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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

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AT 2.05 PM

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

MS RONALDS: Just in terms of organisation I could just indicate to our friends that one of the witnesses Mr Shane O'Brien currently resides in Ireland and the difficulties of time adjustment and technology are that we will convene at Thursday, at 5.00pm for those who have any interest in hearing Mr O'Brien's evidence and my assessment is that would be Mr Blake and Mr Leggitt.

ASSISTANT COMMISSIONER: Counsel assisting has tried very hard to get (not transcribable) but that is not happening.

10

MS RONALDS: So we will run through till 4 o'clock as normal for those who are not involved in that and then anyone who wishes to return at 5.00pm for Mr O'Brien's evidence and those who know what his evidence touches on so my anticipation it will be only Mr Blake and Mr Leggitt but there may be someone else who is interested. So it will be a video link we hope if all goes according to plan.

ASSISTANT COMMISSIONER: All right.

20 MS RONALDS: We're having a dry run tonight so hopefully it will be all right. And if anyone has any queries about that if they want to talk to Mr McKenzie or me about it. Mr Mailey.

ASSISTANT COMMISSIONER: Thank you, Mr Mailey.

<RICHARD TRACEY MAILEY, on former oath [2.05pm]

MS RONALDS: Now, Mr Mailey, we're talking about the commencement of the process in relation to Mr XXXX prior to the luncheon adjournment and you'd indicated that Mr Romano advised you of two other names plus Mr XXXX?---That's correct.

10 I just want to summarise where we're up to so we both know we're on the same case. But request only that you commence in relation to Mr XXXX? ---That's correct.

Is there anything else that he said that you can recall in relation to Mr XXXX?---No, not that I can recall.

At that stage, I'm only talking about that initial conversation?---No.

20 He didn't suggest to you any reason he thought Mr XXXX might be a person whom should be subjected to surveillance?---(not transcribable) the purpose of the call was to speak about XXXX, persons that he could see that maybe persons causing the problems and he then said, I think this is the person that we need to do surveillance on not the others but you can check them out anyway but XXXX is the person that I think is causing the, the, the problems.

30 And did you ask him why you thought, why he thought Mr XXXX was causing any problem?---Yes, I did. I said, well, look, what are your reasons for your suspicion in this and he said, well, I, I don't have a lot of suspects, but I have good reason to believe that this is the person that was throwing things at my property and harassing my family. And I said, okay, well we'll do our risk, our initial risk assessment to see, you know, where we go from here.

And that was the process you told us about?---Correct.

And at the end of that process was there another conversation with Mr Romano?---Yes, there was.

40 And doing the best you can, I know it's a few years ago?---So, we've done the research and we can't find any adverse findings on this person at all. You know, while you still suspect that he's, he could be the person of interest to you, to which he said, no, I'm, I, I'm sure it is. I know the area where he lives and I'm sure this is the person so I think we should proceed with the surveillance. Initially with one person to - - -

Hang on, I'll just stop you there. Did he say initially with one person or was that you're now telling the Commissioner what you did after that

instruction?---And I said, do you wish us to start with one, one surveillance operator to assess it? And he said, yes.

All right. And so what was the process that happened after that?---It was a Brad McCombie that was first engaged, one of our operators. And he was given the address and I think start time would've been 6.00am, which is normal on that, on a corporate thing. So a 6.00am start on that morning of, to follow him to work to see where he worked and, and a lifestyle.

10 And the first date seems to be 26 September, 2007. Does that accord with your recollection?---To the best of my recollection, yes.

And so there's a bit of a gap there of a few days between after the initial assessment and then that starts. During that process did Mr Romano ask you to review or assess anyone else?---No.

So the surveillance of Mr XXXX commences?---Correct.

20 And it commences does it with Mr McCombie sitting outside his house or near - - -?---No, no, no. Near his, near his property. And then I was involved in co-ordinating the first day of surveillance because I was in the office. So Brad was in touch with me and he told me he was following him down to the, to the ferry. He's on the ferry, calling from the ferry and said he's still on the ferry. And I've got him to this location in Pitt Street. This is half an hour later. I said, okay, well our instructions are to stay on him. We don't know where he's going to go during his work period. Whether he's a rep on the road or what he is. And so we needed to just stay with him all day and get him home that night.

30 And so if someone, please forgive my appalling ignorance about these matters, but if someone disappears into a building, it was a building in the city, in Pitt Street?---Correct. Yes.

A multi storey building - - -?---Yes.

- - - would you follow him inside on that first occasion so you could determine what floor he went to?---Yes. We, we took him up to the floor and saw him go into the workplace.

40 So that from that moment, that day, you knew who he worked for?---Yes, that's correct.

And when would that information have been provided to Mr Romano?
---That would've been provided that day.

During the course of the day or at the end of the day?---No, at the end of the day when we would've got him home to his address. Because I would've given the first progress report to the client.

Right?---And said, look this is what's happened today. There's been nothing, he's just gone to work, sat on the ferry, came home again. And he said, okay, well that's a good start. You know, at least we've established what he's doing and we need to now continue the surveillance period.

And to the best of your recollection you would've told him the employer?
---Yes.

10 The name of the employer and the location?---Yes.

So you would've said you went to YYYY at whatever level it was, whatever number Pitt Street?---Correct.

Right?---And he went out for lunch and bought something and came back again.

I think it'd be fair to say that Mr XXXX led a less than eventful life?---
That'd be correct.

20

And so I assume watching a multi storey building with multiple people coming and going at various times during the course of the day presents particular difficulties?---That's correct.

And was this a large building or a smaller building?---It was a large building.

And was there only one entrance?---There was two exits.

30 Right?---And he could cover the two exits.

Right?---It's not like say this building where there's one on one floor and one on another and the media often have trouble finding (not transcribable)?---No. We, no, exactly. But no, there wasn't, he could've gone down to the loading dock and he could've gone out through the car parking area.

Right?---But we only had one surveillance operator, so he covered the main, the main exit points.

40

And so, I'm sorry, what street did you say?---I think it was, I'm not sure of the address, was it York Street?

I'm sorry, I thought you said Pitt Street, I've inadvertently misled you. Margaret Street?---Our office is in Pitt Street.

Your office?---Margaret or - - -

Margaret Street?---Yes, that location, yes, thank you.

All right. Margaret Street I think it was, I think I've misled you, inadvertently. And so Mr Romano authorised that it continue, that is the surveillance?---That's correct.

And that meant Mr McCombie was there at 6 o'clock or thereabouts - - -?
---Yes.

10 - - - the next morning?---Yes.

And - - -?---That, that, that proceeded for approximately a week and it was a close confinement surveillance, one person, it was very difficult.

What's particularly difficult about it?---Well, it's, he, to follow someone on a ferry at 6.30 in the morning, there's only a couple of people and then get to, him to his building and then be seen around the building at lunchtime and that so we, we, Brad elected after about a week of surveillance that he wasn't comfortable with the surveillance because there was nothing
20 happening and also he was very, it wasn't alert but, you know (not transcribable) isolate the ferries and coming out by himself so I spoke to the client about that, that we need to use other, sorry, I suggested that we're having problems with one investigator and he suggested that we should use some more investigators.

Well, just go back a step. Was there an incident where Mr McCombie was actually compromised, that Mr XXXX said something to him?---He, he, he believes he was at a coffee shop either there or across the road at Margaret Street, yes, and he believes he was compromised.
30

And so, but Mr Romano then authorised you, did he, to increase the number of operators?---That's correct.

And that was based on you advice that one only was a difficult carry, that is, that the person might become suspicious they were being followed if the same, I mean, essentially, that the same person was following them?---No, the, the week assessment, if you want to call it the week assessment of this matter, you know, there was nothing, there was nothing untoward about the surveillance operation. I mean, he wasn't doing anything unusual at all and
40 I thought, well, you know, I need to advise the client that there's nothing unusual happening about this surveillance which in, in, from a risk perspective (not transcribable) is very unusual to that period of time and then when, when Mr McCombie was compromised I rang the client up and said look, I think he's been compromised, what do you want to do. He said, well, we want to increase surveillance. I said, well, we can't use Brad any more so then I contacted another firm.

All right. Just going, just stopping you there, did you give him any advice from your perspective that he should abandon or give up this surveillance? ---No, I just, I just said that, that, that, you know, there's nothing in the surveillance. He's not doing anything and, you know, I mean, what he, what do you want to do from here. I was very clear and precise on that and our agent's been compromised and he said well, put another couple of agents on and, and stay with the surveillance. That was the whole length of, of what I said to him.

- 10 Is it your practice to advise clients that it seems to be a waste of resources for the process that's being undertaken or is that not good business practice? ---Thank you, it's not good business practice, no, though the suggestion was strong and firm with me that there was nothing in the antecedents on the searches and nothing in the solid surveillance period of one week and I, I really gave him the inference that I, I don't know why we're proceeding on this.

- 20 Well, did you say to him I don't know why we're doing it?---I, no, I said to him there's no, there's nothing coming out of this, there's no results, he's not doing anything unusual.

You didn't say abandon it?---No.

Did Mr Romano at that stage ask that you focus on if Mr XXXX met with any women?---Not that I can recall.

Or undertook any particular activities?---He was interested in all of the activities not individual activities.

- 30 Right?---So it was a lifestyle and profile surveillance on, on an individual which means to say if he saw women, sat with women, spoke to people or something, that'd be all in our reports.

Right. And from a profile surveillance it's, again bear with me, I don't understand the terminology, is just to build up a picture of the person and their lifestyle?---Correct.

- 40 And your assessment after a week was that there was really nothing very exciting happening?---Exactly.

And during the course of that conversation did Mr Romano report to you that he, he and his family or his family had been subjected to any further, further harassment?---No.

Then, you then contacted I think Mr David Travini. Is that correct?---That's correct, yes.

And you explained a position to him?---Yes.

And you asked him if he could assist?---He came to our office and a thorough briefing was given to him in our offices because I was subcontracting the work at that time.

And was that because you didn't have enough operatives in your office?
---Yes.

10 And you met him on or about the 23 October, 2007. Do you recall that?---I recall the meeting, yes.

And after the meeting he sent you an email setting out the details of his costs et cetera. Do you recall that?---Yes.

And I'll show you this document. And you see it starts off, see it's headed the 23 October and it starts off, "It was good to finally meet you." So one can infer from that that at least a meeting had occurred at that point and that accords with your recollection?---Correct, yes.

20 So then he sends you an email at that point just setting out really the, his charges et cetera?---Yes.

And so \$55 an hour, prepare a detailed report, photographic schedule and copy of the video film in whatever format you require, what you think is a fair rate et cetera. And then you reply, you see at the top of the email?
---Yes.

30 You reply, "Hi Dave, meeting Angel Place building, 123 Pitt Street, (not transcribable) Coffee Shop inside 9, 45, 25, 10, regards, Richard."?---That's correct.

Now, do you recall what the purpose of that meeting was?---The purpose of that meeting was to introduce the control person to Mr Romano.

Introduce Mr Travini?---Mr Travini to Mr Romano, yes.

And that occurred?---That occurred.

40 So there was a meeting with the three of you?---Correct.

Do you remember what was discussed at that meeting?---No, I don't. It would've been the basics of this job, specifics I can't assist you with, no.

Right. But you recall Mr Romano being there?---Yes.

And Mr Travini being there and indeed that was the purpose wasn't it of that meeting?---Correct.

And do you recall then that Mr Travini then sent you another email on that day the 25th?---The 24th.

The 25 October setting out what he understood and what he intended to do. Do you remember that?---I, I don't remember it but if I could sight the document?

Sorry?---No, I don't remember it. I know there was an email but I don't remember the contents of it.

10

All right. And that sets out the details of what Mr Travini was intending to do?---Yes, that's correct, yes.

And down the bottom it says, "Please confirm what time he wishes to terminate surveillance at night particularly covering Thursday and Friday night once the subject is at home." And so he was asking you for some further information?---Yes.

20

But the rest of the information, were they the issues that were discussed at the meeting with Mr Romano?---Yes.

So including over the weekends there will be one investigator et cetera? ---That's right, yes.

And do you recall at some stage advising Mr Travini that weekend surveillance was to cease?---I think weekend surveillance I think was only scheduled for Saturdays not Sundays at the request of the client but not, not Sundays, no.

30

And if there was a note on a file held by Mr Travini that says, Instructions client said no weekend, in short, would that have come through you or would Mr Travini have had a direct relationship then with Mr Romano? ---No, it would've come from me.

So you still maintained control of the relationship in essence?---Yes, I did.

And Mr Travini reports to you and you report to Mr Romano?---Ah hmm. Yes.

40

And so when it says, Instructions from client, that means through you as a conduit you would've told Mr Travini?---Correct, yes.

And did Mr Travini send you some reports?---Yes, he would've, yes.

And detailed reports about the surveillance and what was happening? ---Correct.

And do you recall the end - sorry, just bear with me one minute. I'll just show you this document, you may not have seen it before so I'll just show you this document. Now, have you seen this document to the best of your recollection?---Yes, I have, yes.

Is this a document that was produced by IPP or by control?---By IPP.

Right. If I can take you then to the second page?---Yes.

10 You'll see the fourth dot?---Yes.

“Hours, variable, take him from home to work and return, video or 35 stills required of him associating with any females approximately eight hours a day, seven days a week.” Was this the scope that you were giving Mr Travini?---Well, the inference that I've, that I've perceived in relation to this brief of mismanagement is this person was not only harassing the male of the, of Pat's family but it was also females as well. So from my belief and the brief that, that females and males of all ages could possibly be involved. And if I may reiterate, Ms Commissioner, when I went to Mr Romano's
20 house she was very, very, very, very agitated and upset at the time of the security review of the alarm system and that is what surprised me. He said, Don't, we're not just looking at the small picture of assaulting the General Manager there is a possibility that he also could intimidate females.

But that was some time afterwards wasn't it?---No, this was early in stages, this is the profile that was done in the early stages.

Did you ask Mrs Romano what she was upset about?---That was the day I was there, we were talking about CCTV and she, she was very, very
30 emotional, upset and I just, Pat said, Look at her. I said, She's very, very upset about what's happening to her sons, what's happening to her house, people are throwing objects et cetera, et cetera and she was obviously seriously distressed over that.

All right. Just ask you to listen to my question. Did you ask Mrs Romano what she was upset about?---No.

So what you've just explained is your guess about what she was upset about?---No, she was extremely emotional at this stage and it wouldn't be
40 appropriate the way her, the way her nerves were to ask her that question.

All right. So the simple answer is no, you didn't ask her directly?---No. No.

So in your views you've expressed not resulting from any direct conversation you had with Mrs Romano about why she was upset?
---Correct.

Thank you. And that handwriting on the bottom is that yours?---No, that's not mine, no.

There's then another version of the same document which has roughly the same sort of information. If it looks like this and it resembles this, then it's likely to be an IPP not a, not a control document. Is that correct?---That's correct.

10 Now do you recall what occasioned the end of this surveillance?---Yeah, nothing occurred. (not transcribable) any reasonable, reason (not transcribable) to our company expect or to control to suspect that there was any issues as all in this surveillance. So really nothing's come, nothing came out of the investigation.

20 What caused it to end?---Just the extent of the hours that surveillance was there and I think several times towards the end I, I spoke to the client, Mr Romano and said, look, we're getting nowhere on this. And your person isn't going near your house, isn't going near the Council Chambers. You have no phone calls or any threats, like we're going absolutely nowhere with this investigation. We should really terminate it. And that was said on a couple of occasions.

And how was it that it was terminated? Did he specifically give an instruction to do so?---I think, yes, at the end he just said, oh, we're not, I agree with you it's not going anywhere and just wind it up, or words to that affect.

And do you recall when that was?---No. I'm sorry, no.

30 Well, after you were instructed to cease surveillance, would it be the practice to continue after you've been given instructions to cease?---No, it wouldn't.

And I don't know whether you were present during Mr Romano's evidence yesterday?---I was.

You heard him say that he'd instructed that it cease, but that it continued, you know, for a week or so. Do you recall hearing him say that?---I do.

40 Would that be consistent with your recollection?---No. I was not, not, no extended periods were, were extended by our company.

And if it records in, in the report that it ceased at a particular time as per instructed, would that be as per instructed from the client?---That's right. That's correct.

Just bear with me one second. Sorry, I just can't find the document. Sorry, we can't find the paper copy so if you just look at the screen, you see this is 27 November, 2007?---Yes.

And then you see the very last one is 10.30am, surveillance was discontinued as instructed. What would that note mean to you?

MR BLAKE: I object. It's Mr, it's obviously Mr Travini's document, how he can speak about someone else's document.

10

ASSISTANT COMMISSIONER: Well (not transcribable)

MR BLAKE: I know there was a (not transcribable) here but you're asking this witness to speculate about someone else's document.

20

ASSISTANT COMMISSIONER: Well, would this be a document you received?---It would only be part of the conclusion, the report, Miss Commissioner. But the instructions there and I, I, you know, I don't know what date of Travini's are, but that could've been my instruction either that morning to say this could be the last day and if nothing's happening by 10.30, 10.30 in the morning then discontinue surveillance. That's what he could be relying on, but that's, that's hypothetical.

Well, you were the one giving him the instructions weren't you?---Yes, that's correct.

30

So I presume this instruction would've come from you?---I, I would assume that because of the way it's worded there. No results by 10.30, then discontinue.

MS RONALDS: Just for the record that's Exhibit 7. Now you prepared a series of invoices or a series of invoices were sent from IPP in relation to this surveillance. And would you have been responsible for those?---For the computation of the invoices and putting invoices together, no.

Right. For their contents, no?---No.

40

So if I could, if the witness could be shown Exhibit 5. See the first one dated, with the sum of, well, dated 2 November, 2007?---Ah hmm. Yes.

For the sum of \$4,000-odd. See it talks about unauthorised use of premises and I suggest to you that's not an accurate description of the services delivered in relation to this invoice. Would you agree?---I would agree, yes.

This relates to the surveillance of Mr XXXX doesn't it?---That's correct.

And if I could ask you, there's a second invoice you should have in that Exhibit. Do you have that?---Yes, I do.

And see that's 12 November, 2007. It says special surveillance placement of illegal posters. That's not the correct descriptor is it?---Yes, it is. So you say this one relates to posters?---It does.

10 All of it? Is it possible the first couple of days relate to posters and the rest relates to Mr XXXX' surveillance?---I'm not sure. The reason is the, this is the way we did illegal posters accounts. And I know that some of the hours were long hours, from 11 o'clock at night til 5 o'clock in the morning on some of these ones. To me, it does look like it was illegal posters, the placement of illegal posters. Mainly because the word, the wording used here (not transcribable) surveillance conducted in various locations in Burwood, Enfield, as per your specific instructions. See the disbursements below. At that time I was working for two people, one was Pat Romano and the other one was the Ordinance Inspector for the Council, that was instructing us on the illegal placement posters. So I would say that this is and this does relate to illegal placement posters. But you will find that this, this should correspond with a report on the illegal placement of posters. There should be a report on this.

20

So you would be surprised if this was included in a bundle of documents supposedly relating to the XXXX investigation?---Well, no, I don't think this relates to XXXX investigations, no.

It couldn't be that the first three days, September 18, 24 and 25 relate to, to the posters and 26 and (not transcribable) relate to, to the XXXX Investigation, could it be?---No. No, because the travelling times agreed with the enforcement officer was that we always charge one hour from the city, where our office is to Burwood, which is agreed on an hourly rate if we're doing this sort of work.

30

Ah hmm?---And what is there is very clearly one hour 52, 52, 51, 41, all the way through it. That indicates that that was the posters.

All right. But there was surveillance of Mr XXXX during that period, from 26 September, so there must be another account somewhere else?---Well, there could be. Is this the time that Travini was involved in this? The dates that he was involved?

40 No?---Right.

The first week relates to the surveillance by Mr McCombie that we've talked about, from 26 September and then control was involved?---All right. Oh, look this, this one here that I'm looking at here for 1,779 is definitely - - -

Definitely posters?---Posters.

All right. Now if the witness could be shown, could the witness be shown Exhibit 18?---Thank you.

Now, this is a bundle of invoices, the top one should be 17 November. Is that right?---That's correct.

It's Exhibit 18, we got there. And what do you say this invoice relates to? ---I'd say this relates to the XXXX matter.

10 Right. You'd agree though that the description doesn't assist you in forming that view, does it?---No.

And that's for the reasons we've discussed earlier?---Correct.

And if you could keep looking through I think all in one bundle, you'll see there's one for 19 November, that should be the next sheet?---13th, 17th, 23rd.

20 There should be one for 19 November which is a single sheet which didn't have a backup sheet on any of our review of it. Do you have that?---There's no backup sheets in any one of these ones here. There's, there's backup sheets now, 1,000.

There's one for \$3,190. Do you have that?---Yes, I do, yeah.

And that one in any of the files doesn't have a backup sheet anywhere but I'd suggest to you is part of the XXXX surveillance. Would you agree?---I would agree.

30 Okay. And then there's one for \$17,556. Do you have that?---Yes, I do.

And there's a sheet attached to it with an email from John Curtis. Do you see that?---Yes, I do.

And that relates to the XXXX surveillance?---Yes.

And then there should be a final one on 29 January, 2001. Do you have that? I'm sorry, they're out of order?---I do, no, no, it's fine, thank you.

40 For \$1,452?---Correct.

Do you have that?---Yes, I do.

And you'll see that that, if you look at the backup sheet to that, that's 19, 26 and 27 November and 27 November then accords with the date I showed you earlier about instructions to cease?---That's correct, yes.

This one appears to be, it must have been delayed by Christmas or something before it was sent out but that relates to the XXXX surveillance. Would you agree?---I would agree.

And again, you wouldn't know that if you read the description?---No, correct.

10 Sorry, just bear with me. Now, I want to show you a series of emails, this is Exhibit 17, it relates to a slightly different matter, just bear with us while we get there, and this is in April 2008, I don't know whether you were here this morning when we went through this bundle of, series of emails about certain matters?---I was here, yes.

20 Right. And they include some emails from you, I don't know whether you, whether you could read them on the screen this morning but you see down the bottom it starts off on the second page about security at the mayor's residence and then it talks about the alarm et cetera and then there's an email from you to Mr Romano et cetera that it was I think unacceptable. So this, the first part seems to be about the alarms?---Ah hmm, yes.

20 And then it seems to turn into, you see the middle of the first page there's an email, 9 April, 2008, 2.30pm, "Any confirmation on time yet and are we still okay for the sweeps as well on Saturday." Now, what do you understand, that's your email, what do you understand that to have been? ---Okay. Well, we can't, we have to transgress back a bit here to when I was initially asked by Mr Romano, when he's got problems at his house I said look, I'll, I'll, I'll have a look at it for you but IPP will charge too much money to do a risk assessment and a alarm assessment, a very
30 comprehensive one like we do for the Council but I said when I'm in the area I'm willing to drop in and have a look and then I'll refer you on to a provider if you want it. And this is trying to cut my time back on a Saturday because I was in the area near the mayor's house, I was in the area near the general manager's house and I was doing a sweep at the Council chambers and doing some sweeps as well.

But the discussion about the security alarms was in October 2007?---Yes.

40 So that was all done and dusted by April 2008, they'd all been installed and - - -?---That's, sorry, that's correct, yes.

Yes. So that this is, this is about a sweep of the mayor's house?---Correct.

And who do you understand instructed you to sweep the mayor's house? ---Mr Romano.

And did you do his house on the same day?---I'd have to look at the report on that. There is a detailed report on what I did, yes.

Right. And for an average sized house, how long does it take to conduct that sort of operation?---For an average size house, depending on the depth of the sweep, usually about three and half to five hours.

Ah hmm. And then it was all confirmed, and then there, so do you have any recollections, do you have any recollections of actually performing that function?---Yes, I do but I can't confirm whether that's the exact date that we said we're going to do it but yes, I used to do the, the Council Chambers and the, regularly, or at least once a year.

10

All right. You see there behind that email there should be a series of invoices. Do you have those?---Yes, I do.

You'll see the first one, well, I don't know which, whether they're still in the order that they went from here on but there's one for 16 April, 2008? ---Correct.

20

And it talks about attend your offices on Saturday, 12 April in relation to risk review strategies. That's consistent with the date for the suggested sweep of the mayor's house?---That is a sweep, yes.

And would that be just the mayor's house or Mr Romano's house as well? ---That I would say would be, yes, it's both, both houses.

Both houses?---Yes, correct.

And not the offices?---No, the offices were a separate date.

30

And behind that is a series of little graphs or, I'm sure you've got a better word for them?---We have, that's just the printouts from, from our electronic equipment indicating the, any areas of concern in relation to TCSM operations including the frequency variations and as discovered at the time.

And did you find anything in the sweeps - - -?---No.

- - - in April 2008?---No.

40

Did you ever find anything whilst sweeping Mr Romano's house?---No.

Did you ever find anything sweeping Mr Faker's house?---No.

And then if you could just look through you'll see then there's another invoice for 24/10/2006 and seems to have a similar description?---There would be, if this, every sweep that we do has to be certified through our equipment and our certifications so there would be, it would have been an attachment, a sweep attachment as to exactly what we did on our attendances to all houses.

Right?---And that would have been attached to this.

But does this look a sweep of houses to you that one?---The Burwood, the one for 935, due to the size of the premises, appears to be a TCSM sweep.

For homes or the Council?---Just for the Council Chambers.

10 For the Council Chambers?---And the mayor and other specific offices and the telephone systems.

Right. And similarly there's one for 14, so not their homes in that one?
---No.

20 No. And then there's one for 14 May, 2007 is that similar for the Council Chambers, you see that's for \$935 as well?---My recollection in that is that I think we did come back in May, one's 2007, yes, that's the year, the yearly sweeps that we do them so that's, that's in accordance, 2007, 2006, it'd be the yearly sweeps.

And did Mr Romano ask you or did you suggest to Mr Romano that he has his house swept?---No, it's part of the strategy with, you know, all clients, be it, be it our corporate, high-corporate clients or councils that we deal with otherwise, it's a, it's a recommendation by the manufacturer that any persons at risk in security have their premises swept every 12 months.

30 I'm sorry, the manufacturer of what?---The, the equipment. Okay. So in other words may I say that Freehills and Mallesons and all the big firms we do every 12 months religiously in the partner's offices and that and on occasions they recommend us to do other sweeps of their clients as well but in this particular case it's using the end date, we ring our clients up, all of them every 12 months and say for security we need to just do the sweeps.

Right. And so would that to use your analogy of a big law firm would you sweep the partner's homes as well?---Yes. Yes, depending on what project the, the lawyers are working on, on the high risk of the project we usually do the homes, yes.

40 In relation to the installation of the security systems did you give any advice to Mr Romano about that? You've explained how you went to visit him?---I went to the house, you know, as I've seen and read in one of the emails and exhibits here that I went there at 7.30 that morning on the way to another job and I said I can call in for a minute, I'll have a cup of coffee with you, do a walk-around with you and you can tell me about your concerns.

And was that, sorry to interrupt, but was that as a favour, that doesn't - - -?
---It was a favour.

Was that a billable hour or was that a favour?---No, it was because before my work billable times and it was a favour and, and, you know, from my experience in this area it's, it's not much for me to drop in and do a quick assessment which I did do on that morning and that was cleared with the Director of IPP who was well aware, I said, I'll call in and see them, see them and that's when I called in.

10 And I think you said elsewhere that you saw some damaged electricity box on that occasion?---When I was doing the quick walk-around looking at the garage, under the house, through the rooftop which it doesn't take too long and I was explained by Mr Romano that there was eggs thrown on the front door and they were, they were really worried because his son, their son slept in that against, just behind that glass that was, things was bring thrown at. So as part of my inspection I went around to the fuse box and noticed that there was no lock either electricity or any other lock but I also noticed that the fuse box was twisted at an acute angle as if someone tried to force it. So on part of my assessment I said, Do you realise someone's been into your fuse box and tampered with your fuse box? And he said, No, I didn't. And then I said, I better get a certified lock from Energy Australia to put on it
20 now, which we, which I did and made a call for him and get organised for him. I walked around and suggested how many cameras that he should have. The question was asked at the time by Mr Romano, you know, Do other General Managers and theirs have this equipment in? And I replied, Yes, they do. But it's usually removed after the threat or the threat of the risk and the equipment that I recommended at the time was in fact the latest in cameras which, which the main counterpart of the camera contained everything. The, in the lens it contained micro technology, it didn't go back to a - and I said, It's very simple once it's installed, just take the cameras down and that once your threat's over and take the unit and the cameras
30 back to the Council. And then I went inside and his wife was there and then the boys and she seemed to be very, very distressed at the time and - - -

You've told us about that, yes?---Yeah, told you about that. So, and then I went down the back of the place, it's a very exposed premises and can be really attacked from lots of sides. So I suggested to him that for us to do a risk review on the house it would probably cost about three and a half, four thousand and, you know, we don't need to do that but I can recommend Sydney Night Patrol, SNP, I don't want to have anything to do with it, the only thing is to be responsible back to the Council that I will send the
40 invoices through from Sydney, Sydney Night Patrol, SNP to your offices and I'll have our accredited technical engineers have a look at it and see whether the price, installation, equipment, labour costs are in accordance with what should be and they'll, so they'll sign it off and ship it back to you. So in other words I was just protecting the Council's interest to make sure that, that the price and the equipment was in accordance with what the client wanted.

And was it your understanding that the Council was going to pay for this?

---It was my understanding the Council was paying for it.

And that was on the basis of what Mr Romano said to you?---Yes.

And - - -?---It was also, excuse me, it was also on the basis too he did show me the letter from, from the law firm showing that the, recommending the OH and S issues and that which were shown this morning.

10 And that must've been a bit later?---It was later, yes, it wasn't on that day.

So later on he showed you Mr Baird's advice?---Yes, correct.

And did you talk to him about putting his own home under surveillance with the sort of people sitting around - - -?---I didn't - - -

- - - (not transcribable) with a car watching his own home?---I don't, if he was going to put these high tech cameras up which are night and day, telescopic lenses, everything in them I couldn't see the cost factor there because the cameras I knew would be over 25,000 and to do a surveillance
20 on a dog leg street you need about two to three surveillance operators. And the threats were non-date specified and the time factor of when to do the surveillance the answer is it's too much of a long bow. So we said the cameras will go in, you'll see the detection, you'll see the car, you'll get the registration plate and you'll be able to go and report it to the police.

Now, you didn't think that a short period of surveillance prior to spending the more significant sum of money would've been a worthwhile investment?---No, because there was non-specific times of any event. So we couldn't say if we did it Saturday, Sunday, there'd be no justification
30 because there was no specific date. Usually with a, when we're taking a premises it's Saturday, Sunday between certain hours but this was no specific time given to us at all so I didn't think that was warranted.

And in relation to - so you recommended SNP?---Correct.

And that's because your company doesn't do that sort of installation?

---Well, we don't do that, we're consultants.

40 Yes. And then there was involvement with Mr Faker's security system. Do you remember attending at Mr Faker's premises?---I do.

And do you recall what happened there?---Well, it was during the conversations with the General Manager and I can't remember whether that was at his house that time or another time but I think it was at his house he said, We don't know whether this threat is going to escalate, you should really go over and see the, check the Mayor's house, he's in the middle of construction, building a new house.

So he was building a new house?---Correct, yeah.

And you attended there on the 26 of - - -?---I did. And I did a, again, perimeter inspection, I was there for 15, 20 minutes. I wanted to know who his security person was that was doing the install and I'd like to meet him, what sort of equipment is he putting in.

10 And do you recall Mr Faker telling you that he wanted cameras to go with the alarm system he was putting in?---Yes.

And you had some discussion about that?---Yes.

And you suggested SNP Security provide a quote?---I did.

But he said he had someone he preferred?---That's correct.

And that Mr Tannous I think, was that the name?---That's correct, Tannous, something like that.

20 And he was there, and there was an electrician there at the time. Do you recall that?---Yes, I do recall that.

And did Mr Faker tell you that he didn't want an internet protocol alarm system?---He did.

And he wanted a C-Bus one?---He wants, no, he was putting the C-Bus in at the time.

30 Right. And that that would incorporate cameras?---Correct.

And so, but he then set about - no, sorry, I withdraw that. You then contacted Mr Tannous?---No, Mr Tannous was there at the time. He's, He's of Lebanese, not good language skills and the Mayor was able to sort of sort it out and say, Look, Richard, I don't want this and I want that and I want him to do that and do this. And I said, and I can remember saying to the Mayor, Who's paying for this? And he said, Well, initially I'm, I'm paying for this, for the installation and who's, Pat Romano's, who's putting Pat's in? And I said, Well, the Council's paying for it mainly because Pat has a risk but you should check with the Council because people in positions as
40 Mayors and General Managers of high risk in Council sometimes can get approval. So I made the recommendations to the Mayor that he should raise it with the Council as to who, who, who will make the payment for the installation and the equipment. And my further recommendations there, look, I said, Because I do, we do technical work for the Council in relation to a lot of aspects again I've got the invoices from the alarm company and the lighting company being sent to me, our IT people check it and get it back and I offer the same service to the Mayor too just to see whether the prices were in accordance with standard practice.

And that was again a non-billable exercise - - -?---Correct.

- - - that was a offer to a, to a regular client?---Well, yes.

A service to a regular client?---It was 20 minutes. And don't, I'd have to bill \$200 for 20 minutes, so, which is our standard rate.

10 And did you attend Mr Romano's premises after the alarm was installed to inspect it?---I did, yes.

To make sure that it met what you considered to be appropriate standards?
---Yes.

And did it?---It did at the time.

And did you attend upon the Mayor's house?---Yes, I did.

20 And to confirm that it was to an appropriate standard?---Correct.

And it was?---Yes, it was.

And did you, you didn't do a report or anything about that?---No.

So that was again an extra add on service as a service to a client?---Yes.
Again, I think it was about 15 minutes I was there, I think.

30 Just excuse me for one moment. You've indicated some matters about Mr Romano telling you earlier on about harassment of him and his family. And you've indicated eggs, I think. And you identified the power box. Is there anything else you recall?---No. That's all I can recall. Yes.

ASSISTANT COMMISSIONER: Now Mr Mailey, you said that Mr Romano told you he hadn't had any trouble with the fuses or the power box?---He had, Miss Commissioner, he had never noticed that someone had tampered with his power box.

40 He didn't mention anything about disruption of his electricity supply?---No. That's correct.

MS RONALDS: Did he mention anything to you about cars?---Yes. Cars were parking down the street and flashing their headlights.

And did you ask him about whether he'd had taken any number plates?
---He, he told me on, on several occasions he's tried to get the number plates, but they've driven off.

And did he tell you anything about being followed by anyone?---Not that I can recall.

And returning briefly to the XXXX investigation, did you ever find out that Mr XXXX worked where Mrs Romano worked?---I had no idea that Mrs Romano worked where Mr XXXX was.

Until when?---Well, until just now. I had no idea.

10 Right. And did it ever occur to you in relation to the surveillance of Mr XXXX that it might be a personal matter for Mr Romano, not a professional matter?---No, it didn't. From a lot of risk assessments that I do over the years, in particular with Council's, they seem to be more, more of a target, that the description of the incident, the, the family, the distress of the family, the distress of the General Manager, I was really convinced that there was a particular problem. And it was on that assessment that we proceeded with the, with the surveillance and the electronic operation.

20 But the (not transcribable) the distress you saw could've been caused by any number of things?---Exactly. Yes.

There was nothing you ever saw that linked with what was said to be the harassment with the Burwood Council?---Correct.

And indeed your review of Mr XXXX' activity, you didn't ever find any link did you, between Mr XXXX and Burwood Council?---No.

30 Now, you're aware, sorry, just bear with me. You're aware that this Commission has sent some notices in relation to the production of documents to IPP?---Yes.

And you had an interview in December?---Correct.

About certain matters. And you had a conversation, I'd suggest to you on or about 17 December, 2009 with Mr Romano. Do you remember that? ---2009?

December, 2009?---No, I don't.

40 Well, what I'm suggesting is, you had a conversation with him where you advised him that you understood that this Commission was looking at the XXXX surveillance or words to that effect?---Not that I can recall, no.

Well, do you say that you didn't do that or you just don't recall it?---Well, I, I don't recall because I mean, I think what I said to the Commission investigators was it was a common knowledge that an investigation by ICAC was currently in process and it's, that we didn't discuss the documents with Mr Romano because we go back a long way here where the

informant, that was within the Council, and downloaded information. I was aware of that information then and I've always been aware of an ICAC investigation and with potential of an ICAC investigation going back maybe, I don't know, a year, a year and a half, so - - -

10 What I'm talking to you specifically about it the 17th or thereabouts of December, 2009 and I'm putting to you that you had a specific conversation with Mr Romano where you advised him that you understood this Commission was specifically looking at the XXXX surveillance, not generally, not anything else, but the XXXX surveillance?---No, I don't, I don't recall meeting with him in, I mean, I'd have to look at my diary but I don't recall a meeting in December. I had a meeting with, I met with Mr Romano this year out at, out at new offices and we, where he's looked at the new offices but I can't remember a specific date where I discussed that.

20 Well, it may have been by telephone?---I, I couldn't remember. I wouldn't be able to remember that at all, no. We, we did discuss that there was a lot of, that, that there was issues that, you know, would be raised with the Commission, because I was a party to the, the initial document that was all the specific allegations made by an employee of Burwood Council so - - -

When you say you were a party to it - - -?---Well, I was showed the document.

For what purpose?---Just that, just to show that, it was purely just look at, look at this document. Have a look at what the employee's done and this was, I think the IT person and he said, "Have a look at this" but I wasn't party to the whole document but I was a party to part of it.

30 I'll show you this document. Have you ever seen this document before, dated 8 December, 2009?---I've never been shown this specific document, no.

Just look at the last page. You see where it's headed Schedule and it sets out a certain matter? I'm sorry, when you're ready?---And page?

40 Last page. Did anyone at IPP show you that on or after 8 December, 2009? ---I can't recall seeing this, this document because it was on the directory, saved on the directory which, he didn't share this with me I, on this one, no.

Did he discuss it with you?---Not that I remember because, no, I don't remember. So I know that he did say that ICAC are looking into Burwood Council but he never specifically showed me that document.

Just try to understand this is from 8 December and thereafter?---I, see Mr, Mr Curtis is a very close sort of person and if he received a direction like that he would've engaged Yasmine and I believe he did and he would've pulled all the files out of the area to secure them for ICAC and I think that

he did mention that ICAC are looking at Burwood and I (not transcribable) for a year or so and he said, "Yeah, I've got to produce documents" but I have seen this, this document and table and especially this section at the back.

And did he go specifically and say, including for the XXXX surveillance?
---No. He only told me that ICAC is, is looking at Burwood Council.

10 Now, you've referred to earlier when you were giving evidence some, you thought there may be some reports of yours relating to Mr Sidoti in the final of the document that I showed you in relation to the other three Councillors?---Yes, yes.

Are you able to return to the IPP offices and review the files there to assist us?---Yeah.

20 And if any other documents that you thought might be useful, would you be able to assist us in relation to that, but those specifically that you've referred to?---Yes. If you would like to give me a list of those documents I'll work on that for you.

The pixies will do that, they'll organise that?---That's true, they will.

Now they won't talk to me.

I have nothing further at this stage but I understand Mr Blake has.

30 ASSISTANT COMMISSIONER: Ms Ronalds, Mr Mailey's earlier evidence in the compulsory examination, he gave to my mind quite a different version of what was originally told him by Mr Romano, I wondered if you could just put that to him if you have it handy.

MS RONALDS: No, no, I have it handy but I must confess that I was conscious of time and was - - -

40 ASSISTANT COMMISSIONER: Well, I, I cannot understand how his evidence has changed so much in, well, just over a month, in particular in relation to his knowledge about Mr XXXX and where he worked and why he was to be put under surveillance.

MS RONALDS: And there's another issue which was in relation to where Mrs Romano worked, of course.

ASSISTANT COMMISSIONER: Yes.

MS RONALDS: Commissioner, I'd have to lift the - - -

ASSISTANT COMMISSIONER: Yes. I lift the previous suppression order on this, I'm referring to page 12.

**DIRECTION PURSUANT TO S.112 - SUPPRESSION ORDER
LIFTED IN RESPECT OF TRANSCRIPT OF 4 FEBRUARY 2010
COMPULSORY EXAMINATION OF MR RICHARD MAILEY**

10 MS RONALDS: Yes, I'm on page 15 so you're ahead of me.

ASSISTANT COMMISSIONER: Page 12 about 12 on the - - -

MS RONALDS: Do you recall that you attended a compulsory examination at this Commission on 4 February, 2010?---I can.

And you were asked a series of questions?---Ah hmm.

20 And you were asked in particular about what it was that Mr Romano said to you in relation to commencing what we're referring to as shorthand as the XXXX investigation. Do you remember that?---Yes.

And what I'd suggest to you is that you had a different version than that which you've given today. Would you agree?---No.

30 All right. Well, we'll, and you've given a number of different answers and, Commissioner, if I could just turn to page 15, line 8, you were asked, "By that stage you knew that Mr XXXX was actually working with the same business in the same premises as Mrs Romano, as Mr Romano's wife, Camilla Romano." You were asked that by Mr McKenzie?---Yes.

And you said, "No, I was not aware of that at the time. I was told by Pat Romano sometimes, weeks later that his wife works there." You'd agree that that is contrary to the evidence that you just gave about 15 minutes ago about when you became aware that Mrs Romano worked at the same place as Mr XXXX?---Wasn't that after the investigation was concluded?

40 Well, my key reading of the evidence was that you meant during the course of the investigation and I thought you indicated earlier that you became aware that Mrs Romano and Mr XXXX worked together just very recently? ---Well, no, I was made aware of that when the ICAC investigators came to my office. The same as I was asked the question by the ICAC investigators when they interviewed me at our offices about did you know they could have been having an affair, that was the first time I learnt about that.

Well, I'm talking about when you found out that they were working together?---They were working together, that wasn't until after the

investigation, until after the investigation because if it was it wasn't involved in the investigation period.

Well, I'd suggest to you that your answer at page 15, line 18 suggests something quite different, that is that Mr Romano told you some weeks into the investigation?---It could have been some weeks into or just out of the investigation. To me it was, it was, it was irrelevant at the time because that, she was one of the affected people in my opinion, not of the parties of interest.

10

It was irrelevant, did you say?---Well, she was one of the affected people.

Surely it was relevant that Mr XXXX worked at the same place as Mrs Romano?---Well, it was, yes but, there was, there's three or four floors, I believe the company was in that building and I didn't, didn't put anything together at the time because I'm totally focussed on, on the risk of threats, not on the relationship at all.

20

Well, you see, the evidence you gave last time was that Mr Romano said to you in the first conversation, Richard he works, he used to work with my wife or works with my wife in the city and I think he's got a vendetta against me. Now, that's not consistent at all with the evidence you've given today, is it?---No.

But that's the evidence you gave to the Assistant Commissioner last time you were here, that is, you said that's what Mr Romano said to you then? ---Well, what, but what date was that said, was it during or after the investigation is what I'm trying to establish?

30

Well, you recounted it as the initial conversation that you had with Mr Romano about undertaking the surveillance of Mr XXXX?---Yeah.

Well, that's not what you've said today, is it?---Well, I, I can't be specific on the dates. It's something I just can't be - - -

I'm sorry, I'm now completely confused. You attended here previously and gave a rendition of a conversation with some clarity about what was said? ---Yes.

40

Let's call it version 1, shall we?---Let's call it version 1.

You attend today and give a different account of that conversation, let's call it version 2?---Well, version 1, did I specify a date that conversation was had with Mr Romano?

It's quite clear that it was following the first conversation and prior to the commencement of the surveillance?---Well, if that was the case - - -

Well, it's your evidence, just to interrupt?---I do understand that but I wasn't party to the documents I saw today. Now, you're refreshing me here but that, if that was the case and there was a, and he was in fact working with her that would have been in my initial brief to Control Investigations, that, just be a little bit careful because the wife is working in the same area as the suspect and that, that's not in my initial brief.

No?---So at that stage I couldn't have been aware of it otherwise it would have been in the brief.

10

So do you now say that the evidence you gave last time was not correct? ---Well, without supporting documents, that's correct, yes.

And do you now say that the evidence today is correct?---I say the evidence I gave today is correct.

And do you now say that, well, when do you say you knew that Mrs Romano and Mr XXXX worked for the same company?---I believe it was towards the end or if not after the end of the investigation. That's, because if I said, if it was the initial part of the investigation it would have been in the brief to Control and that's the best that I can recall.

20

We might need to return to that and perhaps, I understand my friend's got some questions which might take a while so we can - - -

ASSISTANT COMMISSIONER: Yes.

MS RONALDS: Unless, Commissioner, you have anything you want to - - -

30

ASSISTANT COMMISSIONER: Well, I would just, I, as far as I can see, Mr Mailey, the only direction any of your operatives were given about what they were to video or photograph was Mr XXXX associating with any females and I think some of the later reports referred to the fact no, he hasn't been seen with a female. I mean, it seems to me that was the sole focus of this investigation. There's nothing in any of the instructions given about try to photograph him damaging a house or going up to the Council or meeting with Councillors. Now, you're here under oath, what did you understand you were trying to find out about Mr XXXX?---As I said before, Miss Commissioner, the situation was that I had to do the whole risk profile, that's what I was doing, was a risk profile.

40

What did you mean when you said get a video or photos of him associating with any females?---Well, because we weren't sure, as I said to you before, the risk factor was the whole family was affected, in my opinion, be it male or female or children.

ASSISTANT COMMISSIONER: Well, it didn't say that it said females?

---Well, you know, the - - -

It didn't say children or men it said associating with females, that's pretty simple isn't it?---That would've also been spoken verbally as well to Mr Travini in the instructions. Just the whole thing was at risk.

10 So you chose to put in writing associated with females but you verbally told him about the children?---Well, the conversation with Mr Romano I was more concerned about the (not transcribable) the threat usually the General Manager (not transcribable) not so much the children but it's usually the wife or the General Manager.

So it is your serious evidence that associating with any females you meant get evidence of him harassing or threatening some female?---(not transcribable).

20 Yes. You also said in your previous evidence as well as saying he, XXXX had a vendetta against the family, this is what Mr Romano's telling you, you said he also told you that XXXX was connected to Councillors. Do you recall saying that in your previous evidence?---Yes, I do. I don't recall the context of it but it was, that was what I think Mr Romano said that he could be connected to Councillors or words to that effect.

That Mr XXXX could be connected to Councillors and that was another reason that you should surveil him?---It was a broad, it was a broad brief, yes.

30 So you do recall that now that he said Mr XXXX might be connected somehow to Councillors?---Well, yes.

Yes, all right. Yes, Mr Blake.

MR BLAKE: Mr Mailey, you gave some evidence earlier on that you were, I think, the principal of a firm called Webster's and there was an amalgamation or merger with IPP. When did that occur?---Approximately five to six years ago.

40 right. And when that occurred you then worked, IPP's office was in Pitt Street. Is that correct?---That's correct, yes.

And what was your, from the time the merger or amalgamation took place what was your particular role within IPP?---Just an external, a risk consultant.

Right. You're not an employee but a consultant providing services?---No, employee/consultant.

Employee/consultant. And in the risk area how many other staff were there?---There was, the overall risk and IT section which is a combination of section there was four, five six, seven, nine, ten including John Curtis.

Right. And did that same situation apply up to and including 2008 roughly the same number?---Yes.

And one of your colleagues I think you mentioned was Mr Reilly. Is that correct?---(NO AUDIBLE REPLY)

10

And what was his position in IPP?---Same as mine.

Same as yours. And were there any other consultants occupying a similar position to you and Mr Reilly 2007/2008?---No, there was, there was only the two of us.

The two of you. And who worked, well, there was an assistant called Yasmin Malouf. Is that correct?---That's correct, yeah.

20

What, she worked for you and Mr Reilly. Is that correct?---And the rest of the office (not transcribable).

And the rest of the office. So she had multiple duties including helping you and Mr Reilly. And you also mentioned an accounts section or an accounts department?---That's right.

What, that was separate again from, Ms Malouf she didn't attend to that? ---Yeah, she did, she worked, she worked together with Sandra Shepherd and the two of them worked together on accounts and compiling the reports.

30

And that's just at the time, from the time of the amalgamation up to 2007 and 2008. Is that correct?---Yes.

Thank you. Now, I think you also mentioned that your connection with Mr Romano started when you were still working for Webster's. That's correct?---Well, I'd have to check that but I think it is, yes.

To the best of your recollection?---Best of my recollection.

40

And I take it that IPP in 2005 through to 2008 has a number of Government and business clients. Is that correct?---The majority is Government.

Government. And what sort of Government organisations do you provide services for?---State and Federal and Local.

Local, yes. And you said that there's standard business practice in preparing invoices that a (not transcribable) description of the services provided would be put on that invoice. Do you recall that evidence?---Yes.

And I take it that that practice applies to your work with Government at Federal, State and Local Government?---Yes.

And there's been no variation to that practice from the time of Webster's through to IPP. Is that correct?---It, it depends on the investigation and severity of the investigation, if it's covert undercover with suspects then, then that's the way it is, if it's other than that it's like (not transcribable) of invoices, it's declared, okay.

10

And I suggest that in the time that you were involved in Webster's and you were doing some work for the Council you told Mr Romano that that was at least for that sort of surveillance the standard practice that your client?---I suggested, no, I suggested as I do to all new clients how do you want, how do you want this billed and how do you want to do it? Well, and the client then advises we don't want the people in the, in the company to know because the accounts department there could be a conflict of interest so I then give them a variation of what we can do on the account but stress the fact that the disbursements invoices, the one that will, will override the invoice one because of its accuracy.

20

But you told him that with your other clients where you were doing that sort of surveillance that was the practice that you followed in rendering invoices didn't you?---Correct.

Yes. And I suggest that you recommended to him for that sort of surveillance that that would be an appropriate thing to do as well. Do you agree with that?---Correct. I'd have to agree with that.

30 Thank you. You also mentioned that in your experience that a number of Councils (not transcribable) surveillance for General Manager and Councillors. Is that correct?---When, when, when there is a risk, an associated risk, yes.

Commissioner, I would like to ask Mr Mailey about the extent of that practice but I'm concerned that that sort of evidence if made public might compromise the security of particular Councils and people.

40 ASSISTANT COMMISSIONER: Are you talking about surveillance cameras not having people surveilled.

MR BLAKE: Well, I want to ask a number of aspects of his experience.

ASSISTANT COMMISSIONER: Well, I think if, you want him to name the Councils?

MR BLAKE: Well, I, I intend to ask him that to give a global, if it's not going to be terribly helpful (not transcribable).

ASSISTANT COMMISSIONER: Well, if you think it will cause problems he can name them and I'll suppress the names of the Councils that he mentions not for publication under - I presume it's not a problem to mention them here is it?

MR BLAKE: I wouldn't have thought so but I just wouldn't want any publication to compromise the safety of any person through its disclosure.

10 ASSISTANT COMMISSIONER: Well, I must say with this wonderful world of all these Councils being under dire threat is news to me but I am happy for the evidence to be given, he can mention the names of Councils and the names of the Council can't be published. Does that suit your purposes?

MR BLAKE: Well, I'm just seeking to be prudential, Commissioner. I personally have no particular interest but I would not have any evidence led through me to jeopardise the safety of any person so yes, I would appreciate that.

20

ASSISTANT COMMISSIONER: Well, Mr Mailey seems like a very discreet person, I'm sure that if he thought something was going to cause problems he'd raise it.

MR BLAKE: Mr Mailey, I'd like to ask you firstly about security systems provided for senior officers of Councils or Councillors and perhaps just limiting that to 2005 through to 2007 for the time being. To your knowledge how many Councils in New South Wales have provided some sort of security system for Councillors firstly?---The two most recent ones there's City of Botany Bay and Baulkham Hills Shire Council.

30

Yes, and are you able to say when those security systems were installed, approximately?---Approximately, well, both, both within the last two years.

Last two years, yes. And were you involved in those personally or - - -?---I was.

Yes. And in terms of, are there any other councils that you're aware of where security systems have been provided for councillors?---Not within the last two years, no.

40

All right, but in a longer period of time?---Yes.

Go back five or six years?---Mmm, I'd have to, I'd have to look at that, look that up for you, that one.

You'd have to look it up but are you able to say as best you can which councils they are?---As best I can, yes, yes.

Which councils are they?---Well, I'd have to look it up.

You'd have to look it up, all right. Are you able to say the number approximately?---It's only about another three.

Another three, yes?---Well, within that period of time it went to full cameras to protect the general manager and the mayor. The others put in extensive camera systems to protect the staff and the general manager and the mayor.

10

Yes, and when you were referring to Botany Council and Baulkham Hills, are you thinking a security system just for councillors or also senior staff of the Council?---Because IPP is mainly a high risk IT security firm that specialises in cameras and with the main client being the Department of Corrective Services and also Burwood Council in relation to the installation of their street safe cameras. IPP is recognised by local bodies and that to, to do secure installation systems or, sorry - - -

20 ASSISTANT COMMISSIONER: I don't think you're answering the question, Mr Mailey, which, as I understand it, was simply did it include security for senior officers?---Yes.

Yes.

MR BLAKE: Including the general manager?---Yes.

30 ASSISTANT COMMISSIONER: Well, is this on your recommendation or on IPPs recommendation?---It would be on IPPs recommendation and it would not only be me. There'd be other consultants in the firm.

30

MR BLAKE: Are you able to tell the Commissioner the circumstances that led to the installation of security systems?---Yes. Straightforward threats.

Threats to officers of Council, is that correct?---Correct.

Thank you.

40 ASSISTANT COMMISSIONER: Phone threats?---Well, variety of types of threats, yes.

40

Well, how many varieties can there be? I mean, what are they?---Well, car tyres slashed, front fences graffitied, obscene phone calls, it just goes on.

So you perceive graffiti on a fence as a threat?---Well, depends what's written on the, the graffiti.

I suppose that's true. All right. Go on.

MR BLAKE: And you mentioned you had a number of dealings with Council. I think you mentioned you'd been involved with illegal posters from time to time, is that correct? This is at Burwood Council I'm talking about?---Yes, yes.

Are you're involved with surveillance for, and I think you did mention this as well, unauthorised use of premises, particular brothels. Any surveillance where there were licensed premises and concern about conditions of the licence being breached?---No, that's not a, it's not a Council issue. That's a,
10 it's a licensing police issue.

Okay, so not with Burwood Council. Well, the types of work for Burwood Council you've done were the brothels and the illegal posters. Any graffiti work?---Yes, yes.

There would've been work of that sort?---Parking infringements.

Yes?---It's just (not transcribable) the work that we do do for councils which is, because the rangers had limited scope and limited surveillance
20 equipment and also limited intelligence so, I mean, as intelligence gathering, so that the, there are wide varieties of services that we offer the Council from electronic installations to investigations to, yes.

And did you deal with a number of Council officers, apart from Mr Romano
- - -?---Yes.

- - - (not transcribable) undertaken this work?---Yes.

I think an invoice has Mr Jenna on one of them. He was the law
30 enforcement officer?---Jenna, correct, yes.

Yes, and you dealt with him?---Yes.

And Mr Benton, you dealt with him ?---Yes.

And received instructions and reported to a number of officers from Burwood Council?---Yes, yes.

Do you agree that you had, sorry, I withdraw that. Your practice, I think in
40 regard to, (not transcribable) of your practice in accepting instructions was often through a phone call initially?---That's correct.

And I think you mentioned you're on the road reasonably regularly. Was it your practice to make any record of that phone call?---No, it was whatever's on the front seat of the car at the time. I didn't carry a diary with me. My diary was in the office.

All right. And when you got back to the office, did you record the instructions you'd received it had been through a phone call?---No, because then I would've rung the office because (not transcribable) expedite instructions so I would've rung that through to Yasmine or to Andrew O'Reilly.

10 So the practice was where there was instructions received by a telephone call was that you'd call through to the office and Yasmine or Mr O'Reilly would deal with it in some way. Was there a practice, to your knowledge, of Mr O'Reilly or Yasmine opening a file or recording instructions?
---Yasmine opened all the files and recorded instructions.

And when you received your instructions from Mr Romano, was a file opened?---A file would've been opened, yes.

All right. And does that have a cover on it and a record of the instructions received?---Yes, it has a record of instructions received and it's got a job number on it.

20 All right. Do you know whether that file or instruction has been given to the Commission here?---It has been given to the Commission.

It has been given to the Commission, all right?---Yep.

And where you attended a meeting, did you make a record of what was discussed in the meeting?---Yes, I did.

And was that also included in the file?---No.

30 It wasn't?---No.

Where was the record of the meeting kept?---The record of the meeting, the record of the meeting was always kept in, in that, in that particular book and notes were just made here and rung through to the office and once the, once the actual action started I'd go and check the information off my diary and when these pages particular, were full or I don't enough (not transcribable) and the matter had either finished or still proceeding, I didn't need those any more and they were just destroyed because they're not my (not transcribable) notes, they're just notes taken, you know, at a meeting to, to
40 relay on.

Do you still have any notes of any meeting with Mr Romano in 2007 or have they been thrown out according to the practice you've just described?
---Well, the notes would've been in, the way I've described it, yes.

I beg your pardon?---Yes, it would've been the way I described it.

All right. They've been discarded and no longer exist?---Yes, because it was entered into our database and it was no longer needed.

And so there's also a database at IPP as well as a file being opened?---Well
- - -

There's material and a database, and do you know if the contents of the database have been given to the Commission?---The Commission has all that we have on our files.

10

And I think you said that you were interviewed by some officers of ICAC? ---That's correct.

Yes. When did that interview take place?---It was some time, a couple of months ago now, I think. I don't have the, the record of that time they attended the offices not with me. I don't have my diary with me so I can't be specific.

20

Late 2009, would that be accurate?---I think it was this year, I'm not sure.

This year, all right. And would you agree with me that it was only when you were approached by officers of ICAC was the first time you'd really had to try and recall the conversations and meetings you've had with Mr Romano back in the last quarter or so of 2007?---Yes.

And in giving your evidence today you've been relying on memory so far as conversations with Mr Romano, haven't you?---Yes.

30

And would you agree with me you found it difficult to try and recall exactly what was said three years ago?---Yes, I'd have to agree.

And you can't be absolutely certain that what you've said today is accurate, can you? Doing the best you can you've tried to reconstruct it?---That's correct.

Thank you. Just pardon me. It was Mr Romano who approached you for advice about the threats, wasn't it, he approached you?---Yes.

40

Via telephone?---Via telephone.

And Mr Romano places it in early September. Would that accord with your recollection?---It would be prior to the surveillance, yes.

I beg your pardon?---It would be prior to the surveillance, yes.

And early September would that be approximately right to your recollection?---Approximately right.

Yes. And I suggest that in that first phone call he told you about some egging on the front windows?---That's correct.

He told you about a letter from an unidentified person in the mail?---Yes, he had mentioned that, yes.

Yes?---You're refreshing me now, yes, he did.

10 He mentioned about some phone calls from unidentified persons?---Yes.

And he said he was concerned for the safety of his family?---Yes.

And I suggest that you discussed with him had he called the police, you raised that with him?---I did.

And he said he hadn't and you suggested he should ring them?---Correct.

20 And you went on to say that it's unlikely he'd get much of a response from the police, they'll probably just ask you to file a police report but they won't do anything about unless there was some particular risk at the time. I think you said words to that effect?---Yes.

And Mr Romano said, well, look, I'll ring them anyway. Do you recall him saying that?---Yes.

30 And he said he'd get back to you and I suggest that a bit later there was another call and there was a, there was a discussion about the police having been contacted and that it hadn't really gone anywhere. Do you recall that? ---I do recall that, yes.

Yes. And he sought your advice as to what he could do. Do you agree with that?---I agree with that.

And you told him that you'd had clients with similar experiences. Do you recall that?---I do.

Right. You mentioned in particular someone at that time who worked for Macquarie Bank - - -?---Yes.

40 - - - who had a similar problem?---Yes.

And one of their senior managers was being stalked?---(NO AUDIBLE REPLY)

You're nodding your head, yes?---That's correct, yes.

Yes. And what you told him was at that bank you were monitoring phone calls and other things that you couldn't tell him about?---Correct.

And you told him that you were able to deal with the stalker in relation to the bank, you'd been able to deal with it?---That's correct.

And if he wanted to this harassment that he talked about could be approached in the same way. Do you recall that?---Correct, yes.

And Mr Romano asked you what it would involve?---(NO AUDIBLE REPLY)

10

Did he ask you that?---Yes, he did.

And you told him you'd need to get all the phone numbers, fax numbers, email addresses so that you could run some searches and monitor phone calls. That's correct?---That's correct.

And he asked you who might be doing the job. Do you recall him saying that?---Doing what?

20

Doing the job if he gave you the phone numbers et cetera?---Well, I don't recall that but we'd be doing it.

Right. And I suggest to you that you said to him that there could be a number of people involved but the first step would be to give, for him to give you a list of people who he thought might be responsible for the harassment?---That's correct, yes.

30

That's correct. And Mr Romano gave you a series of contact details, telephone numbers, mobile numbers, faxes of himself and his wife and his children and I take it they would have all been recorded by you in some place?---They, they were recorded somewhere, yes.

Yes. And you, that conversation ended with Mr Romano saying he'd put together a list and get back to you?---Correct.

Yes. And you agree shortly thereafter there was a further call with Mr Romano and he gave you a list of names?---I can't recall whether he gave me the list or, or emailed it through to me, I don't recall.

40

You certainly, certainly recall a communication with a number of names. Is that right?---Yes.

And I think you told counsel assisting you couldn't recall the names apart from Mr XXXX. Is that correct?---That's correct, yes.

I take it the names would have been recorded in IPP's records somewhere? ---No, because that didn't, it didn't move that far ahead, he was convinced it was just XXXX.

But he went to the trouble of giving you some names, you agree with that?
---Yes.

And you would have recorded those names, wouldn't you?---Well, we just kept a record of it during the investigation period - - -

Yeah. Okay, so - - -?--- - - - but none of the numbers came up so we weren't concerned.

10

Okay. So you did take a record of the names at the time?---(NO AUDIBLE REPLY)

Right. And would you agree there could have been five names?---I, I can't recall. I did say there'd be, it'd be about three but I can't recall it's three or five.

Okay. You wouldn't disagree with five though, would you?---Well, I wouldn't disagree, it's not a big number, no.

20

All right. And if I told you the names now would that assist you or do you just have no idea who, who they would be?---To be truthful I'd - - -

You'd have no idea?---I'd have no idea, no.

Thank you. And I'd suggest that shortly after that round, about mid-September, after he'd given you the names, whether by email or phone, you had a conversation with him or in the same conversation perhaps, and you asked him who, who are these people and why do you think they might be persons of interest, did you ask a question like that?---I would, I would ask that question, yes.

30

Yes, that would be standard practice?---Thank you.

Yes. And he said the, the other people, apart from John XXXX, he'd had business dealings with and they people he'd had confrontations with or people who might dislike him for some reason connected with being general manager?---I recall that, yes.

40

And he said that John XXXX was unknown to him but he'd retrieved the name from his wife's phone?---I don't recall that.

You don't recall that?---No.

And he told you that the name appeared in his wife's phone on a date around the same time that she had received a call from an unidentified caller. Do you recall that?---No, I don't recall that.

You don't recall that. A few days later, I'm suggesting in the week commencing Monday, 17 September, I'm suggesting that you and Mr Romano had a further conversation about this matter, in fact you spoke regularly with Mr Romano about a whole range of matters, didn't you?---I did, that's correct.

And from time to time you would speak on the telephone, yes?---Yes.

And time to time had meetings?---Correct.

10

And the nature of the relationship was just not purely professional, you discussed things of a personal nature like family matters and sporting interests and the like?---No.

You disagree with that?---I disagree with it.

You had coffee with him from time to time in meetings (not transcribable)?
---I did, yes.

20

Yes. And I'm suggesting in that week, a telephone conversation that Mr Romano asked you whether you had any information for him and you told him you hadn't been able to come up with anything at that stage. Do you agree with that?

30

And in the same week, week in the middle of September commencing Monday, the 17 I'm suggesting you had a further conversation in which you said you checked the numbers and the names and you'd been unable to determine whether any of the people referred to are the people stalking or harassing you (not transcribable)?---No, because there wouldn't be enough profile and a number to make that statement, you're just getting a name you're not going to run them through and the cost there would be to do that many names and numbers if you did, if we did in fact do that would've been about three and a half to five thousand dollars to do that particular work. The recording of the numbers was only specifically mentioned should he get anymore threats on any of those numbers of faxes.

Well, I'm suggesting - you disagree that he said that to you?---Mmm. Yeah.

40

Yes. Well, I'm suggesting to you at that point in about mid-September Mr Romano asked where to from that point then. And you suggested to him he could start some surveillance. Do you agree with that?---I agree with that.

And he asked you what it involved. Do you agree with that?---I agree with that.

And you told him you'd have to engage people to follow-up one or more people on the list he'd given you and these people doing surveillance would monitor activities and try to marry up what they observed with the sort of

incidents of harassment that Mr Romano had experience or might experience in the future. You told him that?---Yes.

And he asked you if you were successful would that be enough to take to the police?---No, that wouldn't, that conversation would've taken place because that information we would've obtained would not be enough information to take to the police in the first instance.

10 Well, I suggest to you that you told him that if your surveillance married up with instances of harassment you said that would be enough then to go to the police?---I'm sorry, yes. The information on the list would not be enough but surveillance would be, yes.

Yes. If you were able to draw some connection that you told him that would be enough to go to the police with?---Yes.

And Mr Romano told you then to go ahead with the surveillance?---That's correct.

20 And you told him you couldn't get onto the job straightaway and your people were all committed on another job. Remember saying that to him? ---I don't recall that, no.

Well, and you told him that your people probably couldn't start for another couple of weeks?---No, that's not the case.

It's not the case. You disagree with that?---Yes.

30 Okay. All right. A few days later I suggest that there was a further call, telephone call between you and Mr Romano in which he told you he'd had another incident at his home. He told you that they switched off the power on his main switchboard. Do you recall him saying that?---No, I don't.

It's something you could've said. Would you agree with that?---He was, he was under a lot of stress at the time and maybe he may have said that but I don't recall it.

You don't recall it?---No. There was a lot of telephone calls.

40 A lot of telephone calls?---Yeah.

And he asked you could the surveillance be started, got underway quickly. Do you recall him asking you that?---No, I don't.

You don't recall. And would you agree that there's a reference in Mr Romano's electronic diary at his work of a meeting with you on the 26 September? I take it you can't recall that now?---No.

No. But you did meet with him from time to time during that period?---Yes, it was probably once or twice a month over matters, yes.

Yes. And I suggest that at that meeting he told you of his concern of another incident at his home. Do you recall that?---No, I don't but if you mention the specific incident I might recall that.

10 All right. Well, he told you that he was really concerned about the safety of his family. He said that on a number of occasions?---A number of occasions, yes.

Yes. And you told him that you couldn't get underway just at that moment but you would see if you could get the surveillance going as quickly as possible?---I can't recall that, no.

And you suggested to him that you could have a look at his home security system and see if it needs an upgrade. Do you recall raising that with him? ---I do recall that, yes.

20 Yes. And about that time there was also a discussion about security guards at Mr Romano's home between you and him and Mr Romano said, No, that was overkill, he didn't want anything like that at that stage. Do you recall that?---No, no, we don't recommend guards at any time.

You don't recall the discussion about security guards?---I don't, no.

30 Thank you?---I think if anything it might have been in the reverse that Mr Romano asked me in light of the security situation do you think I need security guards would, would have been the way it would have come.

So that, do you think there might have been a discussion about security guards but you're not sure?---Yes, but I would not have recommended it, no.

There's another entry in Mr Romano's electronic diary for Friday, 19 October, he records a meeting with you. Do you accept a meeting took place on that day?---There could have been.

40 Yes. And you told him that you'd started the surveillance work?---I couldn't recall that, it could be by telephone or whatever, what time was that meeting?

Just pardon me?---Because we'd regularly meet - - -

It was a meeting with you at 9.00am on Friday, 19 October?---I couldn't recall that.

Well, I suggest to you on that day you told him you'd started the surveillance work?---Well, I, I couldn't remember that, no.

You can't recall that?---No, I can't recall.

And he asked you why you had actually started without telling?---No, that's not the case.

10 And you told him that you thought he was in a rush to get underway. Do you recall saying that?---No.

And he said to you, yes, but he was expecting some more information as to how you were going to do it and how much the cost would be?---No.

He said that, didn't he?---No.

And you said there'd already been a discussion about the cost?---That, that would be correct.

20 All right. And you told him that there'd need to be two people for surveillance and you also told him you couldn't really say how long the surveillance would take in order to find something or not?---No, there wouldn't two persons at that stage, we only have, surveillance is not the company's forte so we only had one subcontracting guy, person at that time so we'd only supply one.

30 So one person but you certainly told him you couldn't really tell him how long it would take?---No, no, I would have, I said, the words I would have used that I do with other clients is that we need to do a couple of days' assessments and see what goes on and then we might have an indication of how much time based on the evidence we obtain.

And that's a reconstruction based on your practices?---That's correct, yes.

I've got substantially more, Commissioner, I can go on for a few more minutes or just, you know, it's 4 o'clock now, according to me.

40 ASSISTANT COMMISSIONER: Yes. Well, that's an appropriate time. We will adjourn until 10 o'clock tomorrow morning.

AT 3.59pm THE MATTER WAS ADJOURNED ACCORDINGLY[3.59pm]