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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 25 MAY, 2010

AT 2.05PM

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

MS RONALDS: Mr Azer, during the luncheon adjournment you had an opportunity to look again through your notebooks, your sort of diarised notebooks. Is that correct?---Yes.

And you identified some notes in relation to Mr Issa and his work?---Yes.

And including on 22 July, 2009 you spoke to Fred Thinesh et cetera. If I could show you this document. And they record down the bottom the conversation you had?---Yes.

10

And then over the page there's a note from 23 April, 2009, slightly out of sequence?---23 July.

Sorry?---July.

That's July is it?---Yes.

Beg your pardon. And that's a meeting where it's noted on the fifth star with some little lines next to it that Macklin now decided to manage the Ammer Issa without going back to ICAC due to time constraints?---Yes.

20

"I was", what's the next word?---Outvoted.

"I was outvoted due to the fact that we do not know what Ammer is restricted" - - -?---Protected. And put in brackets Darren Gardner. Right. Is that what Mr Gardner said?---Yes.

Okay. "And then Dencker, Hullick, Walker" is it?---Yep.

30 Is MW Matthew Walker?---That's right.

"Supported Macklin and Darren's case"?---Yep.

What does that mean?---That basically we don't know that he's protected, there were three that were protected (not transcribable) and he was not one of them and if we need to progress the matter it was a requirement that maybe I was suggesting a requirement that maybe not required.

40 So it was not known that Mr Issa had made a protected disclosure to this Commission. Is that what, have I misunderstood it?---Well, to my recollection is what I've written down is that he's not protected outside, that's what it is.

And so this was a meeting you were at?---That's right. Actually this - - -

This is the one - - -?---This is the one that I discussed and that, this discussion happened after Mr Romano and his solicitor and also Mr Baird was on his way out so it was discussed in this context.

Without them being there. But it does say at the end, "David Baird also had the same position before he left"?---Yeah, we've spoken to him briefly before he left and he left us with this conclusion as well.

Okay. So Romano and Gorry were there and then they left?---I'm not too sure who it was to be honest.

10 A large chap?---I can't recall. I define as that solicitor so - - -

So that meeting then addressed Mr Issa so there was a broader view about Mr Issa?---That's right.

That is that matters could proceed in relation to him?---That's right.

So is there anything else in this note on that page?---No.

20 And then over the page on 23 July see Macklin and you had a discussion about Ammer Issa's workers comp. Is that right?---That's right, yep.

So workers compensation and then there's a note about Fred couldn't use Ammer et cetera and that's the matters you were giving evidence about before?---That's right.

So that records the conversation you had?---That's right.

And then on the 24<sup>th</sup>, is that 24 August?---No, of, of July, the next day.

30 That's July again, is it? Sorry, that's a seven, is it?---Yeah.

Down the bottom of the page?---That's right.

Ammer workers compensation?---In the morning, AM, yeah.

And that's in the morning, that's not someone called - - -?---Yeah.

40 And then Fred informed me John, Peter, that he received a call from Ammer last night asking him why he said that he had no more work for him et cetera and that's your recollection of what was happening?---Yeah, that's, yeah, that's what Fred told me.

And then Fred told you Ammer was clearly upset and said that Council is throwing s-.-.-. at him?---Yeah.

And then is that report or - - -?---Referred, referred to HR.

Referred to HR. And they were the only notes that you could find in relation to Mr Issa. Is that correct, in the time you had available?---Yes, yes.

If I could tender that.

ASSISTANT COMMISSIONER: Yes. Those diary notes from 22 July to 24 July will be Exhibit 260.

10

**#EXHIBIT 260 - MR AZER'S DIARY NOTES DATED 22-24 JULY 2009**

MS RONALDS: If I could just take you back to the disclosure by Mr Saad and I just want to refer you to some evidence that Mr Macklin has given this Commission. Commissioner, this is Exhibit 252, page 78. He's giving evidence about having the first initial conversation with you about the Saad disclosure and he says at line 10, I got the feeling that the director, meaning  
20 you, as I understand his evidence, certainly didn't want to be involved and that John Dardano didn't see it as his role and I, Mr Macklin that is, thought, well, someone's got to talk to this employee and try and find out what he's saying. And then he was asked Mr McKenzie, what gave you the impression that the director certainly didn't want to be involved? He said, of you, he appeared very nervous about the whole thing. He didn't really want to know too much about it. He backed away from it I suppose and then he said, I got the feeling that he didn't want to get involved in this, he didn't want to be part of it. Now, is that a correct reflection of your position?---No, it is, is, is partly correctly, partly incorrect. That reflects my  
30 views after they declared a conflict of interest and I said I can't be in charge of that any more. Initially I was actually very much into it and I started brainstorming with them what are the consequences and it just happened the first scenario I came up with was in effect triggered some, I guess, constructive criticism of, of my views being too lenient on the issue and I thought if he can proceed that, because it's my area and I'm trying to make it, basically make it look better than what it is, I thought then anybody from the outside would easily come to the same conclusion so if, you're either in charge of the issue and you keep going with it or you don't and I certainly recall sort of saying well, if I'm not dealing with it that's it and he said  
40 okay, I'll take it to, to Cummins and I said, you know, you've got my support, that's fine but then I also directed Mr Macklin and Mr Dardano that they should not disclose it to anybody that doesn't need to know about it, in particular Mr Romano.

Well, what Mr Macklin seems to be suggesting is that you were nervous about it and that's why you didn't want to be involved?---We were, we, we were, I guess when it first came up Mr Dardano was the most nervous about it and, and then in trying to calm things down I came up with a milder

scenario and then Mr Macklin basically was very much critical about me taking that sort of very light views for a start and then I said well, if, if I'm not going to be part of it I'm not going to be part of it and I was obviously a bit agitated about it.

I have (not transcribable).

ASSISTANT COMMISSIONER: Yes, thank you. Does anyone seek to cross-examine Mr Azer? Yes, Mr Chalmers.

10

MR CHALMERS: Now I'm acting for, I'm acting for Ammer Issa?---Yes.

Okay. All right. Now in relation to the work that Mr Issa was doing between 2008 and February, 2009, you're aware that he was working at the depot. Is that right?---Sorry, which dates again?

Between late 2008, perhaps September, October, 2008 and February, 2009, when he was transferred to the chambers?---Yes.

20

You're aware that he was working at the depot?---That's right.

That's right. And you're aware that he was essentially the expert in relation to concreting for the Council? Were you aware of that?---It was his use of himself, fine.

Okay. Well do you dispute that?---I don't agree or disagree. That's - - -

30

All right. Well was there anyone else in charge of concreting at the Council at that time?---No, he was not in charge of concreting at the time. I think it was Mr Giangrasso was in charge of the concreting then. Mr Issa was on light duties.

Pardon?---Mr Issa was not, was on light duties at the time.

All right. But were you aware that at that time between late 2008 and February, 2009 he was on a supervising job of the concreting?---No, I was not aware of it.

40

So you were, you were a director, but that was in your purview what the work, what people were doing at the depot, that was within your ambit wasn't it?---Whatever comes under my area, this is what he's saying.

Yeah. And did you have knowledge of what specific people were doing at the depot?---I had some general ideas, yes.

But you didn't know that Mr Issa was supervising and in particular supervising concrete work?---Not in a formal sense. I know he was

involved in one day on Saturday, he attended on behalf of Mr Child and there was a lot of issues at the time.

10 All right. So you weren't specifically aware of what he was doing between late 2008 and February, 2009 when he was working at the depot?---No, no, I was aware. I've seen him, as I said, on, on a number of occasions working with Mr Child. And I've seen him earlier then that on the tools on Railway Parade stripping framework on the (not transcribable) of Railway Parade. So I, to put it this way, I don't have, don't follow him day to day, but that was my general view.

All right. And were you aware that while working at the depot because he could supervise other workers concreting roundabouts that saved the Council a lot of money? Were you aware of that?---Yes. It's debatable.

All right. Well, let's have that debate. As I understand it, to have a private contractor do a roundabout it costs about \$80,000?---That's right.

20 And then you had 10 to \$15,000 on top of that because they have to do the asphaltting work to the road surrounding the roundabout?---Possibly.

So that basically you're looking at about \$95,000 for private contractors to do concreting of a roundabout?---That's right.

Okay. Now I understand that Council worked out that if it's done in-house, that it costs something like \$45,000?---That's the direct cost, yes.

30 Mmm. Yes?---But it doesn't include the other overheads. I don't know if you're aware of our worker's comp premium at the time, which would go on top of that.

40 But you'd agree that even before you take those overheads that would be distributed over the whole workforce, your worker's comp premiums would be over all your employees, that there's a large difference per roundabout between \$45,000 and approximately \$100,000?---I agree and disagree. I agree if you spread it across, you're probably ahead. However, if you go into more analysis and you attribute the cost of your worker's compensation claims, the, where it came from, the majority of it came from the civil area, then this may not be the case.

All right. But can I suggest, I'm asking you really no matter how many worker's compensation claims you have, the premium was about the same wasn't it (not transcribable)?---(not transcribable)

Yeah. No matter how many worker's compensation claims you had the worker's compensation insurance premium would be about the same?---I'm afraid you're incorrect.

All right. Now, in relation to February, in relation, do you say that you saw my client doing physical work?---Yes I have.

Yes. Can I suggest to you that he was doing supervising work and at no time was he doing physical work?---Well, I don't believe that. I can only believe my eyes.

10 And so when you saw, when you saw that activity that you claim, did you straightaway approach my client or Mr Child or the then acting manager of the depot at that time to say what you'd seen?---Yes I have. I have - - -

At the time that you say (not transcribable) - - - -?---At or about the time.

MR TAYLOR: He started to answer the question.

20 ASSISTANT COMMISSIONER: Yes, yes. What do you say?---At about that time I did approach Mr Child in the presence of Sarah Langshaw from HR and I told her what I had seen and I explained to her that I've got concerns over it and explained that to Mr Child as well.

MR CHALMERS: Okay. Now, was there any, was there any documents made of your meeting with Ms Langshaw in relation to this?---I don't recall making a minute of it but it was brought to the attention of HR at the time and Mr Child.

And you say that you approached Mr Child. Are you sure about that?---I'm sure I've seen Mr Child and Ms Langshaw outside Ms Langshaw's cubicle.

30 And did you make a note of that?---No, I have not.

Did you write any confirming letter to either Mr Child or my client advising them of what you'd seen (not transcribable)?---No, I, no, I brought it to HR's attention because at the time they were dealing with a, a workers compensation claim from your client on top of his back injury for a knee injury and therefore that's why I was, I made a note that HR were aware of what I'd seen.

40 And did you put anything in writing for HR or were you asked by HR to put anything in writing in relation to what you'd - - -?---No, I don't recall putting anything in writing.

And did you check that my client was told about what you allege you saw? ---I have directed Mr Child to ensure that this does not happen again in, in the sternest possible way and I told him you would be responsible for, for the (not transcribable) if, if further injury occurs to him and made it clear that he's aware of the seriousness of this act.

Now, in, so you, did you do any follow up to see whether anything was put in writing to my client and that my client had been advised of what you say you saw that day?---I have driven past that area again and ensured that he was not doing that task again, yes.

10 But the question was, did you check whether he had been notified by anyone of what you say you saw?---No, I'm not aware of, I'm not sure if you're aware of the hierarchy. There's so many people between me and your clients and it was a one-off incident. I have noticed myself and I brought it to HRs attention so I would not normally be in that position.

And you say you drove past after that and you noted, you noted that my client was not doing physical work?---That's correct.

So did that, did that make you feel confident that my client would not be doing physical work from that time?---No, but it gave me the confidence that at least initially there's been some, something that was acted, was done about it.

20 And when do you say that was that you saw my client doing physical work?---It would be, if you go back through construction records it would be around July/August but I need to go to when the median was, was, was formed up and constructed.

So we're talking about 2008?---2008, yes.

And now, the, the decision to move my client from the depot was made in February, 2009, is that right?---At around that time.

30 Now, in relation to, so in February, 2009, some, do you agree that some months had passed since you say you saw my client doing physical work?  
---Yes.

And nothing had been done to remove him in that time from, from, from the depot?---Yeah. There was, I was not following it 100 per cent. I don't know if there's, HR have done something that I'm not aware of but definitely that he was still at the depot at the time.

40 That's right, and nothing had been done up to February, 2009 in relation to removing him?---Just enough work to keep him off the jobs that I could see him working on.

And you, you hadn't seen anything since that first occasion to suggest that he - - -?---Personally I have not.

- - - has been fit for work? No? And you were keeping an eye on him?  
---Yes.

So why make the decision in February, 2009 to move him?---I'm trying to recall. I think it might have to do with the, with the claim for the knee being assessed at the time and it was also, there was partly also a management issue from the depot where Mr Child was fairly hostile about things and we felt that it may not be appropriate for him to have Mr Issa taking him along all the time. There has been some views by management that it, it did not appear professional and that was taken into account.

10 Who did that come from in management?---From memory it was Mr Dardano.

Did Mr Romano have any view or did you hear any view in relation to what you've just put forward?---Mr Romano might have had some views on it.

Okay. What were his views?---I remember him supporting the idea of him moving to the office.

20 Now, in Exhibit 248, the last page of that exhibit there's some, there's a second page of directors meeting, meeting minutes from a meeting of 16 February, 2009. I think you've been addressing some answers in relation to that meeting of 16 February, 2009. Do you recall it?---I would like to be refreshed if - - -

Well, perhaps if the witness could be shown Exhibit 2148 and it's the minutes from the last two pages of that exhibit. Now, would you agree that you were there if you have a look at attendees at the top?---Yes.

30 If you turn to the second page, you look at point 3.9 under Staff, you see it says there, "improve asset management MR". What does "improve asset management" mean?---We were looking at basically meeting our obligations under the, the (not transcribable) of local government at the time. It had a requirement that all drainage assets need to be accounted for by 30 June.

40 So a decision was made to send Mr Issa to chambers to do that work, is that what this means?---That was discussed and dismissed and then what needed to happen for him is we discovered that we had a folder in the office where somebody has done all the, all the site work and it was just a matter of somebody laying it in the office from smaller plans into the bigger plans so it was all integrated into the asset platform.

Now, are you aware of the evidence given by Mr Cummins in relation to this meeting that we're referring to now?---No, I'm not.

At that meeting did Mr Romano put forward that a Ms Stephanie King should be, to be sent elsewhere away from the depot, do you recall that?---I remember something to, to that extent, yes.

And do you agree that that was suggested by Mr Romano?---A good possibility.

And do you recall Mr Romano when talking about moving Ms Stephanie King, saying words to the effect, divide and conquer?---It, he could have used that, that words.

Yes. And did that seem appropriate to you, those words divide and conquer?---I guess in depot talk it is used all the time.

10

What does it mean?---It means that there was a number, a cluster of people that had some personal gains to be made by resisting the depot reforms and it was in his opinion I guess a tool to bring back order and management's will down on the depot.

And did you agree with that point of view?---It's not a point of view that I would put up myself in this scenario but I could see where he was coming from.

20

Okay. So you were aware at this meeting on 16 February, 2009 that Mr Romano was moving members of the workforce from the depot so that he in his view could divide and conquer?---It is a possibility.

Yes. And that's the, and so it was very much the move by, the move of my client from the depot to the Council Chambers was very much motivated, sorry, was very much caused by Mr Romano's desire to divide and conquer? ---I cannot link it to your client in particular so I can't confirm or deny.

30

Okay. All right. So are you taking the approach of the New Zealand government?

MR BLAKE: Well, I object, it's a rhetoric question.

40

MR CHALMERS: All right. Now, in relation to, now in relation to that, can I suggest to you therefore that you knew on 16 February, 2009 that the reason that my client was being sent to the Chambers was not because he'd done any physical work on a worksite but because it was part of Mr Romano's policy of divide and conquer?---No, I disagree with that, there would have been a whole swag of reasons and the first reason was the number of complaints we've had from management of Mr Issa tagging along with Mr Child, they were both of them working together in tandem and it did not look like they were doing anything constructive the both of them together. It was a view that was also supported by Mr Dardano and it was also a view that was raised by Mr Einarson before Christmas before he left. So two independent works manager brought the same issue.

Right. Now, when it was, when it was suggested that my client be moved from the depot to the, to the Chambers did you make, did you say anything

in relation to that?---No, I thought if we have work that is not a risk to him being re-injured and it is in the organisations and in his, in your client's interest to do that I supported it.

And did you, did you say at the meeting look, that's a good idea because I saw him working on a site doing physical work and that would hurt our workers compensation?---I actually might have said that, yes.

10 Well, I thought you just said you didn't say anything at the meeting?---No, it was a long meeting, I'm sure I've said something.

Now, in relation to, my client then goes, Mr Issa then goes to the Chambers and he's working there till about July 2009, all right?---Yes.

Now, was there some, were you, was there some complaint made by Mr Romano to you that Mr Issa was spending too much time on the phones?---Yes.

20 And was that said once by Mr Romano or often?---Definitely more than once.

Okay. All right. And did you go and speak to Mr Issa about that?---No, I brought it to Mr Fred Thinesh's attention a number of times.

All right. But, now were you aware that, were you aware of the conditions under which my client was to work in relation to the light duties?---Yes, I had some understanding that he needed to stand, walk, sit for certain periods of time.

30 Correct. And that obviously when he, and he had to walk, does this accord with your memory, something like 10 minutes every hour?---I'm happy to accept that.

All right. And in relation to that he obviously couldn't take his computer with him when he went walking, could he?---No, he couldn't.

But he could take his mobile phone?---Yes.

40 And he did that on occasions, didn't he?---He always had his mobile phone. Yes?---Whenever I've seen him he was on the phone.

Yeah. And that was while he was walking?---While he was doing a lot of things, walking, standing.

Yeah, all right. And he, and you understood that that was just something he did while he did what he had to do which was to take his standing breaks and his walking breaks?---No, I understand he didn't have to do it, I did not

think it looked very professional, especially when you stand in front of the Council Chambers staring at the coming and the going and standing with your posture sort of bent one way because you're holding the phone, I thought that he was not doing himself any good.

10 Right. And in relation to it not looking good for Council, he wasn't in Council clothes, was he? He couldn't be identified as being a Council employee by anyone looking at him?---No, if you are walking there and you can see him coming and going fairly often, on the phone outside, like many of our Council employees who have done that in the past and we've told them not to do it, no, you can associate him with being, being a Council employee of course.

ASSISTANT COMMISSIONER: Mr Azer, that doesn't really make any sense. How would anybody know if he's just standing there on the phone that he was a Council worker?---He would normally have the, the access card to come in and out and he was coming in and out all the time. It was pretty excessive.

20 Well, people aren't going to be watching him going in and out. Say they're just walking in and he's there on the phone, would anybody care?---Ah - - -

I mean I find it incredible that Mr Romano and you seem to have taken a great interest in whether somebody at Mr Issa's level was, was on the phone or not. Didn't that strike you as strange that Mr Romano would take an interest in that?---Yeah, it, it, it was interesting but it is the same view I've taken with two other employees just prior to that and I personally spoke to them about it.

30 I'm not talking about you, I'm talking about the fact that Mr Romano took the time to contact you about Mr Issa's phone usage. Did that strike you as odd?---No, Mr Romano was very much hands on and you could not keep him off it and if he could see it he will make a comment about it.

All right. Yes, Mr Chalmers.

MR CHALMERS: Thank you.

40 Did it occur to you in this time period, and this was after February 2009, did it occur to you, you knew something about the allegations in relation to the driveway at that stage, did you not?---No, nothing until it went into the papers.

You didn't know about it till April?---That's right.

Right. And the complaints that Mr Romano made in relation to my client on the phone, do you recall when those complaints were made to you?---It would have been around June/July.

Okay. So that was after you're aware in April 2009 that there'd been some work done on the driveway?---That's right.

Right. And did you know which person, by June/July 2009, did you know which persons from Council it was being said had worked at the, on the driveway?---I would have heard some rumours about it but I haven't seen anything in writing.

10 Who did you think was involved?---I recall Mr Issa being one of the people that were touted as being involved.

All right. So you were aware, were you not, that Mr Romano was facing some allegations in relation to his driveway and you knew that one of the persons that was supposed to be at that driveway was Mr Issa and you knew that in June/July in 2009?---That's right.

20 So were you in any way, did you in any way assess what Mr Romano's policy might be in relation to my client, and I'm talking particularly about him making complaints about him being on the telephone? In other words, were you somewhat cynical or were you questioning in any way Mr Romano's approach to my client in June, July?-

--I took it with a view that I was involved where I have personally spoken to two separate employees that were standing in the same spots having breaks and, and Romano's, Mr Romano's orders either myself at some stage, I did and probably Mr Macklin, we've spoken to them. And, and we told them it was inappropriate to be standing in this spot which is straight outside the Council Chambers. And we told them if you want to go for a smoke, have, go and walk around, around the block. And that's all what I said to Mr Issa at that time. So I've applied exactly what I've applied to two separate - - -

30 ASSISTANT COMMISSIONER: Yes. Mr Azer, you're not really listening to the question. See the people you spoke to probably hadn't done work on your driveway and probably hadn't made allegations against you. You see the difference?---Yes.

40 Did you ever consider that Mr Romano may have been motivated in his treatment of Mr Issa or anybody else involved in these allegations by the fact that allegations had been made against him?---Yes, it did. It was an initial consideration that I considered. That's right.

Thank you?---But so does his views before that on two other employees who he mentioned doing the same thing. He said, don't let them stand here. It's not a good look. Get them to go around the block.

Yes, but you see don't you, where somebody might have a motive to take action contrary to someone because of allegations they've made, that puts it in a different category doesn't it? One has to be very careful?---I was,

Commissioner, I was very careful and I thought there is no harm done to Mr Issa, it's just he's going to follow the same as everybody else and instead of standing there, just go around the block. That's all what I said he should be doing. So there was no, he was not worse off in any way. So it did pass that test in my mind.

Yes. Thanks.

10 MR CHALMERS: All right. And so I will have to go back, just one question. I was asking you about that meeting in February, 2009. Do you remember the meeting that I, the minutes I've shown you in relation to, sorry, 16 February, 2009. I'll find it. Yes, the meeting of 16 February, 2009, where I showed you the minutes. Do you recall that?---Yes.

At that meeting, do you recall Mr Romano suggesting that my client could go and work in the CCTV room?---Yes.

And did Mr Cummins make a comment about that?---Yes.

20 And do you recall what Mr Cummins said?---Not word for word, but basically said that he's not suitable.

And did he, do you remember him saying words to the effect, if you think that this is a good idea, that is my client being moved to the CCTV monitoring room, if you think this is a good idea I have grave fears for this organisation?---It rings a bell. Yes.

Did you think about that issue as clearly Mr Cummins did at the time?  
---Excuse me, can you repeat that?

30 Yes, sorry. In relation to my client being sent to the CCTV monitoring room, did you, did you, did you think that that was more like, that was a suggestion more like a punishment then a, then a redeployment?---I thought it would've been more fun then sort of looking at drawings all the time. It depends.

40 All right. So when Mr Cummins said something to the effect, if you think this is a good idea, I have grave fears for this organisation. Did you understand why he was saying that?---I took it as a comment that being a depot employee and I'm not involved in the CCTV, there might be some form of, of accreditation or qualifications of QA involved in it. I did not, that's what came to my mind.

All right. Sorry, sorry to take you back to February. I'll now fast forward to July, 2009?---Yes.

And that's the period in which my client had been working with Fred Thinesh in relation to assets management. Is that right?---Yes.

And assets management was a project which had months and months and months of work in it, didn't it as of July, 2009?---I, I agree and disagree.

All right?---Can you clarify what you mean?

Well, what I mean is that the work that, that when Mr Thinesh was put on surveying duties, if you like, that there was still a lot of work to be done in relation to the assets management?---You can do a lot of asset management all the time. It depends on the priorities at the time.

But my client had been working in asset management for some months at Chambers, hadn't he?---That's right, yes. Predominantly doing one task.

Yes. Did you check whether he could do any other tasks in relation to that assets management or indeed continue in the task he was doing?---Yes, I have checked. He could not continue the task he was doing because it was complete. And we did meet the department's guideline of finishing it on 30 June. So there was no additional work to be done in terms of compliance with that requirement.

Did you ever ask Mr Thinesh whether there was work, whether in Mr Thinesh's opinion there was work that my client could do in Chambers?---(not transcribable) with what?

Whether there was any work that my client could do at the Council Chambers?---It was more of Mr Thinesh complaining to me that, words to the effect that Mr Issa was no longer supporting, he's more of an impediment. And that was the, the words of Mr Inglese, his, his supervisor at that time. So I basically look at hierarchy of human resources, somebody of the, of the value of Mr Thinesh is, his time is more valuable than, than Mr Issa, and therefore his time in doing any what would appear to be non-essential asset work compared to the urgent and essential capital work was not an issue.

All right. But when you say that Mr Thinesh made a complaint, what Mr Thinesh was telling you was if you put me on survey duties, he can't assist me with the surveying. That's what you mean by a complaint? Is that what you call a complaint?---He was saying that he was not assisting him, he was a hindrance now.

But wasn't he in effect saying, well you have put me on surveying. When I go surveying, I need someone to assist me with surveying and that involves labouring work and that's something that Mr Issa can't do. Isn't that all he was saying?---No. I could read more into it than that. On the surface you're correct. But there's more to it in terms of supervising somebody at the, at the Chambers who may not have any meaningful work to be doing.

Are you aware that Mr Thinesh has done a statement for the Commission?  
---Yes.

Okay. All right. In that he specifically says that he was not asked whether my client could do any work at the Council Chambers. He says, in his statement he says there are a number of areas my client could've done, but because he was never specifically asked whether my client could do any work, he didn't comment on what work my client was able to do. Are you, are you aware of that? Have you - - -?---Yes, I'm aware of that.

10

All right?---I did not ask him can still supervise him because I knew he would be out all the time.

No, no, no. The issue is not whether Mr Thinesh could supervise him or not supervise. What, what Mr Thinesh and, what Mr Thinesh is suggesting is that there was work that my client could've done which if he'd been asked he would've been able to tell you?---No. I was the one who was advising Mr Thinesh and I don't know if you're aware of my background, asset management is, is one of my areas of specialty. And I know exactly what schedules we were working to. And I know what level of expertise I need. And I did not believe that there'd be anything meaningful to do. If you're referring to the three spreadsheets that we've been told about, is this what you're referring to?

20

Well, Mr Thinesh says that my client could have been involved I think from memory and I'll be specific but I think he talks about DA work?---No, no, there's no work or DA work available for Mr Issa. It's a highly technical issue.

30

But I think the point I'm asking you is, did you ask Mr Thinesh or any other people at Council chambers whether there was any work that my client could do so that at least you could explore the issue?---Yes, I've asked Mr Inglese and he said there's no more meaningful work for him here.

And did you ask Mr Thinesh?---No I have not.

All right?---But I asked his supervisor.

40

Now, are you, you're aware, aren't you, and I, I, aware that Mr Macklin had a phone call with my client saying there was essentially in the first phone call saying that there was no further work?---I'm aware of phone call but I'm not aware of what you just said. I said he told him don't come, come, talk to me on Monday. So he was in the process of, I assume, checking to see if there's any work in other areas I assume.

All right. And did Mr Macklin come to you and discuss that with you?  
---We've had a discussion about and it's probably in my minutes.

And can I suggest to you that it was only after that first phone call, that is where Mr Macklin rang up my client and you say you're aware of when that happened, that it was only after that that discussions were held with Mr Thinesh? Do you agree or disagree? Do you understand the question? ---No, can you repeat it, please?

10 All right. You said that you're aware that Mr Macklin rang up my client to say that there was no work available at chambers?---No, I'm not aware of that. I said he (not transcribable) the effect is we don't have anything now, ring me on Monday (not transcribable) you.

All right. Can I suggest to you that you only spoke to Mr Thinesh about my client about that phone call was made?---No, I've been in discussions with Mr Thinesh on the 21<sup>st</sup>, on the 22<sup>nd</sup>, on the 23<sup>rd</sup>. We've had a number of discussions and they are minuted in my diary.

Now, in relation to that phone call, this happened in July, 2009, do you agree?---That's right.

20 Okay. My client had two more phone calls with Mr Macklin. Are you aware of that?---I'm aware of one additional one at least.

And are you aware that essentially the situation was left that Mr Macklin or someone at Council will contact my client when there is work available?---I have recollections along those lines.

And that was in July, 2009?---That's correct.

30 What efforts, to your knowledge, have been made since July 2009 up to the present to try and find my client a job?---I'm aware that HR were talking to our insurers to ensure that there's something for, for your client and the insurance specialist suggested that given the situation and the high risk that your client imposes on himself and the organisation, there was a high risk of re-injury and I think they produced a report to that extent and they said it would be in the best of everybody's interest to, to get Mr Issa to do work in another venue or another capacity which I already note is happening now.

40 It's happening now because there's been an ICAC inquiry. It's happening now in May, 2010. But this phone call was in July, 2009 and nothing's happened?---Yeah, well, I'm, I'm, I'm, I'm not in, in, in direct management of the workers compensation issue.

All right. Now, you say, did you have any conversations with the insurance companies?---Yes, I was part of one meeting we had with an insurance expert. I'm not too sure if he was, our insurer was involved as well maybe.

And would I assume, was Mr Romano at that meeting?---I don't recall.

And I would assume that for you to get that advice from the insurance expert my guess is that you advised the insurance expert that you couldn't find any job for my client?---I was talking about technical service and operations. That was correct. We ran out of work in that area.

10 And have you in any way or anyone at Council to your knowledge made notes or minutes or written reviews in relation to trying to find work for my client?---I know we've had discussions about it in our area and we discussed the, we, there's two avenues. There's the operations and there's the technical services. The only area that was really viable was the technical services and that dried out. Operations was not an issue regarding the problems we had before so in my area there was no available options. HR would, would have had to try to persuade somebody else to take it on. You need to take into account that taking a workers compensation person on board is, is, is a situation where it has happened where there's a, a win/win situation somehow and the insurance companies give organisations some monetary incentive to happen and that was a view that was - - -

20 ASSISTANT COMMISSIONER: Mr Azer, I'm loathe to interrupt you but the question was simply has there been any written reviews or notes made of your attempts to find a job for, we don't want a big treatise - - -?---No.

- - - on how you deal with compensation claims?---Sure. Yeah. No, I don't recall anything but I'm not entirely - - -

That's all you have to say?---Sure.

No, no, there were no written reviews that I know of?---Yeah.

30 That would take a few seconds and everything would go a lot more quickly. Thank you.

40 MR CHALMERS: Now, Mr Macklin at the Commission put the view that he believed that Mr Romano, and we're talking now about this period from February, 2009 to July, 2009 when my client was working in the chambers, that Mr Romano had, was unhappy that my client was working at the chambers building. Was, did you have any similar feeling or were you ever told anything by Mr Romano that made you think that Mr Romano was not happy having my client working at the chambers?---Well, in fact the comments about the telephone would have seen some (not transcribable) towards that so yes.

And I suppose when the complaints were made about Mr Romano, I suppose from your point of view two things were going to happen. He was either getting into trouble or he was going to come back to Council. Would that be a fair surmise? He was either going to leave or he was going to be vindicated and come back to Council?---I didn't think about it to that extent.

And did you think that perhaps that if Romano did come back and was vindicated, that he would once again be general manager and that in a way it would be good policy to try and accede to what he wanted?---No, I didn't take it that way. He was general manager at the time.

10 He was general manager at the time and were you then generally concerned that if you didn't do the kind of things that Mr Romano expected of you, that you would lose influence and power?---No, that's not the case. I've already, as stated in my statement, I was not on very good terms with Mr Romano well before then.

But it seems, and you might disagree with this, I withdraw that. See, you weren't really prepared to stand up to Mr Romano on issues, were you? ---No, I disagree. I stood up to him on a number of issues.

20 And can I suggest to you that you did become aware that Mr Romano was trying to separate the depot staff and was trying to divide and conquer them and that you didn't do anything about it?---He was trying to, that was in February before anything has happened and he was, he made that comment and I did not think it was, not something I would put it myself this way but it was not a, a bad tactical move.

MR CHALMERS: Nothing further.

ASSISTANT COMMISSIONER: Thank you, Mr Chalmers.

MR HANLEY: Commissioner, may I ask some questions?

30 ASSISTANT COMMISSIONER: Yes, Mr Hanley.

MR HANLEY: Mr Azer, my name's Hanley I appear for Mr Child?  
---Yes.

Do you recall being asked some questions by counsel assisting in relation to an email on 29 June, 2009 which entitled Exhibit 241? Do you have that document still in front of you, I'm not aware if you do?---No.

40 Might he be given that exhibit please, Commissioner? Mr Azer, could you go to page 8 please of that exhibit. I think you've been taken to that page before by counsel assisting earlier today. Is that correct?---I've heard something of them.

Just have a look at that one will you, it's addressed to David and Darren signed by Peter Macklin. Do you recall being asked some questions about that document today?---Well, which email page 8 so which - - -

Sorry, page 9, I'm sorry. Page 8 is an email from Mr Dencker to Darren Gardner copying a number of people and it appears to have attached to it a letter addressed to David and Darren from Peter Macklin. Do you see that?--Yes.

And do you recall being asked questions about it today by counsel assisting?---Yes.

10 The second paragraph says, "I met with the executive team this morning including you and expresses a position, a preferred position that either Mr Cummins and Child attempts to return to work, that they are suspended from the workplace for the duration of the investigation." Do you see that?---Yes, I see it.

And I (not transcribable) counsel assisting today - - -?---Yes.

- - - that you were part of that executive meeting and that was partially your decision?---I recall Issa was saying that I was - at that time I was not that much party to the management of the workers compensation claim.  
20

This wasn't about the workers compensation claim was it?---No, it was part of what is basically specified as the ICAC/workers compensation that came under the same umbrella.

If you read the rest of that document it says, "Please advise whether appropriate grounds for suspension." That refers to Mr Cummins and then it refers to Mr Child in the italicised writing. Do you see that?---Yes, I see that.

30 In relation to Mr Child it's alleged that Mr Child has made numerous phone calls to the Sydney Morning Herald journalist, numerous articles, significant disruption and damage to the organisation. See that?---Yes.

It was matters being suggested wasn't it as a basis for him being suspended? An advice was being sought from the lawyers as to whether that was sufficient?---Yeah, I can read that.

40 Yes. And that's what was talked about at the meeting wasn't it in relation to suspension not workers compensation claims wasn't it?---No, again I told you the workers compensation and ICAC issues were combined together as one issue.

I'm not talking about that. What I'm suggesting to you, sir, it is apparent from that document that the suspension and the reason for it that the meeting that you were part of that took place that day was directed towards Mr Child talking to the Sydney Morning Herald?---Yeah, there were discussions about Mr Child.

That was the basis that was being sought for suspension wasn't it?---I have very vague recollection on this meeting and the reason was that I was not party to meetings before and after and any sequence of events in there.

See it says that Mr Child had made numerous phone calls to the Sydney Morning Herald. That was a fact that was somewhat of acute interest to you at that time wasn't it?---To everybody in the organisation.

10 But to you in particular I'd suggest as from May 2009 wasn't it?---Yes, yes, yes.

And why was that?---Because - - -

An article in the Sydney Morning Herald about you wasn't it?

MR TAYLOR: He was starting to answer the question.

20 MR HANLEY: Okay. Was there an article in the Sydney Morning Herald in May about you?---Yes, it was.

And you were acutely concerned about those allegations about you weren't you?---That's right.

And you knew that Mr Child was the person who had advised the Sydney Morning Herald about allegations about you?---I did not have 100 per cent confirmation it was him.

You knew it was him didn't you. It was in the article?---Sorry?

30 You knew from what was disclosed in the article I suggest (not transcribable)?---It could have been him it could have been somebody else.

You're saying that there was more than Mr Child present when that discussion took place as alleged in the article between you and Mr Azer about the failure to return \$240,000?---I don't want to go into this area.

Sorry, Mr Inglese, sorry?---Yeah.

40 \$240,000?---Yeah. I don't have any clear recollection on who was and who was not.

So it could've been one or two people present during that conversation you had with Inglese as reported in the Sydney Morning Herald?---It could've been anybody because I was not too sure on, on exactly when this meeting happened and who was there.

Was that one of the conversations with the Sydney Morning Herald, that article that was discussed at this meeting?---I don't recall.

Did you raise it?---I don't recall.

No recollection at all?---No.

Was it something you were concerned about that article and what it said about you?---I am still concerned about it, yes.

10 And if that was an attempt to find out who was behind it wasn't it?---Well, there would have been a number of, possibility of a number of people.

Well, you recall seeing another article in the Sydney Morning Herald about that issue. An article described "hush and you can have your money" by Kate McClymont in August the 6<sup>th</sup>, 2009?---Yes.

20 And in there it was suggested wasn't it that a source within Burwood Council said the investigation within Council that centred on the identity of a whistleblower rather than the allegations concerning the two senior men? ---Excuse me, I am confused are we talking about June or August?

We're talking about August now?---Yeah, but we are talking about the meeting in June now?

Yes, yes, I'm talking about the meeting in June. I suggested to you you were concerned to find out who had made the allegations about you that were disclosed in the May article weren't you?---Yes.

30 And there was a reference to that investigation to find out who the whistleblowers were in an article in the Sydney Morning Herald in August of that year?---Yeah, but what is the relationship between this in June and an article that happened in August?

You were concerned to find out who had blown the whistle on you weren't you?---Yeah. I wanted, I wanted to know who, who would have been behind it.

An investigation was conducted in relation to that at Council wasn't it?--- And that's who blew the whistle.

40 On you, yes. It was an investigation in the Council - - -?---There was a (not transcribable) - - -

- - - about who had blown the whistle on you resulting in the May article? ---There was an investigation about the whole issue and I remember that I went to Council solicitors about it. How far it extended I won't have a recollection of it now.

And see I want to suggest that you were vitally interested to find out who had blown the whistle on you weren't you?---I wouldn't call it this way but I was interested of course like everybody. If you have your name in the papers you would be interested who's put your name down in the paper.

Was the suggestion in the August article that the Burwood Council at the investigation was more interested in who the whistleblower was than the allegations made against you and Inglese?---Yeah, I don't know where they came up with this.

10

No, was that true though? Was that allegation true?---Can you repeat it please?

Was the allegation in the August article that there appeared to be more concern in an investigation conducted by Burwood Council as to who the whistleblower was as opposed to whether you and Mr Inglese had done something wrong?---No, I would say, I would disagree, there was more interest in the issue itself and having it resolved than, than the issue (not transcribable) in terms of who's done it.

20

Well, you certainly came to the view didn't you at some stage in 2009 that Mr Child was behind that article in May (not transcribable)?---I had, I had suspicions it was him.

And it was talked about wasn't it?---It could've been, could've been somebody else.

Was it talked about between you and other members of the executive after the May article who was responsible?---It was debated from memory.

30

Debated. Was there gossip about it?---No, we don't gossip at executive.

Well, did you talk about who it might have been? Who would have known that?---It was part of discussions with the solicitors at the time.

Well, forget the solicitors, what about the executive?---Well, I think there was a discussion with the executive and the solicitors about it. I think from memory Mr Barakat was involved in one of the meetings.

40

Was Mr Macklin there?---On that meeting I don't think Mr Macklin was there.

On any meeting about this issue, any discussion with members of the executive?---I need to consult my diaries to see if there's any - - -

Do you have any recollection about this?---Well, there was a lot of things happening at the time.

This one really concerns you, didn't it?---Well, it is, it is of a personal concern.

It was a serious allegation, wasn't it?---Well, it, it, it was not an issue that I enjoying having my name on the papers, of course.

10 And it certainly didn't do much for the reputation of Burwood Council, did it?---Well, in the, in the overall scheme of things of what else is happening I don't think it was, it was, it is an issue of course but it was not a good thing of course.

It wasn't in the same category as people using mobile phones out the front of the building or paying some \$30 extra money, was it?---I'm not, I can't see where you're coming from.

Well, they seemed to concern you about the image of the Council, those two incidents?---Yeah, well, yeah, it is an issue.

20 Yeah. And that allegation that was made against you, I suggest, has coloured your evidence in relation to Mr Child in these proceedings, hasn't it?---I've always maintained a professional view of things. I tried very much not to colour my - - -

Has it coloured your word?

MR TAYLOR: (not transcribable) be allowed to finish.

MR HANLEY: Well, with my, with respect, Commissioner, he's not.

30 ASSISTANT COMMISSIONER: Yes. He hasn't been very responsive I must say.

MR TAYLOR: Well, he may well, he may well given a chance to do so.

ASSISTANT COMMISSIONER: Well, it hasn't worked out in the past but, yes, do you want to respond to that question?---No, I kept a separate view from my personal and, and the actual Council issues.

40 MR HANLEY: On a person level I suggest you're not very favourably disposed to Mr Child, are you?---If it is proven that he would have gone to the papers, yeah, I would but I still see him and say hello, on a personal issue there's no, is this what you're talking about?

Well, I'm suggesting your evidence is coloured by your views that Mr Child dobbed you in?---I'm not too sure that this is correct, he dobbed me in, because I can't see where this issue went to.

In that meeting, I'm sorry, I withdraw that. Do you recall being asked some questions about that meeting and whether it had anything to do with the anti-discrimination claim by Mr Saad against Mr Child, this morning, do you recall being asked questions about that this morning?---Sorry, can you repeat it.

Do you recall being asked questions as to whether this meeting had anything to do with the Anti-Discrimination claim by Mr Saad?---(NO AUDIBLE REPLY)

10

Were you asked that this morning?---I can't recall.

Well, do you recall whether it did or not?---No, my recollection of this meeting is fairly sketchy because I'm afraid to sort of say that but I was, I'm fairly clear on sequence of events once I'm out of the picture on certain aspects of it, I'm not clear of where it fitted in the whole scenario. Other than that I would have had minutes, I would have been clear on the issues - -  
-

20

I'm sorry, I thought you gave evidence about that today but putting that aside, are you aware when Mr Saad made the claim against, of anti-discrimination?---I'm aware but I may not recall right now what time it was.

Do you recall 15 July?---If that is what you're putting to me I'm happy to accept it.

30

Were there any meetings after 15 July with the executive, including yourself, about suspending Mr Child because of the allegations made by Mr Saad?---I, I don't recall a formal meeting, there might have been, without referring to the, to the minutes.

I'm asking about your memory. What's your memory of these things?  
---Well, definitely, there was definitely discussions about it.

Yeah. And he was an employee of yours as was Mr Saad?---That's right.

Involving people directly under you control?---That's right.

40

Who you were responsible for?---That's correct.

And if someone's made a claim of discrimination against a fellow worker that would involve you implicitly, wouldn't it?---Yes, it does.

And you would be vitally concerned as to what was happening?---Correct.

And what the nature of the complaints were?---That's right.

Well, did you look at the complaint by Mr Saad?---Yes, I have.

And did he make any complaint that Mr Child ever called him any rude names?---Yes.

Are you sure about that?---Yes, that was put in the, in the complaint.

Was it? What did he say?---Black C.

10 Well, he never said in the complaint that I've seen that Mr Child said anything to him?---Well, that's my recollection of what was said.

Wasn't his complaint that Mr Child did nothing about other people saying things to him?---That's possibly the case, yes.

You were interested in this issue, weren't you?---Yeah, yeah.

And were there any talks about suspending Mr Child because of Saad's allegations?---Pending the investigation, yes.

20

Who was that with?---Sorry?

Who were the discussions with?---Definitely HR were taking charge of that and - - -

You recall Mr Macklin being present at these discussions, do you?---I definitely recall discussing it with Mr Macklin but, so he would have been pivotal in every meeting regarding that.

30 And was Mr Romano there?---I can't recall.

Well, was the discussion Mr Saad's made these very serious complaints of discrimination, maybe we should suspend Mr Child, did that happen?---I understand it was handled as part of the meetings that I did not attend.

Did you attend any meetings where that was discussed?---I definitely recall being briefed on it.

40 Who by?---By Mr Macklin.

And what did he brief you?---He said that he, he is addressing the issues through with Council's solicitors and, and the views given by them is that it is a serious allegation and, and we need to have investigations done internally through an independent person that will need to take some evidence from a number of people in order to, to have the issue assessed and investigated.

And when were you told that, approximately, July, June, July, August?

---Possibly.

Well, were you told that a decision had been arrived at that he would be, that is, Mr Child would be suspended because of Mr Saad's allegation?

---Yes, I was told.

And who told you that?---I think from memory Mr Macklin.

10 And you're aware that the Council had a policy in relation to anti-discrimination?---Yes.

And you're aware that that policy was aimed at conciliation and education to resolve the matter, weren't you?---Yes, I haven't read it, read it word for word but I understand there's, there would be a clause of it.

20 Did you ever ask, did you ever ask whether those avenues had been explored by Mr Macklin and the executive and the lawyers they were relying on to see whether conciliation and education could be brought to bear to resolve the matter?---No, I have not asked for that.

Did you see Mr Child's response to the allegations?---I have.

And it in effect demonstrated, at least on level, that Mr Saad was unreliable, factually and on the basis of his complaints against Mr Issa in particular, didn't it?---He did refute a number of issues.

And you had doubts about Mr Saad anyway?---I did.

30 Well, did it cause you some concern that maybe suspending Mr Child might be somewhat extreme in view of Mr Saad's credibility and Mr Child's responses?---I, no, because I thought at the time, the time of the suspension I was briefed on the suspension that the investigations had not been concluded yet.

Well, did you ask what Mr Saad wanted?---Well, he had certain requirements in the papers so, in the, in the Anti-Discrimination Board - - -

40 In his claim, in his claim he named certain things that he wanted, didn't he?--From memory, yes.

He wanted an explanation as to why he'd been sacked, didn't he?---I remember he had a number of - - -

Do you remember that one?---I remember that was possibly one of them, yes. If I don't have the claim in front of me I'm, it's hard to elaborate but there was, the (not transcribable) Anti-Discrimination Board.

Might the witness be shown Exhibit 153 then, Assistant Commissioner.

ASSISTANT COMMISSIONER: Yes.

MR HANLEY: Mr Azer, if you go to page 12 please. It should be written in large Texta colour at the bottom. Do you see that?---Which page?

12, about point five on that page do you see a, in bold typing, “What would you like to happen to sort out this complaint”?---Yes.

10 And do you see five issues listed there?---Yep.

One was, “To be given the true reasons why I was sacked”?---Yes.

Were you aware of that?---Yes.

And Mr Child wasn't even present when Mr, wasn't even at work when Mr Saad was sacked, was he?---Yes, he was not at work.

No?---Yep.

20

In fact he was sacked at the direction of Mr Romano, wasn't he?---That was the indirect advice I had.

And Mr Ellul was the one who had to deliver the message to Mr Saad that he was sacked, wasn't he?---That's right.

And you knew that Mr Ellul didn't want him sacked. That's correct, isn't it?---Mr Ellul didn't want him sacked, that's right.

30 But Mr Ellul's influence didn't seem to carry very far on this occasion, did it?---No. Well - - -

Unlike Mr Child, the recommendations you made about Mr Child when he recommended that Mr Saad be retained, that was rejected, wasn't it?---Yes, because I had (not transcribable) - - -

But Mr Child had nothing to do with the sacking of Mr Saad, did he?---No, he had nothing to do with it.

40 And two, (not transcribable) bullying and harassment of employees. What happened (not transcribable) issues at an early stage. Do you see that?---Yes.

Had Mr Saad been to see you and say he was being bullied back in February, 2009?---In February or March, March.

And you did nothing about it, did you?---No, I referred it to HR and I made a note of it and at the time I followed up HR and they said they need to get

to it once Mr Child is back on board. That happened possibly in the time when Mr Child was on his way out.

So what, late March?---Yes.

Well, you know Mr Saad's provided a statement and given evidence at this Commission? You're aware of that, aren't you?---I might have read about it in the transcripts.

10 Have you read his statement?---Yes, he went on the stand actually, yes.

Have you read his statement?---No.

Do you refute any suggestion that you and HR did nothing about his complaints?---We did, I did make a note of it and I referred him to HR and I followed up with HR on it.

20 But in number two of what he would like to resolve by complaining is directed at the Council, isn't it?---Yes.

Number three, "Why I was treated so badly by my supervisor, Steve Child, and his bullying gang". Do you see that?---Yes.

That was refuted by Mr Child, wasn't it? The statement he gave - - -?  
---Well, that was directed to refute it.

"I want to get my job at Council back". That had nothing to do with Mr Child, did it?---No.

30 "An apology from Burwood Council as well as a personal apology from Steven, from Steve Child." That's what he wanted?---- Yes.

Did anyone ever ask Mr Child, to your knowledge in Council as to whether he would apologise?---I, I have not personally been handling this issue.

40 In all these little talks you might have had with Mr Macklin and various people about this very serious allegation, did you say well, has anyone spoken to Child about whether he'll apologise and maybe Council could give an apology?---No, I was being briefed about it and I've asked certain questions at certain time. This was not one of them.

You were on the Executive, weren't you?---I was.

Does that mean you have any sort of significant input into looking after the Council?---Yes.

And Mr Macklin wasn't in the Executive, was he?---He's on the extended Executive.

Yeah, below you?---Sideways.

Yeah, reporting to you on this issue?---He was always reporting to the general manager.

And reporting to you?---He was briefing me as, as did other members of, of the team that was handling this issue.

10 Did he ever suggest, look, I think we can resolve this if we just get a few apologies?---No, I don't recall him saying that.

There was no genuine attempt by Council to resolve this by answering any of Mr Saad's requests, was there?---I'm not aware of, I was not hands on on this issue.

He's involved your staff?---Yes, and I made a number of complaints and representations to the general manager and I needed to (not transcribable) be more involved.

20

Well, you could just go and see Mr Macklin. You see to have a fairly direct line of communications with him?---Yes. He's quite approachable.

And did you discuss with him whether in view of what Mr Saad wanted, whether going down the line of suspending Mr Child really was necessary? ---No, I accepted his views based on the legal opinion.

Whose legal opinion?---I understand he got some legal opinions from Maddocks.

30

From Maddocks?---Mmm.

And - - -?---Or Ebsworths.

What I want to suggest to you, sir, is that you and the other members of the Executive, Mr Romano, Macklin, Dencker, Hullick, used these allegations by Saad to have Mr Child suspended when he was ready, willing and fit enough to come back to work, didn't you?---I was only involved in one meeting and that was not my intent.

40

You knew that was their intent though, didn't you, the other members of the Executive?---I didn't have any evidence to that.

You just sitting in some sort of office all by yourself without communicating with anyone at the Council, were you?---No, we communicate and I've asked for feedback on a number of occasions from different members of the team that were dealing with those particular issues in the legal context.

And what about input from you as an Executive member in relation to your staff?---At that time my input into this issue was not required and I was on a need to know basis basically being briefed whenever it was appropriate.

Did someone tell you you were just on a need to know basis, did they?  
---No, but I've had minutes in my diary that I passed to the Commission where I was told I cannot attend these meetings or I'm not attending, I'm excluded from them.

10

Who by?---From, by Mr Romano and one occasion it was because it's about me and other times which have not been documented it's because he is worried about me and on another occasion which was documented I brought it to his attention that I need to know, to be reassured that things are happening, not just Mr Dencker and Mr Hullick and they thought it was a good idea that it did not progress.

20

What was a good idea that it not progress? You being present or not being present?---Apart from this meeting you're referring to I don't remember being involved into any, any other meetings.

I thought you told me earlier that you'd had discussions and you were briefed in relation to the discrimination claim by Mr Saad?---Yeah, I had a number, on a number of occasions, that's correct.

30

What was your input?---I did not have the full facts to provide any in-depth or meaningful input but however I was briefed on it and said well, it has been discussed in depth and this is the direction we're taking so I was being briefed. I was not given the opportunity or the information to be able to positively engage into the decision making.

You had the complaint by Mr Saad or Mr Child response, didn't you?---  
That's right.

Did you raise any issues about what was disclosed in those documents as to how this could be resolved by conciliation and education?---No, I have not. I know there was an investigation afoot so I would be able to look at investing to it and provide some recommendations.

40

In relation to your position as being one of the directors or executive who is in control of the depot in 2008, you conducted communications between yourself and Mr Child didn't you?---Yes.

On a regular basis?---Yes.

In relation to work to be done?---Yes.

Did you provide plans?---Yes, not personally.

But it was under your control that, as a senior management no doubt, that proper plans for work to be done would be handed down to the workers.  
---As much as possible, yes.

Well, how else would they do it?---Yes.

Yes?---Yeah.

10 One of the criticisms of the Morrison Low Report is there seem to be no structure of planning handed down to the workers, wasn't it?---I disagree with that. There was, when a major project was held on (not transcribable) there was a plan given to Mr Child and it actually went further than just the plan showing where the assets were to be built. There was actually suggestions of certain time allocations and resources allocated to suit and segments of the project.

20 In fact, what the Morrison Low Report talked about was an entrenched practice of it being there for years that you didn't have any planning other than an ad hoc response to it.---Um - - -

Would that be a fair assessment of what was said?---There was, at the time that the report was conducted there was a large number of customer requests and they needed the ad hoc type work in order to achieve little bits and pieces, that's correct.

30 In relation to managerial issues, communications and reporting, they uncovered a general lack of management reporting both to and from supervisory and managerial officers, correct?---Well, that was what the report discussed.

From a supervisory point of view made a regularly report to assist them in managing their operational staff on a day to day basis?---Yes.

Well, that reflects on you, doesn't it?---Yeah, I had been on the job for um - - -

How many years?---Sorry.

40 How many years were you on the job?---Um, how many months you mean?

Months?---Yeah.

Well, did you see this and decide that you, as a person responsible for may be handing down proper managerial reforms and did something about it from your level?---Of course.

What did you do?---I made sure that the major projects to start with, we had proper plans and maps provided and, as I said, we, I had Mr Thinesh at the time dissect the job and try to put down certain portions of manpower or resources allocated to every segment of the project.

Longer term planning for any works really – had to come from you?---  
That's right and that was one of the jobs that started in 2008 and as a result I directed the office staff to inspect all the footpath, curb and guttering and the (not transcribable) assets and based on the condition assessments we put  
10 a gutter base that is linked to the joist to highlight the priorities and different categories and we simplified it on the joist (not transcribable) according.

So what you're saying is that in 2008 you really put into implementation plans that covered major criticisms made by Morrison & Low in relation to the lack of planning that was directed down to the workers?---I have started addressing that from the day I landed in July 2007. I don't know if you're aware of the history of the technical services and operations. I was the fourth director in seven years and it has been a high turnover of staff. So,  
20 on average, the three directors before me, on average lasted eighteen months each. So there has been - - -

Can I just stop you there please. You started in 2007?---That's right.

July?---That's right.

You'd been in that position for over a year before the Morrison Low Report had commenced in August of 2008, hadn't you?---Less than a year, the report started in June and I started 23 July, so ten months.

30 But you'd put into operation systems that really dealt with many of the criticisms of the Morrison Low Report. Is that correct?---Yes, most of them were work in progress.

Okay. Now in relation to Mr Child, his position was one that had grown out of being created for someone who could come from the workers and the depot, someone they could aspire to. You understood that, didn't you?  
---Sorry, can you repeat that.

40 Well, this was a job, his job that had been created to allow workers such as he had been, to aspire to this position of authority?---Um, I'm sorry, I lack the history to comment on that. I was not in charge when he took that job.

When did you become aware of it?---No, I was not aware of the consequences when his job was created.

In 2008, I think you've already mentioned, there were a large number of customers wanting jobs done.---That's right.

This put a lot of strain upon the depot workers to complete those works in conjunction with restorations and capital works.---That's correct.

And that was acknowledged in the Morrison Low Report, wasn't it?  
---That's right.

10 And in fact, I want to suggest that during 2007 and 2008 whilst you were in your position, you wrote numerous emails which I have here to Mr Childs, recommending and commending him and his workers on the work they'd done.---Yes, that's right.

You took them out for dinners at Chinese restaurants?---No, no, I haven't been to dinners with any staff members.

Lunches?---Yeah, probably.

Lunches, you'd been to lunches with them?---Yeah, yeah.

20 And you took them out to demonstrate Council's appreciation?---Correct.  
Sometimes directed by Mr Romano to do that?---That's correct.

And in fact in 2008 you and Mr Macklin were concerned about the enormous hours that Mr Child was working to complete the various jobs that the depot were being given?---That's correct.

Particularly with the increase of jobs leading up to the election in 2008?  
---That's correct.

30 In fact, in those emails that you exchanged between yourself and Mr Macklin you were concerned that to comply the law that you were really going to have to ask him not work as much?---That's right.

In fact, he was knocking off and starting again without the required breaks, wasn't he?---At that time, yes, he was.

40 Both you and Mr Macklin were concerned, I want to suggest as reflected in your emails in Exhibit 104 that you didn't want to de-motivate him?---Correct.

Because he was such a hard worker?---That's right.

He got the job done.---Yes, that's right.

And to get the job done you had to be able to plan it, didn't you?---Um, the, the large proportion of the job was acting to customer requests and this is mainly ad hoc work.

Yes, and improvising on the job with limited plans, wasn't it?---It's the little job detail from one job to another and that was the majority of the pressure applied from those little jobs.

There was also large restorations though, weren't there?---There were large restorations, that's right.

And capital works?---Yes, yes.

10 And, you- -?---But the large restorations was the one on Andrew Street and that was undertaken January 09 where I've sent him a thank you email.

The one I've produced in the Commission here?---That's right.

The one that I think you sent him two days after you claim he tried to bully you and stand over you, is that right? Is that the one?---I did not say he bullied me but I said that he was talking inappropriately.

20 In the 30 January 2009, you suggested in this Commission this morning that his behaviour was bullying?---Then I retracted and I accepted the Commissioners comment that that was inappropriate.

Two days later you sent him an email congratulating him on the work, that he and his workers?---That's right, that's the agreement that I had with him given that at that time Mr Einarson has left and I was appointed as his only support person in his (not transcribable) and I was told by coach that there needs to be a balance between criticism and appreciation. So you, appreciate the good things that were happening and at the same time, you mention all the negatives and during the 30<sup>th</sup> I did mention a number of  
30 negatives to him and I promise him that I also acknowledge the good work he's done with the guys. He was working very hard in hot temperature.

Mr Azer, I want to suggest that he never threatened you or bullied you or acted inappropriately to you at all on the 30<sup>th</sup> and if he had done so you would have hardly sent him the email you sent him on 2 February?---It was the first time where he would act in this situation in this way towards me and I accepted his explanation afterwards and he, and then he said Khaled, I don't mean it the way you said it, you see it, and he said I meant that we may not be able to make you look good because we will not have access to  
40 the resources all the time so you give us all the time we'll make you look good.

Oh, so it wasn't a threat to not make you look good anymore, that's what you were trying to suggest this morning, wasn't it?---That was the inappropriate, I said this was inappropriate, yes and the way it was said - - -

Let's understand you please?---Mmm.

What you said this morning, was that incorrect, that he was using it in a threatening manner?---I've corrected that, it was in a threatening manner but I've corrected it, it was not classified as bullying, it's more inappropriate.

Well, the version you just gave us a few minutes ago wasn't threatening in a way, it was saying in effect if you don't give me enough resources I won't be able to make you look good?---Yeah, in the same meeting, which was a long meeting, the, initially this happens and then after I mentioned to him that I would still acknowledge even though this is happening, I will still  
10 acknowledge your hard work then this version came through. Mr Child and his comments, he probably would have, he would go over issues maybe a number of times in different versions.

If he threatened you in any way as a member of the executive you would have reported him, wouldn't you?---I would give him grace because at that time there was a fair bit of, of good results and good rapport going and I was still of the opinion that maybe it was related to the stress he's been going through and I was hopeful that with the coaching things were improving.

20 So do I take it that as at early February you were happy with him?---It was the start of me raising the alarm bells.

No, in early February when you sent that email commending him and his workers, Exhibit 205 in these proceedings?---Yes, it was at a time where I was watching him but it, and it was basically the, the coaching methodology where you acknowledge the good things and you raise the negative issues and I raised some negative issues during that meeting with him, I've got it minuted in my diary.

30 You've got, we've got I would suggest a period of about 18 months since you started working there, of you sending him email after email commending him and his workers?---Definitely he was working very hard and he was, his work was very suitable for the amount of work with the customer requests.

On 20 January, 2009 Mr Romano signed off on the Morrison Low report, didn't he?---20<sup>th</sup> or 21<sup>st</sup>, yes.

40 And on the 21<sup>st</sup> you saw Mr Child?---That's right.

With Mr Macklin?---That's correct.

And advised him of the name change - - -?---Yes.

- - - in accordance with the Morrison Low report?---Correct.

And advised him that the sweepers were going to be taken away - - -?  
---That's right.

- - - in accordance with the Morrison Low report?---Yes.

And that he didn't have to reapply for the position?---That's right.

In fact that's all that he had, had to be done?---That's right. Well, we, we did not go through the details of what would be done behind the scenes with the unions but that's the version he, he got, yes.

10 And one of the reasons why the sweepers were taken away was it not that it was to allow him to have more time to plan?---Yes, that was one of the reasons.

And so despite taking away workers from him you were giving him more time to actually concentrate on maybe addressing some of the matters that were of concern like that?---That's right, that's right.

20 And they were the only changes that were determined that were necessary at that stage in accordance with the report, weren't they?---That was a major issue, yes.

No, that was the only issue, wasn't it?---In terms of the position description, yes, but there has been, the report has been critical about a number of other general issues like the workers compensation claim history, like the overtime, like access to stores, all things that have impacted on how this role would be undertaken.

30 That, any of those matters you've just raised there had nothing, well, did not require a person in Mr Child's position to have any tertiary education, did it, access to stores, workers compensation?---The planning issue, it's debatable. It, in my opinion, would have needed some form of, of qualifications, maybe not tertiary but it would have been good to have tertiary education.

You did not raise any of those matters, either you or Macklin, on the meeting with him on 21 January when you advised him of the changes to be done in accordance with the report?---Correct.

40 In fact, you told you him that the changes were so minor, in effect, that he did not have to reapply for the position?---I don't recall saying that to, to, to that sort of way.

Well, did you say despite the changes there was no need for him to reapply? ---Yes.

And then shortly after that you sent him the email commending him? ---That's right.

Mr Dardano was brought in about this time, wasn't he?---No, Mr Dardano started I think on the first week of January.

Well, earlier in the 2009 year?---That's right.

And he was working part-time there and part-time at the airport?---That's correct.

10 And one of the issues addressed by the Morrison Low report was overtime?  
---That's right.

And Mr Child had raised issues with you, hadn't he, that the overtime as depicted in the spike in the graph in the Morrison Low report was not really accurate because it didn't address the fact that there were capital budgets that should have been responsible for it and also they did work to clean up after utilities organisations which also paid them and the Council?---He did raise that issue and we had some debate about it. At the end of the time I explained to him that at the end of the day from an accounting perspective you need to budget for the overtime in, in whichever way happened so our capital works budgets did not have that particular amount allocated to it all the time.

No, but he was raising with you matters that he thought were legitimate issues with things that had been raised in the report?---That's right and I have replied to him.

Yeah. He wasn't being antagonistic about it, he was putting his point of view to you, wasn't he?---Well, he was putting his point of view, yes.

30 And in relation to Mr Dardano, was the situation that Mr Child was to seek his approval for any overtime?---That's right.

And you became aware I think sometime in February or late January that there'd been an issue with Mr Dardano and Mr Child where Mr Child had sought overtime to make sure that certain concreting work had been, was allowed to set properly?---That's right.

40 Mr Child told you he rang Mr Dardano who was at the airport and there was an argument between them about it?---That's right.

But that Mr Child had determined that if the work was to set properly, that is the concrete, and that the Council not lose out on the work that he would, he paid the workers \$30 each overtime out of his own pocket?---That was not discussed .

What was not discussed?---That he would pay \$30.

He told you he paid \$30?---No, I've taken some notes to it, myself and Mr Macklin discussed with him at the depot and we told him we've got allegations that you paid people money and he said no, and then we asked him haven't you paid \$30, he said maybe and then he said, and then he said we've got evidence you've done it, he said yes, I did.

He paid them the extra money for the overtime to ensure that the concrete work did not go off, is that correct?---That's what he said.

10 Well, you know that's what happened?---I don't have the evidence to it and he would not explain when he was asked.

Look, do you understand this, that he sought overtime and was denied it by Mr Dardano?---Yes, no, no, no, I'm sorry. He was never, never denied it by Mr Dardano, that's wrong.

Well, what is the situation?---Mr Dardano asked him for an explanation.

20 The explanation I suggest given to you and Mr Dardano was that if they didn't work an extra hour's overtime because of the late delivery of the concrete the work would go off and it would cost the Council a lot of money?---No, the answer we had was a very hostile answer and did not go to that extent.

Well, did you ever hear that explanation?---Later on, yes, when he accused me that I don't anything about concrete.

30 Well, look, wasn't it the situation, what came out of this was that it was necessary to work an extra hour to ensure the work was preserved?---Well, that's the argument I heard afterwards, yes.

Well, did you talk to the other workers?---No, I was talking to their supervisor.

Did you talk to other workers to find out whether it was true or not?---When Mr Macklin has spoken to them and they reconfirmed they were paid \$30.

40 Yes, and they worked an extra hour to make sure the work wasn't ruined, didn't they?---Well, that came across from Mr Child later on.

Well, that was consistent, I suggest, with Mr Child enthusiasm for his work?---I didn't see it this way, I saw it as a way of not liking to answer to authorities which were clearly demonstrated in a number of situations.

Did you ever ascertain that if the work had been ruined how much it would have cost the Council?---Because - - -

Did you not even bother to look into that?---It depends on, on the damage, yes.

What did you ascertain, what did you find out?---Because it was not the scenario, the issue was the work was finished.

You did not examine it, did you? You did not examine it?—I did - - -

10 To see whether there was any truth in what he told you.---I did examine it, I did ask for, to look at when the concrete was delivered to make an assessment and I was told it was around 10.30 in the morning and Mr Dardano's evidence was that probably there could have been some better planning done, may be an accelerant ordered or (not transcribable) could have set before that time. There were a number of discussions I had with Mr Dardano.

Did you ever get out of your office and go down and speak to anyone to find out what happened?---This issue became another issue later on so - - -

20 Did you on this occasions go down and find out precisely what had gone on?---I went after the event when the concrete was cured.

It was a rainy day wasn't it?---No, it was not.

You disagree with that?---I disagree it was rainy. It was raining beforehand but not on that day.

30 No, because it rained beforehand there was a problem with the delivery of the cement and it was delivered late. Did you find that out?---No.

No.---I asked for an explanation from Mr Child and all that I got was, "You don't know about concrete."

I want to suggest Mr Child gave you an explanation and that you failed to even corroborate that with any of his co-employees.---No, he was not, at the time, all I asked him was to explain why it's needed and all the time it's not denied. I just wanted an explanation so it can be approved.

40 There's another complaint made about Mr Child around this time wasn't there where he's allowed Mr Giangrasso time off whilst being paid to take his sick mother to hospital. Is that right?---The - - -

Do you remember that at all?---The complaint was that we had Mr Child being called by Mr Dardano to ask him where is Mr Giangrasso and he called him, he's here on site. And Mr Dardano had information that he was not, so he rang there personally and he confirmed that Mr Giangrasso was not on site as per Mr Child's assurances. And when he asked him, where is

Mr Giangrasso, when he called him. I've approved him to go and look after his sick mother - - -

Do you agree with me do you, it took you a long time to get there, but do you agree with the proposition that I put to you?---Yeah, but that, that was not the reason. The reason is, first of all, he allegations that he did not tell the truth, secondly, he was aware that he did not have that authority and it was documented in the depot forms, made something of the 6<sup>th</sup>, which a few days earlier. And he still approved that without letting the works manager  
10 know. And then he was asked, he told them something that was not correct.

These were hardly very serious matters, were they?---In the case of what has happening at the time, it was seen basically somebody who's not adhering to any rules being put up and being clarified even the rule that was applied just a matter of days beforehand, very important.

Mr Child was spoken to about the money he paid to workers as overtime and he agreed he had made a mistake.---He has.

20 And he was given a written letter of disapproval by you, wasn't he?---That's right.

And that was dealt with.---That's right.

And the same in relation to letting to Mr Giangrasso go and look after his sick mum.---No, I did not see that as a reason to issue a written warning.

It was so miniscule and so unimportant I suggest that you didn't even take that stance, did you?---Um, it's a balanced decision you make at the time, I  
30 did not think it was minuscule but I thought it just required a diary note.

They paled into insignificance those allegations when what you were told by Mr Dardano what Mr Saad was saying about Becerra and, as you worked out later, Mr Romano?---Yes.

And what did you do about that again, did you go and speak to Mr Saad?  
---No, but I'd spoken to Mr Dencker who had investigated that issue.

40 But Mr Saad worked for you directly, didn't he?---Yes, but it was, I had indicated a conflict of interest at the time and it was handed, in discussion it was handed through HR to Mr Cummins and then to Mr Dencker and I followed up with Mr Dencker and he assured me that there was no work done at Council time and he assured me that there was no protected disclosure and I was satisfied with that assurance.

Well, if Mr Saad was doing these jobs inappropriately he may have been doing it with the authority of Mr Child, mightn't he?---He might have, yes.

Did you speak to Mr Child about what was happening with people under his supervision?---It, it was something that was investigated by Mr Dencker.

I'm asking about what you did?---Oh, if there was something wrong I would investigate it myself.

There was something wrong, wasn't there?---Well, it was, what was put to me was Mr Dencker has investigated it and there was no reason to go further than that.

10

Mr Dencker came in well after the time you knew that this was a very serious allegation, didn't he?---It could have been very serious and it could have been very trivial as per the evidence I gave. Actually my first thought of it was it could have been very miniscule and that was actually along the lines that Mr Dencker has briefed me on later on.

Well, did you think you might have to write a little letter of warning to Mr Saad or something like that?---I would have written a letter of warning to Mr Giangrasso when I spoke to him about, about the failing to declare - -

20

Can you just answer my question please? I'm not talking about Mr Giangrasso. Did you think you might have to issue a letter of warning as you did to Mr Child?---To Mr Saad?

Yes?---Well, if there was an issue that was cleared by Mr Dencker then I did not think it was appropriate to give a letter of warning.

30

Well, were you even more concerned that - - -?---If he's using, if he's using, not using Council time - - -

Were you even more concerned when Mr Dencker told you he'd cleared this all up and there was no problems that Mr Saad was making very serious false allegations against a senior member of the administration of the Council?---The allegation was not against a senior member, the allegations were that he had - - -

40

Mr Becerra was a senior member, wasn't he?---Well, he was the principal architect but the, the, it was said that he was, he was working in units (not transcribable) with him and I knew at the time that Mr Becerra was a contractor, an architect, he had his own private office and the first thing that came to mind - - -

He was a friend of Mr Romano?---I had that suspicion at the time, yes.

And you had a suspicion that Romano had some interest in the units?---Yes.

Well, did you think, seeing Mr Dencker had cleared it all up, that maybe Mr Saad was making some serious and false allegations about senior members of the Burwood Council?---Well, what he said was he's done work on a block of units.

10 This is the question, did you consider Dencker having told you it was cleared up, there was no wrongdoing, that this man who worked for you was making serious and false allegations against senior members of the administration of the Council?---No, there was no evidence that what he said was false because that's the same conclusion I came up with initially when it came through my office. I said there's probably (not transcribable) somebody's done, doing some, a bit of work after hours and, and that could be it for the principal architect who has got his own private business, he could have been renovating a block of units for one of his clients and that's how I approached - - -

And you just want to sit on the fence about everything do you?---No, I'm acting on issues that were at hand.

20 I want to suggest that you just really sat there, see no evil, hear no evil, say no evil to make sure your position was never under any jeopardy from anyone. Is that right?---No, I disagree.

And I suggest that you knew that in 2008 that if you crossed Romano that you were going to be in trouble as far as your job went?---I did cross Romano on a number of issues and I didn't get in trouble.

30 Didn't you? Didn't you put in a statement to this Commission saying that he made some threat that he was going to get you?  
---Yes, that was after, after that time.

And you'd seen what had happened to Mr, was it McKenzie?---No, he's okay.

He's okay?---Yeah.

40 Sorry, not Mr McKenzie. The man who'd been the depot manager, Macpherson, Macpherson? You'd seen what had happened - - - -?---(Not transcribable) yes.

You'd seen what had happened to him, didn't you, at the hands of Romano?---What happened to him?

He got sent to Coventry in fact, didn't he, and then dismissed?---He was restructured out of the position, that's right, but he was never had - - -

Is that a euphemism you like to use at Burwood Council, is it?---I'm sorry.

Is that a euphemism you use at Burwood Council?---I don't know what you mean.

Restructuring, and moved down, was he?---Well, the (not transcribable) applying the Morrison Low report.

You have been present when he had told Mr Romano that he ran Burwood Council like animal farm, hadn't you?---I don't recall that but it could be, it could be something that he would say, Mr Macpherson.

10

And Mr Romano took great offence at that, didn't he?---I've no exact recollection but I cannot dispute it. It's a word that Macpherson would have used.

I want to suggest that you were quite alarmed at the confrontation between the two of them in your office?---They have always been in confrontation from day one when I first started, yes.

20

And you saw that he was sidelined and then finally got rid of, wasn't he? ---He, his position was, he was acting in a position and when the person has actually resigned and restructuring happened, his position disappeared, yes.

You were very aware, I want to suggest, that you might, if you fell foul of Mr Romano you'd lose your job?---It's a possibility, yes.

That is was (not transcribable) mind in 2008, wasn't it?---2008, no, it was more in from February, 2009 onwards.

30

It was in February, 2009 onwards, that was when Mr Saad made his complaints about the work being done inappropriately on Council time, that's correct, isn't it?---Yeah, since 10 February when I received the late phone call, yes.

40

Did you have any suspicions at that time that maybe Mr Child had been used in that way?---No, actually, I didn't. Well, my recollection from my, my notes were that, that Mr Child provided contacts but for him physically doing work as it turned out to be now, that was not clear and the way it was put to me was that actually Mr Child knew the third person that is involved in the units and, and he provided comments, contacts of trades persons to him.

Were you present at a meeting on 16 February, 2009, when Mr Child and his position was discussed by you and other members of the Executive? ---That was the CFT?

No, between yourself, Hullick, Dencker, Cummins, Macklin, (not transcribable) as well? No?---I recall some minutes on the 16<sup>th</sup> - - -

I'm not talking about minutes. Do you recall any meeting on 16 February?--There's so many meetings. Excuse me, I'm sort of getting confused.

I'm sorry. Sorry, Commissioner, I note the time.

ASSISTANT COMMISSIONER: Yes, all right. Well, at this stage we will adjourn until 10 o'clock tomorrow morning.

10 <WITNESS STOOD DOWN [4.04pm]

**AT 4.04PM THE MATTER WAS ADJOURNED UNTIL  
10.00AM, WEDNESDAY, 26 MAY, 2010 [4.04pm]**