

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION MAGNUS

Reference: Operation E09/0560

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 23 MARCH, 2010

AT 10.05AM

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

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

MS RONALDS: Call Mr Romano.

ASSISTANT COMMISSIONER: Yes. Is Mr Romano here? Take a seat, Mr Romano. I remind you you're still under oath and the section 38 declaration I made yesterday still applies to your evidence.

<PASQUALE HENRY ROMANO, on former oath [10.05am]

10

MS RONALDS: Now, do you recall, Mr Romano, before we finished yesterday we were talking about sweeps of your house and Mr Faker's house - - -?---That's - - -

- - - during the period Mr Faker was Mayor?---That's correct.

Do you recall that?---Yes.

20 Now, there were a series of emails between you and Mr Mailey in relation to that sweep during the course of April 2008. Do you recall that?---No.

All right. I'll just show you. Now, if we go down to the bottom because as you know these things go backwards, you'll see there the first email is the 8 of April, 2008 and that's about the security of the home. Do you see that? ---Yes.

And that's following what we'll return to which is the home security? ---Yes.

30 And then Mr Mailey sends you an email dated the 8 of April that says, "Hi Pat, I've spoken to John" meaning Mr Faker. Do you understand?---I can't see it on the screen so - - -

40 Sorry, just move it up a bit. I'll give you a hardcopy, sorry. "Hi Pat, I've spoken to John and he was adamant he couldn't do a site inspection till next Monday, Marcelle is okay this week. Do you want me to tell John that it's" I think you mean, I think he means unacceptable rather than unexcitable, "or leave it till Monday." And you respond with, 8 of April at 3.12, "Richard, John is to make time, please apply some pressure." Now, why was it - you see that?---Yes.

Now, why was it Mr Mailey's job - sorry, I'll go back a step. Mr Faker doesn't seem to be as concerned about having a sweep of his house as you were. Would that be correct?---I don't - - -

Do you recall?---If you can give me one moment so I can recollect my thoughts. Just having read the first email from Richard and then, which I (not transcribable) to Richard and then a follow up from Richard to me. I

don't believe that that portion of the emails was referring to the sweep, I believe it would've been referring to the actual electrical work at Mr Faker's home.

So you don't think it's referring to the sweep?---No, and it was just in relation to making sure that we got whatever it was that Richard needed in relation to those items.

10 All right. Well, I'll take you to some of the bills in a moment which seems to suggest the sweep's occurred on 12 April which is consistent if you just read up the rest of the email to take me - - -?---I'm not saying that they didn't occur, I'm just saying that that portion of the emails probably related to those other matters at the bottom of the page.

All right. But why was it Mr Mailey's job to pressure the mayor?---I was quite busy, I am in the course of my day. These activities were happening. It wasn't something that I really had a lot of time to deal with. He was involved with the project and I asked him to do it.

20 To put pressure on the mayor?---Well, probably a poor choice of words on my part - - -

Okay?--- - - - but it was to initiate a meeting with the mayor and resolve the issues at hand.

All right. So then it is, John claims, then he responds on 9 April, John claims he's too busy this week, we're now looking 7.30am this Saturday. Do you see that?---Yes.

30 And then if you go up to any confirmation on the time et cetera and then okay for Saturday's sweep and the mayor has confirmed okay for 8.30am. That's Wednesday, the 9th so that would appear to be consistent with the proposal that the mayor's house undergo a sweep on the 12th, that is the following Saturday. Would you agree?---Yes, I would agree with that.

And then that's what occurred would you agree?---Yes, I believe that did occur.

40 And now I'll show you a document, now you see this is dated 16 April and it refers to attend to your offices on Saturday, 12 April in relation to risk review strategies?---Yes.

Now, it appears from the email that the risk review strategies was a sweep at least of the mayor's house. Would you agree?---Well, in relation to the emails, yes, I can't determine that from these invoices if that's what you're asking me.

Well, what I'm suggesting to you is that this email, this invoice is the cost of at least the sweep of the mayor's house on Saturday, 12 April, 2008. Do you agree?---I can't determine that from this invoice so I, I don't know so the - - -

So - - -?--- - - - but I can see the dates coincide.

10 And if it was the only invoice that we've been able to locate in relation to 12 April, 2008 would it be likely that it might be covering at least in part the mayor's house?---Well, you're asking me to speculate but if, if that's what you want me to do - - -

Well (not transcribable)?--- - - - it would appear, it would appear from the invoice that the dates coincide so I, I would presume it's a reasonable conclusion to make.

Well, just look on the second page of it. Have you seen that document before?---No.

20 All right. I'll just hand you a copy of the invoice as signed off. Do you see that?---Yes.

That's the same one?---Yes.

Is one of those your signature?---Yes.

Which one?---The approving officer.

30 Right. So you approved it - - -?---Yes.

- - - for payment?---Yeah.

And you understood that you, that meant that as far as you knew the services had been delivered - - -?---Yes.

- - - I think from your evidence yesterday, that's what you understood?

40 ---Well, the receiving officer is the one that confirms that the services are receiving and the approving officer endorses that that is the case and that other procedures and policies applied, yes.

Well, what, doing the best you can, what was in your mind that you understood was risk review strategies that occurred on 12 April, 2008? ---Look, I can't recall, you know, what I was thinking at the time. You know, if the invoice was issued shortly thereafter I probably would have, it would have been fresh in my mind and I probably would have lined up the 12 April, the 12 April invoice with the works at the mayor's home but I can't recall what I was thinking at the time.

But it is likely, is it not, given the dates and the emails that this - - -?---Yes, I, I confirmed that earlier, yes.

Was your home done on 12 April, 2008 as well?---I can't recall.

But your home was done on a regular basis?---Not regular but a, a few times, yes.

Would it have been done about once a year?---Probably once a year, yeah.

10

Now I'll just show two other invoices. Now the top one, unless they've got muddled, is dated 24 October, 2006. Do you see that?---Yes.

For the sum of 935, \$935?---Yes.

Do you see that?---Yes.

20

And what I'm suggesting is that the description is a bit similar to the one from the 2008 bill. And so that talks about review risk strategies. Is it possible that that was for a sweep of your house and the Mayor's house?---It's possible. Mr Mailey might be referring to the (not transcribable) sweeps. He considered them to be part of the risk management work that he provided for his clients. So I would tend support your argument here in saying that the words that are on these invoices would reflect the work of sweeping the homes or the offices in relation to this.

30

And I understand there is a more technical phrase for it, but I'm just adopting the more local vernacular?---Yeah. But I'm not an expert in the field of risk management or sweeping. I, you know, I accept the words - - -

But it's likely - - -?---that have been given to me.

Sorry. So the six lots over 2006 are likely the days that sweeps occurred and then if I could ask you to look at the next bill. That Saturday, 5 May, 2007 for \$935, that's likely to be the same process?---It could be, yes.

And likely to be your house and the Mayor's house?---Well, I can't recall, but it would appear that that could be the case.

40

But to the best of your recollection when the Mayor's house was done your house was done as well?---Whenever we had this sort of work done, we tried to do it as a combination of a number of sites.

Right?---So I would assume that that is the case. But I can't recall - - -

If I could tender that bundle.

ASSISTANT COMMISSIONER: Yes. Those invoices will be Exhibit 17.

MS RONALDS: And the emails that we went to earlier, Tab 61.

ASSISTANT COMMISSIONER: Do you them to all be one Exhibit or - - -

MS RONALDS: Yes, they could all be one Exhibit.

ASSISTANT COMMISSIONER: All right. Well, the emails and the invoices will be Exhibit 17.

10

#EXHIBIT 17 - EMAIL DATED 8 APRIL 2008 FROM MR ROMANO TO MR MAILEY AND MR MAILEY'S REPLY TO MR ROMANO TOGETHER WITH A BUNDLE OF IPP CONSULTING TAX INVOICES ADDRESSED TO MR PAT ROMANO

MS RONALDS: Now you recall yesterday we were looking at some invoices for the surveillance of Mr XXXXX?---Yes.

20

And I discovered that some didn't have the backup. We've cured the defect overnight. So I just want to show you an invoice dated 17 November, excuse me just one moment. Tab number 37. Sorry, we have early morning hiccups. We'll get there eventually when the copier kicks in. If I could show you this document. Now you'll see this one has a number of descriptors to it. But I'd suggest to you that this, this invoice relates, this invoice dated 17 November, 2007 relates to the surveillance of Mr XXXXX. Would you agree?---I could not tell you for certain that that's the case. The reason for that is because throughout the October, November period, Mr Mailey and I had discussions about specifications for alarms and CCTV products. There were a number of meetings that I had with him over the course of those two months. So these invoices could also relate to those discussions and specifications that he was producing at the time for quotation purposes. But I'm, I fairly confidently say, just looking at this front page that it probably involved the surveillance as well.

30

And it was produced - I mean this doesn't help you necessarily but I think he produced it as part of the, if I could call it, the XXXXX file?---Well, I wouldn't know that.

40

You wouldn't know that. Well, you were the person who signed off on it. I can show you this document. That's your signature isn't it?---Yes, as the receiving officer.

As the receiving officer?---Yes.

And so at that stage do you say you knew what it was that you were signing for?---I can't recall it's, you know, a while back but I would say that I

would've been aware that it would involve the surveillance and the alarm systems, yes.

And the alarm system?---Well, we were talking about specifications and products at the time because he was getting quotes, he was to provide me with quotes and the specs so, you know, the two invoices that you handed me, the invoice with the attachment that you handed me has two descriptors and only the parties are a little bit different.

10 Yes?---But they reflect what my recollection of my discussions with Mr Mailey were during that period.

So that may be for the alarms you think rather than the XXXXX surveillance?

---No, as I said earlier I think it would've been a combination of both.

Right. Now, yesterday you gave some evidence and I was trying to explore with you the number. See the handwritten number at the bottom of the stamp? This one starts with 0-3-1-4-2?---Yes.

20

And you indicated you didn't know who put that on. Is that correct - - -?
---No.

- - - or I misunderstood you?---I don't know who puts those on.

Well, you're in charge of the organisation and you understand do you not that allocation of invoices to particular parts of the budget is a critical part of the operations of the Council?---I do understand that, yes.

30 And that that decision making is an important of somebody's decisions about the allocation and expenditure of finances?---I would hope so, yes.

And who do you say is responsible for that decision?---I can't answer that, I don't know.

40 You don't know?---I don't know. Why, I have staff there that do a lot of work in different areas of Council, they all each are given responsibilities. Certainly in terms of approval of receiving goods and ensuring that the products or the services are that what they're supposed to be I would take responsibility for those sorts of issues in terms of these invoices. But in terms of allocating an account there's a budget, there's a management plan that goes with it, there was staff that are fully aware of what's in those budgets, there are thousands of cost centres and numbers, I don't keep those cost numbers on my desk. I rely on my staff to adequately and appropriately apply those cost centres to the, to the jobs.

But what I'm trying to explore with you is this, Mr Romano. If you look at that bill it says, "Client order verbal" so that there's no purchasing order that

goes with it, there's nothing to assist an accounts clerk or whatever to know how to allocate it or where to allocate it in the budget. Would you agree? Nothing on the face of the document?---I can understand what you're saying, yes.

So what I'm trying to explore with you how is it that that happens?---I can't answer that because I don't know.

10 So you just authorise expenditure and you don't know what budget it's going against. Is that right?---I rely on my staff to allocate the appropriate cost centre and budget.

Well, how do you make sure before you sign off an invoice that you haven't spent the money allocated in a particular budgetary amount?---Usually if there is the practice is that the accounts area would notify me and advise me of that.

20 So it comes to you with the stamp and the number?---I can't answer that accurately because I don't know. I'm not aware if the number's there or not at this stage, I can't recall.

See, as I understand it, well, according to - - -?---Even if it was I don't keep a set of cost centre numbers on my table or in my room that I would check against, I rely on my staff.

Well, as I understand it according to Mr Mailey at least the bills in relation to the XXXXX surveillance were hand-delivered by him to you. Do you recall that happening on some occasions?---I can't recall, no.

30 Well, do you remember Mr Mailey hand-delivering any bills to you, any invoices to you at any time during the course of 2007?---No, I can't recall.

What, are you saying it didn't happen?---No, I just said I, I can't recall.

Well, what would be your practice if someone handed you an invoice that needed to be paid - sorry, I withdraw that. That was to be paid by Burwood Council?---I have had occasions where invoices are coming across my table and what I would do is refer them to our accounts area for processing.

40 And who would you send it to?---Well, I would leave it with my personal assistant.

I'd suggest to you, Mr Romano, you had a system didn't you where Mr Mailey hand-delivered you the invoices in relation to the XXXXX surveillance and you indicated to somebody what budget they were to go under. Would you agree?---No.

And that you did that because you were endeavouring to hide the expenditure within a very large budget so no one would notice the amounts being expended. Would you agree?---No, I didn't make a practice of hiding anything. In fact as I said yesterday I was quite open with my executive about what was going on.

10 Mr Romano, you never said to any member of the executive I've discovered that what I really think is happening is that Mr XXXXX is having an affair with my wife and that's why I've had him followed did you?---I don't know that that's an accurate statement and no, I did not say that.

Did you ever say to any member of your executive, I've been sending emails under a fake name to my wife's employer?---No.

You didn't tell your executive what was going on at all did you?---I did talk to them about what was going on but not to that level of detail.

20 You didn't tell them the true story at all did you?---I don't agree with your statement.

Well, you didn't tell them the things we just traversed did you?---I told them what I thought was enough information at that point in time in relation to the matter.

You deliberately misled the members of the executive didn't you?---No, I did not.

And you deliberately misled Mr Baird didn't you?---No, I did not.

30 Because you knew if you told the members of the executive what was really happening in your mind there's no way they would've approved or supported the expenditure of the funds. You knew that didn't you?---I don't know what they would or would not have approved.

40 You knew that if it related to a person, the surveillance of a person who had no known connection with Burwood Council that there would not be one second that would be supported didn't you?---At that point in time I had no idea whether that person was connected with Burwood Council or was connected with a personal matter or was coming with a harassment issue.

And what date do you say is that point in time?---I can't accurately tell you that today, I, I don't know.

Doing the best you can?---I, I couldn't tell you, I don't know.

Well, was it August?---I don't know.

Was it September?---I don't know.

Was it before the 20th of September or was it the 20th - - -?---I can't help you and you keep repeating the same question. I don't know.

Well, Mr Romano, you were able to sit there and make a number of assertions which, with respect, sir, are entirely inconsistent with the documents and I'm trying to explore with you to give you an opportunity to explain that inconsistency?---I'm, I'm not aware that there is an inconsistency.

10

Okay. I'll just show you the next invoice. If I can now show you an invoice dated the 23 November - sorry, no. I can show you an invoice dated the 19 November. This has no back-up sheet to it at all, okay, not in IPP's files or in the Council's files so it came as this single sheet with nothing to support it. You see, that's for an amount of \$3,190 and it talks about attending to buildings, meeting with builders et cetera. I'd suggest to you this relates to the XXXXX investigation as well and not to the installation of the surveillance, the home security system. Would you agree?---No, I disagree.

20

Okay. You think this is about the home security system?---I, I would believe so.

And that's your signature as the approving officer. Is that right?---That's correct.

30

Now, just so I understand on the one before you were the receiving officer and on this one you're the approving officer. What did you understand the distinction to be?---It would appear that whoever put the insignia LH to sign placed it as the receiving officer. It probably would've been more appropriate for me to have been the receiving officer in this instance. Yes.

And there's an invoice dated 23/11/2007. Again, I'll have to show you two. This is the one that has a supporting document behind it. Do you see that? So the one that is in the Council files has nothing to support it, but there is then a supporting one that was in the IPP file. So you see that it's dated 23 November for the price of \$17, 556. Do you see that?---(NO AUDIBLE REPLY)

40

Don't worry about the old one, it's a different one?---Sorry, I'm just looking for the 17,000. Is that what you said?

Yes. Sorry, have you been handed the wrong one?---I've got an invoice that says \$3,190 on it.

I'm sorry, there's a hiccup.

ASSISTANT COMMISSIONER: It's on the screen.

MS RONALDS: Yes. We've managed to get it up technologically but not in paper. See that one's for \$17,556. Do you see that?---(NO AUDIBLE REPLY)

And I'd suggest to you this one relates to the surveillance of Mr XXXXX. Would you agree?---Yes, on this account I would agree with you, yes.

Thank you. And you've, you were the receiving officer on this one, if you look at the one on the screen?---Yes, that's correct.

10

And you knew at the time that you signed it that that related to the surveillance of Mr XXXXX?---Well, I don't recall that at this point, but I would believe so.

Well, it's 23 November, 2007, you recall that the meeting with Mr XXXXX was 27 November and your meeting with Mr YYYY was 28 November, 2007?---Yes.

20

You'd been sending a series of emails for some time before that hadn't you, to Mr XXXXX at his work address?---Yes.

By 23 November, 2007 it was no mystery to you, if it ever was, who Mr XXXXX was?---I knew who Mr XXXXX was at that time, yes.

So you knew when you signed this bill for \$17, 556 it related only to the surveillance of Mr XXXXX. Would you agree?---Yes.

30

And you knew that that bill had nothing to do with Burwood Council. Would you agree?---No, that's not right.

By 23 November, 2007, Mr Romano, I put it to you that you knew well when you received, that is authorised for payment a bill of \$17, 556 that Mr XXXXX had nothing to do with Burwood Council. Would you agree? ---Look, with respect as I said yesterday, the reports that I received from Mr Mailey and IPP were not conclusive one way or another. They were not able to assist me in determining whether or not this person was or was not harassing me or my family or whether he was connected to Burwood Council. I had no evidence one way or the other.

40

Mr Romano, just reflect for one moment - - -?---So in my, in my mind I did not believe that I had enough evidence to conclude in the way that you are saying this morning.

Mr Romano, reflect for a moment on your emails that you'd been sending to Mr YYYY and Mr XXXXX?---My answer doesn't change.

ASSISTANT COMMISSIONER: Mr Romano, what evidence did you ever have that Mr XXXXX was involved in any way with the Council or with the

harassment of you?---Only, Commissioner, I never pursued that after that point. It was a period in my life that was quite stressful (not transcribable) on my part and I didn't follow it through.

I know that. Mr Romano, you're not answering the question. What evidence did you ever have that Mr XXXXX was involved in any way with anything to do with the Council?---I was never able to get any evidence in that regard.

10 So you never had any?---No, I was never able to get that evidence, no.

Yes. But well I'm just, why did you start the surveillance on him having absolutely no evidence to suggest he had any involvement with the Council?---Commissioner, I didn't start the surveillance on him. I gave Mr Mailey a number of names and Mr Mailey commenced with Mr XXXXX. I don't know why.

20 Why did you give Mr XXXXX name as somebody that you thought was connected with the Council?---At the time I was looking for someone that was harassing my family. I didn't know whether the person was connected with Burwood Council.

So you had no reason to believe he was in any way connected with Burwood Council?---I don't think I ever claimed that I thought he was. All I was trying to do was find the person that was harassing me and my family.

30 All right. So you had no reason to think he was connected with the Council. On what basis did you believe he might've been harassing you or your family?---Only that I found his phone number on my wife's phone and then the (not transcribable) call with that number appeared to be at the same time as when we were receiving calls for that period we were being harassed.

So you think he'd make a harassing phone call on, where his name actually came up as the caller?---That's right.

That doesn't make any sense at all does it?---Well, I assumed that at the time.

40 Well, no, didn't you assume he was someone your wife had been having contact with and you wanted to know more?---Well, not at the time, not at the time when I seen the number, no. That, that came later.

All right. Yes, Ms Ronalds.

MS RONALDS: I'll show you this document. This is an invoiced date 29 January, 2008 for the sum of \$1, 452. And if you look at the backup sheet provided by IPP you'll see what I suggest to you is that it relates to the

surveillance of Mr XXXXX on the last three days. Would you agree?---I would agree, yes.

And that if you look at the one on the screen, oh, no don't look at the one, you approved this one?---That's correct.

And Mr Hullick received it?---Yes. Again I suppose on reflection it would've been more appropriate for me to have been the receiving officer.

10 Well, by January, 2008 you well knew what in your mind was Mr XXXXX role in relation to your family didn't you?---I think I've answered that question, but I'm happy to repeat it. At no point did I determine with evidence one way or another what Mr XXXXX or whether Mr XXXXX was involved in terms of harassment or Burwood Council matters. I was aware that there was a personal issue there. But there was no evidence before me that indicated that he may or may not have been the harasser or somehow involved with Burwood Council.

20 Mr Romano, you've had your friend photo-shopped to photos to invent images that put your wife and Mr XXXXX in the company of each other in an apparently compromising positions?---I've never denied that.

That had nothing to do with Burwood Council?---I've never, never denied that. I've never denied that there was a personal issue there.

By 29 January, 2008 you well knew that Mr XXXXX had nothing to do with Burwood Council didn't you?---No, that's not correct.

30 If I could tender that bundle of invoices.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 18.

#EXHIBIT 18 - BUNDLE TO IPP TAX INVOICES ADDRESSED TO MR PAT ROMANO

40 MS RONALDS: Now in relation to the, what you say was the harassment of your family. You gave some evidence yesterday. Do you say that your home, apart from being hit by an egg or two, I think it was only one or two. Is that correct?---I believe it was two.

Two. Did your home suffer any physical damage at any stage, apart from the eggs?---No.

Now you had some meetings with Mr Mailey in relation to the security of your home and Mr Faker's home. Would you agree?---Yes.

And in your Outlook diary there's a meeting recorded at 7.30 to 8.30am with Mr Mailey, it'll just come up on the screen in a moment. Now, it's a 7.30am, would that have been at your home or would that have been at the office?---I can't recall.

Now, perhaps if can cut the long journey a bit shorter, in the end what happened was you approved the expenditure for the mayor and, on the mayor's house - - -?---Yes, that's correct.

10 - - - for the installation of the home security system?---That's correct.

And the mayor approved installation at your house?---No, I'm not sure that that actually took place, no.

So you may have approved the installation at your house?---I, I may have approved my own, yes.

Yeah. I mean, that seems to be the documents suggest you did it but there was some other suggestion certainly from Mr Baird that the mayor should
20 have done it?---No, I do recall that there was some advice from Mr Baird but I, I don't recall exactly what was said in there. I do remember seeing them yesterday but - - -

And you considered it appropriate, did you, to approve the expenditure on your own home?---In my mind at the time and if my memory serves me well legal advice talked about responsibilities of the employer and in the case of staff I am the employer. There are OH&S requirements on my part that I need to fulfil and based on the advice that I'd received that included
30 the OH&S details and responsibilities I, I felt I had the authority as an employer using at least that section of legislation to ensure that there was appropriate safety requirements at both the mayor's home and my home.

But you went to Mr Baird for advice, Mr Baird gave you advice and you paid for that advice?---Yes, yes, yes.

So you had professional legal advice - - -?---Yes.

- - - that advised you that the mayor should authorise the expenditure on your house and you could do his house. That was your understanding of
40 Mr Baird's advice, wasn't it?---Yes, I believe that was part of the advice. There was more advice that, that talked about - - -

Yes, there was more advice but just focussing on the issue I'm looking at? ---If I may, sorry, may I finish or - - -

ASSISTANT COMMISSIONER: No, could you just answer the question, Mr Romano, it's a simple question. Did the advice say you should approve the mayor's and he should approve yours?---Yes, I - - -

MR BLAKE: Well, I object, Commissioner. There are a number of advices and it's important it's identified at which point this advice was given. I mean, he was explaining that there were a number of advices when he was cut off. I think he should be allowed to finish.

ASSISTANT COMMISSIONER: What are you saying, that that wasn't in the original advice?---Well, there, there were two pieces of advice that I received and, and there were a number of components to the advice.

10

Yes, he was not saying there was more than one advice with respect, he's saying the advice covered a number of matters. The only matter we're interested in is the advice that was given in the final advice, as I understand it you got, was that it would be, you should sign the mayor's and he should sign yours.

MR BLAKE: Well, with respect, Commissioner, that evidence yesterday was oral advice and there were two pieces of written advice given. There is at least three pieces of advice which have been identified so far.

20

ASSISTANT COMMISSIONER: Mmm. Is it in the final written advice, I don't know?

MS RONALDS: It's in the oral advice and I, I can clarify it simply.

ASSISTANT COMMISSIONER: All right. Well, clarify it.

MS RONALDS: You had a conversation with Mr Baird, didn't you, and he told you that the mayor should authorise yours?---There was a meeting between myself, Mr Baird and, and the mayor and at that meeting Mr Baird provided some preliminary advice. The proviso was that he would go away and provide some written advice which would firm up his deliberation on that day. I, I don't believe that it's appropriate for, for anyone to rely on verbal advice. My main decisions relied on, on the two written advices that came later.

30

All right. Well, I'll show you the final advice and then I'd like you to take me to where you say Mr Baird said you could authorise the expenditure of your own expenditure on your home, that will just make it a bit quicker, I think. So Tab 52.

40

Could the witness be shown Exhibit 14. Now, you looked at it yesterday but take a moment to find and just tell me the paragraph number you say that you relied on from Mr Baird's advice to authorise your own expenditure, just so you understand the, the narrow issue that I'm addressing at the moment?---In relation to the advice that I'm looking at and if this is the advice that I received via email on 26 November there were two sections

of advice that I relied on, they're noted in clause 7 and 8 in the advice. One deals with the Local Government Act - - -

Yes?--- - - - my powers in terms of - - -

Ah hmm. It sets out - - -?--- - - - my functions, yeah, in particular the day to day management of Council.

10 Ah hmm?---In clause 8 the advice talks about section 8 of the OH&S Act, OH&S Act and I relied on the entirety of that clause in terms of making my decision. So I believed in my mind that I had the authority both, with both sets of legislation to authorise and approve my own security arrangements at home.

All right. But you say that Mr Baird had given you some oral advice and he said he'd go and look at it a bit more closely. Now, the capacity to authorise the expenditure was a critical factor, wasn't it?---I believe that I had the capacity given the advice that I've just read out.

20 Mr Romano, if I could just ask you to listen to the question. The authorisation of the expenditure was a critical factor, wasn't it?---I would believe so, yeah.

The identity of the person who was going to authorise the expenditure was important, wasn't it?---I would think so if - - -

You'd had emails from your executive, some members of your executive team raising serious concerns about the expenditure of funds, hadn't you?
---(NO AUDIBLE REPLY)

30 And we looked at those yesterday?---Yes, that is correct and if you recall my answer yesterday, at least one of those people, which was the governance director, and I would take more credence in him than the others, I gave him the opportunity to review the then draft advice and the final advice in my mind he had seen and, and been aware of and discussed with the lawyers so - - -

40 Ah hmm?--- - - - in my mind I understood that, that having, him having had that discussion with the lawyers would have satisfied his concerns.

All right?---There was nothing to indicate otherwise.

I'm just asking about your thoughts not Mr Cummins, all right?---Well, as I said, I - - -

Mr Cummins (not transcribable)?--- - - - I relied on the advice and in my mind I thought that his concerns had been clarified and, and dealt with in the final advice.

You told us that yesterday now I'll just ask you to just concentrate on the question. Did you go back to Mr Baird and specifically ask him for advice to give you written advice on your power to authorise the expenditure on your home?---No, I did not.

Thank you.

10 ASSISTANT COMMISSIONER: Mr Romano, who was your employer? You didn't employ yourself, did you?---No, I did not. The employer I suppose in that regard would be the Council.

Yes. And Mr Cummins suggested you should take this to the Council, didn't he?---He did, yes.

Can you tell me why you didn't take it to the Council as your employer?
---There were a number of factors that I was looking at at the time apart from the advice. I was quite concerned about the harassment I was receiving, that time of the year, it was drawing closer to Christmas. I had, I
20 was aware, having had discussions with Mr Mailey, that the labour and the materials required to do the work at my home at the mayor's home would be difficult to retrieve or to buy and install over the Christmas period and I felt that the security of both of our homes was now more important than delaying that decision for a couple of months to seek Council approval and given that the advice was clear in terms of day to day management and OH&S, I made the judgment call to authorise the works myself.

Yes. Thank you, Mr Romano.

30 MS RONALDS: Is there a capacity for an extraordinary general meeting with Council?---Yes, there is.

Did you change your mind to that, if you were worried about time with Christmas approaching?---That the money, even in calling an extraordinary meeting, it'd need about a three day period for the calling of the meeting. I would have to have discussions with staff and other people. That would've further delayed the matter by at least a week. It was after 26 November that I made the decision. And if I hadn't of made that call that week, that week,
40 that last week in November, we wouldn't of had the contractors and the tools on site.

Correct, isn't it, that after 26 November, 2007 your family home suffered no further harassment?---I, I received a call just prior to the alarm system going in, the new CCTV cameras going in. I believe it was some time around that week in late November.

All right. Now for (not transcribable) just focus on the question. Your family home is what I referred to, received no further assaults or eggs or

noise or anything?---Well, I consider phone calls part of the harassment process. And whether my home was attacked or not is, it doesn't take away the harassment.

So is the answer no, Mr Romano?---My home wasn't attacked, no.

Thank you. Do you recall the date the installation actually occurred?---No, I don't recall the exact date, but if you allow me to refer to my statement I could probably give you a better indication.

10

Don't worry about that. Just so, but it was prior to Christmas to the best of your recollection?---Some time in early December, yes.

And it wasn't (not transcribable) was it not SNP Security who installed the alarms at your place?---That's correct, yes.

And so Mr Mailey did a scope and sent you some information that we looked at yesterday?---He had been preparing a scope for a number of weeks, yes.

20

And then SNP Security did it in the end. And I'll show you an invoice. Now this invoice is dated, is dated 27 June, 2008. So it appears to have been some months after the services were actually delivered?---Yes, I would agree with that.

And it's clear, but I'd suggest by the thing (not transcribable) around the residence and then the address? That's your address isn't it?---Yes, it is.

The suburb's wrong but that's your address?---Yes.

30

And I'd suggest you don't have any doubt do you that it's the bill that relates to the installation of the home security system at your home?---Yes, I believe that is right.

And do you have any explanation of why it didn't turn up til June?---I can't tell you for certain why it turned up in June, but the work did continue in the new year, when I say new year, into 2008. And we were doing controlled invoicing procedure - - -

40

No, no. I just thought there might've been an explanation you knew about?---No.

And you signed it there as the receiving officer?---Yes.

And that indicates that you received the goods and you were satisfied with the quality. Is that correct?---Yes, that's right.

And then there was a further small, there's another short, small amount of nearly \$160 for, in October, 2008 that appears to be about a computer update?---There was a problem with the software that came with the alarm and I think there was some work done to it.

159.50, an SNP (not transcribable). I'll show it to you later. But that - - -?
---Yeah. There were a couple of issues. On one occasion earlier in that year I, I had an issue with the computer system setting off the siren a number of times. And then later on in that year I remember having an issue with the
10 software.

And then that was completed and, and paid. Now what involvement if any did you recall having in relation to the installation at the Mayor's house?
---Very little other than to introduce the Mayor to Mr Mailey on one occasion. There was emails and paperwork that transpired between myself and Mr Mailey. And then (not transcribable) from me to the Mayor at the time to provide him product details. But other than that, not, not much at all.

20 And then a bill came in from JT Alarms. Do you recall that?---I have a recollection, yes.

And when it came you were aware that that related to the Mayor's house?
---Yes, I recall having discussions with Mr Mailey about it.

And that was for the sum of \$20, 422?---Yes.

And you approved that one?---Yes.

30 And you, and Mr Hullick was the receiving officer?---Yes.

Is it a random chance who signs first and who signs second?---No. Look, in terms of the receiving officer, it used to be a Council employee. The Mayor, I suppose in technical terms is not a, not an employee of Council. He's an elected representative. So in, it was a practice at the Council that where there may have been a service for a client that was provided in relation to an elected member, a staff member would take the responsibility of being the receiving officer.

40 Right. And then there was a further bill, oh, sorry, and again the number that relates to that's not a matter about which you can comment?---Well, I don't know - - -

The handwritten number?---Yeah, I don't know how the numbers get on there, I couldn't tell you.

We'll ask Mr Walker about that. Should he be able to help us on that?---I'm not sure, you'll have to ask him.

One would hope so. And then there was an email sent to you on 17 October, 17 October, 2008 from IPP attaching a further bill. Just have a look through that. So it's a letter from Mr Mailey. But then it doesn't attach a bill from Mr Mailey, but it attaches a handwritten invoice for \$2,637. Do you see that?---Yes, I do see that.

Now just taking you through, I just want to sort out the handwriting. There's one approved for payment as advised by R Mailey, IPP, that's your hand isn't it, in the middle of the page there?---That's correct. That's right.

That's you. And then the one down the bottom, IPP, this is okay. All equipment, blah, blah, blah. That's not your hand is it?---No, it's not.

And you don't know who that is?---No, I couldn't tell you. No.

But yours is the middle of it?---The words, approved for payment as advised by Mr or by R Mailey of IPP and the signature is mine. Yes.

20 Okay. I referred earlier to a smaller invoice for your own home, just so that the tender bundle is complete, I'll just hand that to you?---Thank you.

And this one you'll see actually has payment, a purchased order et cetera on it's, unlike the other one's we've been looking at?---That's right.

And this is just the amount we were referring to earlier, for the backup of your computer?---Yes.

30 Yes. If I could tender that bundle of receipts in relation to, invoices in relation to installation of home security at both Mr Romano and Mr Faker's homes.

MR BLAKE: Can I inquire whether that includes the email of 9 November that you showed him? One of the documents you showed him since the last (not transcribable)

ASSISTANT COMMISSIONER: About the meeting at 7.30am? I don't know - - -

40 MS RONALDS: What's being queried is that it's not a proper document that is, well, it's not been put in those terms, what's being suggested is it's not a proper copy of Mr Romano's Outlook calendar because it has at the top Operation Magnus, that is, of course, the name of the operation from this Commission and they're all given names and this one happens to be Magnus and it means it's been printed out by somebody within the Commission and it's not part of the tender if that's what is concerning Mr Blake and I'm happy to note that that is really, that's an ICAC internal reference and it's not part of the tender. The only thing would be the date,

the calendar entry and it's because I think they were electronically provided. It's Mr Romano's Outlook calendar which was provided either to him or the Council, I'm not sure now or both in an electronic form and so then individual days are printed out and we will be going to a number of other days that it has the same notation on it.

ASSISTANT COMMISSIONER: Yes. Well, the invoices will be Exhibit 19.

10

**#EXHIBIT 19 - EMAIL AND INVOICES REGARDING
INSTALLATION OF SECURITY AT MR ROMANO'S AND MR
FAKER'S HOMES**

MS RONALDS: And this one, if I could then tender this document without the - but I don't tender the words Operation Magnus.

ASSISTANT COMMISSIONER: Yes. That's Exhibit 20.

20

**#EXHIBIT 20 - OUTLOOK NOTATION DOCUMENT SHOWING
OPERATION MAGNUS - SUBJECT: R MAILEY - SECURITY
SYSTEM**

MS RONALDS: Now, the September 2008 Council election was on the 13 September, 2008 as I understand it?---That's correct.

30 I suggest to you what happened was that on the evening before, that is on Friday, the 12 September, 2008 you called Steve Child and you know who I mean by Steve Child?---I do.

And required he organise two staff members to assist in polling booth duty handing out Labour How To Vote cards. Would you agree?---No, that's not true.

40 And I'd suggest to you you said to him that he, Mr Child, should pay that in cash and he, you would reimburse him at a later time?---No, that's not true.

And you told him to tell them not to wear Council uniform?---No, that's not true.

And Mr Child then arranged for Mr Saad to attend Christian Brothers School at Burwood on election day. Are you aware of that?---No, I'm not.

And hand out election leaflets for Mr Faker and the ALP?---No.

Are you aware that happened?---No.

And he did so in response to a direct request from you?---No, I did not instruct him.

And that Ammer Issa similarly went to the same place and handed out ALP leaflets on the 13 September, 2008 in response to a request from you to Mr Child who organised that?---That's not true.

10 So you say that whole incident didn't happen?---Not the way you've described it, no.

Right. So that you didn't have any contact with Mr Child just before the September 2008 election asking him to organise people to hand out How To Votes?---If you'll allow me to elaborate.

Just answer that question?---I did have contact with him but I did not have the conversations that you've referred to.

20 Right. And what do you say was the conversation you had with Mr Child, was it about the election?---There was a request from Mr Child in relation to some staff members that had been approached to help out on the election day. I said that I would get back to him. I rang Mr Baird and sought his advice over the phone. I knew what the answer was going to be, I just wanted to have some reassurance in my mind that I'm saying the right thing. I then contacted Mr Child and said to him that it would not be appropriate for Council staff on Council time to be working on election day for any of the candidates, however, if they want to get involved in the elections they would have to do it on their own time and they would have to be in plain
30 clothes.

So just so I understand you say the initiation of this process came from Mr Child and not from you?---The discussion was initiated by him, yes. I can't recall whether I rang him or he rang me or - - -

Well, why would you be ringing him?---They were still working on election day, there were activities happening on the day that, that involved staff. I can't recall the exact conversation but I may have had reason to ring him about those people that were working.

40 Why would you be ringing Mr Child? You're the General Manager, Mr Child, there's no disrespect to him, he's somewhat further down the hierarchy. If there was staff to be organised for election day for the Council staff to be, that would be up to others wouldn't it?---There, there, I had established a practice of contacting Mr Child over a period of a year and a half to two years trying to take work directly under my instruction. My statement covers the details of the reasons why but that was a practice that I'd established.

Right. And so you say that your, Mr Child's version of events, that is, that you demanded that there be staff or requested that there be staff to attend is not accurate?---It is not accurate.

Right. Now, you used to keep diary notes from time to time?---I try to keep as many diary notes as I can but my workload doesn't always permit me to keep everything I would like to.

10 And your 2007 diary has not been made available to the Commission. Can you explain that?---I wasn't able to find it first of all. Whatever I could find in my home or at the office I made available. I don't recall if I even kept one that year.

And the first half of 2008 in the copy that was produced is empty. Can you explain that?---That it was empty or I may not have made any notes? I was quite busy that year, it was an election year.

20 So you made a telephone call to Mr Baird, was it the day before or around that time?---I can't recall, it was somewhere in that vicinity, I don't know whether it was the day before or on the day of the election or some other time.

So you don't have any notes but Mr Baird should. Is that correct?---You'd have to ask him that.

Would that be correct?---I don't know.

30 You don't know. Thank you. You just said that it was an election year and it was busy. Why would an election year be any busier for the Council itself, the operations of the Council as opposed to the Councillors?---There are many requests that come in from the sitting Mayor and the Councillors during an election year. They're all working hard for their community and their expectations in terms of cleanliness and capital works and so on, promises and commitments have been made and the staff are expected to, for the management clear the budget, honour those commitments. Wherever possible I have the ethic of working hard and working long hours and ensuring that my staff do likewise. So we are very busy, we work long hours.

40 I'm sorry, Mr Romano, just bear with me one sec. You authorised IPP in September 2008 to undertake surveillance of five people through all of whom were candidates for the September 2008 election. Would you agree? ---No, I didn't, I didn't engage them to surveil five people. I did instruct Mr Mailey and IPP to undertake surveillance but it was in relation to one individual and two other candidates that were on his ticket.

And what basis did you do that?---As part of the election process I'm responsible as the general manager to prepare and provide a non-residential roll as part of the election process.

I'm sorry, a what?---A non-residential roll.

Roll, sorry. I thought you said bowl?---Roll, no, no, roll, as part of the election process.

10 Right?---Mr John Sidoti had originally approached Council sometime in July to be included in the non-residential roll - - -

Right?--- - - - and there were a number of discussions that occurred between him and myself and my governance officer (not transcribable) in relation to being on the non-residential roll. Some time in late July the appropriate paperwork was completed and a letter of acceptance for being on the non-residential roll was made available to me for my governance officer. I contact Mr Sidoti, asked him how he wanted to receive the letter. He said could I hand it to him, I said that's fine and we met up and I gave him a
20 copy of the original letter of acceptance on the non-residential roll. What ensued after that point was that there was confusion as to whether or not Mr Sidoti was on the non-residential roll or the residential roll and there were discussions with my staff and others about what appeared to have been his inclusion on both rolls. Sometime in August I received a complaint from Councillor Christogeorge who was a councillor at the time. He, he alleged to me that Mr Sidoti had not correctly disclosed to me as the electoral officer for the non-residential roll his arrangements in, in the area. There was a further complaint from Mr, Councillor Christogeorge sometime in August again and this, I'm going off memory here, I can't remember the
30 exact dates but the, the allegation was that Mr Sidoti had acquired a residence, a unit in Park Road, Burwood and that he wasn't actually residing there and that he shouldn't be on the residential roll. He was not aware that there was a discrepancy at the time in terms of Mr Sidoti's inclusion both on the non-residential roll and the residential roll. We had discussions with Mr Sidoti about that and he was to provide documents to us withdrawing his listing on the non-residential roll, that never occurred and after the second discussion that I had with Councillor Christogeorge in terms of his grievance, I felt it appropriate to try and validate whether or not MrChristogeorge's claims were worthy of proceeding to further
40 investigation.

And you thought engaging someone to undertake surveillance was an appropriate approach?---What, what I was hoping to achieve was to determine whether or not Mr Sidoti was using the unit as a campaign office or whether he was actually residing at the residential address.

Did you seek any advice from Mr Baird about whether it was appropriate to expend Council funds on the version of events you've just explained?---I did seek advice from Mr Baird - - -

And did he - - -?--- - - - but it was not in relation to the expenditure of the funds, it was in relation to the anomalies that had occurred in terms of the residential and non-residential roll and my, my authority and requirements under the relevant legislation in relation to the non-residential roll.

10 And did he give you a written advice about that?---No, it was a verbal one.

It was an oral advice, was it?---It was, yes.

Now what roll if any does the mayor have, the current mayor at that time, in determining these matters?---After the election or prior to the election there was material that was provided to me in my capacity as the electoral officer of the non-residential roll that was not conclusive. There were a number of issues that came up, one that there was evidence - - -

20 Mr Romano, I'm loathed to interrupt you but I asked you just a very simple question. What role if any does the existing mayor have in terms of the content of the non-residential roll?---None.

Thank you. Now what I suggest to you is this: on 4 September, 2008 you and the mayor met with Mr Mailey. Would you agree?---On what date was that?

4 September?---I can't recall that.

30 Well, do you recall having a meeting with the mayor and Mr Mailey where you discussed the surveillance of certain candidates?---No, I can't recall that.

And what I suggest to you is that you gave instructions to Mr Mailey for surveillance in relation to Mr Weiley, Mr Balzola and Mr Alvaro. Do you remember doing that?---No.

40 Well, I'll hand you a handwritten note from Mr Mailey which is from his files but it records a meeting and it's the 4th or the 9th, but we think it's the 4th. I'll just hand you this bundle. Now, on the top you'll see there's a sheet and I'll return to that at the moment but if you turn to the second page you'll see RTM, you see it's a handwritten note?---Sorry, I'm not sure which page oh, the top, okay.

Do you see at the top?---Yep.

It's got a 4 or a 9, 9/09, RTM, would you accept that that's Mr Mailey?---I would assume so, that's what you're saying.

Met mayor and Mr Faker was the mayor at the time?---Yes.

And P Romano, would you accept that was you?---That's me, yes.

Will send letter, and I suggest that's referring to a letter of engagement, need estimation, 1,500 to 2,000. Do you remember talking to him about money at some stage and how much this might take?---I don't recall that. We may have had discussions about this. I'm, I can't recall.

10

All right. But it's likely that this is a note that accurately reflects what happened, albeit in general terms?---You're asking me to answer something that I, I don't recall.

Well, you, you were, according to Mr Mailey you were present at a meeting where three people, names are given to him, I'd suggest, for the purposes of surveillance. Do you have any recollection of that meeting?---I, I can't recall this meeting so - - -

20

Ah hmm?--- - - - yeah, given the (not transcribable) of time if I can reflect on it I might be able to recall something but at the moment I can't recall that, no.

It says follow to see if dispersing leaflet drops hate mail?---I can't recall it.

Do you recall any issue about leaflet drops from those three Councillors that may have warranted surveillance?---I can't recall that at the moment, no.

30

Doing the best you can?---I can't recall it.

Well, you see, I suggest to you that that's what happened. You authorised Mr Mailey to conduct surveillance of candidates prior to 2008 election, would you agree?---In relation to Mr Sidoti and his colleagues, yes, I can't recall these other people.

All right. Well, you know who they are?---Yes, I am aware who they are.

40

And Mr Mailey then set about surveillance of those three people. Are you aware of that?---(NO AUDIBLE REPLY)

Sorry, Mr Mailey or his operatives set about conducting surveillance of Mr Balzola, Mr Alvaro and Mr Weiley. Are you aware of that?---As I mentioned earlier, my instructions as I recall were in relation to Mr Sidoti and his colleagues. If my memory serves me correct I believe that Mr Alvaro was on the Liberal ticket which is with Mr Sidoti. So if Alvaro is one of the candidates on the Liberal ticket for that period then that's correct, it would have included him but the other two, people.

Well, you know who they are?---I, I know who they are, yes.

And I'd suggest to you that those, they're names are written there because they were the instructions you gave Mr Mailey, would you agree?---Well, no, I don't agree because I can't recall.

It would be correct, wouldn't it, that Mr Weiley didn't have any issues about residential, non-residential status?---He was a resident so there wouldn't have been a reason for me to query - - -

10

And Mr Balzola?---I believe he was a resident at the time too so I'd again, have no reason to query that.

And Mr Alvaro was a local resident, wasn't he?---I believe he was a local resident, yes.

Yes. So that those three people would have no issues about the non-residential roll?---No, my, my discussions with Mr Mailey were in relation to a unit in Park Road and they revolved around whether or not the office was being used, sorry, the unit was being used as an electoral office or a place of residence. Now, if Mr Alvaro happened to be moving in and out of that unit at the time he would have been surveilled.

20

If there was an issue about leaflet drops that were unauthorised in any way, that's the role of the electoral commissioner, isn't it?---That's correct. Yes.

And if you receive any complaints - - -?---They would be - - -

If I could ask you just not to, to review the rest of that for the moment and just listen to my question. If there was a complaint even from, from a resident for example, you refer it don't you, to the electoral commissioner? ---That's correct. That's correct.

30

And there was a complaint during the course of 2008 election and you referred that to the electoral commissioner?---I can't recall that.

But if that's what the files of the electoral commissioner show, that would be correct?---I believe that would be right. Yes.

And I'll show you an account, in invoice, sorry, and I'd suggest to you that this is an IPP invoice relating to the surveillance conducted of candidates for the 2008 election prior to the 2008 election. Would you agree?---Yeah, it would appear that way.

40

And you're the approving officer this time. That's right isn't it?---Yes.

And there's a note up the top, building security and risk assessment, refer to LH, Mr Hullick. Obviously it doesn't say Mr Hullick, I'm just saying LH means Mr Hullick?---Yes.

Is that your hand?---Yes, it is.

So that even if one accepted your version of events, that is that it was about the non-residential role and you had some statutory or other role in relation to that, how does that come under building security and risk assessment?

10 ---Well, I suppose a poor choice of words. I don't know.

Well, it's your handwriting?---Yes, it is. And I can't recall what I was thinking at the time.

Well I'd suggest to you that you were trying to bury the costs of surveillance of Councillors that you well knew should not have occurred. Would you agree?---Not, that's not correct. I, it's not my practice to bury anything. At the time I was in receipt of complaints. I acted in a way that I've described to you. This appears to be the invoice for the work that was
20 done. Sometimes my choice of words, as you see on my emails, isn't quite right. But that doesn't mean that I'm trying to hide anything.

But that's a category of budget isn't it?---Sorry?

That's a category for the budget isn't it, building security and risk assessment?---I don't know. I don't know. I can't tell you at this stage. Without looking at my files or records, I can't tell you.

30 Well, you wrote it?---I wrote those words, yes.

But you don't know, now you can't tell the Commission now what they mean?---I can't recall. It's not that I can't tell you, I can't recall. If I had reference to my files and notes I might be able to give you a more accurate description of what I meant or what was going through my mind. But I can't recall at the moment.

40 Did Mr Mailey's handwritten notes of the meeting record a budget of 1,500 to \$2,000 and this is over \$15,000. See that?---Yes, I can see the amounts. It says estimation.

Sorry?---It does say estimation.

Estimation. But - - -?---But I don't recall him communicating that to us.

Right. I was going to ask, do you have any recollection of him saying that the budget was going to be higher than that?---No, I don't recall this meeting and I don't recall talking money.

Well, if you asked him to undertake surveillance of Mr Sidoti, wouldn't you have asked him how much it was going to cost?---Well, to be honest, I don't generally ask him on these sorts of jobs what might be a price and the reason being is that they deal, there's no defined boundaries in terms of what work he does in that regard. I don't know how many operatives he's going to be using or needing. I don't know the extent of time that he may require to do the work. On occasions that I have asked him, I'd get a very general response of that sort from him. So in my mind, what I might've been thinking at the time would've been, well, there's no point in asking
10 him if I'm going to get the same response. So I do trust the people that work with me. I rely on their advice and I had a good working relationship with Mr Mailey. I had no reason to doubt that he would not provide the appropriate service or, or a reasonable cost for the work.

So it wasn't your approach to say, this is a matter, but it's middle serious, don't spend more than \$10,000?---Well, he would've been communicating with me along the way, so there would've been some opportunity for me to scale back or stop the work if required.

20 And when would one find records of that communication?---During this period, I don't know that I would've kept any notes. It was extremely busy. Yeah, I don't make records of every single discussion that I have, only the ones that I think might be critical or important to me.

Well, putting a Councillor under a surveillance is a fairly serious issue isn't it?---I didn't put a Councillor under surveillance. My recollection was that I was exploring the possibility that candidates hadn't actually disclosed the appropriate information to, to myself as (not transcribable)

30 All right. So you put, you instructed Mr Mailey on your account, to put a certain premises under surveillance?---Yes.

That was a serious matter wasn't it?---I would suppose that is the truth, yes.

Well, it's not something to be done lightly is it?---I don't do anything lightly.

But you have no records in your diary?---In that period, as I've said, it was a very busy period, I did not keep records, no.
40

ASSISTANT COMMISSIONER: Yes. We'll adjourn for fifteen minutes.

SHORT ADJOURNMENT

[11.26]

ASSISTANT COMMISSIONER: Thank you. Please be seated.

MS RONALDS: I recall Mr Romano. While that's happening if I could tender the notes of Richard Mailey that were referred to earlier.

ASSISTANT COMMISSIONER: Yes, that will be Exhibit 21.

#EXHIBIT 21 - NOTES OF MR R MAILEY RE SURVEILLANCE OF COUNCILLORS

10

MS RONALDS: And the invoice, the IPP invoice dated 23 September.

ASSISTANT COMMISSIONER: Exhibit 22.

#EXHIBIT 22 - IPP CONSULTING INVOICE DATED 23/9/2008 TO MR PAT ROMANO

20 MS RONALDS: Now, Mr Romano, just to clarify for those of us who aren't Burwood denizens, I gave you three names before that you will recall that were written on the handwritten notes I showed you - - -?---Yes.

- - - that I advised you were Mr Mailey's. If I could just show you this document just so that there's clarity about this. You'll see, you'd agree that Mr Alvaro, Joe Alvaro is in Group B?---Yes.

30 Sorry, just so you know, this is the Electoral Commission return for the September 2008 election if you look at the first page you'll see it's a print off from the Web of that?---That's correct.

Do you understand?---Yes.

And you understand LP in that circumstances means the Liberal Party?
---Yes.

Is that your understanding?---Yes, it is, yeah.

40 Right. If I can take you down the bottom to Group H, Mr David Weiley is an Independent?---Yes.

And Mr Robert Balzola is an Independent?---Yes.

And they're the three names that I took you to a moment ago, would you agree?---Yes.

Well, before the, sorry, not a moment ago, but before the adjournment?
---Yes.

So that there's two of the names on the list were Independents and one was running for the Liberal Party?---Yes.

Correct?---Yes.

And the names you indicated, just so we're clear, is Mr Sidoti - - -?---Yes.

10 - - - that you say you had some surveillance of property associated or not with him?---Yes.

And the other name you said, was there a second name?---What I said was that his, it was Mr Sidoti's property, he in specific, and his candidates on his electoral ticket if they were to frequent that site.

Right. So when you say the candidates you mean Sidoti, Liang - - -?
---Liang, Alvaro and Kokkolis.

20 - - - Kokkolis. Was there a person called Strick?---The name came up during that period and I think it was in, and again, this is to the best of my recollection, the name came up in relation to tenancy with the unit.

And you see that there's a John Strick in Group A?---Yes.

And if some of the surveillance notes refer to a John Strick would you understand that to be the person?---I would assume so, yes.

30 And do you recall giving any instructions to Mr Mailey about Mr Strick?---I don't recall instructions but I do recall discussing him in terms of who was living at what address.

And there was some, there was some press about the matter, wasn't there?
---I don't recall. My, my apologies, I do remember seeing an article in relation to Mr Sidoti and what was purported to be his property at Drummoyne.

40 I'll just show you, this is dated 11 September, '08 so it's after, sorry, it's before, it's two days before the election, I'm not very good at my months of the year. Do you remember that now you see it?---Yes, yes, I do, I do remember seeing something along those lines. I can't remember if it was this specific one but I do recall this one.

So that was an issue for The Weekly which is the local paper?---I believe the Weekly - - -

The Weekly's the local paper, isn't it?---One of, there's one or two, yeah.

One of, all right. Sorry, the Inner West Weekly. If I could tender that.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 23.

**#EXHIBIT 23 - COPY OF NEWSPAPER CLIPPING TITLED
CANDIDATES SHARE HOUSE**

MS RONALDS: Nothing further for Mr Romano at this stage. He
10 understands and I think it's been explained to him by his counsel that he
will be stood down and recalled at a later time when we move on to the later
issues.

ASSISTANT COMMISSIONER: Yes. Well, Mr Romano will be recalled
at a later time but you can be stood down now, thank you.

THE WITNESS STOOD DOWN

[12.03pm]

20 MS RONALDS: And, sorry, if I could tender the, sorry, the Electoral
Commission results.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 24.

**#EXHIBIT 24 - LIST OF CANDIDATES FOR NSW LOCAL
GOVERNMENT ELECTION IN SEPTEMBER 2008**

30 MS RONALDS: I call Mr Richard Mailey.

ASSISTANT COMMISSIONER: Yes, Mr Mailey. Mr Mailey, you've
been called here to give evidence and you are required to answer any of the
questions put to you. You are entitled to seek a declaration under section 38
of our Act that nothing you say can be used against you in future
proceedings. Do you understand the effect of that provision?

40 MR MAILEY: I do.

ASSISTANT COMMISSIONER: Do you wish to seek a declaration?

MR MAILEY: I do wish to seek a declaration.

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 him during the course of
today's hearing are to be regarded as having been given or produced on

objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

10 **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 HIM DURING THE
COURSE OF TODAY'S HEARING ARE TO BE REGARDED AS
HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND
THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION
IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR
DOCUMENT OR THING PRODUCED.**

ASSISTANT COMMISSIONER: Mr Mailey, you're required to take an oath on the bible or make an affirmation.

20 MR MAILEY: The bible, Commissioner.

ASSISTANT COMMISSIONER: Could the witness be sworn, please.

MS RONALDS: Mr Mailey, my name's Ronalds and I'll be just asking you a few questions. Could you tell the Commissioner your full name?---My name is Richard Tracey Mailey.

And your business address?---Business address is 76 Pitt Street, Sydney.

10 And were you previously involved with a company called IPP Consulting?
---That's, no, I'm still engaged by IPP.

I'm sorry. And you are, but you no longer work there full-time. Is that correct?---That's correct, I'm a consultant.

And prior to IPP Consulting were you engaged with a company called Webster?---Correct.

20 Webster's Investigative Group, was it?---That's correct.

And it was in effect taken over by IPP?---That's correct.

And was Webster's your business?---It was.

Or did, were you essentially the sole proprietor?---That's correct.

And then you transferred the business to IPP?---That's correct.

30 And did that mean you were no longer the sole proprietor?---That's correct.

Now, you know Mr Romano?---I do.

Now, just for clarity, you were here yesterday for a time, I think?---I was.

And you've been here this morning?---Correct.

And so when did you first meet Mr Pat Romano?---Approximately six years ago.

40 And what was the circumstances?---It was the closure of illegal brothels that were operating in the, in the Burwood area.

Right. And what was your role in relation to that?---Just to work with the local solicitor in relation to covert surveillance of the operations and then report back on reports. There was no services taken.

I think I understand that?---Yes, thank you.

MR WALSH: I'm not sure if I heard that.

MS RONALDS: There were no services taken.

And, and that was as Webster's?---Correct.

So when one looks at the accounts for Burwood Council from 2003 to 2005 there was approximately \$13,000 in amounts paid to Webster's?---Mmm.

10 Was that in relation to those sort of matters initially?---Yes, it would be, yes.

So that was how you got to know each other?---That's correct, yes.

And did you have a connection with Maddocks, the law firm?---Not at that time, no.

And you later had a connection with Maddocks?---That's correct.

20 And did that come through Mr Romano?---Yes, it did.

Right. I'm just, I couldn't work out whether it, you went Maddocks, Romano or the other way round, that was, right. So after you'd done some brothel work with, if I could loosely call it that, perhaps I shouldn't call it that. After you had done some surveillance of possible unauthorised use of premises you then worked a bit more with Mr Romano. Is that correct? ---Yes, I did but it extended out to the various sections within the Council such as law enforcement and, and those particular types of areas.

30 Right?---The company moved into the IT area of, of the Council which required a lot of support from IPP Services which was another division within our company handled by other persons so our services is what, is pretty well-known to Council as to what we can provide and as a result of our successful operations we, we built a business relationship up with Pat Romano and others within the Council.

And in terms of, if I could loosely call it risk assessment which as a general (not transcribable), were you on a panel for the Council or were you the sole provider?---Sole provider.

40

So you didn't have to put in any sort of pitch to obtain the work?---No, it came on recommendations from other councils.

And then the relationship grew and it became established?---Correct.

And you had a standard set of fees. Is that correct?---Yes, we did.

And they varied for whatever activities it was, IT or surveillance?---Correct.

And what would be the process when you asked to take on a new task for surveillance?---Surveillance usually we would, we would meet, meet at the Council Chambers and review whatever documents we have to look at. If the matter was urgent and considered to be of an urgent matter, the bill for it would be given over the telephone.

10 What sort of matters could be urgent, to (not transcribable) my ignorance about surveillance?---Well, no, no, that's fine. Surveillance at a time could be when persons are going to graffiti the walls of buildings.

Ah hmm?---And it's going to happen tonight or posters are going to go up tonight, illegal posters and we need you there, your team from midnight to whatever in the morning. And that was, that was considered urgent. In relation to pilferaging, not only from the depot but from other areas of Council, that was a, a call can you get someone here straight away, either an investigator or a surveillance team because we've got, we have reason to believe that something is going to take place.

20 And just so you understand, I know that there was a surveillance of the depot, that's not an issue or anything today. We'll be looking at that later. So you understand?---Okay.

So today we're just looking at certain other issues. Okay. Now I think you've been here this morning when we were, when I was discussing with Mr Romano the certain surveillance of Councillors?---Correct. Yes.

30 And it's out of sequence, but I thought just we'd follow on from that? ---Right.

Now when you get a new job and if it's not an urgent job, so we put it in the non-urgent category, what is your process in relation to the mode in which you receive instructions?---As, as a risk consultant, most of my, most of my work is on the road, out on jobs, on the road. And when clients ring in I will take down instructions or just handwritten down or whatever piece of paper I've got. And part of IPP's protocol and that of Websters was that as soon as I received the brief, then I'd ring the office and it'd be given a job number and be given the particulars to the secretary who would make the job number out. And if it was surveillance she would allocate and ring
40 around the, what investigators should be required for the job.

Now that was Miss Malouf. During the period that we're looking at, it might still be, but during 2007, 2008 that was Miss Malouf?---That's correct. Yes.

So emails sent from her were often sent on your behalf?---No, no, no. There was very little emails sent at all in those days because it was just a message

received, she'd contact the investigators, but we never emailed back because of the sensitive nature. Very limited emails were used.

All right. Now do you recall a request to place certain Councillors under surveillance?---I do.

10 All right. Now I do have a document I can show you in a minute, but just relying on your memory first up, what do you recall about that?---Well, it was a phone conversation, I believe initially saying that we believe that people aren't, sorry, it was by Pat Romano saying, do you do, do you do surveillance? Can you help us out with surveillance on people that do not live in the electoral area that are standing for electoral offices? And I said, yes, we do that type of work. He said we've got some people here or one particular in question that we need to ascertain both where he lives and also his associates. And then we, I was supplied with some names.

20 Was that in the first telephone call or was that later?---That was the first telephone call and the names (not transcribable) given us was Sidoti and it was given at the, at an address where he was currently residing or we believed he was currently residing.

And that address was given to you?---Yes, it was.

And did you subsequently have a meeting with Mr Romano?---I, I can't recall whether we had a meeting, sorry.

Well, if I show you, could the witness be shown Exhibit 21?---Yep.

30 Now first of all, is that your handwriting on the first page?---No.

Okay. Turn to the second page. Is that your handwriting?---No.

So where it says RTM met Mayor and P Romano?---No.

That's not you?---No.

You're not RTM?---I am RTM, yes.

40 Would it be likely that you've had a meeting and then you telephoned back to the office and somebody then recorded that?---That's, that's possible. Yes.

Consistent with what you just relayed about how you would then telephone in with instructions?---Yes.

Is it possible that this is a note from someone in the office noting down what you conveyed to them after a meeting?---That's, difficult to answer that because I've never seen this document before. I've never seen, IPP, you

know, I don't know, I don't use an IPP pad like this. And there's writing on it that should not be on an IPP notepad for starters. So I, this document is, is quite misleading to me.

Right. Well, just to assist you there was a, a document sent to IPP to produce documents to this Commission and this was included in it?---Okay.

10 So that's the best I can do to tell you that it was in the IPP files?---Okay. It could be someone in the office that took the notes down. It could've been Yasmine that gave the notes to another investigator in there to instigate the situation.

Right?---But it's certainly not, it's not my handwriting, no.

20 Well, just read through the top bit there. Does that help you remember anything that had happened to a meeting on 4, what appears to be 4 September, 2008? It might've been the 9th, but I think it's a 4?---The only way I could verify that would be to, my diary, my hardcopy diaries which are in the office would verify any, any meetings.

Right?---Which I don't believe that it's been, I don't believe you've taken the diaries.

All right. Well, we'll return to that?---But that could be verified on that.

MR WALSH: Commissioner, I didn't hear that last answer.

30 ASSISTANT COMMISSIONER: He said I don't believe you've taken the diaries.

MR WALSH: Thank you very much, Commissioner.

MS RONALDS: Now you see there's three names written there, Weiley, Balzola and Alvaro?---I see them, yes.

And do you recall any discussion with, well, sorry, do you remember having a meeting with the Mayor, Mr Faker and Mr Romano?---I don't recall that meeting, no.

40 Do you recall a discussion with Mr Romano about those three names?---I do, yes.

Right. And is that likely to have been on a telephone call or a face to face? ---That, I believe it was both. It was face to face and a telephone call, yes.

So you recall a meeting with him, do you just not recall a meeting with the Mayor involved as well?---I can't remember that. No, I don't recall it, no, sorry.

And would your diary be likely to indicate whether the Mayor was present?
---No, it would probably just indicate where the meeting took place and, and who I was meeting with, which was probably just in this instance, probably Pat Romano.

And you see the three names there?--- Yes.

10 What if anything do you recall during the course of the meeting about the discussion about those three names?---The, the names were as possible associates to Sidoti and just to see whether any one of those people, you know, met with Sidoti or were (not transcribable) with Sidoti at his Burwood, Burwood address or at his other, at his other address.

See down the bottom, see half way down it says, follow to see if dispersing leaflet drops hate mail. Do you remember that being discussed?---Yes, I do. Yes.

20 And Mr Romano raised that with you?---Yes, he did.

And was that, did you consider that was an instruction?---I consider that was a general instruction in relation to the overall matter, yes.

That is that those people, to follow to see if they were dispensing leaflet drops on hate mail?---That's correct.

So there's nothing really in the note about associating with Mr Sidoti is there?---No.

30 So it's a, it's a quite different issue isn't it?---It is.

And do you recall that being discussed?---Yes, I do.

And did you understand that that was the brief that you were to implement?
---Yes.

40 And then there's some notes behind, if you just turn to the next page, you can see there's some notes about RTM does surveillance. That would be you would it not?---That's correct.

Saw car leave at Drummoyne. Then Thursday, Friday, RTM surveillance. That's you?---That's me.

And then (not transcribable), that's an agent?---Correct.

And then there's some notes over the page, you see some handwritten notes?---Yep.

Are any of these in your handwriting?---No.

And so these are surveillance notes by someone else?---Yes.

All right. If you could just go five pages over, I'm sorry, do you recognise that handwriting?---I do.

And are you able to identify who that was?---I believe it'd be Andrew O'Reilly, another investigator.

10

Okay. And if I could just ask you to flick through it page by page. Is that consistent - it seems to be the same sort of handwriting?---That's correct.

And then there's a summary that says "Six days Sidoti, four days" et cetera, see that?---Yes, I do, yes.

That's again not your handwriting?---No.

20

All right. And then in the next page headed Monday 22 September, do you have that?---I do.

Is that your handwriting?---That's my handwriting.

So these next two pages - - -?---Yes.

- - - they are your notes are they about the surveillance you undertook?
---Correct.

30

And what you did on that day?---That's correct.

Right. And then - - -?---This wasn't, sorry, this wasn't the surveillance this was the beginning, this was an investigation in relation to the owners of properties.

40

Right. So what were you doing exactly?---Just making discreet inquiries with real estate agents and other persons within the property and as you said meet with the real estate, talk to him and I've got access to information about who was running the property. And again, these activities usually done by myself as a Field Manager before any funds are allocated to a job to verify the authenticity of it.

All right. I'll just show you this document. Can I ask you, Mr Mailey, what do you say to say a real estate agent about who you are and why you want information?---Well, usually it's just a, it's a straight inquiry as to is there any units available for lease or for rent within that block of units. Then, no, we don't. Well, I've got some friends who have just moved out of unit number so and so, so and so can you tell me is that becoming available. And to which the real estate said it's either available or it's not available,

it's just been leased. And the real estate agents usually don't divulge, you know, the name of the person and so it's already been leased (not transcribable) affected my memory but (not transcribable) this one it's been released to a Councillor from Burwood Council.

ASSISTANT COMMISSIONER: All right. So you've got no legal authority to obtain confidential information have you?---No.

Nothing beyond what anybody else could do?---Correct.

10

MS RONALDS: And I've just handed you some searches. Are these the sort of searches that are done as a preliminary review of someone?---That's correct.

And is that your handwriting on those?---Yes, it is.

And so would you have been responsible for producing these four pages?
---Yes.

20

All right. I can show you these notes. These are what I'd call surveillance notes from someone. You see that?---Yes.

And it's got two addresses up the top?---Correct, yes.

Indicating there's been 21 minutes of video and 56 thirty-five mil stills?
---That's correct.

And then it sets out - this isn't your record is it?---No.

30

Would this be Mr O'Reilly?---No, it's Meridee.

That's Meridee?---Meridee.

All right. And so this details her activities with great detail about what she did minute by minute?---Yes.

And is that a standard style of report for an agent?---Yes, it is.

40

Right. And then does she provide that to you and you do the analysis?
---She does and then we write a brief overview of what it is and (not transcribable), yes.

Right. And I'll tender all of these as a whole bundle. Just hand you then some handwritten notes which aren't quite as pretty. Now, you see there appear to be two hand but the bottom half of the page is yours?---That's correct, yes.

It says R Mailey Thursday and then some notes further over?---That's correct.

And then some photos attached?---Correct.

And are they photos you took?---They are.

Right. And they're photos of a car and a house?---Correct.

10 Right. And then I'll show you again some further notes which I think were also Meridee's notes?---That's correct.

And they were her notes of some of the surveillance that was undertaken as well. Is that correct?---Correct.

Now, I'll show you a document. When you say that you do a summary is this the sort of document to which you're referring?---(NO AUDIBLE REPLY)

20 And you'll see it's headed - and I understand it's a draft - Burwood Surveillance Balzola, Alvaro and Weiley. And then it sets out certain matters, if you look you'll see there's Robert Balzola, Joe Alvaro and David Weiley. See that?---Yes.

And this would be I'd suggest to you a report that was put together by someone at IPP?---That's correct.

And would that have been you?---Yes, that's correct.

30 And this was a report for the client was it?---For the client, yes.

And is it one you then present orally?---No, on occasions, on most occasions, sorry, it was emailed through to the client.

You'll note this doesn't have an address, it's not addressed to anyone like Mr Romano for example?---Well, I've got, it's interesting, I've got, as far as it's not addressed to somebody there's got to be another copy around somewhere because this would be a draft copy and, you know, it hasn't got draft on it but it certainly wouldn't have gone to the client like that, no.

40 There is another copy around.

And then there's a gap, if you look at page 2 there's a gap in the middle, it wouldn't have gone to a client looking like that would it? It looks more like notes that were - it reads more like notes that were dictated on their way to becoming a final report?---Yes.

Would that be more likely?---That would be more likely.

But would it be correct that at least the first two pages form the sort of report that you would normally provide to a client when you're asked to undertake this sort of surveillance?---That's correct, yes.

And you'd agree with me that if there's a draft report at least for Mr Balzola, Mr Alvaro and Mr Weiley that there was some surveillance undertaken of those three?---That's correct, yes.

By IPP?---That's, yes.

10

And that is, the best we know is a draft report?---Yes.

And we failed to come up with a later version at this stage. Just so you understand there isn't any other that we found. But if there wasn't a later version and so there was no final typed report would it be likely that maybe - and do you recall giving Mr Romano an oral response, an oral report?---I frequently gave, I frequently gave Mr Romano regular oral reports so there would've been oral reports ongoing on a daily basis with these sorts of operations.

20

Right. Do you recall whether he said anything about a final report?---No, at the conclusion of every investigation, you know, I would've said to the client or the client said to me, you know, you better finish your final report on that one but there was no definite statement on that, no.

So there must be a final report somewhere?---That, that should be correct.

Thank you. Then there was an account - can the witness be shown Exhibit 22?

30

ASSISTANT COMMISSIONER: While that's being obtained, Mr Mailey, what were you trying to find out about these people?---Well, Ms Commissioner, what we were trying to do was establish the bona fide relations that, that were instructed on, just wanted to see the relationship between those three individuals and Sidoti. Also the brief was about illegal literature being distributed, defamatory type literature being distributed.

So you wanted to see whether they were associating with Sidoti?---Well, yes, we wanted to see whether they associated with Sidoti and - - -

40

And distributing literature?---Yes. And that we done, did, our report should indicate there that we did follow them around and they were distributing leaflets and checking to see what in fact they were distributing as to whether it was a matter for - - -

Well, you seemed to have followed them everywhere, like to the pub and to their homes and quite an intrusive invasion of privacy for, I'm still at a loss as to what, what was the end goal?---Well, the end goal was to,

Miss Commissioner, was to establish the relationship that our client has asked me to establish what relationship and what were their lifestyle and, and - - -

Their lifestyle?---Their lifestyle because it was a matter of an electoral matter.

Sorry, I don't see how their, their lifestyle relates to an electoral matter?
---Well, their, it's, it's, the lifestyle from our, from our opinion their
10 lifestyle's important in relation to whether they, you know, where they visited, who they saw because that, they were going to become part of the Electoral Commission situation or Councillors.

So to see that they weren't doing anything disreputable?---That's correct, yes.

Yes, Ms Ronalds.

MS RONALDS: And did Mr Romano ask you to make sure that, or to
20 check whether they were doing anything disreputable?---No, only in relation to the, the release of, the association with Sidoti and the relationship of the illegal, alleged illegal documents that might have been circulated in mailboxes.

So you extended your brief yourself, did you?---No, that was just part of the initial brief.

Well, you've just given the Commissioner some evidence that you were looking at essentially what their activities were to see whether they were
30 worthy citizens, that's not your word but that's mine?---Ah hmm.

Is that what Mr Romano asked you to do?---No, not, not those words. The association was, as, as in relation to the individuals with Sidoti and what their activities were was the, was the specific brief.

And the leaflets as recorded on the note?---Yes, that's correct, to see whether they were placing any leaflets that were in any way defamatory or otherwise discriminatory or otherwise, just, just go round and see what was in the mailboxes or what they put in the mailboxes or in the front doors.
40

And at one stage in the notes it records that someone reviewed the contents of the rubbish bin of one of the people they were following. Is that standard practice?---Yes.

And what would they have been looking for?---They'd be looking for any evidence at this stage in relation to the allegations that, that, that was raised by Mr Romano.

And what were those allegations?---Well, in relation to defamatory documents or documents of the nature that were being put in mailboxes.

Well, is there somewhere internally in IPP a document that is produced before people are sent off to look that says this is what we're looking for?
---No, it's a, a general brief to the investigators before they go out on the road, not in the office because they're field agents, they very rarely come into the office so it's mainly by telephone.

10 And is there a record of what's told to them?---The only record that's told is what, this information that Andrew O'Reilly has written down here.

Well, they could be off on a frolic of their own and you wouldn't know?
---No. We have, we have audit practices in place.

How?---Well, we have, we regularly check on the field agents to see where they are and what they're doing and their reports, they've got to report in every day and that's accountability.

20 And so you review those, do you?---Yeah. Every day they, they call in and get their reports into Yasmin, Yes.

And do you review those?---I'm out on the road most of the time.

Well, who makes sure that their activities come within what you understand to be your instructions?---Well, it'd be either my associate there, Andrew O'Reilly or myself if I come into the office but I'm in the office about every second day so they'd be on my desk for me to review every day and that's the information that I would relay onto Mr Romano. There's also occasions
30 at the, because the field agents never came in the office a lot of the times they would tell Yasmin what was going, what happened during the day and then I'd relate that onto the client.

And was there any occasion that you recall Mr Romano saying I don't want to know about those sort of things, like what he's got in his rubbish bin or whatever?---No, that information, Mr Romano was rather sure on the information that he wanted to receive, as to did we get any activities such as what I instructed you on and the answer was no.

40 Those instructions you understood was whether Sidoti was liaising or meeting with those other people nominated and whether there was anything about leaflets?---Yes.

And that was the extent of your understanding of the instructions?---Yes.

Now you didn't, you only followed or put under surveillance those nominated by Mr Romano?---That's correct.

You didn't have a wider remit to look at others who might be running for election?---No.

So you didn't, for example, review at any time the activities of Mr Faker?
---Mr Faker did come into the equation but not in relation to this - - -

Right?--- - - - this particular matter. He came into the equation later I believe.

10 That's about the security of his house?---That's correct, yes.

Or do you mean some other matter?---No, no, no, in relation to the house.

All right. But that was earlier?---Mmm.

But, so you only, it was only those nominated by Mr Romano?---That's correct.

20 And if one takes it from the report and that handwritten note it seems to be three names that we looked at before plus Mr Sidoti - - -?---Correct.

- - - and someone called Mr Strick. Do you remember him?---No, I don't remember him, no.

Right. You don't remember receiving any instructions from Mr Romano about Mr Strick?---I can recall the name but I cannot recall instructions, no.

30 So you remember the instructions in relation to Sidoti, Weiley, Alvaro and Balzola?---Correct.

And that's why the draft report I just showed you a moment ago, you'll see refers to three of those but not Sidoti?---Correct.

Would there be a reason for that?---Well, there should be another report on Sidoti if you've seen the surveillance notes on Sidoti there in my handwritten field notes there.

40 Mmm?---So there should be a report on Sidoti and I know there was lots of photographs taken in relation to that, yes. There is a report.

There was quite extensive following of Mr, sorry, I'm sure you've got another word for it, but surveillance of Mr Sidoti, wasn't there?---There was, yes.

That was a significant focus of the surveillance work?---That was the main focus, yes.

And he was followed to work, to home, to whatever he was doing over a number of days?---Yes.

And that's what your handwritten notes records?---Correct.

And so it appears from the surveillance notes, for example, someone sat outside his house, yourself, and waited for him to drive off in the morning and then followed him?---That's correct.

10 Followed him to wherever he was going?---Well, well, that wasn't my role.

Right?---And we were short on agents at the time. Our role there was to establish where he lived so we got there very early in the morning and we saw his vehicles parked there, we documented the vehicles and photographed them but in relation to myself, when he drove off, you know, I pulled off, off on that surveillance period, a brief one but yes, other than that, what we were trying to do was establish did he leave his place of abode, which is the one we were maintaining surveillance on, and go to the alleged address at Burwood and that's what we were trying to establish,
20 exactly where did he live and that was the only way we could do it otherwise we'd have two double costs, we'd have a surveillance operator sitting outside the Burwood address and we would have had another one on the house so the agent would follow him from there to wherever he went, yes.

But there was no suggestion on the instructions from Mr Romano that Mr Balzola, Mr Alvaro or Mr Weiley were residing with or in any way involved in the residential status of Mr Sidoti, was there?---No, that's correct, no.

30 So they were on a completely separate issue?---Exactly.

Yeah. They weren't living with him or providing him accommodation or that wasn't the suggestion, was it?---No.

You were following them for another reason?---Yes.

Thank you.

40 ASSISTANT COMMISSIONER: What, to see if they associated with Mr Sidoti?---That and the, yes, that and the - - -

What would be the problem with them associating with Mr Sidoti?---Well, Commissioner, I, I don't know, we only accepted, this to us was not a risk analysis of the situation, this was purely an assessment and therefore an assessment's dealt with differently.

Yes.

MS RONALDS: Now, this bundle of documents which I think could probably all be put together that are with the witness which are notes and, field officers' notes and the draft report in relation to Balzola, Alvaro and Weiley.

ASSISTANT COMMISSIONER: Yes. Well, they'll be Exhibit 25.

10 **#EXHIBIT 25 - BUNDLE OF DOCUMENTS – IPP SURVEILLANCE
SUMMARY 22/9/2008; HAND WRITTEN INVESTIGATOR NOTES
3-5/11/2008; INVESTIGATOR NOTES (SIDOTI & STRIK-19/9/08-
21/9/08) AND INVESTIGATOR NOTES (8/9/2008-13/9/2008;
SEARCHES ON ANTHONY STRIK AND JOHN SIDOTI**

MS RONALDS: And in terms of working out what to charge a client, what role if any do you have in that?---Well, it's, I play, that's, I have the major role in that - - -

20

Right?--- - - - liaising with the client. The, as far as our situation goes we always just do an initial, purely an initial assessment of the client's requests and by doing that the client says what's an estimated cost of what it's going to take. Now, we would always say well, if it's an initial cost is 1,000 to 2,000 or it could be 3,000 but depending on the situation of discovery, in other words, if the, if the target or the particular person of interest is at the location which the person should not be at the time or whatever it is then the investigation, we'd ring the client and ask what do you want to do, do you want to extend, we'd established from initial surveillance period that he's
30 not living in the, in the address as supplied by the Electoral Commission so we were then instructed to proceed on to gather as much information as we can as to whether he is residing. So from then on the investigation on directions from clients just proceeds.

30

All right. Well going back to the front, do you remember I showed you some handwritten notes and one of them said, need estimation, 1,500 to 2,000. Would that have been the estimation that you'd provided Mr Romano on 4 September?---That, that's more or less our standard estimation to start an assignment. So we usually say ballpark between 1,000 and 2,000.

40

And that's just to start?---That's to start.

And what process do you take to advise a client about what is projected to be the final costs or the ongoing costs?---The clients, it's very rare that the client asks and that includes corporate, that was is the final outcome, because from an investigators point of view, it's very hard to measure time on surveillance and investigation versus the outcome of the investigation. It's very difficult indeed. So we give the client daily updates and how many

hours we do everyday. The client, this particular client was aware of the hourly rates of our company. And we just updated him and said, do you want us to continue? We definitely verify this. Yes, the work is to continue, continue. We don't at this stage give interim accounts. It's not the policy of IPP.

10 But do you give interim email advice, for example, or oral advice that your tab's hit 20 grand, or sorry, \$20,000?---No, not at that time because the field agents have not submitted their accounts. We can only get cost estimate, no.

And if I just show you this document. This is an email from Mr O'Reilly to you saying his, I'm just trying to work out the process. His hours on the Burwood job. Now these appear to be the hours that he would've spent on that job. Is that what you, rely on them to form the basis of your assessment? Just the email part. See the three hours, three hours, one hour, one hour, three and a half hours?---Well, this was written by Andrew O'Reilly, who did the initial notes.

20 Right. Yes?---I'm not, I wouldn't know what that's related to because those (not transcribable) don't, they're just I think the agent ringing in to say I've spent taxi's following, I've done - - -

No, no, no, we're not looking at that. We're looking at the top of the page. Wednesday, 10/9, three hours, Thursday, 11/9 - - -?---Oh that'd be, yes.

Is that, that's what you use then to formulate the bill?---That, that's correct. Yes.

30 Right. And down the bottom that's not your hand?---No.

No. Okay. But then you are responsible are you within IPP for compiling the bills for your clients?---No, (not transcribable) ourselves we work as a team and because he's in the office more then I am, so he would assist me if I wasn't in for a couple of days.

40 All right. Well, if the witness can be shown Exhibit 22?---And I'd also like to point out this is Andrew O'Reilly's hours on the Burwood job, not the investigators. Yeah.

Yes. Right. No, no, I understood that. Yes, that's what I was trying to say to you. I'm just trying to work out what the (not transcribable) documentation used?---Mmm.

Now, I've been provided an invoice dated 23 September, 2008. Do you see that?---Yes, I do. Yep.

Don't worry about the handwriting because that wouldn't of been on it when it left your care. But would you have been responsible for this?---Yes. There's a, there's the accounts management department, that was Yasmin, Andrew O'Reilly and myself. But I'm responsible at the end for final checking of the, of the figures and reports, yes.

So, if I could ask you to turn the page, you'll see there that there's Mr O'Reilly, Mr McCombe, Mr McCombe, Mr McCombe et cetera. You see that?---Yes, I do.

10

And you're responsible for the production or the checking of that?---No. The accounts, Yasmin and the accounts department is responsible for checking for that because we take the cost straight off the investigators field notes accounts to IPP. And they are transcribed then into a clients bill.

Okay. And you see down the end on the second page of that or third page of the whole document, it says, Richard's report. Checking and Accounts, \$80?---Ah hmm.

20

And then searches, \$330. So they would've been some of the searches I showed you earlier and other searches about the persons being followed? ---That's correct. Yes.

And then there's a total?---Ah hmm.

And you'll see there it has under 4A, a number of hours for yourself as well?---That's correct. Yes.

30

Now it doesn't have any dates. Do you see that?---I do. Yes.

But it, would I be correct in, that it all relates to this particular job?---That's correct. Yes.

Now it says to provide risk assessment, sorry, if I could take you to the first page?---Yes.

40

Description, to provide risk assessments in Burwood Council and TSCM protection over the months August, September, 2008. That wasn't a correct descriptor of this job that we've been talking about was it, the surveillance of Councillors or others, candidates?---No, correct. Yeah.

And can you explain why it is that the descriptor doesn't meet the description of the job actually undertaken?---Well, we have a set format that, that we use in relation to accounting procedures where we do not want to disclose to the client's accounts departments or any other persons in there that in fact that is the work that was being conducted. But the disbursements invoice, which would've been attached to it would clarify this form which is, which is not here. There would've been a disbursements invoice to that.

All right. We'll just go back a step?---Ah hmm.

Who made, who, did anyone in Burwood Council ask you to put a description on it that was not correct?---No.

That's your standard business practice is it?---It is in relation to corporate covert surveillance, yes.

10 And as I understand it a TSCM is what us non-technicals would call sweeps of premises isn't it?---That's correct. Yes.

So this is endeavouring to present an activity that's quite different to the activity actually conducted in relation to the amount being charged. Is that correct?---Yes, it is.

So when one looks at IPP (not transcribable) one should pin nothing on the description. Is that correct?---That's correct.

20 And you discussed that with Mr Romano at some stage?---I discussed with Mr Romano, yes and all other clients.

And you were authorised by him to make a, a description that did not accurately reflect the work?---Correct.

And you say that was so that it could go through accounts without anyone being concerned?---That's, well not being concerned, but that, there might be other persons in there that are part of the affected parties from the investigation, that if they saw their name on the account, that, that could
30 disrupt the investigation.

Well, if it had said surveillance of four or five candidates for the 2008 September election and named them, that may have caused some concern to someone mightn't it?---My word it would've, yes.

And so you think that there was a good reason to put an inaccurate description on it. Is that correct?---No, no. If we had put that description as you mentioned just now, we believe that that would've been queried by accounts department of the Council. And they would have queried who
40 were the people you were watching. And that would have caused embarrassment to the directors and to the General Manager, 'cause he, having to explain that what the activities actually were.

Well, leave notions of democracy aside, Mr Mailey.

ASSISTANT COMMISSIONER: Well, what about, did you ever think it was a problem putting in documents with false information in them to get paid from public funds?---No. It's, it's been our practice and that of others

for many years, Commissioner, to, to clarify the work that was done on a disbursements invoice which was always attached in relation to covert operations. So the client can elect to send both documents through to accounts department or they can withhold the disbursements invoice if it's a matter of a confidentiality nature.

So you're saying with these false invoices you would've also sent through one that accurately set out what the work was?---Yes.

10 Said surveilling candidates for the election?---That, the (not transcribable), I'd have to see the document, but there would've been an attachment to this document in relation to, and setting out all these hours and times spent on the, on the job for clarification.

MS RONALDS: Well, as I understand it, it's in the (not transcribable) records, the two pages that are attached are all that is attached, if you see what I mean?---Well, I'd have to, I'd have to check that because it's not in a normal format or a normal disbursement type of accounts, because (not transcribable) set it out like this, now we had a Sandra, a casual working for
20 us over a couple of months during that time. Maybe she could've set it out differently. But that's not our normal format.

But it, but the content of it, it's fairly clearly and IPP document isn't it?
---Yes, it is. Yes.

Because it would've been impossible for anyone else to have come up with its contents?---Yeah. That's correct. But again, it could be a draft document probably set out by Andrew O'Reilly prior to going on to the standard format.

30 I'm sorry, just bear with me. I'm just trying to (not transcribable) this?---
Yep.

I understand that this is a copy of the document actually held on the Council's file so that as you can tell it's got stamps on it so that this would've been at least in this instance the one provided to the Council?
---There's no Council stamps on these.

40 No, on the front page?---Yes, that's, certainly, yes, yes.

Sorry, it comes in a bundle together as three pages?---That's correct, yes.

And the front page you'll see has a stamp on it?---Yes.

And it's very blurred on this copy but it does say Invoice Approval, Burwood Council?---Ah hmm. That's correct.

And then it has certain signatures. As I understand it Mr Hullick is seen as the receiving officer and Mr Romano as the approving officer and that stamp is not on it when it leaves your care?---No, definitely not.

And it's not signed off by anyone. Is that standard practice? There's no signature from a person at the bottom taking - - -?---On our account or this person - - -

10 On your account?---On our account, no, that's correct, no, it's all computer generated.

And client order number verbal?---Correct.

That reflects the fact that Mr Romano had given you verbal instructions only?---That's correct.

20 And if he ever - and I'm not saying he did in this instance - but if there were emails would it say emails or would it just record, does that fall under the rubric of verbal as well?---If it was a first-up instruction to carry out the work then we'd receive an email, the word email would appear there.

Right. So verbal reflects the fact that there were conversations either one phone, as I understand it now from your evidence there was one phone call and one meeting with Mr Romano about the matter. If I could tender the email from Andrew O'Reilly dated 18 September.

ASSISTANT COMMISSIONER: Yes. That's Exhibit 26.

30 **#EXHIBIT 26 - EMAIL FROM ANDREW O'REILLY TO RICHARD MAILEY DATED 18 SEPTEMBER 2008**

MS RONALDS: Now, one of the jobs that IPP did for the Council related to CCTV control at Burwood Civic Centre. Is that right?---That's correct, yes.

And that was a relatively large job?---Correct.

40 And gave rise obviously to some significant costs?---That's correct.

And you ran that project?---No, I did not.

Right. So did you have any involvement with that project?---No, I did not.

Right. Now, there was a project which involved the surveillance of a person called Mr XXXXX. Right. Now, just so you understand I'm not sure if you were here yesterday that there has been a suppression order on Mr

XXXXX's name but we can use it and then it is deleted from the transcript and not published in the media so you don't need to be concerned about using he or his wife's name or the company's name, all right?---Thank you.

Just so you understand the position. Now, you had a conversation with Mr Romano in I think September 2007 about certain matters. Do you recall that?---I do.

10 And doing the best you can can you tell the Commissioner what that conversation was? First of all was it phone or face to face?---It was by phone.

It was by phone?---Ah hmm.

And you don't recall, do you recall the actual date?---I don't recall the date, no.

20 All right. Well, doing the best you can can you tell the Commissioner what the course of the conversation was, what happened in the conversation?
---The conversation was, it was between Pat Romano and myself (not transcribable) been aware that Pat Romano's been having some issues and he said to me that, you know, I think that I've got someone that's been annoying me, harassing my house, driving past, throwing objects at my house et cetera, I'm not sure actually who it is but I have some people that I consider to be suspects. I'll give you some names and if you can just do the risk assessment first by looking at their, at their backgrounds which is the basic real estate et cetera, et cetera, land title, electoral rolls things and then ascertain whether the, whether the person who you think it would be but the prime suspects that I think, this is Romano saying to me - - -

30 Has Mr Romano (not transcribable)?---To me. No, no, no. That I think that it's XXXXX. There's this XXXXX, this fellow over at Gladesville or somewhere over there. He was vague at the time but he said, I think it's in relation to this person. I want you to do a risk assessment on him by doing what background searches you can.

Right. Just stop you there. Did he give you a first name for Mr XXXXX?
---Yes, he gave me, he gave me the first name.

40 Did he give you any other details?---Gave me the address.

Gave you an address?---Ah hmm.

Did he give you a phone number?---No.

Sorry, I didn't mean to interrupt you?---No, no, no. So initially he just gave me very basic information as he did on the other parties which I can't recall

their name. Then we carried out a basic internal risk assessment before we proceeded with the surveillance and I rang him - - -

All right. And I just stop you there?---Yep.

You say there were other names. Do you recall them?---No, I don't, I'm sorry.

10 And did any of those other names did you undertake a risk assessment for them?---No, we did not.

So you only, so he may have given you what, two, three other names?---I think it was two other names.

Right. And you don't recall them now?---No.

And, but in terms of a preliminary risk assessment the only one you undertook was in relation to Mr XXXXX?---Correct.

20 And why did you just do Mr XXXXX?---At the request of the client.

Right. So he said that that was the only one he wanted focussed on or words to that effect?---(not transcribable).

You understood that that was what he wanted, that was the focus Mr XXXXX?---Correct, yes.

30 So what did you do in relation to a preliminary assessment of Mr XXXXX? ---Sorry.

For us neophytes what does one do?---I think, I think there's a report on it but it was land title searches, searches on real estate and verifying where he lived, his, his occupation if possible which was, we ascertained, his work hours and work practices where he works and the risk element. Now, our risk assessment, Ms Commissioner, is purely done by way of general record searching and we could not find any adverse findings on Mr, on him at the time so I reported back to, to Mr Romano saying that there's no adverse background that we know on this particular person do you want us to proceed.

40 All right. Now, if I could just stop you there. As I understand documents show that that risk assessment started on the 14 September, 2007 and was conducted 14, 15 and I think 17 September, 2007. Would that accord with your recollection?---It would, yes.

You've had occasion to review the file recently?---No, I have not.

Right. Okay. So would you have done it the day you were asked, the day after you were asked?---Well, the assessment would've been done the day it was requested and it usually takes, 'cause we use Hazletts a search company
- - -

So you don't undertake them yourself?---No.

Okay?---Hence why the costs because we passed it on from the search company which is Hazletts.

10

Right. And Hazletts is a company that's a commercial company that does searches for people?---Yes, and legal, legal and commercial searches, yes.

And do you have to have any special sort of authority to ask them to do a search on someone?---No, not at all.

You have Private Investigators licence. Is that correct?---Correct, yes.

20

And does that give you any special entitlements in relation to seeking information about people?---No.

Doesn't give you any special licences in terms of say following people than anyone else?---No. No.

Tapping phones more than anyone else?---No.

Putting trackers on cars?---No.

30

None of those things?---None of those things.

No. And so what do you understand the purpose of the licensing arrangement is?---The licensing arrangement is no better than your average citizen. The idea of a Private Inquiry Agents licence is to, is to verify the bona fides to make sure that the operator such as myself doesn't have any criminal records is all that I see in the focus of the licence.

Right. Does it impose any ethical obligations on an investigator?---Well, it does, yes, yeah.

40

And there's a Code of Conduct?---There's a Code of Conduct, yes.

And an investigator is supposed to have - I'm not suggesting you haven't, don't misunderstand me but it's supposed to follow the Code of Conduct?
---Yes.

But in terms of Hazletts, I mean, maybe I could ring them up and ask them to do a search on someone or do you have to have a pre-existing

relationship?---No, you don't. Like with (not transcribable) you just need to open up an account and they just do your searches for you.

As long as I've got a credit card I'm in?---Actually, yes.

I note the time, Commissioner.

ASSISTANT COMMISSIONER: Yes. We'll adjourn till 2 o'clock.

10

LUNCH ADJOURNMENT

[1.00pm]