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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 15 APRIL, 2010

AT 2.10PM

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

ASSISTANT COMMISSIONER: Thank you. Please be seated.

MS RONALDS: Commissioner, yesterday we were looking at a letter from Mr Baird, it's Exhibit 155 and page 2 was missing and Ebsworth have kindly provided us with the missing page 2.

ASSISTANT COMMISSIONER: Yes. Well that can be - - -

10 MS RONALDS: If that could be inserted into the Exhibit.

MR BLAKE: Commissioner, can I tender Mr Cummins statement enhancer in the worker's compensation file dated 12 June, 2008.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 191.

**#EXHIBIT 191 - STATEMENT IN THE MATTER OF
APPLICATION FOR REVIEW OF DECISION BY STATECOVER
OF MR CUMMINS**

20

<ROBERT KEVIN THOMAS CUMMINS, on former oath [2.10pm]

MR BLAKE: Mr Cummins, I asked you, you identified, the word you used was cronies of Mr Romano?---Yes.

You identified a number of people. Did that also include Pina Viney?---No. I wouldn't consider Pina a cronies. I think in terms of cronies, my belief is that it's someone who will certainly not benefit from the demise of Mr Romano and his role as General Manager and I'm quite confident that Pina Viney, Pina Viney was capable enough to retain her position at Council even if Mr Romano was, was removed or quit or was dismissed.

And your belief was that she acted independently of Mr Romano in the events of February of 2009?---I think she did up until the point where, and it's my assumption that she was leant on or bullied and her attitude certainly changed from when I was talking to her between the 5th and 9th, she seemed be acting independently and something changed after that and in my opinion from the 10th til the 16th, her attitude me and to the investigation had changed. I, I got the impression that she was fearful and intimidated.

You didn't speak to her about that though?---Yes. She, she told me she felt sick.

I see. And did you ask her why she felt sick?---Because she was in a position which is obviously a lot more junior to mine and she was in a role where she had to co-ordinate an investigation into some seriously powerful people.

Did she (not transcribable) her sickness with any actions of Mr Romano?--- She (not transcribable) her sickness to the fact that the investigation was about Albert Becerra and Steve Child, who, as I've described before had significant power and obviously due to the relationships between these two people and Mr Romano, all the governor staff and most staff had concerns about their relationships and how close they were and that any investigation would be impartial.

And Pina Viney had a responsibility under the policy to supervise or carry out the investigation. You agree with that?---She did.

And I take it that you believe that, at least up until a point that the matter stopped. That she'd carried out those duties independently of any pressure?---There wasn't a lot of time. I think it was only maybe one day that, that she knew about it before Pat Romano found out about it, so I'm not even, I'm not sure how much work was involved on that one day or how much she did, but, it seemed to me that she was acting independently certainly on the 9th and was doing, doing her job as she should despite the fact that she was feeling ill and, and as was I, we were both pretty stressed.

I think she was, she was adequately doing her job despite, you know, the pressure that was on her.

And you've never had any reason to doubt her honesty have you?---No.

Mr Cummins, I was asking you about these, I'm not quite sure how to describe them, but printout of emails that you, you made.

10 MR EKSTEIN: Commissioner, I think the correct expression is headers for the emails.

ASSISTANT COMMISSIONER: Yes.

MR EKSTEIN: There was never any printout of the actual email.

20 MR BLAKE: I'm indebted to my friend. It shows my ignorance of things technological. And you can work out I think from reading the boxes at the bottom of the last page of a particular search when they were made. Is that correct? Page 2, you'll see the rectangle boxes, 2009-2-06?---That's correct.

And that that indicates the 6 February at 3.38pm and 43 seconds. Is that right?---I assume so, yes.

Yes. Thank you. And just so I can understand, you did a search of either Mr Becerra's or Mr Romano's Burwood Council email address and depending on whether you selected the sender or the recipient, you got different printouts. Is that correct?---That's correct.

30 And did you read the emails?---No.

So the only indication you had of the content of the emails was the subject that was recorded in the printout?---That's right. I had, I had no access to the actual email itself. Well, at that stage I, it was very early on in what I was doing and I was basically testing the system so there was, I had no need to look into the actual emails themselves, no.

40 And you would agree with me just by reference to the subject matter with all the searches that you did that many of the emails, in fact the great majority of them clearly related to Council business?---I'd have to do an analysis and go through each one to do that but certainly there are Council business emails there, definitely yes.

For example foundation committee meetings that would you understand that to be a Council - - -?---Absolutely, yes, yes.

And (not transcribable)?---Yes, that's a, yep, that's the Council's, yep.

Well, you've said that in your statement Exhibit 121 I think at paragraph 106 and 107 that you asked for telephone bills?---That's correct.

And what authority did you have to ask for telephone bills at that time?

---Well, at that time Pina Viney and I, well, Pina Viney obviously had been advised of what was going on and I discussed it with Pina Viney as to what steps we should take next and we agreed that considering the investigation and, you know, obviously it was very clear to me at that point in time that mobile phone bills may be of assistance so we obviously wanted to make
10 sure that we set that up so we asked for them, Pina Viney and myself asked Mr Walker for the - we were jointly together in a meeting when it happened and asked him for the phone bills.

Thank you. Now, can I show you this document, it's your protected disclosure to the Commission. Now, I ask you to go to, it's not numbered but you'll see the protected disclosure deals with matters by date?---Yep.

Can I ask you to look at the second page dealing with the events of Monday, 9 February, 2009?---Yes.

20

The last paragraph before the heading Tuesday 10 February, 2009 you state that your preliminary investigation had uncovered prima facie maladministration and corruption by Mr Becerra and Mr Romano. You see that?---Yes.

What, can you just explain to the Commission what you thought was the prima facie maladministration of Mr Becerra as at 9 February, 2009?---Yep.

30

It was related to the fact that Mr Becerra was working on a property that seemed from the email, this is just based on the email analysis, that he was working on a property known as 187 Edwin Street, obviously at that time I didn't know that it was the one in question where the work had been done and also some other ones that he was obviously using Council resources. I wasn't aware of his contract at that time, I assumed as Mr Macklin and Mr Dencker did that he was just an employee of Council and therefore he should have no reason to have a business, to be at the business sending emails back to his work files to be sending what appeared to be documents related to architectural works for other projects to Council and obviously of particular concern was that Mr Romano was the recipient of some of these
40 emails and was replying back to Mr Becerra and Poppy Becerra and obviously that it was in, it seemed to be that Mr Romano had full knowledge of that. Also obviously there were references in the emails to Befaro that obviously raised some concern because it seemed to me that they were hands on rather than what had been revealed in the disclosures which was that their, only their wives were supposed to be involved so, you know, I made a conclusion or a prima facie conclusion that it was, appeared to me that it was at least maladministration and possibly corruption, yes.

So just so I can understand it, the maladministration of Mr Becerra was sending emails, is that correct or receiving emails?---Well, the fact that he was spending a large part of his day or spending parts of his day at a place called Architects Becerra when in my mind he was an employee of Council.

Well, so that was one aspect of it, that he was, emails were being sent from a non-Council premises and was the sending of emails or receipt of emails by Mr Becerra on his Council email another factor?---The fact that it appeared that he was working on, to me it appeared he was working on architectural files unrelated to Council such as, you know, ones in, you know, that are referred to there in the, in the protected disclosure, Hamilton and various others that obviously aren't related to Burwood Council because, as I said, he had no need to be doing that being an employee of Council. I was unaware that he had a contract at that time which allowed him to have another business and do all this other work so - - -

So your evidence is that at 9 February when you formed this view you were unaware of the terms of his contract. Is that right?---Yeah, that's right, yeah.

20

And what did you think was the possible corruption element of it?---Well, corruption is basically, I mean, I don't know, I probably didn't have a good understanding of the exact legal definition of corruption at the time but, you know, it seemed to me, that's the, that's the opinion I formed obviously at the time that it was, it seemed to be corruption based on the evidence that I had in front of me. I can't recall exactly whether I looked up section 8 of the ICAC Act at that point in time but anyway, that's, that's what I told her at the time.

30 So you thought the same matters that would constitute or might constitute maladministration would constitute corruption or possibly corruption?---It may, look it may have also related to the fact that they had an inkling at that point in time that, that Pat, that maybe the, the property was 187 Edwin and obviously the original complaint were between Albert and Steve Child doing work there, there was a good chance that was, that was linked to that although I couldn't prove it at the time and I didn't know for sure until the stories came out on the 4th that it was indeed the 187 and I guess I formed an opinion that there was a good chance it was so hence the statement.

40 And can you just explain to me what was the maladministration prima facie of Mr Romano?---Look, maladministration in my mind at the time was, you know, not exercising his duties basically and misusing the Council resources which was the Council email system, things like that. I, I can't recall exactly how I formed that opinion at the time because obviously since then so much other information has come out so I would rely on the fact that, I mean, that statement there would be accurate as far as the opinion I formed but the reasons behind that opinion obviously are difficult for me to recall at this stage.

In forming that opinion did you have regard to the Council email policy which allowed personal use of the Council's email systems if restricted to reasonable, appropriate and infrequent use only?---I sure did and I, and I formed the opinion at the time and still maintain that opinion that this was, this was business, a business basically being run using Council resources and that's definitely not covered in the reasonable use in my opinion. You can't use the Council's email for anything other, you know, personal stuff. If it's, if you're running a business or if you're a day trader or if you're, you know, selling stuff on eBay using Council systems then that's just clearly unacceptable and that's the opinion I formed at the time was that these guys were planning a property development business using Council systems and that's obviously from my perspective and that's obviously from my perspective and obviously the ratepayers' perspective unacceptable.

Well, at this stage you only had access to the subject headings of the emails. Is that correct?---That's correct and that was all I needed at that stage to form that opinion.

20 And you formed that view on the basis of the headings?---Not just headings, the, the metadata I would describe it was of the emails which includes the times sent, recipient, sender, heading, whether there was attachments, yes.

I would suggest to you, Mr Cummins, that certainly on the basis of that material that there was no reasonable basis for that suspicion that you formed. Do you agree with that?---I hadn't made any determinations into the matter at that stage but there was definitely enough - - -

30 (not transcribable) determination?---There was certainly enough for me to believe that an investigation was warranted.

Thank you. I tender the protected disclosure to this Commission, the letter from the Commission to Mr Cummins dated 24 September, 2009 and the accompanying documents which include the protected disclosure.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 192.

40 **#EXHIBIT 192 - COPY OF LETTER TO THE ICAC FROM HARMERS WORKPLACE LAWYERS DATED 23 APRIL 2009 RE BURWOOD COUNCIL AND ACCOMPANYING DOCUMENTS AND A LETTER OF RESPONSE FROM ICAC DATED 24 SEPTEMBER 2009**

MR BLAKE: Mr Cummins, can you look at paragraph 103 of Exhibit 121? ---103, yes.

Ms Viney's statement to, in the workers compensation claim is the first time she spoke to you about this matter was on Monday, 9 February and I suggest that you're mistaken in your recollection in paragraph 103 of the statement. Would you agree with that?---No, I think, I think we're both correct. Ms Viney, I told Ms Viney on, late on the Friday the 6th that obviously Mr Macklin was away sick that day which held us back a bit but Mr Macklin, you know, I thought he only had the 'flu so he'd be back on Monday and I told her on the Friday afternoon, like very late in the day, that, you know, Mr Macklin and I would speak to her on the Monday morning and I tried to arrange a meeting with her about a protected disclosure and she said, she said okay, I'll, you know, 9 o'clock Monday morning or whatever it was. So she didn't know the details of it on the 6th but she knew that it was coming so both, both statements are correct.

Well, thank you, I think we might come back to that. Now, on Monday the 9th in the afternoon, Monday the 9th, you spoke to Mr Macklin about this matter?---Yes.

And he told you that the employee had told him that the work was done on the property after hours, it was not done during Council time?---I'm not sure when it was but at some point in time he did say that, yes.

And you said to him this bloke is using Council resources to run his own business?---That's correct.

And Mr Macklin told you on the afternoon of Monday, the 9th that Mr Becerra's terms of engagement allowed him to be both the principal architect and work for himself outside his hours of engagement. Do you agree with that?---No, because I don't think he'd even seen the file at that stage.

Right. Well, I suggest you're mistaken and - - -?---He, look, he did say that at some point because he brought me the file and said have a look at it yourself so I, so he may have said it in the context of that when he gave me the file.

Well, I suggest he told you on the afternoon of Monday, 9 February, 2009?---He may have. I'm not sure of the date but it was in the context of giving me the file so - - -

You had a discussion I think you were just saying with Ms Viney on Monday, 9 February, 2009?---I had probably many conversations with Ms Viney on the 9th, yes.

And you told her on Monday, 9 February, 2009 "We will probably lose our jobs, we won't be here by the end of the week."?---I don't recall specifically saying that but it may have happened, yes.

Was that a thought you had at the time?---By the 9th certainly considering who, who the complaint was about I was very worried for, certainly for my job. I wasn't worried about their jobs, it was more about my job I suppose, I thought that I would get the blame for it and obviously I think Mr Macklin was under some, in the firing line as well. I'm not sure at that time I, I really felt that Pina was in any danger but obviously Mr Macklin and I, I knew at the time what we were doing, that if Mr Romano found out about it he'd be very angry and he'd want us out of there, I mean I'd seen it, anyone who raises objections to Mr Romano does not last long in Burwood Council.

10

And Ms Viney left you a message on your answering machine for your phone on, you received on 10 February, 2009?---No, I wasn't aware of that until I read that in her WorkCover statement. I'm not saying she didn't send it but I certainly didn't get it.

You say you didn't get it?---No, I didn't, I didn't receive any message from her on my work phone or any other phone so, but I did not receive that.

You had a discussion with Mr Romano on Tuesday, 10 February. Is that correct?---That's correct.

20

And he said to you he'd just come from speaking to Mr Macklin. Is that correct?---Yes, Ms Viney and I were in my office and, and he was in with Mr Macklin for some time and then when he finished with Mr Macklin he came to my office. I can see Mr Macklin's office from where I, where my office is so he came to my office eventually, yes.

And when he came in he said he wanted to have a chat to you, speak to you? ---No, he said, What's wrong?

30

And you said to him, "Don't talk to me, there's an investigation underway and it's inappropriate for me to talk to you."?---Absolutely not. I said, he said, What's wrong? I said, Mr Macklin was, you know, shouldn't have disclosed, 'cause Mr Macklin by this stage had already told me that he had disclosed the substance of the disclosure to Mr Romano which I was extremely disappointed in because it jeopardised the investigation and put Joe Saad in the firing line as well as me I suppose. So I was disappointed in Mr Macklin and I told Mr Romano that that Mr Macklin shouldn't have told him what he did and Pat just assured me, he said, Look, don't worry I knew anyway.

40

And I suggest you also said to Mr Romano, "Don't try and influence me, I'm not going to listen to you and I'm advising you, no, I'm instructing you not to talk to me."?---That is just an absolute fabrication.

And Mr Romano said to you, "Shut up, I'm not here to influence you, I'm not here to have discussion with you that relates to the allegation, I want to talk to you about something."?---No, he didn't say that at all.

And he said to you to “Stop what you’re doing, you looked stressed.” Do you agree?---No, I don’t agree.

And he said to you, “I’m removing you from your responsibilities in this matter, you’re no longer to participate in or continue with the investigations related to the matter that Mr Macklin’s disclosed to me.”?---That’s the most accurate thing you’ve said so far. He, he said, I’m thinking of removing you from the investigation. And then we had some further discussion. He said,
10 Look, I am removing you from the investigation.

And he said, “You’re no longer to talk to anyone about this allegation or what’s been going on.”?---No, he didn’t say that.

And he told you that he was removing himself as General Manager for the purpose of the investigation into the allegations?---No, well, he did eventually and it took some convincing and at first he said he was just going to remove himself from Albert Becerra because I said, You can’t, you can’t
20 be involved with Becerra because of your conflict of interest. And he said, Okay, well, I will do that but I want to still be involved with the allegations regarding the depot employees. And I said, Look, the best thing to do is to step aside completely. And he agreed to that and he said, Okay, I’ll get, we’ll put Ian Dencker on as the GM. So I was happy and it seemed like he was happy with that.

And he said to you if he was going to appoint Mr Dencker as the Acting General Manager for the purpose of the investigations - - -?---That’s right.

- - - he said he’d confirm his direction to you in an email?---Yes, and he did,
30 yes.

Can I show you this document. Is that an email you sent to Ms Viney on Tuesday?---It is.

I think you refer to it in your statement but I couldn’t find it within it?
---Yeah. No, that’s the email, I’m not sure whether it’s attached to something else but, yeah, that’s it, yep.

All right. I tender that document.
40

ASSISTANT COMMISSIONER: That will be Exhibit 193.

#EXHIBIT 193 - COPY OF AN EMAIL TO PINA VINEY FROM MR CUMMINS DATED 10 FEBRUARY 2009

MR BLAKE: Mr Cummins, you say you made a protected disclosure to Ms Viney on 9 February, 2009?---No, it would've been after, it was some time either late on the 10th or maybe the 11th or 12th, between the 10th and 12th I think.

And did you, what was the discussion with her?---Well, Ms Viney said to me, Look, there may not be even, even be a protected disclosure. And I said, Pina, I'm giving you one right now. And, and this is, and I discussed obviously what I'd found during my investigation. And she said words to
10 the effect of, Oh no, Rob, please don't.

Is that conversation recorded in your statement?---No, it's not.

I suggest to you it never took place?---It took place.

Did you ever put that protected disclosure in writing to Ms Viney?---No, at that stage I had grave concerns about putting anything in writing because I was under the impression that the General Manager had the code to the protected disclosure site. I, my advice to anyone at that point in time
20 would've been don't put it in writing, make a protected disclosure verbally.

But the duty of the person receiving a disclosure was to get the maker of the disclosure to put it in writing. Do you agree with that?---No, you can make a protected disclosure verbally. There's no, there's no need to do it in writing, it's obviously best practice to make it in writing but best practice in this case would've been for someone to, the recipient of it to make notes but there's no need for a protected disclosure to be in writing.

Why didn't you make the disclosure to ICAC at that stage?---At that stage I
30 didn't have enough evidence, I had information obviously on what was going on. It seemed very minor at that point in time. Obviously it was very early on, all I had was the email metadata. Where work needed to be done in my opinion regarding the investigation before the matter was ICAC-able.

I suggest to you, in your evidence yesterday you, just let me find the transcript, an answer to counsel assisting you, actions and response to the stand that you took, you referred to administrative tasks being given to you?---Yes.

40 What administrative tasks were given to you that you were referring to when you answered that question?---There's a number of them and they're listed in the information that ICAC has, but they included being personally responsible for signing letters. Pina Viney told me that Pat had told her to basically load me up with admin work. I was appointed to the position of IT Manager, even though later on Pat said I was totally inept and couldn't do it. But for some reason at that time he thought I was capable. I was given a management plan to deal with it in a couple of days notice, which was impossible. Various things like that.

About the management plan, the Department of Local Government in late 2008 required Council's to develop management plans. Do you recall that? It was a requirement from the Department of Local Government?---It sounds familiar, but I don't recall it, no.

10 And you were given responsibility by Mr Romano for that project?---No, not until, my understanding was it was Bob Howe and Pina and then on the 16th I was given responsibility to do a project plan regarding it. But I don't recall ever being any formal project adopted regarding that. It may have been a different, a different type of project management plan or something. I can't recall.

Right. Do you agree that on 6 February, 2009 you attended a meeting with Ms Viney, Ms Karpowicz and Mr Romano and Mr Howe to discuss the community development plan?---No.

Do you say it didn't happen?---It was on the 16th.

20 Well, I'm suggesting to you there was a meeting between those people on 6 February, 2009 to discuss that matter?---I don't recall a meeting on the 6th.

And at that meeting you were appointed the project manager?---I don't recall any meeting on the 6th. Obviously, by the time the 6th came around, I was already dealing with the original disclosure, so, my mind may have been on that. But I don't recall any meeting on the 6th.

30 And where was a discussion of a timetable for the development of this community development plan and it was proposed that the matter would be completed so that it could go to the Council on 28 April, 2009?---I don't recall that meeting. I don't recall any of that stuff.

You wouldn't deny it now would you?---I've got no idea.

And there was a further meeting, I suggest about this matter on 9 February between Mr Howe, Ms Viney and yourself which discussed the community development plan?---There may well have been.

40 And you told Ms Viney and Mr Howe to get on with it. You had nothing to contribute?---I may have. I mean if Bob Howe was brought into that project, then my understanding would be that he was there to run the show. He's on hundreds of dollars an hour, so I can't see how Bob Howe would've been brought in to provide admin assistance. It was always my understanding that if Bob Howe was brought in on a project that he ran the show.

You know Mr Cummins don't you that you were the project manager for this particular matter weren't you?---No. And I think I made it clear in my

emails to Pat on the 16th that the project was well under way without adequate scoping of the project. And that it wasn't, there was no clear definition of who was doing who and that that was very typical of Burwood Council.

And there was a meeting on 16 February, yourself, Mr Howe, Ms Viney and Ms Karpowicz and Mr Romano. Do you agree with that?---That's correct. It was immediately after the meeting involving the cover up of the depot stuff so I was in a bad way health wise by then, so, you know, yes.

10

And I suggest that that meeting, Mr Howe said there had been little or no direction on this project and we found it difficult to make any constructive progress?---I'm not sure that he did, but I wouldn't be surprised and that considering what I was going through in the days prior to that meeting. It was not a priority of Council to work on that when there's, when the biggest corruption scandal was about to hit Council.

20

And Mr Howe said, we haven't been able to develop the plan because we haven't had any guidance in terms of the elements of the project?---I'm not sure what he said. I don't recall much of that meeting at all, mate. I was in the middle of a panic attack and a nervous breakdown.

30

And you said to Mr Romano, well you weren't running, you appointed Bob to take over the project, so I don't think I have a role to play, let him do it? ---It sounds like something I would've said. Whenever the shit hit the fan at Burwood Council people like Bob Howe and David Baird were brought in as cleaners, basically, so the fact that Bob was there, I had grave fears as to why he was there and that he was there to make sure that, you know, I was, I was kept in line. So I was happy for Bob to run it.

40

And I suggest to you, you were very heated when you said that?---When I said what? When I said what - - -

I'm not running this, you've appointed Bob to take over the project?---Oh, look Pat was being massively passive aggressive at that time. He hated my guts and I knew it. And, you know, the relationship was over at that point.

And the others apart from Mr Romano left the room at that point. Do you recall that?---That's correct. I recall that.

And Mr Romano said to you that he'd made it clear at a meeting that you were the project, sorry, made it clear at the meeting a week ago that you were the project manager for the community plan, development plan?---No. He said, at that meeting on the 16th, okay, I want you to be the project manager for this. And I said, look, you know, I was unwell, I, you know, I couldn't manage anything at that point in time. So I said, look, you know, basically I begged him, I said, look, can Bob Howe and Pina do it, 'cause I

just wasn't well. And he said, no, I want you to do it. And I want you to do it, you know, within a couple of days.

Mr Romano said to you, I suggest, but you know you're responsible for this project. He's given you extra resources to make it happen and he wanted a timeline and a project plan by Wednesday?---It sounds like something he said, Wednesday being, you know, 36 hours away kind of thing, which was just impossible.

10 And I suggest that this project had been in the pipeline and under your responsibility since late 2008?---No. That's incorrect.

Now there was, I think you said an executive team meeting before, immediately before the meeting with Mr Howe?---Yeah. It was immediately before, yes.

And all the executive were present?---All the executive that were available I assume were there. I, I couldn't tell you exactly everyone that was there, but I know who was there that said certain things.

20

Mr Dardano was there?---Yes.

Mr Macklin?---Yes.

And of course, Mr Romano was there?---Mr Romano, yes.

And I - - ?---And Mr Dencker.

I beg your pardon?---And Mr Dencker.

30

And at that meeting I suggest that Mr Dardano said he'd been implementing the Morrison Low recommendations and a number of staff were resisting the changes, especially Mr Child?---It sounds, it sounds accurate, but I can't recall his exact words.

And Mr Romano asked the executive, to those present, do you think we're able to implement the recommendations from the report given the resistance we're getting from the depot staff?---No.

40 And I suggest that Mr Azer said that Mr Dardano and himself were in a very difficult position?---No, I don't recall that.

Mr Azer said that he was fearful if we cannot successfully implement the changes that are under way without support?---I don't recall anything that Mr Azer said at that meeting.

And Mr Romano asked Mr Dardano whether he agreed, do you recall that? ---No, I don't recall that.

Mr Dardano said yes, he agreed with Mr Azer, whoever you employ to replace me as the permanents works manager will need to be extremely hardnosed and thick-skinned. Do you agree with that?---I don't recall it but I don't, I don't doubt it was said.

10 And Mr Romano said that, to Mr Dardano, Given your experience with Mr Childs and the proposed structure options for the depot in the Morrison Low Report do you believe that Mr Child has the knowledge and skills to adequately perform the new civic maintenance coordinator role that the executive is considering?---I don't recall that. It doesn't sound like something he would have said.

And Mr Dardano said that he didn't believe Mr Child was up to the role, he has the energy and enthusiasm but didn't have the reporting or planning ability to carry out this work?---Yeah, Mr Dardano did say negative things about Steve Child, yes.

20 And he said I'm continually having to ask him what he is doing and where he and his crews are?---Yeah, that sounds familiar, that sort of stuff, yes.

And Mr Dardano left the meeting. Do you recall that?---No, I don't, don't, obviously we all left the meeting but I don't recall at what point he left the meeting.

30 Well, I suggest that Mr Dardano left the meeting before the executive team and the executive team continued on with the meeting?---I don't recall that. I recall Mr Dardano saying things about Steve Child, if he left I didn't notice.

And Mr Romano said when Mr Dardano left that given there have been allegations of unauthorised use of Council plant and materials by depot staff do you all think that we should seek to undertake surveillance of the staff at the depot?---The surveillance may have been on the agenda, it certainly wasn't a concern of me so I don't recall that.

All of the members of the executive team agreed to that course?---It was very rare for all of the executive members to agree on any course of action.

40 I'm asking on this particular occasion?---I don't recall that they did and I assume that they didn't but Mr Romano would, if he made a decision that was going to happen and I don't think there was any dissent, I, I wouldn't have given any in that case. I thought that was reasonable.

You agreed with that, you accept that. You accept that you agreed to having surveillance of the depot staff?---Oh, at that point in time I probably just didn't give any response, negative or positive about it.

Well, do you recall or can't you recall?---I definitely didn't say yay, that's the best thing we should go ahead and do it now but I may have, I may have just remained silent on the matter.

And I suggest to you that your version of the meeting at paragraphs 145 to 147 of Exhibit 121 is inaccurate?---It is 100 per cent accurate.

10 Thank you. Now, can I ask you can you just close that, could Mr Cummins be showed Exhibit 155 please. Can you go to page 47 please?---Yes.

That's a letter from Harmers to Mr Baird?---That's correct.

And that was sent on your instructions?---Yes.

And on page 50 one of the matters that you complain about, that's the fourth last paragraph, is Mr Macklin advising you that Mr Romano had overruled your decision to have Debra Harvey act in the position of IT manager - - -? ---Yes.

20 - - - until the recruitment had been finalised?---That's right.

You accept that Mr Romano had authority to make staffing decisions? ---That's correct, he sure did.

And you would agree that IT manager was an important role in the Council? ---Yes.

30 And you'd also agree that Debra Harvey had no IT qualifications?---She was the most qualified of the staff at the time.

And she had, do you agree that she had no IT qualifications? ---Qualifications as in academic qualifications?

Yes?---I'm, I'm not sure, I, I don't know what her status regarding her qualifications is.

40 And if that were the case that would be a reasonable decision for Mr Romano to make, wouldn't it?---Well, it would but apart, but the fact is he appointed me to be in that position and I don't have any IT qualifications.

So do you agree that that would be a reasonable decision for Mr Romano to make or not?---To put someone without IT qualifications in charge of IT?

No, about Ms Harvey, do you agree that that was a reasonable decision of Mr Romano's or not?---Considering what was going on at the time I don't think it was reasonable because there was no one else more capable than Deb Harvey at the time to act in that position and that was the problem we had. I'm not saying that she was, you know, knock out the lights the best

person we could have had but in the Council at the time there was no one else more qualified or more senior that could have done that job.

And Mr Romano wanted to go to a recruitment agency to get someone qualified, didn't he?---No, well, that, that's a separate time. At the time we were recruiting for the position and the position had closed on the 13th so we'd done the ads, it'd been on track for six weeks, we'd received numerous applications for the position, it was a fantastic response and we were ready to interview early the next week so obviously Mr Romano's decision then
10 to, it wasn't about Deb Harvey, it was about recruitment of the new position.

I suggest to you it's a reasonable response for Mr Romano to want someone on a short-term basis who had IT qualifications to perform that role. Do you agree with that or not?---Yes, and I agree with that, I would have loved to have someone in that, someone to come in and do that. That would have been great.

Thank you. In answer to counsel assisting yesterday as to actions taken in
20 response to your stand in relation to the disclosure by Mr Saad you referred to a number of letters that were in the evidence. Can you recall that?---Yes.

Now, I just want to identify those if we can. If you go to paragraph 21 of Exhibit 155, sorry, page 21?---Page 21, yes.

Is that one of the letters you had in mind?---Yes.

And if go to page 27, is that another one of the letters?---There was an
30 element of that letter that was, not the whole letter, it was regarding that they'd taken the image of my laptop which I found quite disturbing. It seemed to me like I was under investigation.

Would it be fair to say that, just to try and cut this short, that all the letters coming from Maddocks or HWL Ebsworth that are contained in Exhibit 155 you regarded as having been sent in response to your investigation of Mr Saad?---No, they definitely weren't sent in response to that. There's
40 elements within each letter I obviously, I perceived as being threatening and bullying and harassment. Obviously there was, there was need for letters to be exchanged and I've alleged that.

So there are elements within the letters that you understood in that way. Is that what you're saying?---That's right.

You also refer to the response to your worker's compensation claim as having been taken in response to your stand in relation to the disclosure by Mr Saad?---Yes. Not so much, look, not in my response to Mr Saad but the fact that I'd made protected disclosure and that I had an anticorruption stance as well as my investigation into the Mr Saad matter.

Is it the position that you read the response to your claim delivered by the insurer?---That's correct.

And that included statements of Mr Macklin, Mr Dencker, Ms Viney and Mr Romano?---That's correct.

10 And you gave some evidence yesterday that those statements contained matters which were false and misleading and in the case of Mr Romano outright lies?---That's correct.

And it's your belief that the evidence that is false and misleading and outright lies that each of those people took that stand because of your stand in relation to Mr Saad and other corruption matters?---Some elements of Mr Romano's I considered to be punitive, others were obviously them just covering, covering up for their corrupt actions.

20 And so when you say their corrupt actions who are you referring to at that point?---Well, Council's corrupt actions and the individuals obviously involved and include Mr Romano and certainly from a maladministration perspective other members of the executive.

So your belief is that they were, that is, Mr Macklin, Mr Dencker and Ms Viney where they disagreed with you were lying to protect themselves. Is that correct?---Mr Romano certainly was.

30 No, I'm not asking about him, I'm asking about Mr Dencker, was he lying to protect himself in your view?---He was being misleading and, and lying regarding the, his reference to the cleaner and the situation behind that. I didn't consider that to be punitive, I considered that to be him covering, covering up for himself. Ms Viney's statement was accurate but it was obviously missing certain points that would've helped the insurer to make an accurate decision so whilst her statement contained no lies there was certainly things that I thought she could've put in there regarding the situation as a witness. Mr Macklin's statement was extremely misleading and that he talked about my poor performance which was inaccurate and he certainly made no reference to the number of commendations and bonuses and my performance over the course of my time at Burwood Council which he had an obligation to do as the HR Manager.

40

And do you believe Mr Macklin did that to protect himself?---To protect both himself and Mr Romano.

And did Ms Viney omit some matters that she could've referred to to protect herself? Is that your belief?---I believe so, yes.

And you say in the case of Mr Romano they were outright lies were they?
---Most of his statement is a lie, yes.

And you say that he made those lies because you had taken steps to investigate alleged corruption on which he was involved. Is that correct?
---Not only taken steps to investigate but I had outed him as being corrupt at that stage.

And when you say you outed him how did you do that?---I'd gone to the ICAC.

10 This was as at the time of the worker's compensation claim?---The statements, yes.

Yes. Thank you. I suggest to you, Mr Cummins, that that belief that you held is just a - I withdraw that. The belief that you held I suggest has no reasonable basis. Do you agree with that?---I don't agree with that, no.

MR EKSTEIN: Commissioner, I object to that. That's calling for a conclusion which isn't the province of this witness, I would've thought would fall squarely within your province.

20

ASSISTANT COMMISSIONER: That does seem, they do seem to be issues on which this Commission eventually will have to make a decision. I don't know that it adds anything.

MR BLAKE: Well, I can test his beliefs.

ASSISTANT COMMISSIONER: All right. I'm having a lot of difficulty understanding what his beliefs or why he made certain disclosures has relevance to the ultimate issues we're going to have to decide here.

30

MR BLAKE: It goes to the heart of the last issue that actions were taken to visit retribution on Mr Cummins for the actions he took and his beliefs about that are in my view relevant.

40

ASSISTANT COMMISSIONER: Well, the facts about whether actions were taken are relevant. His belief that they were taken for certain reasons couldn't be used as a basis for us to make findings. And to a certain extent, you know, the truth of what he alleged is not relevant. People are entitled to make complaints or make allegations without being victimised. Now, I'm not expressing any view at this stage as to whether there was any victimisation but we seem to have spent a lot of time going through the Protected Disclosure Act and the policy. I mean that only goes to whether there was a breach of the Protected Disclosure Act. Even if people didn't go through the right procedures and they didn't go to the right person about the right thing it could still be corrupt conduct to victimise them because they wanted to make a complaint. So there are two separate issues here whether the Protected Disclosure Act was breached or whether there was victimisation in some other way.

MR BLAKE: That will be a matter for submissions in due course.

ASSISTANT COMMISSIONER: It will be a matter for submissions, yes.

MR BLAKE: I haven't got anymore questions.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr - - -

10 MS RONALDS: Sorry. Wondering whether the witness might like a break for a minute before - - -

THE WITNESS: No, let's go.

MR EURELL: I'll be extremely brief, Commissioner.

ASSISTANT COMMISSIONER: I think Mr Eurell wants - maybe you should wait a little.

20 MR EURELL: I was going to suggest that course only because there's, something has been raised today that I think I have to ask a few questions of this witness about on behalf of Mr Hullick and it's probably better for my friend if I ask those before he examines him.

MS RONALDS: We're not going all around the table again.

MR EURELL: No, I shall be quite brief.

30 MS RONALDS: (not transcribable). This person, you've already asked questions of him once.

MR EURELL: Yes.

ASSISTANT COMMISSIONER: So this is a new issue is it?

MR EURELL: It is, yes.

ASSISTANT COMMISSIONER: Well, yes.

40 MR EURELL: It has arisen from what has been said today. Sir, you said, you explained that in response to a question about why you hadn't reported what you thought was maladministration to the Mayor or the councillors or this Commission on 5 February, 2009 that you were fearful of Mr Romano and his cronies?---I think it was before, the question was about it before the 5th.

Yes?---Yes, that's correct.

And do you remember saying that the reason that you didn't do that was because you were fearful of Mr Romano and his cronies?---That's part of the reason, yes.

And you said that when you were asked by senior counsel for Mr Romano who the cronies were you named Mr Hullick?---Yes, that's correct.

10 What did you mean by cronies?---A cronies is someone who in a network of patronage sense from a management perspective relies on the patronage of the General Manager and in my opinion Mr Hullick relies on the patronage of the General Manager to retain his job.

ASSISTANT COMMISSIONER: And Mr Eurell, he's already given the answer about what he thought cronies were under previous examination, so
- - -

MR EURELL: Yes. I appreciate that, but - - -

20 ASSISTANT COMMISSIONER: Can we move on to something new?

MR EURELL: This is very important, Commissioner, for this reason, that the transcripts of these proceedings are made available, a person can make statements such as this in this public forum without being subject to recourse in defamation, for example. I think Mr Hullick should have a fair opportunity to test just how far that goes, because it seems to be (not transcribable) - - -

30 ASSISTANT COMMISSIONER: Yes. All I'm saying is he's already answered the question about what he thought cronies were. You can get up and say, well, that's not a cronies or you're wrong or whatever, I just don't see the point of asking him the same question to get the same answer, for time purposes.

MR EURELL: I shall move forward then.

ASSISTANT COMMISSIONER: Thank you.

40 MR EURELL: You said yesterday that you had no inkling of Mr Hullick ever being involved in any corruption. Do you remember that?---That's right. Yes.

In saying that he was a cronies, you're not moving away from are you?--- Oh, no. My opinion of Les was, up until 5 February, that he was a good bloke. He was, that he wasn't corrupt, that he was, he got bullied into doing some things and he probably did some things he, he shouldn't of done and it's come out that he signed those documents. But I wouldn't consider Mr Hullick as being corrupt at all. But he's definitely a cronies.

You see, you accept don't you under the code of conduct that Mr Hullick had an obligation to follow the instructions of Mr Romano, as did every employee in Council?---Oh, oh, absolutely. Yes.

And can you please explain then why you say Mr Hullick was a cronies in, if he was, it appears to be you're saying he was following the directions of Mr Romano?---Yeah. It's quite simple really. The next General Manager at Burwood Council would've obviously reviewed the executives and in my opinion I don't believe Mr Hullick would've lasted very long.

10

Why?---Just because of his performance. He was, you know, look what he's, look, I've answered that. I'm not going to answer any more.

Well, I think it's fair to expect you to say that if you don't think Mr - - -?
---It's my opinion.

You appreciate don't you that one of the matters being investigated by this Commission is mal-administration. You've said that. You appreciate that don't you?

20

ASSISTANT COMMISSIONER: Sorry. We're not investigating mal-administration. That's the ombudsman's jurisdiction.

MR EURELL: It's one of the things that you've asserted was going on at, at Burwood Council isn't it, that there was, to use your words, yes, mal-administration?---Well, I think it's, it's been raised in this that there obviously was some mal-administration going on, yes.

30

And what was the mal-administration that Mr Hullick specifically was responsible for?---Mr Hullick was known at Council for signing, signing things.

No, no, no. No. What do you know specifically, don't speak generally or give an opinion about (not transcribable)?---I am speaking specifically if you let me finish.

What did you know?---I knew that he was, he signed documents without doing proper investigation as to what they were for.

40

In your mind?---Mate, this is an opinion, mate.

MR EKSTEIN: The question was answered.

ASSISTANT COMMISSIONER: He's given, why does he need to give a view on mal-administration which we're not interested in anyway, so - - -

MR EURELL: Yes. I'll move on.

ASSISTANT COMMISSIONER: Thank you.

MR EURELL: But there's no, you were the director of governance at this time weren't you? Is that correct?---At what time?

At the time that you say Mr Hullick was signing invoices without proper investigation?---Mr Hullick was the director of governance and then I was the director of governance.

10 Yes. Now, there's no policy is there that tells somebody what the purpose of the signing as the approving officer and the receiving officer is there? ---Yes, there is. It's the code of conduct.

That talks specifically does it about approving and receiving officers on those invoices?---It speaks specifically about actions that people are supposed to take in their role.

20 Answer the question I'm asking you. Does it specifically talk about what the role of a person signing as an approving officer or a receiving officer is supposed to do?---No, it doesn't.

Thank you. Now I asked you a question yesterday about the annexures to your statement given to this Commission dated 15 May, 2009?---You did.

And you said that you weren't keeping them at home?---That's right.

Can I ask you, please, where you were keeping them?---They were at my lawyers office.

30 Okay. Now do you agree that some of those attachments go back to July, 2007?---That's correct.

Okay. I'm almost there, Mr Cummins. You said that you didn't go to this Commission on 10 February, 2009 because you didn't feel you had enough evidence to make an allegation of corruption. Do you recall telling Mr Blake that?---On the 10th, that was my opinion.

40 Yes. Now you were the director of governance at that time weren't you? ---Yes.

You were familiar with the internal reporting policy?---Yes.

And the protective disclosures act?---Yes.

You knew didn't you that all you needed to make a report to this Commission was a suspicion of corrupt conduct?---No, I didn't know that. No.

But it's written in the policy isn't it? Have you read that policy?---I've answered the question.

Have you read the policy?---I don't know.

You don't, you don't know whether you have ever read the internal reporting policy at Burwood Council?---I've read that policy, yes. You just said policy, I wasn't sure which one you were referring to.

10 Right. You've read that policy?---Yes.

It specifically says in that policy, and I can show it to you if it assists, that all you need is - - -

MR EKSTEIN: I object to this. This is a statement and it's a matter for submissions.

ASSISTANT COMMISSIONER: Well, it is and I mean really, I don't even know if what's in the policy complies with any of the acts which you're purporting to set out for - - -

20

MR EURELL: (not transcribable)

ASSISTANT COMMISSIONER: Well - - -

MR EURELL: I can hand up the acts - - -

ASSISTANT COMMISSIONER: Well, I am familiar with the Independent Commission Against Corruption Act and I am familiar with the protective disclosure act. What is in the Council policy is neither here nor there. You want to ask the witness why he didn't go to the ICAC, I believe he's already answered that quite a few times.

30

MR EURELL: The question I wanted to ask was actually, I was actually coming to it next, but before getting there I wanted to explore the state of his knowledge of the internal reporting policy.

MS RONALDS: None of these matters seem to provide a base to be given leave to (not transcribable)

40

MR EURELL: They do. They arise from Mr Blake's questioning.

ASSISTANT COMMISSIONER: I really haven't heard anything new yet, but go on.

MR EURELL: I'm about six questions away from finishing if you'll indulge me?

ASSISTANT COMMISSIONER: Yes. Go on.

MR EURELL: All right. Well, what I want to know, sir, is what changed between 10 February, 2009 when you say you didn't have enough evidence, this is in your mind and 25 April, 2009 when you decided to make the protective disclosure?---What changed in my mind occurred on the 13th, which was the cover-up, when Mr Dencker told me he was the cleaner and that he also told me that no further, he wouldn't be taking any further action. At that point in time I still had some faith in the internal systems regarding the complaints that Mr Dencker would fulfil his duty as Acting General
10 Manager. Obviously, after, after I reached the conclusion that he wasn't going to do that, I lasted one more day, which was the 16th, where I saw more covering up and then on that day I had a nervous breakdown. My doctor told me to not make any disclosures at that stage because of my medical condition. And I did not get medical clearance to speak to the ICAC until 17 April, 2009. At which point a few days later I made my protected disclosure.

I've just got four more questions for you. Can you just confirm this
20 chronology for me. On 9 February, 2009 you said to Pina Viney that you thought your job was in jeopardy?---Whose job, mine or Pina's?

Both of you? I think you said - - -?---I mean, I'm not sure of the day, it was around that time. It might've been after.

On 16 March, your lawyers were still writing to the lawyers for Council advising you'd accept two years pay to settle this matter? To settle the bullying matter?---My lawyers advised me, I'd been constructively dismissed so it was on that basis that they wrote that letter, yes.
30

But you agree that as at that date your lawyers had written on your instructions to the lawyers for Council saying you would let the matter go away for two years pay?

ASSISTANT COMMISSIONER: Really. What is the point of getting this witness to confirm a letter he's already been asked about? And a chronology that will appear from the evidence.

MR EURELL: But, I would like - - -
40

ASSISTANT COMMISSIONER: (not transcribable) want to suggest to him, but that's going to be a matter you're going to have to put in a submission. But he only did this because this happened and then that happened and it's clear he only did it for this reason. You can make a submission to that effect. It's not good trying to put it to him.

MR EURELL: Well, I think I'm, I raised it for this reason, Commissioner, I think as a matter of fairness, if I intend to address on it and you are certainly right that I intend on it in the fashion (not transcribable)

He has been well alerted to the fact that the letter that was written about he'll accept a payout and other issues will be raised. He's legally represented. I don't think you need to put a chronology to him of facts already in evidence.

10 MR EURELL: What I want to, well, perhaps if I just suggest to him what I'm making so that he can comment.

ASSISTANT COMMISSIONER: Yes.

MR EURELL: What I want to suggest to you, Mr Cummins, is that you made the protective disclosure to this Commission on 23 April, 2009 as a result of two matters. Firstly, that your attempt to negotiate two years pay with the lawyers for the Council had failed and secondly, because The Sydney Morning Herald published an article about the Burwood Council and you wanted protection of the protective disclosures act. What do you say to that?---No, that's not correct. I was actually assisting Council with an internal investigation into the allegations before The Sydney Morning Herald story broke.

Thank you, sir. Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Ekstein.

30 MR EKSTEIN: Thank you, Commissioner.

Mr Cummins, have you ever seen anything inconsistent with negotiating a commercial settlement to repudiation of a contract and making a protected disclosure to ICAC?---No.

In the chain of command that existed in February 2009 at Burwood Council administrative staff, who did Pina Viney report to?---Pina reported directly to me.

40 Now, up until approximately July 2008 would you have one-on-one meetings with Mr Romano?---Yes, up until July 2008 we had regular one-on-one meetings to discuss what was going on in my division and general issues and projects I was working on.

And after July 2008 did those one-on-one meetings continue?---No, every single meeting after July '08 till I left Council in February was, was postponed and then cancelled or just cancelled outright.

And, Mr Cummins, prior to reading Mr Romano's statement to the private investigator in response to your workers compensation claim had any criticism been made of your work performance, whether in your first job or in your executive position as corporate and governance?---No.

In fact - - ?---No, well, the only, I mean the only thing is emails berating me saying do this but as far as the actual performance assessment, no there was nothing negative.

10 And those emails started when?---It was, I mean, that's how Mr Romano liaised with, with myself from almost the very beginning so it was, I certainly never took it as, as being related to performance or a performance assessment or that I wasn't doing my job as per the position description.

And in each year, bonuses were paid on the calendar years or financial years?---It changed throughout my course at Burwood Council. I was paid bonuses sometimes every six months, sometimes every 12. It, it changed depending on what system was in place at the time and obviously Mr Romano's availability in, in the, from July '08 to September '08 the performance assessment was delayed for quite a few months and the bonuses were paid the day before the election.

And were you paid a bonus the day before the election?---Yes, I was.

And in any prior year was there any years that you were not paid a bonus? ---No.

Prior to your medical condition being diagnosed in February 2009, had you ever been diagnosed with any mental or psychological problems?---No, never before, no.

Had had treatment for such things ever been suggested to you?---No, certainly not.

And I think your treating psychologist, well, your doctor is a Dr Shortus? ---That's right.

And you still are treated by him?---Yes, I still see him regularly.

40 And you're also receiving treatment from a Dr Gus Morris who's a psychologist?---That's right, yeah, I still see Gus.

And was it on advice from Morris that you did not go to make a formal statement or disclosure to ICAC prior to 23 April?---That's correct.

I have nothing further, thank you.

ASSISTANT COMMISSIONER: Yes. Well, if there's nothing further I think Mr Cummins can be excused now.

MS RONALDS: He can.

ASSISTANT COMMISSIONER: Yes, thank you. You're excused, Mr Cummins from further attendance.

10 **THE WITNESS EXCUSED**

[3.24pm]

MS RONALDS: Well, perhaps the documents that are there can be removed from the witness box and I call Ms Furneaux-Cook.

ASSISTANT COMMISSIONER: Yes, Ms Furneaux-Cook, yes, take a seat please. Ms Furneaux-Cook, you've been called here to give evidence, you are required to answer all of the questions asked of you. You may seek a declaration under section 38 of the Act that nothing you say can be used
20 against you in any future proceedings. Do you wish to accept such a declaration?

MS FURNEAUX-COOK: Yes, I do.

ASSISTANT COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by this witness and all documents and things produced by her during the course of this hearing are to be regarded as having been given or produced on
30 objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced. Ms Furneaux-Cook, you're required to take an oath on the bible or make an affirmation.

MS FURNEAUX-COOK: I'll make an affirmation.

ASSISTANT COMMISSIONER: Thank you.

MS RONALDS: Can you tell the Commission your full name?---Lesley Marie Furneaux-Cook.

And your occupation?---I'm, I'm a learning and development coordinator and Deputy Mayor of Burwood.

10 And your business address?---1-17 Elsie Street, Burwood.

And it's correct, is it not, that you are currently a Councillor?---Yes.

And you were previously a Councillor, this is your second - - -?---Term, yes.

- - - term. So you're a Councillor for Burwood Council I think starting in 1999, is that correct?---1999 to 2004.

20 And then you had a gap?---Yes.

And then you returned?---Sorry, 1999 to 2004 then 2008 to the present.

Right. And when you were re-elected in September 2008 at the first meeting after that election you were elected Mayor. Is that correct?---That's correct.

30 And was that some form of power sharing so that you were only there for a year. Is that what happens?---Yes. There's no majority on Council, there's seven Councillors, there's three Labor, myself which is a residents group, Burwood Community Voices, a political party, there's the Greens and two Liberals so there's no majority so it was decided, through much negotiation I can tell you, that there would be, each party would, would nominate a Mayor for, for a year's term. This was to avoid the mess that usually happens towards to the end of Mayor's year.

40 And you got the short or long straw and started, so when did you officially, when were you sworn in as Mayor?---I believe it was right at the end of September because although the election was the 13th it actually took about two to three weeks for the numbers to be finalised so I think it was towards the end of, of September.

And were you given any form of induction or training as Mayor?---Well, not as Mayor but as Councillors we were put through a, through the General Manager had an induction course which was basically a series of workshops over two weeks that went through policies and procedures of Council, the various service and products, the functions of Councils, et cetera, the Local Government Act.

And what did you understand to be the division between the matters about which Council could be involved and the matters about which the staff through the General Manager and the General Manager were involve?
---Well, accordingly to the Act the, the General Manager is in charge of the day to day operations of Council. Councillors are basically the strategic focus, we're the policy and procedure makers and, and that's our function, also to make sure that there's the adequate allocation, the proper allocation of resources for the benefit of the ratepayers.

10

And so there's a review of the budget overall, is there, through the Council - - -?---Yes.

- - - or is that entirely set by the staff?---The budget is set by the staff which is reviewed by the Councillors then it's audited and then it's brought back to a meeting of Councillors and then it's either put through or not put through and there's quarterly budget reports that come up to Council.

20

And in, from, in September 2008 and following what did you understand the role of the Mayor to be?---The Mayor has in, in a sense a ceremonial function and that's in the Act, that, that, that's, we have a, the Mayor has a civic function. Also in between policy, in between Council meetings, Council meetings, Councillors are the policy makers but if there's an emergency or if there's decisions that have to be made in between those monthly meetings or if you can't call an extraordinary meeting then the Mayor can take on that, that role.

And during your period how often - I understand the Mayor has an office?
---Yes.

30

Which is close to the General Manager's?---Yes.

And the Mayor has an assistant, a personal assistant?---The Mayor and the councillors share a personal assistant.

Right. So that's for all seven of you the person is it?---Yes. Yes.

And again I'm talking about the period when you were Mayor?---Yep.

40

How often on average would you be on the premises during the course of an average week?---I would be there three to four times a week. Like in that, in that time, time I didn't work, I decided not to work, I did Mayor.

Right. So you didn't have outside paid employment then that - - -?---No.

- - - that distracted you from your duties as Mayor?---No, I had three children.

Right. Unpaid employment?---Mmm.

And so you were there quite often?---Yes, when I wasn't attending the civic functions I would be in my Mayoral office.

And there's a reasonable degree of civic functions aren't there, that is, and I - - -?---It, it, it can be as much as you want or as little as you want.

And that includes the traditional opening fetes and - - -?---Opening - - -

10 Anything?---Anything.

And attending meeting, community meetings?---Definitely. That's, I mean that's part of the role. When, when a (not transcribable) or a school they, they usually call on the Mayor, they, they don't know the other councillors, the Mayor is the public face of Council and so it's the Mayor that, that gets the invitations.

20 And you thought that was an important part of the role so you attended to that carefully?---I, yes, I did. That, that was a part, 60/40 I would say.

And what was the reason that you wanted to be a councillor, why did you put yourself forward for elect?---Do you want to go back about 10, 15 years? Well, in the beginning as I said Burwood Community Voice was a resident's group, later became a political party. It was first formed about 15 years ago (not transcribable). It came up because of development issues in Burwood and that's always a hot topic in Burwood and that's where my, in a sense, passion for Burwood came from from the development issues and also we wanted to have, as residents we wanted to see transparency in Government.

30 So you managed to score the Sydney Morning Herald this morning. A related issue?---Yes, unfortunately.

(not transcribable)?---Yes, Very unfortunate.

Now, during the course of (not transcribable) induction programs - - -? ---Yes.

40 - - - was there a session on the Code of Conduct?---Yes.

And were there seminars or whatever on what was to be the relationship between councillors and individual members of staff?---Yes. It was made very clear that for - under the Code of Conduct and under Council policy there was to be only minor interaction with councillors and Council staff. Your main point of call as a councillor was the General Manager and also the Directors and the, the, the, the councillor's PA and the Media Officer. Apart from that there was, there's to be no other contact between councillors and Council staff.

And you were careful to follow that instruction were you?---Yes.

And if you - I mean obviously if you saw people around you'd say hello but this meant in terms of any discussion about - - -?---Conversations, yes. No.

- - - about subject matter. So you didn't attend executive meetings?---No.

10 And did you avail yourself of independent access to members of the executive?---Yes, I did.

So you didn't go necessarily through Mr Romano to do that?---No.

If you wanted to talk to Mr Dencker say then you'd talk to Mr Dencker?
---Indeed.

But you wouldn't talk to people further down the hierarchy?---No.

20 What about Mr Macklin, he's not an executive - - -?---No.

- - - but he's a more senior member?---No.

So you would confine your direct access would you to members - - -?---To his Director.

Right. Now, the Code of Conduct sets out certain matters about the - I'll just show you a copy?---Thank you.

30 And when you say we were told or whatever who ran the workshop on the Code of Conduct?---I think the Code of Conduct was conducted by Monica Kelly from Maddocks.

Right. So there was some external people - - -?---Yes, it, it wasn't all internal.

Right. If I could ask you to turn - you're familiar with this document?
---Yes.

40 If I could ask you to turn to page 14 of the document. You see there is a relationship between Council officials, it's a sort of slightly misleading heading because it makes it sound like it's endeavouring to dictate out - it then sets out obligations of councillors?---Sorry, senior counsel, which section?

Page 14?---Yep.

See heading number 9.1?---Yep.

And they were the matters that were drawn to your attention in the training session were they?---Yes.

And you understood that that was the Code of Conduct and that you were bound by the terms of the Code of Conduct in terms of your contact with staff?---Yes.

10 And then you see in 9.7 down the bottom of the page it talks about inappropriate actions and list a number of things that you can't do?---Yes.

Would you agree that part of the focus of this has been to stop councillors intervening in development decisions?---To influence junior Council members, staff members, yes.

And that has been the sort of historical development of these terms of the Code isn't it?---Yes.

20 It's to stop, the focus has very much been on this way, that is, to stop councillors who might have interest in a particular development?---That's right. Or, or, or instruct, it's not strategic when a councillor instructs a junior staff member to do something it might be - for a ratepayer it might be completely different from what is a strategic division of the resources et cetera so, and the junior Council officer feels intimidated I would think by the councillor directing them.

And so you understood that and that was made, drawn to your attention as being important matters that you had to consider?---Yes.

30 And you followed that?---Yes.

Now, if I could ask you to turn to page 21. You'll see there there's a 12.10 Complaint Handling Procedures General Manager Conduct?---Yes.

Now, if we just leave the Kate McClymont Sydney Morning Herald contact aside for a moment and I'll return to it shortly?---Sure.

But during the course of your 12 months as Mayor - - -?---Yes.

40 - - - apart from that issue did anyone approach you with any sort of complaint about the General Manager?---Not in a protected disclosure. There's always complaints about various Council officers or the General Manager but not internally. That was the only one that I received internally.

The Sydney Morning Herald?---The one through the Sydney Morning Herald, yes.

And we'll return to the details of that in a moment?---Yes, surely, yep.

I was just seeking to explore whether anyone else had availed themselves of that. If I could tender the Code of Conduct.

ASSISTANT COMMISSIONER: Yes. The Code of Conduct will be Exhibit 194.

**#EXHIBIT 194 - BURWOOD COUNCIL CODE OF CONDUCT -
ADOPTED BY COUNCIL: 24 FEBRUARY 2009**

10

MS RONALDS: And during the course of that workshop, training session et cetera was there discussion about the internal reporting policy under the Protected Disclosures Act?---Not, we did receive it but it wasn't traversed through at all.

20 All right. I'll just show you this copy. This is, for my friends it's in, attached to Mr Cummins' statement at 121. But I'll just give you another copy because it's easier to deal with than having to cope with his large statement. You'll see that under 6.0 page 7 you'll see the Mayor is nominated as one of the persons to whom a disclosure may be made - - -? ---Yes.

- - - where if the disclosure contains or involves the General Manager or a councillor?---Yes.

And it was your understanding wasn't it that if that could be either a member of staff or a member of the community or - - -?---Anyone.

30 Anyone?---That's right.

If they had a concern about the General Manager they had a right to come directly to you?---Yes.

They didn't have to ask the General Manager whether they could come to you, they didn't have to ask the Human Resources Manager if they could come to you?---No.

40 They had that right?---Yes.

And that was addressed in your training and you understood that that was an avenue and you could provide an important avenue - - -?---Well, as I said the policy was presented, we didn't go through that but I had availed myself of that knowledge.

But during the course of your Mayoralty - - -?---Mayoralty.

- - - did you have occasion to read this policy or has it only been more recently that you've looked at it?---About 27 March I read this policy (not transcribable).

27 March, what year?---2009.

Right. And if I could ask you just then to turn to page 10. As the Mayor, did anyone sit down with you and take you through this part of the policy and explain to you what your role was and what would happen and what you could do?---No.

And do you say that you read it on or about 27 March, 2009 - - -?---Yes.

- - - again after the contact from Kate McClymont?---Yes. Well, to gain, before I'd actually spoken to her - - -

Right. But triggered by that?---That was the trigger.

But until that then you hadn't had any occasion to look at it?---No.

Now, it's correct is it not that you when you became Mayor, launched a review of the expenditure profile and the programmes that were being conducted?---That was in January, 2007. I put in a Mayoral Minute, sorry, 2009, I apologise, that, I put in a Mayoral Minute which had three functions. And it was (not transcribable) unanimously. The first one was to look, to do a health check. To go through all the functions of Council and that was in accordance with the Department of Local Government's guide. The second one was to look at a restructure, because in the Local Government Act, when there's a new Council term, you have twelve months to either sign off, and you say you're with the Council structure as it is or you've got an opportunity to change it. So I said, let's have a look at Council structure and the third one was to look at an internal audit function, a reporting mechanism function and a risk assessment function.

Right. And what triggered you to take those three decisions?---Well, as I said, the first one, the restructure, this is an opportunity, it doesn't come around, it only comes around every four years.

Right. So that's the opportunity to look at it. I had been in Council for about two or three months and I, I, there was a few things that were concerning to me. One was the reporting mechanism. I felt that it was a very pyramid structure, and which meant that as Councillors, we weren't getting the information for us to make the best choices, to make a strategic, those strategic policy decisions of Council. So, as a Councillor wanted more information. And so the reporting mechanisms I thought needed to be looked at. The, I thought the delegations needed to be looked at. Again, and that was in the reporting mechanisms, that, that there was directors that they still needed to channel, there was that pyramid structure, it still needed

to channel through the General Manager. I didn't think that was appropriate given that we had four directors who were on good salaries and they needed to be responsible for the jobs. So we needed to have some sort of reporting mechanism for the councillors to make good decisions.

Right. And going back to your election in September, 2008. Had you met Mr Romano before then?---Yes. I was on Council when he was - - -

10 Oh, sorry, yes?---Yes. I was on the, his selection panel.

So you were on the selection panel?---Yes, I was.

And had you had much contact with him during the period when you weren't a councillor?---No. No.

And how would you describe your relationship with him at the beginning of the time that you were there?---Professional.

20 You weren't friends?---No.

You didn't socialise?---No.

And by the end of your time as Mayor?---Coolly professional.

30 Right. And the relationship deteriorated did it during the course of the twelve months - - -?---Yes, it did. It, it wasn't fatally wounded, I don't believe from, from my point of view, (not transcribable) as a person, I wasn't interested about personalities. It didn't, that was just a waste of time, really. But from my perspective as a Mayor to a General Manager, I thought that after April and he came back about July, that there was still a relationship there that meant that it was a functioning relationship.

Right. And, sorry, you say April, coming back in July, what - - -?---Well, in April that's when the, the protective disclosure came out in The Herald articles. And, and that was when the relationship did break down.

40 Yes. All right. Well, we'll go through that. I'll just show you this document which is a copy of the Mayor Minute to which you have referred. That's the document of which you speak?---Yes.

Is that correct?---Yes.

If I could tender that document.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 195.

#EXHIBIT 195 - MAYORAL MINUTE DOCUMENT - RE COUNCIL MEETING DATED 27 JANUARY 2009

MS RONALDS: Now, on 23 March, 2009, you're aware that the communications manager at the Council took a call from The Sydney Morning Herald?---I, I believe it was 27 March.

10 Right?---That was, I think it was the Thursday. It was my, my PA who took the call.

Right. And you were advised that someone at The Herald wanted to speak to you?---Yes.

Ms McClymont?---Yes.

20 That she had a matter she wished to discuss with you about a matter being raised by a staff member. Is that what - - ?---No, not at that time. The first call came through, a journalist wants to talk to you from The Herald. And I said, well, could you ring back and find out what's it about, so I can prepare notes. It could be about anything.

And the message came back, The Sydney Morning Herald said they were acting as a go-between for a person wishing to make a protection disclosure to the Mayor?---No. The next call was, this is my understanding, I know it was a Thursday, when Kerry called, she told, that's my PA, said, it's about a complaint.

30 Ah hmm?---And I said, okay. And I said, well, I'll call her back. And at that point I said to, I asked the media officer, I said, Campbell, can you find out more about it so I can get a bit more guidance to what information that I need to have. So that's then when I referred to that internal reporting.

And did you, did you eventually speak to Ms McClymont?---Yes, I did on the Friday.

And that was Friday the - - ?---12 o'clock, Friday, the 28th.

40 Right. And what did she say to you?---Well, the first thing she said was I'm the middle person here, all I am is the go-between. That, that there is, this is a matter about a senior Council staff member and they want to make a, a disclosure or give a complaint to the Mayor. And I said, well, okay. I said, why don't they come into the office and she said at the time, no they would feel too uncomfortable about that. They were worried about reprisals. So I gave her, I told her, well, I think they definitely needed to make a protective disclosure, having then read the protective disclosure act.

Right?---And that they then, I gave her my, I have a Mayor's mobile number, but I gave her my personal mobile number.

Right. And why did you do that?---Because they obviously through what Kate was saying, they felt so uncomfortable, firstly they didn't want to be seen, so it was only going to be through, you know, telephone communication. I could've given the Mayoral number, but I thought, well, let's err on safety and I'll give them my personal mobile number.

10 And, and did someone then contact you in relation to - - -?---Yes. On the next day, on the Saturday, around about 1 o'clock or 12 o'clock.

And who was that?---I don't know.

Right?---They didn't disclose their name.

So somebody spoke to you about something?---That's when I took the protective disclosure.

20 Right. And what was it, it?---Okay. It, the person said that it was involving the General Manager. That it was involving another councillor. At first it was about, I believed it was about one of Burwood Council councillors, but it was then corrected to be a councillor from another, a neighbouring Council. And another senior Council member. The person then said that they'd been working on a property that was owned by these people, supposedly under their wives names, but it was really used as front, I'm just using their words.

30 Yes, sure?---And that it's been through, through Council time and using Council resources and they have evidence to back up this allegation.

Right. And what did you indicate to that person that you'd do?---I said, well, firstly that I would find out my path, what I needed to do to make an assessment, I said that, that I would be happy to meet them. I said that we could meet offsite and I suggested that we meet at Council's legal representatives which was Maddocks at the time and they said no, they felt uncomfortable with that and then I said okay, well, if you're not happy to do that I will then have to look where we go next and I said I'll, because it's Saturday I'll get back to you on Tuesday, I'll spend the Monday in finding
40 out, you know, a road map forward really.

And they didn't give you a name?---No.

Did they give you a number?---No.

How were you contact them?---Because they were going to contact me, they had my personal mobile.

They were going to call you back then on the Tuesday?---Yes.

Right. And what did you do then?---Well, on the Monday I, personally I thought it was maladministration and it was because it was misuse of Council property so I contacted the Ombudsman, I did this from home, again because I felt that if it was about the General Manager and our offices are close that it, it would be better if I just did it in a very neutral environment.

10 Right. So you called the Ombudsman's office?---So I called the
Ombudsman's office and I spoke to them. I said that it had been made
through, my concern was that for the, for the person themselves that their
confidentiality might have been compromised because it had gone to a
journalist and also then the investigation might be compromised because it
had gone to a journalist. If it was outed before it got to the right channel
then that might compromise the actual investigation and the identity of the
person. So I put that to the Ombudsman and it was their opinion that, yes,
it, it, there was a problem but we just have to go on regardless. He said at
the time that he believed that to err on the caution that it was an ICAC
20 matter and that I should contact ICAC and that's what I then did.

And you did contact ICAC on whatever the date was?---On Monday.

On the Monday?---Yes, yes I did.

Sorry, I just can't find the file at the crucial moment but you did contact
them and sought some advice about what to do?---Yes. I said to the
assessment officer at the time that I had received this protected disclosure,
not in full, it was only partial, I didn't have the evidence and I didn't have
30 all the information. I said that they, you know, what was my path forward,
it looks, is it a matter for the ICAC, they told me about, you know, they'll,
they'll look at it first, get the person to call them directly and I said well,
I'm happy to go in with them and talk, you know, to be with them to make
the disclosure. They said no, look, just get them to speak to us first so then
after that I was contacted by the person and I said look I, that the matter is
now with ICAC. I gave the person, the PD, the assessment officer's name
and her contact details. He then called me back and said look, I've left a
message for them, I can't get through so then I called ICAC again and I said
40 look, this person wants to get through to you and then about 6 o'clock that
night he called back and said, yes, he's contacted ICAC, he's disclosed as
much, a bit more and they do believe that it may be a matter of corruption.

Right. Now just so that it's clear, that all happened on 30 March, that was -
- -?---I'm sorry, the 30th, yes, the 30th which is a Monday, whatever the
Monday was.

On the file note it was that you called on the 30th?---Right.

It's just so that we don't confused about Mondays and Tuesdays?---Yeah.

And on the 30th did you advise Mr Romano anything about this matter, about the call?---No.

And on the 31st, what did you do?---That was the Tuesday?

10 Yes, the next day, the Tuesday?---Well, after I had spoken to ICAC that they had now carriage of the matter, well, they were looking a preliminary investigation, I didn't say anything. I, I, I basically said I haven't heard from me. I think he asked me have I heard from the press and I said no.

And is it correct that on 1 April, that is the Wednesday, Mr Baird contacted you?---Yes.

20 Was that the next step, I mean, did anything else happen on the Tuesday?---I spoke to, after I had spoken, this is going back on the Friday, before I had taken the partial protected disclosure I, after I had spoken to Kate McClymont I spoke to David Baird from Maddocks and I said this is a conversation in confidence, I said I have just received a, a call from a journalist from the Sydney Morning Herald who's saying she's acting as, as the middle person and the allegation is about a senior officer and, and that was at the, and then he suggested well, if you're going to take the call and, and I said I don't, according to Kate they fear reprisals and they don't, they don't feel comfortable about coming in to Council office and his, his, it was his suggestion for, we can have it offsite and they'll set up a secure meeting at Maddocks.

30 Right. And you went to meet Mr Baird because he was the solicitor for the Council?---Yes, and he was available and they, they had given their expertise in local government.

Right. And so he contacted you on 1 April I think around 1.00pm. Do you recall that?---Yes.

40 And do you remember what Mr Baird said to you then?---Well, there was some discussion about whether or not I should be telling, this is from the Monday on, whether I should be telling anyone about the nature of the allegation. They weren't asking to disclose who the allegation was from but the nature of the allegation and I, it was my opinion that to give the nature of the allegation, to give who the allegation was about would be, would compromise the confidentiality of the person who made the protected disclosure so I decided not to, to share that information with the General Manager nor, and because the person who made the protected disclosure felt uncomfortable about dealing with Maddocks at that time I, I chose not to tell legal representatives of the Council.

Did you tell Mr Baird that it was about the General Manager?---No, no.

And did he say to you on 1 April that Pat was very concerned or words to that effect?---He was.

Did Mr Baird tell you that?---Yes.

And did he tell you what was the basis for Mr Romano to be very concerned?---It was the General Manager's belief that there is a section, I can't remember, 22 or part B that if someone is the subject of the allegation then they should be told about, that the allegation has been made. His belief was that Pat - - -

Just let me stop you there. His, Baird or Romano?---Mr Baird's belief was that that had been triggered and that natural justice to the General Manager, in his opinion, was not being given.

So he was on one interpretation trying to obtain information to provide it to the General Manager?---No, I don't think he wanted to be the segue through, I think he, he believed that, that under, in his interpretation that that trigger had been reached. Because we had the, we knew that it was out in the media - - -

Right?--- - - - that that had been reached and that I should disclose at least who the allegation was about?

And that was Baird's advice to you?---Yes.

Right. And you still declined to tell Mr Baird who it was about or what it was?---Yes.

And did you feel under any pressure from Mr Baird?---We had a, and I've noticed this used a lot, robust - - -

It's the word of the week?---The word of the week, conversation but he did say look, this is my opinion and he said if you want another opinion I can refer you on to someone, do you want a second opinion, I said yes.

And did you get a second opinion?---Yes, I did.

And who was that from?---That was from Craig Leggat, QC.

Right. And did Mr Leggat tell you then that you should tell Mr Romano or anyone else about it?---He told me that my course of action was appropriate.

Right. So he didn't support Mr Baird's interpretation?---No.

And did that all happen on the 1st?---No, I saw Mr Leggat QC on the Friday which is the 3rd.

The 3rd. So you actually had a conference with Mr Leggat?---Yes, I went in to - - -

And was Mr Baird present?---No.

So it was just you and Mr Leggat?---And Monica Kelly.

And she's from Maddocks?---Yes, she is.

10

And she's part of David Baird or was part of David Baird's team at that time?---Yes.

But going back to the 1st which is the Wednesday - - -?---Yes.

- - - is it correct that Mr Romano contacted you in the afternoon?---He, I can't remember if, if Mr Romano contacted me in the afternoon but I got an email. It was his, yes, he did, sorry. He contacted, no, I contacted him after I received an email.

20

You received an email from him or from someone else?---From Mr Romano.

And what was in the email?---The email said that he wished to cancel our fortnightly meetings.

All right. I'll just show you this. Had you had any discussions previously about cancelling meetings?---No.

30 In fact it's not from him is it it's on his behalf?---Yes, that's right.

"Pat has advised me he wishes to cancel your regular fortnightly meetings accordingly I'll remove them from your calendar and send out a cancellation notice."?---Yes.

Now, what did you think when you received that?---I called him up.

40 And what did you say?---I said I was very disappointed and that I thought that we had a good working relationship. I basically said that - and then we had a discussion, he said that he felt that I was denying his nature justice. And I said that we'll have to beg to differ on that. I said that putting that aside I think that we still need to meet to discuss issues as they arise from Council as we had been doing.

Did he tell you that Mr Baird had advised him that he'd been denied nature justice?---Yes, he did, yes.

And that he was going to get that advice in writing?---Yes, he did.

And did that concern you?---Well, I had been contacted, I had been in contact with ICAC who said no, you can't say anything so I just went with a higher power really.

Right. And in the meantime had the disclosure - - -?---The PD as I call them.

10 Yes, the PD had gotten back to you on the Tuesday?---Yes, on the Tuesday, yes.

And had you made any further arrangements to meet them or discuss the matter with them?---They said, I had spoken to ICAC and I said well, do you want me to go in with them. I think they still wanted to have a meeting with me but the conversation was, I don't know if it was around that Tuesday but within those days, the ICAC, the assessment officer said, Look, just let them come in and give the information, you've channelled it through, it's now no longer your responsibility.

20 And during the course of the conversation with Mr Romano on the afternoon after you received - at 3.22 you get the email or it's sent at 3.22 and you got it around that time you had the conversation with Mr Romano, did he say anything else to you?---Yes, he said that, that he was very upset and that he would, he believes that he should take this to Council and either resign or leave it up to councillors.

What did you, what was your understanding of what he meant by that?
---Well, obviously he wanted to get ahead of, of the media, as I said we knew that the media (not transcribable). I was still of the opinion that they
30 were still going to be the middle person and not publish but anyway. My understanding was that for the second part because the relationship had broken down so much my concern was from as Mayor that he was going to either, and this, this is only my inference, that he would put a Code of Conduct on me or somehow through the meeting or have me, try to have me stood down as Mayor, I don't know if he could've actually done that. I didn't explore those, those opportunities with him obviously and, or in some way put a motion up or have councillors put a motion up that I needed to reveal the nature of the allegation. Because that's what he wanted, he wanted to know who the person was and he was angry with me that I - not
40 who the person was but who was the person about and he was angry with me that I was not telling him.

And so he was angry with you. Was he upset?---Yes, he was.

And was he volatile in the manner in which he was behaving, that is, was he, when he was talking to you you interpreted that he was upset about your refusal?---He was upset, yes.

And did you take it as any form of threat when he said that he'd leave it up to the Council?---I thought that was a bit open-ended and as I said in my diary notes I took it as, as, as a possible intimidation, yes.

Commissioner, I just noticed the time, I'm sorry.

ASSISTANT COMMISSIONER: Yes.

10 MS RONALDS: Perhaps if I could just tender that.

ASSISTANT COMMISSIONER: Yes. The email will be Exhibit 196.

**#EXHIBIT 196 - EMAIL FROM KERRY LANGHAM TO MRS
LESLEY FURNEAUX-COOK, SUBJECT: REGULAR
FORTNIGHTLY MEETINGS WITH THE GM**

20 MS RONALDS: Sorry, you'll have to come back tomorrow?---I have another outfit.

ASSISTANT COMMISSIONER: We'll adjourn 'til 9.30 tomorrow morning.

THE WITNESS STOOD DOWN [4.06pm]

30 AT 4.06 THE MATTER WAS ADJOURNED ACCORDINGLY [4.06pm]