there, isn't it?---Yes, I believe that's what he said but I don't believe his actions reflected that.

Mr Child I want to suggest was suggesting to you at that meeting that he was concerned about the fact that the Morrison Low report didn't appear to take into account certain understandings in relation to moneys attributed to various capital works and that nature, that's correct, isn't it?---I can't remember that kind of detail but I take your word for it.

10

And he was a man who, Mr Child, who up until then had been highly regarded by you in relation to his capacity to work and get things done?
---I explained - - -

That's correct, isn't it?--- - - - I explained my position in relation to Mr Child. Do you want me elaborate?

No, I don't need you to do that, no. Just excuse me. You were away when, sorry, that the Morrison Low report had been signed off by you I think on
20 20 January, 2009?---Yes, that's right.

And you saw that the recommendations were in it presumably before you signed it off?---Yes, I did.

And you were aware that the very next day, 21 January, Mr Macklin and Mr Azer, in relation to Mr Child's position, put those recommendations into place?---Yes, that's right.

But in February you became aware, didn't you, that Mr Saad had apparently
30 made an allegation that he had done work on units owned by Mr Becerra?
---Yes, that's right.

And that it became apparent that you had some sort of interest in it as well?
---Yes, I, I made that known.

And you were very concerned that that may be made public, weren't you?
---No.

You were concerned that having been disclosed, I suggest, that maybe
40 Mr Child might make similar allegations and you expressed that view,
didn't you?---No, I don't believe so.

You never expressed any view in relation to Mr Child, the possibility that Mr Child may also make allegations?---Not that I can recall.

The Sydney Morning Herald articles you've set out explanations as to your statements as quoted in the paper in a statement we have received today, haven't you?---Yes.

Exhibit 314?---Yes.

What was very clear when you saw the first of those articles on 4 April I want to suggest was that Mr Child must have been behind it in view of what was contained in the quoted SMS messages by you to a Council worker?---I, I suspected it might have been him but I wasn't sure whether he had actually provided that information to the journalist or whether it went through some other person.

10

Well, did you ring him?---No, I didn't think it was appropriate to do so.

You rang him at night at home, didn't you, when you found out about the allegations Mr Saad was making?---Yes, that's right.

And you were very upset on that occasion?---I don't know that I was upset.

Weren't you upset about those allegations (not transcribable)?---I was concerned but I, I can't say that I was upset.

20

And you were no doubt relieved on that occasion when Mr Child informed you that Mr Saad had in fact worked on the units but had done so in his own time?---Look, I can't recall the exact details of that discussion.

Well, it was an important factor, wasn't it? Mr Child in effect could clear that up, that he had worked there but he'd done it in his own time?
---Mr Child had, had brought staff to the site on a couple of occasions - - -

30

Could you answer that question please?---Okay, would you please repeat - - -

Did he (not transcribable) sorry, I withdraw that. Was it, were you relieved when you heard Mr Child was able to clear up the Saad allegations by saying look, yes, he worked there but he did it in his own time so you don't have to worry about it?---I, I can't recall that that was said but it may have been discussed.

40

So on 4 April when you read the Sydney Morning Herald and saw the allegations set out in there, ones that clearly suggested information that you'd sent to Mr Child, do you say that you didn't, you weren't absolutely certain that he was behind the, the newspaper report?---No, I, I suspected that he might have been the person but I didn't know definitely, no.

You didn't ring him up on that occasion to say look, have you seen this paper, I mean, what's going on?---No, I, I didn't think it was appropriate.

Why, because you knew that he was behind it?---Because I, I believed that if it was in fact him that had gone to the journalist that it would be inappropriate for me to engage in discussions with him.

What you did was immediately issue an email to all the senior staff at Burwood vehemently denying the allegations in the paper?---That's right.

And on, that was a Friday, wasn't it, 4 April, 2009?---The statement to the staff?

10

Sorry?---The statement to the staff I don't think was on a Friday.

On the 5th you went, you sent out an email which you've provided to the Commission last, sorry, this week, that sets out certain directions by Mr Macklin. Is that correct?---I was - - -

We've referred to it today?---Yeah, if it's the email I saw this morning I was asking for information, that's correct.

20

And Council assisting's already put certain matters to you in relation to the material you were seeking but did you advise Mr Child and any of these other people whose personal details you had received from Mr Macklin before 2 o'clock the next day that you were going to pass their employment records onto your lawyers?---No.

Why not?---I didn't think it was appropriate.

It was inappropriate for you obtain it, wasn't it?---I don't believe so.

30

See, do you, that as at the time you sent Mr Macklin this request for information about staff, including Mr Child, that you were uncertain as to who was behind the allegations contained in the Sydney Morning Herald article on 4 April?---That's correct.

So do you say that you thought it was appropriate to obtain workers' details, none of whom you knew had said or done anything particularly against you, and to refer that off to lawyers without their knowledge?---In my capacity - - -

40

Is that your situation, is that your position?---In my capacity as General Manager, yes.

But you weren't acting in your position as General Manager were you?---I was.

The allegations hadn't been made about any wrong doing by the Council had they?---No. But as the General Manager I represent the Council.

The allegations were about you misusing your position as the General Manager weren't they?---I think that in part that's correct.

It's only correct isn't it? There was absolutely no suggestion that the Council, either through other representatives, elected or employed had in any way assisted you in your inappropriate behaviour?---No, no, I disagree with you.

10 Are you referring to Mr Becerra are you?---That's correct. Yes.

Other than him?---That's right.

Yes. So when that article came out, I suggest, the appropriate thing that you should've done was to step down and take no further part in Council until it had been resolved?---I believe that's a matter for Council, the elected Council.

20 Well, at the meeting, the extraordinary meeting on the 7th, the Mayor announced that you were in fact standing down in relation to these matters didn't she?---There was an announcement by the Mayor as a representative of the elected Council to that affect.

Well, you told her that according to what's recorded in the minutes of the meeting. Is that right?---Sorry, may you repeat that? I don't understand the question.

You, you apparently according to what's set out in, what transpired at the meeting advised her of that?---Advised her of what?

30 That you were going to stand down in relation to these allegations?---My discussions with her were that I would not participate in the decision making process in relation to those matters, that's correct.

And by that did you mean that you were just not going to participate in any of the investigations in relation to you?---My understanding was that I would not make decisions in relation to those matters, but I would assist in investigations.

40 How were you going to assist the investigations other than making statements to any appropriate person investigating it?---That was my intent that if I was to be approached by an independent person or whichever process that Council decided at the time to take, that I would make those statements.

In Exhibit 197, the extraordinary Council meeting says, at page 6 of that Exhibit, the General Manager has indicated to me he will voluntarily step aside from any involvement in the management of the issues relating to the allegations in the Sydney Morning Herald article. Is that what you

understood that to mean in your answer here today? Is that correct?---I understood it to mean that I would not make any decisions in relation to those matters. But I would assist and participate in the investigation process.

You're aware aren't you though that later on during the year when Mr Child was alleged to have made discriminatory statements, the Council took the view that he should be suspended until it was resolved?---My staff were adamant that that was the process to follow. I disagreed with it.

10

But no one seems to have suggested or you to yourself that you should suspend yourself in relation to these allegations, that I want to suggest are far more serious than the ones Mr Child faced?---My situation was put to the elected Council at the extraordinary meeting following the, the articles initially coming out and the decision of the elected members were that, was that, that they would retain their trust and faith in me until the matter had been resolved. It was a matter for Council.

20

As it's been put to you by counsel assisting that you, from the time that you sought the personal particulars of staff on 5 April and during the course of this investigation directed recriminations against people like Mr Child and Mr Cummins and Mr Giangrosso. That's what you did wasn't it?---No, no, that's not true.

You see, why did you need the Morrison Low Report on 5 April, 2009? ---As I explained earlier, I was gathering information that was to be put to the lawyers representing Council and myself for the purpose of defending our position.

30

What did the Morrison Low Report have to do with allegations against you?---I thought it was quite pertinent. It explained the process that we had been undertaking for so many months. And that the, in my opinion, the retaliation that was occurring, including the allegations that had been made to the press were in response to a process that had been started many months ago.

40

The process in relation to Mr Child had been implemented as at 21 January, hadn't it?---No. The process that involved Mr Child had commenced in July, 2008 with the commissioning of the Morrison Low Report.

Well, it had been - - -?---All the positions that, may I continue to - - -

Oh, please?---Was that a yes?

Yes?---The Morrison Low Report was commissioned to review the entire depot, all positions and roles. And he would've been impacted, and he was impacted on it.

Look, my question was, as far as Mr Child was concerned, the recommendations of the report had been implemented by Mr Azer and Mr Macklin on 21 January, hadn't they?---Yes. There was action taken to that affect.

And he'd been told that he did need to reapply for his position and that was it wasn't it?---And I believe that's what told, yes.

10 I want to suggest that you got the Morrison Low Report to examine it to see if there were, was any scope for taking any further action in relation to Mr Child's position?---No, that's not true.

And did you give the Morrison Low Report to your lawyers?---I believe I did, yes.

And did they give you advice about what could be done about Mr Child?---That wasn't the purpose of the provision of that information.

20 Irrespective of that, did they give you advice about what could be done about Mr Child?---No.

Did they give advice to you about the documents relative to his personal employment at the Council - - -?---No.

- - - and how that could be used against him?---No.

30 Were those documents then taken from those lawyers and returned to the proper officer of the Council?---The copies, they were provided copies and they were not returned, no.

In whatever form they were - were they returned?---I think I said, no they weren't returned.

So they're still with your lawyers?---Those copies, I believe might be, yes.

Even though they apparently have no use to them?---Well, I believe they did have a use but not for the purpose that you've identified.

40 Did you receive any advice as to whether that material could be used in countering the claims against you that you had misused your position as General Manager?---That wasn't the purpose of (not transcribable) that information.

Irrespective of that, did you get that - - -?---I didn't ask that of the lawyers. And that, and that advice was not provided accordingly.

Those documents were given to them, I suggest, to enable them to advise you as to whether any of it could be used against Mr Child to discredit him?---No.

Well, what purpose did they have?---As explained earlier, it was in relation to rebutting the claims that had been made.

10 What, how could allegations made by Mr Risteski assist you in rebutting the allegations that were made in the Sydney Morning Herald newspaper?---It goes - - -

Other than to discredit Mr Child?---It goes to painting a picture in relation to a behaviour that was quite obvious in Mr Child's demeanour at work. And his attitude to resisting the changes that Council was undertaking at the time.

20 Mr Risteski's claims had nothing to do with any of those matters did they? ---I think that it's quite fair to say that despite the fact that a decision was made in regards to Mr Risteski, contrary to his view at the time, that there was some foundation in what he was saying. I don't, I don't - - -

But whatever he had to say, whatever allegation he was making - - -?---No, can you - - -

- - - had nothing to do with the allegations against you did they?---I thought they were relevant in relation to demonstrating Mr Child's demeanour in relation to his reproach, his behaviour at work.

30 How did that have anything to do whether he had done work on Council time at your request?---It demonstrates that he had a bullying behaviour and it's quite possible that he bullied staff into doing the things that have been revealed in this, this hearing.

The allegation was being made that he had done work in a compliant way for you not in a bullying way?---I disagree with that.

40 See, I want to suggest to you you're not being frank. You gave those documents over to start the dirt campaign against anyone you thought you had to deal with in relation to the allegations?---I disagree with that.

And that was consistent with your behaviour from that time until you were sacked?---I disagree with that.

Because I want to suggest that at the meeting, an executive meeting informal or formal that was held between you and other members of the executive on 6 April you made it very clear to your underlings that you wanted Child gotten rid of didn't you?---No.

And do you say it's just a coincidence that on 7 April Mr Hullick and Mr Dencker who had little or nothing to do with Mr Child adopted Mr Ellul's recommendations about Mr Child's position?---In terms of the time of the meeting I believe it was coincidental. I think you'll find if you do your investigations the meeting was set up prior to the articles coming out and the agenda would've been set prior to the articles coming out.

10 I (not transcribable) by Dencker and Hullick - - -?---Mr Ellul had an opportunity to review the job description and other arrangements prior to the - - -

You're not answering the question, sir - - -?--- - - - articles coming out.

I want to suggest the decision by Hullick and Dencker to adopt Ellul's suggested changes to Mr Child's position on the 7th was in response to complying with your request to get rid of him?---Absolutely not.

20 I want to suggest that the fact that Mr Dencker immediately reinstated the IPP investigations was again another step done immediately after those initial articles to try and get some dirt on the workers at the depot?---I don't know about that, I don't know (not transcribable).

Know nothing about it do you?---No.

He just did it off his own back Mr Dencker did he?---Well, I don't know who did it.

30 Well, wasn't Mr Mailey talking to you all the time?---He was keeping me briefed, that's correct.

And you issued an email didn't you or a directive on 8 April about looking at a Code of Conduct to see if it had been breached didn't you?---Sorry, I don't recall the email, no.

You don't know about that?---No.

Okay. Just excuse me. Might the witness have access to Exhibit 197, Assistant Commissioner. Would you please go to page 8?---Yes.

40 Is that a document by you?---Yes.

When was that issued?---Some time after the first articles came out.

It was certainly after the 7th wasn't it?---It would appear that way, yes.

It appears to be attached to an email from Mr Macklin to everybody BC on 8 April, 2009 at 11.49am if you look at the preceding page, number 7 of that exhibit?---Yes, that's right.

It talks about a Code of Conduct committee?---Yes, that's right.

The one you're referring to in your attachment to the email was that a Code of Conduct to look at whether people who spoke to the press about persons such as yourself or Council affairs were in breach of such a code?---No.

It's about your breach is alleged to have then occurred was it?---That's correct.

10

Well, do you recall during the time that you've been in these proceedings Mr Macklin and I think counsel assisting may have shown it to you this morning a document headed David and Darren signed by Mr Macklin as attached to an email of Mr Dencker's on 29 June and sent to Mr Baird and Mr, what's his name? Gardner? Yes.

That refers to whether Mr Child had breached the Code of Conduct doesn't it?---I believe it does refer to that. It's got nothing to do with the 8 April email and reference to the Code of Conduct committee there.

20

So you were in that document were you, "I'm suggesting that it was imperative that a Code of Conduct committee is formed as to determine whether any breaches have occurred in Council policy or whether there is any lack of policy in this regard."?---That's correct.

The breaches being what?---The allegations that were being made in the, in the articles.

30

What, to establish whether if the actions were correct whether or not they were breaches of the Code of Conduct?---That's right. Which is by me because the allegations were referring to me and the Council was concerned in their extraordinary meeting from my understanding because I was not present through the discussion that those allegations were being made by people about the General Manager.

40

So was the Code of Conduct looking at people who are making the allegations or the people who were doing the alleged misconduct?---I believe and I've seen in recent days and this is the first time I've seen it that there was a brief sent to Ms Ronalds in regards to this Code of Conduct committee and the terms of reference at that committee were quite broad. I don't believe it referred to individuals, I believe it referred to the alleged actions by various parties including myself.

So you wanted did you the committee to look to see whether in addition to any breaches you might've committed whether others had committed breaches by reporting?---If I might correct you. I had no involvement in the decision of forming the Code of Conduct committee, I, I welcomed the Code of Conduct committee being formed and an independent investigation.

It was the Council's will and I believe their intent was to get to the bottom of the allegations.

Well, did you become aware of what had transpired at the Cross Function Team meeting on 7th of the 4th, 2009 in relation to Mr Child's position?---I did become aware of decisions that were being made by that committee, I can't recall when but I did understand from my briefings that there had been suggested changes to Mr Child's role.

10 Who told you that?---It was someone in my executive, I can't recall now.

Mr Dencker?---I can't recall.

Well, you sent an email to him didn't you on 25 April, 2009 which is part of that exhibit you have in front of you page 10?---Yes.

The first item that you mention is an inquiry, "Has the executive team approved Steve Ellul's preferred structure."?---Yes.

20 That was about Mr Child wasn't it?---No.

Well, what was it about?---In discussions with Mr Ellul that his interview in relation to the role that he'd taken on with Council I discussed with Mr Ellul the reforms that were occurring at Council and in that interview he expressed a view that he would like to review the reports relating to the reforms and that he would like to have him put into those changes that were occurring. I acceded to that, Mr Azer who was his director also acceded - - -

30 (not transcribable). That meeting took place at the time he was being recruited?---In mid-February.

And he gave evidence here that he was talking about minor changes didn't he?---I don't recall that, I believe he - - -

What I'm asking you is was this response or request of Mr Dencker on 25 April in relation to what you'd become aware of being the changes go Steven Child's position as at 7th of the 4th, 2009?---No, I believe that the email's referring to a broader arrangement of change.

40

Because it goes on doesn't it, "If so have we commenced the recruitment process."?---For the three senior positions that were aspired in the new structure that he was putting forward.

And what were the three new positions?---I believe there were going to be three divisions within the depot and I don't remember the exact titles now but there was, there was going to be a supervisor looking after maintenance

and civil works, another one that was going to look at support services and another one again that was going to look at parks and other arrangements.

And each of those changes had come about as at the 7th of the 4th and really revolved around changes to Mr Child's position, didn't it?

---No, I think the Morrison Low Report, sorry, the Morrison and Low Report canvassed a number of structural options well, well before then. They presented different arrangements - - -

10 ASSISTANT COMMISSIONER: Mr Romano, that's got nothing to do with anything Mr Ellul, his preferred structure. He wasn't there, was he, when the Morrison Low review was going on?---No, he wasn't.

No. Isn't this a reference to a structure he put up at a meeting, you were aware of that?---No, it was, sorry, if I may, I believe it was a structure that was a permutation to one of the options that was put in the Morrison Low Report.

20 Well, I don't think that is the evidence everybody else says, that this wasn't recommended by the Morrison Low Report but whether it was or wasn't, this is a reference to had they approved his preferred structure?---Yes, which was a permutation to one of the options that came out of that report.

Yes, which involved changes to positions including Mr Child's, is that right?---Yes but I, I believe Mr Hanley was referring to specific, specifically to Mr Child and that wasn't the case.

His position was included?---It was amongst a number of changes.

30 And his position would have been one of the ones involved in any recruitment process?---That's correct, yes.

Yes, thank you.

MR HANLEY: Thank you, Commissioner. Look, this document was you, I suggest, chasing up and recommendations to Mr Dencker as to how those who you thought were behind the claims against you could be pursued, that's correct, isn't it?---No, I disagree with that.

40 I mean, the matter in number 6 in relation to Mr Issa is (not transcribable) in relation to the scrutiny that you were suggesting he should be subjected to, wasn't it? Petty I suggest?---No, I disagree with that.

Okay. If you go to number 11 you talk about and counsel assisting's asked you some questions about this, this is paragraph 11 on page 11?---Yes.

You were asked whether Mr Macklin had issued various letters, secondary employment. Do you see that?---(NO AUDIBLE REPLY)

And you suggest going to the Taxation Department and reporting them?
---Yes.

Were you suggesting that Mr Child should be reported to the Taxation Department?---No, I, I made a blanket comment there.

Sorry?---I made a blanket comment there. I didn't say specifically anyone in particular.

10

Well, a number of names were listed thereafter, was he one of the people you were suggesting should be subjected to scrutiny by the Taxation Department?---That would be a decision that would be made after we determined whether or not secondary employment notices had been put in so we have, we could have and may have referred all of them back to the Taxation Office.

Well, Mr Child - - -?---But that never - - -

20

- - - hadn't received any money for working on your units, had he?---Well, he wasn't working on our units.

He hadn't received any money for working on your driveway, had he?---I don't know whether he got money from the contractor - - -

Well, did you pay him?--- - - - but he, he wasn't recruited by me to work on my driveway.

30

ASSISTANT COMMISSIONER: Mr Romano, the fact that somebody may not have sought approval for secondary employment wouldn't in any way mean that they were not declaring the employment to the Tax Office, would it?---Assistant Commission, look, I, I, I'm ignorant in these sorts of issues, I wasn't knowledgeable at the time as to what my responsibilities were in regards to - - -

40

Well, this is not a complex issue, I'm just saying the fact that somebody neglected to get approval for secondary employment doesn't mean that he wasn't paying tax for that, whatever he earned in secondary employment, does it?---That I understand now that that person would have had to have made or put in application, secondary applications through us, sorry, through Council as the employer declaring that second job. My understanding from Mr Macklin was that no one out of this group or others for that matter had done that.

All right, well, that's, that's not an answer but I'll let Mr Hanley continue.

MR HANLEY: Thank you. This letter was really a (not transcribable) to your under-officers to get together and start doing something about these people who'd made the allegations, weren't they?---No.

Look at the last paragraph. "Gentlemen, given the nature of the malicious allegations that are currently afoot I strongly recommend you give immediate reaction to the items above." Do you see that?---Yes.

10 This wasn't about depot reforms or anything, it was about reprisals, wasn't it?---No.

As a result of those who had made allegations against you?---No.

"The management team, which includes me," you're saying, "need to be seen to be responding to the deficiencies in our processes and systems"? ---That's right.

20 You see, you were stepping aside, weren't you, but here you seem to be asserting that you're part of the management team?---In terms of systems and processes I felt I had a very big part to play.

And protecting the organisation from real and perceived conduct or maladministration?---That's correct.

And those allegations of that nature had been levelled at you, hadn't they? ---I was concerned that I would be criticised for not having appropriate processes and systems in place.

30 Ones that certainly didn't keep you in check, did they, Mr Romano?---I disagree with your statement.

And the very last sentence is, "In this regard I seek a weekly progress report on the above issues"?---That's correct.

And did you mean by the above issues all the above issues?---That's correct.

40 And you wanted to be kept up to date precisely with everything that was being done in relation to Mr Child, Mr Giangrasso, Mr Webb, Mr Issa, didn't you?---All the issues that were mentioned in that email.

Including those?---Of course.

And you were kept up to date, weren't you?---From time to time but not weekly.

You kept a close eye, I suggest, on what was happening in relation to the IPP surveillance, didn't you?---I don't believe that your comment is correct.

I would suggest you got weekly reports, verbally or otherwise, from Mr Mailey?---I think Mr Mailey reported me to a lot more frequently than weekly, sometimes two or three times a day.

About surveilling people at their homes and elsewhere which included those who'd made, you believed, the allegations against you?---I believe that he was conducting his job in accordance with the brief that was issued to him.

10 And in view of what he was reporting to you, you from time to time reminded people such as Mr Dencker about things that had become, come to your knowledge from Mr Mailey, didn't you?---I wanted to ensure that the Executive were fully apprised - - -

Did you do that?---I think I'm answering that.

No, you're not?---Okay.

20 Did you do that?---I believe that I kept the Executive fully apprised of any information that I had and they did as well (not transcribable).

The Executive, if you had any confidence in them, could have dealt with that by having direct contact with Mr Mailey themselves?---I believe they did.

And part of the process was, wasn't it, for you to step aside from all that, particularly in relation to those who you believed had made allegations against you?---And I believe that, that occurred.

30 And I suggest you didn't because you were reminding Mr Dencker, for example, that they should try and get better CD, sorry DVDs or videos of the surveillance to identify people, weren't you?---I disagree with that.

Do you recall sending emails of that nature to Mr Dencker?---I do recall the discussions but I disagree with your comments.

40 Did you give instructions to Mr Mailey's secretary that she should pass on material to Mr Dencker and others that you thought was important in relation to the surveillance?---No, I suggested to Mr Mailey that that information be put to Mr Dencker because he was heading up that particular activity.

Except you were keeping a very close eye on what was going on and in case any of your underlings missed anything you were bringing it to their attention, particularly when it related to people such as Mr Child?---No, I disagree with your comments.

And you knew that material such as surveillance that was on DVDs et cetera was being put together to be taken by Mr Hullick, Mr Dencker, along with Mr Baird to meetings with the ICAC, didn't you?---Sorry, can you - - -

You knew - - -?--- - - - rephrase that question, please.

10 Okay. You knew that this material from surveillance, containing surveillance videos or DVDs was critical evidence if it could demonstrate any wrongdoing on behalf of Mr Child or others, could be shown to ICAC at meetings that were being attended by Mr Dencker, Mr Hullick and Mr Baird?---I thought that it was important information that should be passed onto the ICAC, yes.

Important to discredit Mr Child and others?---No, I don't believe that the information was to discredit those people.

What was it for?---It was to assist in determining what was occurring in relation to the allegations and the behaviour of individuals within the depot.

20 Well, they weren't working in the depot at the time were they? All on sick leave and - - -?---Well, that's why I think you're misguided because the surveillance was occurring despite the fact that they were, you know, working, they were actually off, off work.

And they were not going to shed any light upon the allegations because the allegations referred to times and events that had long passed hadn't they? ---The surveillance of the depot was in relation to allegations that had come out of other staff, both in writing or verbally regarding behaviour of certain individuals within the depot ranks.

30 Mr - - -?---We were investigating - - -

I'll just stop you there, please, sir. The surveillance could've only been used if it showed any inappropriate behaviour?---It was in relation to - - -

To discredit Mr Child and others. That's correct isn't it?---No, I don't agree. No.

40 And that was the whole purpose of your concern that better quality material be obtained to hopefully identify the persons who'd made allegations against you doing something wrong?---No, I disagree.

And that was why you were concerned that ICAC get it, because you had hoped to discredit those making the allegations against you?---No, I disagree.

The Exhibit that you have in front of you, would you go to page 13, please? ---Yes.

Do you acknowledge that's a document signed by you on 11 May?---Yes.

Apparently it was hand delivered at some meeting was it?---It, it could've been the one that I left with the Department of Local Government. The very last paragraph says, I have no intention of walking away and will use every opportunity I can to restore my reputation. It will take time to deal with those who have not only sought to bring me down, but also to attack Council and its many loyal employees. Do you see that?---Yes.

10

What was your plan to deal with these people?---The processes that have been implemented.

Sorry?---The processes that Council had already implemented.

Being what?---Thorough investigations of it.

Surveillance of them?---In relation to allegations that had been made, yes.

20

Getting them made redundant in their jobs? Was that part of the way you were going to deal with them?---No, absolutely not. No. It was not for me to deal with.

And you seem to suggest there was attack on Council and its many loyal employees?---That's right.

The attack was only you wasn't it?---I beg your pardon?

30

And Mr Becerra. You and Mr Becerra were the only ones being attacked? ---No. There was intimidation and bullying of other staff at the depot.

Sir, that's got nothing to do with this has it?---It has everything to do with this.

40

You were going to deal with Mr Child, Giangrasso and anyone else who had disclosed your inappropriate behaviour weren't you?---It was not my role nor did I have the authority to deal with those people. The processes that Council had set in place from (not transcribable) independent investigations would've dealt with any individual that had breached or done anything contrary to the legislation.

Which is precisely what you had done isn't it?---Well, I believe that I'm here as a result of that. Is that not right?

You're the who breached at the highest level of Council their duties and obligations?---I don't believe that I have, but - - -

So you think it's okay do you for the General Manager of the Council of a large number of people, to use those funds to falsely put together photographs for your own personal use to discredit an innocent person?---I disagree with your statement.

But your behaviour, I suggest, indicates that you just treated Burwood Council as your own little fiefdom didn't you?---I disagree with your statement.

10 And you acted like a despot and a bully in relation to those under you?---I disagree with your statement.

And when that became apparent that your behaviour had been disclosed in a very public manner it was, that you did everything you could to discredit those who had made the allegations?---I disagree with your comments.

And in the course of that process you were assisted by those who were not strong enough to stand up to you on the executive weren't you?---I disagree with your statement.

20

And that's what you expected of them didn't you?---I disagree with your comments.

And you were advised at all times what steps they were taking in relation to Mr Child, firstly in respect of his position weren't you?---I was being briefed, yes.

Surveillance of him?---I was being briefed about him and others.

30 You gave directions about it could be used?---No.

You advised about attempts to seek advice of a legal nature to have him suspended on the basis that he had made allegations to the press about you? ---I'm aware of that, but I was not involved in it.

40 You were aware that, and I suggest, you were probably behind it, Mr Hullick sending an email to Mr Baird to see, that the fact that Mr Child had made allegations to the newspaper, could in any way be used to take away from him the protections afforded him under a protected disclosure?---I think you'll recall that Mr Hullick said that that his idea and was done on his own (not transcribable).

I recall his evidence, sir?---It was not (not transcribable)

But I am suggesting you were behind it?---Well, I was trying to answer while you're talking over the top of me, but I'll repeat it. Mr Hullick made that decision on his own and I was not behind any instructions to that effect.

And you were copied into that email to Mr Baird from Mr Hullick to keep you informed either that you were following his directions or that he was doing things to assist you?---The Executive agreed that we would all keep ourselves informed given the seriousness of the nature of the allegations that had been put to us.

You all agreed to keep yourselves informed about the seriousness of these allegations concerning you. Is that right? The person who's supposed to stand aside from this investigation?---I think you need to - - -

10

Is that correct?---I think anyone would agree that they were difficult times. And that the Executive wanted to ensure that they doing the right thing.

So you are you agreeing that there was a conspiracy - - -?---I, I - - -

- - - between you and your co-Executive members to keep you informed despite the fact that you were publicly announcing that you were stepping aside from this investigation? Is that right?---I, I dispute your comments. I disagree with what you're saying. There was no conspiracy. The Executive were working in the interests of the Council.

20

There was an agreement you've just told us between the Executive to keep each other informed. Is that right?--- To keep information following between the parties.

Between you, the person at the centre of the allegations. Is that right?---And as I said to you, I did not participate in any decision making process.

Do you think it was appropriate, sir, sir, you were at the centre of these serious allegations, that you were being kept up to date with everything that was being done in relation to those who had made the claims against you? ---I did not believe that there was a problem with that.

30

Did you get any legal advice about that one? You seem to have about everything else including fairly minor letters?---I had discussions with the lawyers about that.

At any stage during this time did you consider that it would be in the best interests of Council for you to step down entirely?---I did consider that and it was discussed at an extraordinary Council meeting in April. And I abided by the resolution of Council.

40

You didn't want to step down because you wanted your finger on the pulse of what was happening didn't you?---I disagree with that.

And that's exactly what you did wasn't it?---I disagree with that again.

And did you become aware that after Mr Macklin sought advice to see way of how they could suspend Mr Child and Mr Cummins, the advice was received that it could not be done on the basis that had been proposed. In the June letter or email to Mr Baird from Dencker?---I'm not sure which advice you're referring to, but I do remember seeing advice that, that talked about what was going on and, and the reference you've just made. I didn't agree with some of the advice that was coming before us.

10 So you considered that the advice was something that you should appropriately consider, even though you'd stepped aside from this investigation?---As I've explained previously, there was little guidance or direction to myself or the Executive in terms of - - -

I'll just stop you there, sir. You had a bevy of lawyers around you that could advise you. Do you say that not one of them either personal or on behalf of the Council gave you advice that you should step right out of this matter or step down entirely?---That's correct. Given, given the decisions that Council had made and given the circumstances that we were in no one suggested that to me, no.

20

Did it ever occur to you as an honourable thing to do though?---I, I've always believed that I have not done anything malicious or corrupt. I may have - - -

You haven't done anything malicious?---I may have, may I answer?

Did you just go that, you've never done anything malicious?---Yes.

30 Did you think sending that photograph to Mr XXXX' wife was malicious? ---Are you seriously wanting me to answer that?

Yes, I am in view of your claim that you've never done anything malicious. I want to suggest to you that that act of sending that photograph to that man's wife was extremely malicious wasn't it?---It would appear that way, the way you're describing it.

So your statement about you not being malicious is not correct is it?---Okay. I'll qualify it for you. I don't - - -

40 Your statement about never being dishonest is not correct either is it?---I will qualify that for you. I don't believe that I did anything deliberately to maliciously attack any of my staff at Burwood Council while I was employed with that organisation.

When did you get suspended? Sorry, when were you sacked I should say? ---My employment was terminated on 27 April.

So up until that time you were still the General Manager. Is that correct?

---That's correct.

Up until that time you were responsible for the way Mr Child was treated in relation to the allegations by Mr Saad of discrimination. Is that correct?

---Yes.

You were responsible for that?---I take responsibility.

10 Were you responsible for the conduct of the matter?---I take responsibility for the actions, yes.

Were you responsible for the settlement with Saad part of which required his assistance in further investigation of allegations that were spurious at their highest against Mr Child?---I was aware of what was going on but I did not - - -

Having (not transcribable)?---But did not participate in the decision making process.

20 And you were aware that a certain amount of panic seemed to have occurred in the executive when it became apparent that Mr Child was fit to come back to work?---I'd disagree with that comment.

And that there were ways looked at to see whether he could be suspended on these spurious allegations by Saad. That's right isn't it?---I disagree with your comment.

30 And that despite the settlement, despite Mr Saad's assistance in the investigation you were aware at least by December of 2009 from the emails that we've seen in these proceedings between experts, lawyers in this area that he could not, it could not be established he'd done anything wrong in relation to Mr Saad. That's right isn't it?---I'm, I'm not aware of that detail, I don't know.

Did you become aware of it this year that he'd been cleared in effect?---I've heard through this hearing that that is the case but I'm not privy to information.

40 And yet he's continued to be suspended hasn't he?---I don't know, if that's what you tell me I take your word.

Well, during the entire time that you were there from the time he was suspended he was continued to be kept in a state of being suspended with pay wasn't he?---Well, I believe that was the case, yes.

Did you think that was fair?---I didn't agree with the executive.

Did you write to them about that?---No, it was, it was discussed - - -

(not transcribable)?---It was - - -

If he's got to be suspended why shouldn't I, something like that?---If I can answer. It was discussed at at least one meeting at HDY that involved Council's lawyers, two separate groups of lawyers there including HDY in relation to suspension. But my, my view was not adhered to or taken up.

10 Can you explain why it was necessary for Council's lawyers and your lawyers, it would appear to be in attendance together at meetings where there must've been apparent conflicts of interest as to who they were representing?---I can explain if you give me that liberty.

Because you were the General Manager. Is that right?---Will you give me - -

Is that your earlier explanation?---Will you allow me to answer?

20 Certainly?---Those meetings were co-ordinated by me, they were instigated on my direction. The reason they were established was to ensure that all parties involved in the many different aspects of what was going on were abreast of all the issues. You heard through other witnesses here at this hearing that when the lawyers believe that there was a conflict on my part that I would be asked to leave the meetings and I did. The matters that didn't pertain to conflict matters I remained and put my view forward. The decision-makers at that meeting were Mr Hullick and Mr Dencker as the Acting General Manager with the respective elements of the work that they were doing and that was a system we set up given no other guidance and no other processes that had been provided to us.

30 Mr Hullick and Mr Dencker I want to suggest do not appear to have made any independent decisions from the evidence they've given you in relation to this matter have they?---Well, I disagree with that.

Irrespective of whether you set up the agendas I want to suggest it was inappropriate for you to be at meetings of this nature where the Council's interests were in conflict with yours and quite clearly so?---And I wasn't at those meetings when that particular occurrence occurred, I left the meeting.

40 And I want to suggest that these suggestions by you about bullying et cetera by Mr Child were just a further example of your attempts to try and discredit him at this inquiry aren't they?---I disagree with you.

Did you ever see the documents prepared by Mr Baird apparently and referred to ICAC which set out offences that Mr Child had apparently - - -?
---No, I did not see them.

Yes, thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you, Mr Hanley. Could I just get an indication of which other counsel will be seeking leave to cross-examine Mr Romano?

MR McILWAINE: I'll be seeking to cross-examine Mr Romano.

ASSISTANT COMMISSIONER: Mr McIlwaine, you're for - - -

10 MR McILWAINE: Mr Giangrosso.

ASSISTANT COMMISSIONER: All right. So that will be about reprisal, alleged reprisal issues?

MR McILWAINE: It will be about the nature of the relationship between Mr Giangrosso and Mr Romano basically (not transcribable).

MR TAYLOR: Assistant Commissioner, Taylor on behalf of Mr Azer. I'll be seeking to ask some questions. I estimate about 15 minutes.
20

ASSISTANT COMMISSIONER: Yes.

MR NEIL: Commissioner, I would seek to ask some questions, but very short because what I would be proposing rather than go through a lengthy Browne v Dunn exercise that one might otherwise do in adversarial proceedings that to the extent that there's differences between the evidence of Mr Romano and Mr Baird, those are on the table, we know where they are and it could be a matter of submissions unless (not transcribable).

30 ASSISTANT COMMISSIONER: Yes, I would appreciate it if everyone take the same view. I think that's appropriate. Yes, Mr Chalmers?

MR CHALMERS: Yes, I might just ask one or two things.

ASSISTANT COMMISSIONER: Yes. Can you estimate how long you might be?

MR CHALMERS: Yes, I'd imagine probably about 20 minutes.

40 ASSISTANT COMMISSIONER: All right.

MR EURELL: I expect on behalf of Mr Hullick I'll be about 10 minutes, five to 10 minutes.

ASSISTANT COMMISSIONER: Yes.

MR LEGGAT: Less than 10 minutes, thank you.

ASSISTANT COMMISSIONER: Very well. And Mr Blake, I'll presume you've have some, some issues you may wish to canvass. I know that most of the issues have been dealt with in the lengthy statements. I suppose there may be some issues that have arisen more recently?

MR BLAKE: There was an issue that arose yesterday about the Qantas Club membership and the Accor membership, we've dealt with that by way of statement, I think it was provided to Mr McKenzie at morning tea so I'd seek to tender that. There's also a statement that we provided or a report
10 regarding the allegation that Mr Romano falsified emails.

ASSISTANT COMMISSIONER: Yes.

MR BLAKE: And there's also, we'll seek to make public redacted versions of the report of Dr Roberts and Mr Romano's private (not transcribable).

ASSISTANT COMMISSIONER: Yes.

MR BLAKE: I'm not sure if that's been provided yet but it will be.
20

ASSISTANT COMMISSIONER: Yes.

MR BLAKE: And there may well be an application in respect of a small number of documents which are part of the confidential exhibit containing communications between Mr Romano and the Executive that included Mr Baird.

ASSISTANT COMMISSIONER: Yes.

MR BLAKE: There may be some documents out of that confidential exhibit. Unless there are things otherwise arising this afternoon I don't intend to ask any questions.
30

ASSISTANT COMMISSIONER: All right. All right. Thank for that.

MR HANLEY: Assistant Commissioner, as a matter of courtesy might I just advise you that I shall not be here today, the balance of today or tomorrow - - -

ASSISTANT COMMISSIONER: Yes, thank you.
40

MR HANLEY: An assistant from the LRO will be protecting (not transcribable).

ASSISTANT COMMISSIONER: Thank you, Mr Hanley for that. All right. Well, we will resume at 2 o'clock, thank you.

LUNCHEON ADJOURNMENT

[1.01pm]