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THERESA HAMILTON ASSISTANT COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 26 MAY, 2010

AT 2.05PM

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

ASSISTANT COMMISSIONER: Yes, thank you, please be seated.

MS RONALDS: If I could just make a brief announcement before Mr Blake starts. It is with great regret and sadness that I say the following. It appears that despite our best endeavours we may not finish this week and amongst much tears and loathing I apologise to those who asked yesterday and I said we might go to PIC next week. PIC is being used and so if we don't finish this week we will return here on the 7th, and return here on 7 June to finish we hope. That's a Monday. It's not the long weekend in case anyone thinks it is. That's the following weekend.

ASSISTANT COMMISSIONER: Thank you.

MR NEIL: Commissioner, could I just say that I understand that we have made some arrangements, potentially for possibly next week. Can I just, I'm sure counsel assisting will agree that I hope that could all look at the prospect of making sure somehow we finish in that week.

MS RONALDS: Yes. We had hoped to finish this week.

ASSISTANT COMMISSIONER: I'm still hopeful we will finish in this week so - - -

MR NEIL: Good to hear.

ASSISTANT COMMISSIONER: - - - we will, we will see.

MR BLAKE: Just one matter of housekeeping, Assistant Commissioner. It was pointed out to me by counsel assisting, which I thank her, that in paragraph 146 of Mr Cummins' statement, Exhibit 242, there is a reference to, this is page 26, Mr Macklin, words attributed to him, "Well, Pat, I sent you an email about this this morning" and then "[tab 53] we have identified the email" which is an email from Mr Macklin to Mr Romano on Monday, 16 February, 2009 at 8.30am and to make sense of the evidence we would seek to tender the email but I appreciate I have not yet shown it to counsel assisting apart from right now but I was asked at lunch time.

ASSISTANT COMMISSIONER: So this is an email from Mr Macklin - - -

MS RONALDS: (not transcribable).

ASSISTANT COMMISSIONER: - - - to whom?

MR BLAKE: It's in - - -

MS RONALDS: (Not transcribable) tab 41.

MR BLAKE: It's in paragraph 146 of Exhibit 242 and it may be that the most convenient course would be to have that referred to as Tab 41.

MS RONALDS: I have no objection. I'm just concerned it didn't make sense because there was no tab 53 in this bundle and it wasn't tab 53 in the other bundle when we checked.

ASSISTANT COMMISSIONER: I don't understand anything about the tabs but you want to make this email an exhibit?

10

MR BLAKE: Yes, I want to include this particular email as tab 41 to exhibit 242 and I have copies here to distribute.

ASSISTANT COMMISSIONER: All right. Well, that email will be added as tab 41 to Exhibit 242.

MR BLAKE: Mr Azer, can I show you this document. Can you just look at the front page and just look at the second page rather than read the whole lot for the moment?---This page?

You received this email from Mr Macklin on 20 May?---Yes.

10 And did you, and attached to it was some advice from Maddocks in the letter of 19 May, 2009?---Yes.

And you read the advice?---I flicked through it. Not word for word at the time.

You read the summary on the first page of the advice?---On the first page, yeah.

20 But that's something you read, the summary in particular?---I, I did glance over it, yes, at the time.

Yes. Thank you. I seek to tender the email and attached advice.

ASSISTANT COMMISSIONER: Yes. That email from Mr Macklin dated 20 May, 2009 and the attached advice will be Exhibit 264.

#EXHIBIT 264 - EMAIL FROM MR MACKLIN DATED 20 MAY 2009 AND ATTACHED ADVICE

30

MR BLAKE: And it was about that time that to your understanding, that the Commission directed the Council not to proceed with filling the job of civil maintenance co-ordinator? Just so it's clear, it was about that time that the Independent Commission Against Corruption directed the Council not to proceed with filling the position of civil maintenance co-ordinator in about May of 2009, around about that time?---It was sometime in May.

40 Yes. And the matter has been in abeyance until very recently?---That's right.

Yes. Thank you. Now there were a number of aspects of the depot reform that were unconnected with the change, the proposed change in the role of civil maintenance co-ordinator weren't there?---Yes.

And in the latter part of 2009 there was a review of the garbage functions? ---Yes.

In particular the recycling and the putrescible waste?---No. The, the green waste and putrescible waste.

Green waste and putrescible waste. And that was something that Mr Romano was involved in wasn't it?---Yes.

Yes. And you were not, sorry, I'll withdraw that. There was no criticism from you to Mr Romano about being involved in those issues was there?
---No. His, his involvement was at a much higher level. I didn't think it
10 was required to any criticism, no.

Thank you. And when you said you criticised Mr Romano about being involved in the depot reform in the last part of 2009 you had in mind matters unconnected with the allegations made regarding, about the units and Mr Child and Mr Giangrasso, didn't you?---Are you talking about the restoration officers issues?

Yes, yes?---I had in mind other issues and, and also I thought it could be well connected somehow.
20

When you said you thought it could be connected, how did you think it might be connected to the allegations in the Herald?---A very light connection just because of the personnel and where they sit with each other.

But you weren't aware of any specific allegation involving the restoration officer, were you?---No.

No, thank you. You were also asked about an interview with Mr Ellul, the employment interview. Do you recall that?---Yes.
30

And you mentioned there were two interviews, one involving yourself and Mr Ellul and the second interview involving yourself and Mr Romano and Mr Ellul?---Yeah, yeah, the first one I think Mr Dardano was with me as well.

You say Mr Romano was present in both?---No, no, no.

MS RONALDS: Mr Dardano.

40 MR BLAKE: Mr Dardano, thank you, thank you. The second interview took place in late February 2009?---Yes.

And it took place in Café Marco in Burwood, correct, and took place about, over a period of about one and a half hours?---Yes.

And one of the issues discussed in that interview was the depot reform, wasn't it?---Definitely.

Yes. And Mr Romano said, I suggest in that interview, that if Mr Ellul got the job that one of his direct reports would be the civil maintenance coordinator, Mr Child?---Yes.

And he also said that Mr Child's having a lot of difficulty in accepting the changes in the Morrison Low report?---Yes.

10 And he said we're experiencing passive resistance, that was the words he used?---A good possibility, yes, that's one of Mr Romano's famous comments, yes, he could have used it that time as well.

And Mr Ellul said he'd had a lot of experience with these sorts of people? ---Yeah, with these sort of situations, that's right.

And he said he'd delivered reforms to the waste services division of Bankstown Council when he was there?---That's correct.

20 And he said he knew how to deal with these people, he would be firm but fair?---That's right.

And he said he would need to review the Morrison Low report?---That's right.

And he said he reserved the right to make changes to the recommendations and the direction of the reforms?---Yes.

And that was agreed to in the interview, wasn't it?---That's right.

30 And I suggest there was no reference to the words spill and fill in that interview?---I don't believe so.

Yes. The issue of spill and fill came up from Mr Ellul in the briefing note I took to you, took you to that he was recommending that all positions in the maintenance area be spilled and filled?---Yeah.

And that was the context in which that issue arose, wasn't it?---It's a term that is used in the industry.

40 Yes?---But yeah, it was mentioned in that briefing note.

Yes. And that was the only occasion on which spill and fill was talked about in relation to the depot, was the whole of the maintenance staff being spilled and filled as recommended by Mr Ellul?---Is the one that I can recall right now.

Yes, and the concept of spill and fill was talked about at the depot reform team meeting when the briefing note was discussed you gave consideration as to whether that was appropriate or not?---I believe so.

Yes. And I suggest that that's not something that Mr Romano specifically mentioned?---No.

What, when you say no, you're agreeing with me?---Yeah, he did not, he did not - - -

ASSISTANT COMMISSIONER: Well, you said yesterday he did?---Not in the context of the CFT.

10

No, in the context of Mr Child's position. That was your evidence yesterday at the meeting - - -?---That's right.

- - - between you and Mr Ellul and Mr Romano. Mr Romano's view was that it might be a need for spill and fill in that position?---Yeah, yeah, I, I have a recollection but not, maybe not the exact words but he said there may be a, a, a, a need to basically advertise the position and (not transcribable) something along those lines. I haven't - - -

20

At the meeting with Mr Ellul, the second interview?---I definitely recall Mr Romano talking about advertising the position. Whether it was discussed in this, and that was earlier on. Whether it was discussed in this particular meeting as well or was before I'm not 100 per cent sure.

MR BLAKE: So you're now, your evidence is you're now not sure that it was raised - - -?---Well, it was definitely raised during February by Mr Romano.

30

But not necessarily in the context of that meeting?---Yeah, but there was a lot of smaller and ad hoc meetings during that time and definitely he was, he's directed maybe on two occasions that I can remember.

And I suggest to you there as a lot of, a lot of discussion between about February and April, 2009, of spill and fill affecting the maintenance area? ---That's right.

Yes, thank you. And not just directed to Mr Child but to the whole of the maintenance area?---Yes.

40

Mr Azer, you gave some evidence about a comment made by Mr Romano in August, 2009, referred to in, and you made a note in Exhibit 255. Could Mr Azer be shown Exhibit 255. I think it's the second note you're referring to. Can you recall that, Mr Azer?---Yes.

You were aware that the, as at August, 2009, workers compensation claims had been made in about May of 2009 by Mr Child and Mr Giangrasso and Mr Cummins?---Yes.

And between when those claims were made and mid-August, 2009, you'd had no involvement in dealing with those claims, had you?---Apart from giving a statement on Mr Child's case.

Yes. But the actual handling of the claim was not being dealt with by you?
---No. These legal issues I was not involved with.

10 And you hadn't been involved in any legal meetings regarding those workers compensation claims, had you?---The ones in HDY?

Well, either - - -?---I haven't been to HDY so for sure I haven't been there.

Yes, and you hadn't been to HWL Ebsworths to discuss workers compensation claims?---I remember being briefed very briefly about the Cummins issue but not in HDY and possibly not in Ebsworths.

20 You were aware that between May and August, 2009, there were several meetings between lawyers and officers of Council, Mr Hullick and Mr Dencker?---Yes, I was aware.

And you were not present at those meetings, were you?---No.

And you weren't invited?---I was, I was invited to one of them by mistake and I was told that I was not required.

30 Yes, thank you. And the note that you've expressed in Exhibit 255, "because it was about me", they weren't the words spoken, were they? what was your conclusion from what was said?---Well, they said, "because it's about you". So that's how I've written it.

Well, I suggest to you he didn't say that and Mr Romano said to you you weren't required to attend because the matters don't concern you?---No, that's my, not, that's not my recollection.

40 Yes. Well, do you accept that you could be mistaken and you've attributed to Mr Romano the words "because it was about me" when in fact he said, "the matters don't concern you". Do you agree you could've made that transcription in your own mind or thought process in your mind?---No, I can't accept that.

You don't accept your mistake in that regard?---No. Anybody can make mistakes and I make a lot of mistakes but I don't think I'm mistaken on this one.

Thank you. Now, you also gave some evidence about bullying that you had experienced from Mr Child yesterday?---Yes.

Do you recall giving that evidence?---Yes.

Now, can I show you this document. Can you just read from half way down the first page to subsequent parts of the email?---Yes, I remember that email.

So I mean the sequence is you received a complaint from Mr Inglese half past 4.00 on 25 March?---Yes.

10 And following receipt of that email did you either see or telephone Mr Hullick?---I think I've seen him.

Yes. And did he ask you to put, to forward the complaint to him that you'd received from Mr Inglese?---I think so, yes.

And did you tell Mr Hullick about your dealings with Mr Child that are referred to in your email, what Mr Child said to you?---I would have gone through it, yes.

20 And did he ask you to put that in writing?---From memory, yes.

Yes, and you took care to accurately record what had happened when you had the discussion with Mr Child?---Well, it was recorded in the email I guess, yes.

And you took care to accurately record what had happened?---As accurate as possible, given the circumstances.

30 And you received a response from Mr Macklin, is that right, about 6 o'clock that night?---That's right, that's right.

Yes. Yes, I seek to tender that series of emails.

ASSISTANT COMMISSIONER: So whatever happened about this?---I don't remember being (not transcribable). I guess there was a lot of things happening at the time and - - -

40 So as far as you know nothing happened?---I can't recall any, any actions. But then there was a lot of things happening at the time and things were slipping from a lot of angles.

Yes. That email, string of emails will be Exhibit 265.

**#EXHIBIT 265 - STRING OF EMAILS DATED 25/3-26/3/2009,
SUBJECT: INFORMAL COMPLAINT**

MR BLAKE: Mr Azer, you gave some evidence about a conversation with Mr Romano in which you have said, this is transcript 1,851, that one day he told me he having me on a platter. Do you recall that evidence?---Yes. Can you just repeat exact words?

Well, it was put to you, I'll just put it context, it was indicated by Mr Romano that you had failed him. Yes. And what were the words he used to the best of your recollection? You said, I recall one day he told me, he having me on a platter. So that was one comment that, that was later on in the year?---Yeah. He handed me on a platter. That was exact words.

Yes. When do you say that was said?---From recollection maybe 9 December.

9 December?---It is in my diary, so I can double check it, easily check.

Was that in the context of the performance review?---No. If I refer to my statement it was in regard to, no, maybe not 9 December, maybe earlier. It was in regards to the (not transcribable) issue. And the Joe Saad complaint came back again on top of it.

Well, I suggest to you that Mr Romano didn't say those words. Do you agree with that?---No.

You also gave evidence that Mr Romano, and this is page 1,885 of the transcript, sir, that Mr Romano finally decided to carry out his promise to me that he's going to wash his hands like Pontius Pilot. Do you recall that? ---Yes.

I suggest to you that wasn't a phrase that Mr Romano used in describing his relationship with Mr Child?---No. He said it more than once.

And I suggest you're mistaken about that. Do you agree?---No, I disagree.

And you were asked some questions also about surveillance or whether surveillance was considered in about July of 2009, at the time the Morrison Low Report was commencing. Do you recall that?---It's a long time ago.

No, you were asked a long time ago yesterday about that issue. Do you recall that?---Are you talking, you're not talking about the IPP surveillance?

No, no. I'm talking about the issue of whether surveillance was considered in about July of 2008?---I recall surveillance being discussed in 2008.

Yes?---Specifically around October. But it may have been discussed in July as well.

It was in the context of, in the context of the anonymous letters that had been sent to Mr Romano. Do you recall you taken to the two handwritten anonymous letters and type written one and you said you'd seen the handwritten letters?---Definitely yes.

Yes. And there were allegations of theft and pilfering in those letters?---Yes.

10 And you were asked some questions as to whether an investigation about theft or surveillance was considered at that time?---I definitely remember around October, September, October. In July, it's a possibility.

And the decision was taken around about July or August in that period to delay consideration of the issues of theft and pilfering until the Morrison Low Report had been completed?---I recall something along those lines.

And that was taken by the Executive wasn't it?---A possibility, yes.

20 And you were also asked at page 1,889 of the transcript about what Mr Romano said to you about October or November, 2007 and this was in relation to harassment and you said he said there were physical issues and you couldn't recall exactly what was said. And he said the police were not interested in investigating then. Do you recall saying that?---Yes.

And you then on the side, you mentioned something about threatening emails being sent from the Council's library computers?---Yes, I remember him saying that.

30 Yes. You didn't make a note of that conversation did you?---No.

No. I suggest you're mistaken in your recollection that Mr Romano said he'd received threatening emails being sent from the Council's library computers?---No. He mentioned that there's, the, no, he said, he said words to the effect that, and some of the harassment is coming from within Council, from the Council library.

Did you suggest to him that that would be easy to identify because - - -

40 MR TAYLOR: Commissioner, can I object at this stage? This is an inquiry, it's not a court room. The rules of evidence don't apply. It's not necessary for Mr Blake to go through Mr Romano's version of events and (not transcribable) in relation to that. And it seems to me that it's not going to assist you at all. You have the two versions. It's a matter for you to make a determination about what findings of fact you ultimately come to when you assess on the evidence. If we're going to go through this process, we'll be here for months.

ASSISTANT COMMISSIONER: Yes. I must say, Mr Blake, I thought that was how we were going to proceed. I mean eventually Mr Romano will give evidence or he has given evidence saying what he says he said. I don't really see the need or the benefit of putting every conflicting versions to witnesses.

10 MR BLAKE: I am in your hands, Commissioner. As far as I know no one's ever suggested that particular version. That's why I was putting it to him. But I could be mistaken, it's a long time ago that that issue was dealt with.

ASSISTANT COMMISSIONER: Yes. But, well, it's now been given and when Mr Romano's back in the box I'm sure he can say well I didn't say that and - - -

MR BLAKE: All right. Well, Commissioner - - -

20 ASSISTANT COMMISSIONER: I certainly would not, you don't need to put it to this witness for your client to give the evidence. That's all I'm saying. And the I think the inquiry would proceed more expeditiously if only the major issues were canvassed with witnesses.

MR BLAKE: Well, it was in fact my last question.

ASSISTANT COMMISSIONER: Oh well, there we go. The objection came just in time. Yes, Mr Leggat.

30 MR LEGGAT: Yes, Commissioner. Thank you. Mr Azer, you were asked some questions which appear in the transcript as being pages 1,829 and 1,840 concerning conversations you had with Mr Dencker in relation to the Joe Saad allegations?---Yes.

Your recollection when you gave the evidence yesterday was that you were assured by Mr Dencker that Mr Dencker had listened to the allegations and Mr Dencker reassured you that there was nothing done during Council time and that there in fact was no protected disclosure. Can you recall giving evidence to that effect?---I recall giving evidence to the effect that Mr Dencker was satisfied that there was no work outside Council time. And
40 that the, also said that he was satisfied that there was no protected disclosure. So these are two, two elements of our discussion.

Well, what I'd like to suggest to you is that Mr Dencker did say to you that there was no protected disclosure but Mr Dencker didn't suggest to you that he had satisfied himself that the work was not done on Council time, that is, yes, protected disclosure is discussed but there was nothing said about the work being done or not being done on Council time?

---So how did I get that information at that time? I'm very clear that I got that piece of information. If it was not from Mr Dencker, who else? It may not have been from Mr Dencker, do you think?---I think it was from Mr Dencker. He's just making me re-examine my thoughts. I think I was satisfied that I got that from Mr Dencker.

10 But I understand from what you're saying now you're not entirely sure, it may have been another source?---Well, I'm definitely sure that I've got that information at that time and up until now I was sure that it was from Mr Dencker, you just started to get me to think and, I thought it was from Mr Dencker.

If it's Mr Dencker's clear recollection that yes, he did speak to you about the protected disclosure, that is, it was not a protected disclosure in his view but that he didn't speak to you about the conclusion that the work was done not during Council time, if that's Mr Dencker's clear recollection you'd defer to him on this, would you?---I was definitely briefed that work was not done during works hours and I believe it was from Mr Dencker. If
20 you're suggesting that he strongly disagrees with it there's a very slight possibility it could have been from Mr Macklin. Other than that, my recollections are still that I heard it from Mr Dencker.

Thank you.

ASSISTANT COMMISSIONER: Thank you, Mr Leggat. Are you all right?

30 MR TAYLOR: I might chance my arm, Assistant Commissioner and say I'll be very brief, thank you.

Mr Azer, you were asked some questions earlier today by senior counsel assisting in relation to reasons for advertising Mr Child's position and I think you said that part of the reason was because of the nature of the description in the job description that you've been shown. Is that correct?
---Sorry, can you repeat it again?

40 You were asked questions about why there was a need to advertise Mr Child's position and you've said part of the reason I believe was because of the nature of the criteria that was contained in the job description. Do you recollect saying that, it was the - - -?---Yes, yes.

What were the other reasons why it would need to be advertised?---The reasons are, the first one that occurred very earlier on has been carried forward which was that the unions had showed concerns that the position is advertised as is in a clear email from Mr Macklin, he's documented that earlier on and it was clear that Mr Child had not accepted that the position would be left as it. He was requesting that there be some adjustment to it

and that's clearly from the discussions between unions and Mr Macklin would trigger an advertising anyway but there was also a highlighted need for major focus on, on issues happening at the depot that affected on the operation and exposure to workers compensation and control of overtime. On top of that there was also the strong recommendations from a number of three successive works managers who had been touting at one after the other. I'm not too sure if this answers all the question or - - -

10 Well, is there any need to advertise the position because of the amount of pay involved?---Definitely, that was the first thing I said is if you increase the grading that automatically triggers it and that's why I referred to initially when I said the unions have showed concerns to Mr Macklin as per his email earlier on around February I think when he said that the unions were not – well, we've discussed issues of readvertising if the grading has changed which is basically the money.

20 You were asked also by Mr, my friend Mr Hanley this morning about whether anyone talked to you or told you to get rid of Mr Child or words to that effect. Do you remember those series of questions?---Yes.

And I think you said you didn't recall any instructions. Did you mean by that that it didn't happen or it may have happened and you've forgotten?--- That's exactly what I meant is I did not recall somebody saying get rid of him. It may have happened but I can't remember.

Well, it's something you would remember wouldn't you?---At what stage was it if you could just focus me on the time?

30 Well, at any time because I don't think Mr Hanley specified a time?---(NO AUDIBLE REPLY)

After – I think you've been asked previously whether it was clear to you that Mr Child was one of the whistleblowers I think the term was used and you said yes, there's a high percentage 90 per cent?---No, after really became a whistleblower, no.

No one said anything to you about getting rid of Mr Child directly?---No, I don't, no.

40 Or indirectly?---Yeah.

Now, Mr Hanley spoke to you about an article which I think is Exhibit 62 or 63 that appeared in the Herald. Remember that evidence?---Yes.

Was there an investigation in respect of the allegations that were made in that article against you?---Yes, that was an internal investigation.

Were you cleared?---Yes, I was.

And do you say that you did nothing wrong in relation to that matter - - -?
---That's correct.

- - - in that the allegation in the paper was incorrect?---That's right. There was no cover-up was proven.

10 It was also put to you by senior counsel assisting yesterday I think it was or might've been Monday and you and Mr Dencker actively participated in the cover-up in relation to the Saad complaint. Do you remember that?---Yes.

As at 5 February, 2009 when Mr Dardano came to you with the Saad complaint what was your relationship with Mr Becerra?---With Mr Child it just - - -

No, Mr Becerra?---Becerra? Very limited.

You had no reason to protect Mr Becerra?---No, not at all.

20 You had no significant relationship with him?---No, no.

Now, as far as – in the chain of command as far as the depot's concerned have I got it right you're the director ultimately responsible?---Yes.

There's a manager of the depot?---That's right.

Then there was Mr Child?---Correct.

30 And then there was a number of other people such as Mr Issa?---I think, yes, that's right.

And in relation to Mr Issa and you asking him to move on from outside the front of the Council chambers, you referred to two other incidents. Did they involve people smoking?---Yes.

And how long before the direction from Mr Romano to ask Mr Issa to move on did you make those directions to the smokers?---Probably a few months before that.

40 And was it the situation that the Executive had come to the decision that people from the Council, that is workers, weren't to smoke out the front of the Council chambers?---That's right. If you understand that in suburban Burwood if you're standing there it's 90 per cent sure that it is a staff member. It's not like here in the middle of CBD where it could be anybody. So yes it was highlighted as a measure, image issue.

Now, you're aware that Mr Child says that you're part of the reprisal program against him, that's right, isn't?---I recall his saying that.

And he said that you often praised him and his team over a period of time, is that correct?---That's correct.

Did you have occasion to chastise Mr Child or criticise him in relation to his work performance prior to say January, 2009?---Yes, definitely.

On how many occasions would you say that occurred?---Up to a dozen occasions that I can sort of recall.

10

Is it the circumstance that you praised him when he and his team did good work and you criticised him when he and his team didn't perform as well as expected?---That's right.

20

And is it your position that you did not knowingly participate in any act of reprisal against Mr Child?---No, I have not and if you think about it, this incident on 30 January, on the 30th I promised him that I'd give him this letter of recommendation. Between that and then there was an incident on 31st where (not transcribable) actually thrown a number of invoices in my face, threw it through the, the desk and I still maintained the, my, my promise to still praise him. So I would have made, taken the reprisals during that time if that was my, my way of operating.

30

What formal qualifications do you hold?---I've got a Bachelor of Science in Civil Engineering. I've got a degree in Computer Science and I've got a Masters of Business Administration. I've a chartered professional engineer, member of the Civil College and the Structural College of Institution of Engineers Australia and a Fellow of the Institute, Institute of Engineers, Institution of Engineers Australia.

You have no formal qualifications in the area of human resources?---No.

In the area of dealing with workers compensation claims?---No, it's not my area of expertise.

Is it the situation that you delegated and/or relied upon others within Council for advice in relation to matters pertaining to human resources issues?---That's right.

40

Workers compensation issues?---Yes.

There were some questions asked of you yesterday about what inquiries you made about jobs for Mr Issa, do you remember that?---That's right.

And is that something that you would normally, as a director in charge of technical services, be involved in?---No.

And in relation to questions that you were asked about Mr Child possibly being made redundant, is that an area in which you have any special expertise?---No, I'm not an expert in human resources management.

And that would be a matter that you would defer to the human resources department (not transcribable)?---Yes.

Is that correct?---Yes.

10 Yes, nothing further.

ASSISTANT COMMISSIONER: Yes, thank you. Yes, Ms Ronalds, are you finished? All right. Mr Azer, you are now excused from further attendance, You may leave?---Thank you.

<WITNESS EXCUSED

[2.54pm]

20 MS RONALDS: I call Mr Dencker. Mr Dencker has given evidence before.

ASSISTANT COMMISSIONER: Yes, Mr Dencker, you're on your former oath and orders previously made in respect of your evidence continue to apply.

MS RONALDS: Mr Dencker, you've given evidence before about your working relationship with Mr Romano. I'd just like to take you to some of Mr Romano's views of himself and seek your views on those. All right. Now, Mr Romano has described himself as a tough but fair leader. Would you agree with that description?---Yes.

10 And would you agree that you had an equal say in decision making processes involving yourself and him?---Yes.

And that he listened to you and changed his position when and if required? ---Yes.

Now, in relation to the disclosure by Mr Saad, you know of the issue of which I speak?---Yes.

20 Mr Romano put you in charge of an investigation, would you agree?---Yes.

And what I'd suggest to you is you didn't conduct an investigation, did you?---I said no.

Sorry?---I said no.

Sorry, I didn't hear you?---Sorry.

Speak up a bit?---Well - - -

30 You didn't take, make any pursuit of the matter in any independent way, did you?---I've given evidence exactly what I (not transcribable).

Yes?---I'm not sure if that's - - -

Well, what I just want to check with you the process is that you never spoke to Mr Saad?---No, I didn't speak to Mr Saad.

40 You didn't, and you knew, didn't you, that Mr Saad had nominated other people, that is, Mr Child, Mr Giangrasso and Mr Vadala of having worked on the units as well?---No, I did not, no, I did not know that Mr Saad was the person of interest at the time myself, Pina and (not transcribable) Peter Macklin met to discuss the matter.

See, what I suggest to you is that you just set about shutting the whole matter down, didn't you?---No.

That you made no independent steps to gain any information in an appropriate way, did you?---I disagree with you.

You see, you were appointed by Mr Romano at 4.49pm on 10 February, do you recall that?---I recall that, yes, I recall - - -

An email that was sent to you on that date?---And, and a phone call as well, earlier.

10 An earlier phone call, but an email, can the witness be shown Exhibit 121. When you're shown this you'll see there's two little tags at the top so endeavour to, hope to assist you to find it more quickly?---Yeah, yep, yep; yep.

It's annexure 26 and 27 for our friends. If I can take you to the little tag that says Emails?---Yep.

Do you see that?---Yes, yes.

20 All right. And if you turn to the first one. You see it's sent to Cummins and you're copied but it's actually sent to Ian. Do you remember receiving this one or seeing it?---Ah - - -

You see it's the one on the, sorry, it's on the back of the page I think you'll find?---If it wasn't sent to me I wouldn't have, I wouldn't have seen that one if it was wasn't sent to my inbox.

30 All right, "But further to our conversation, I confirm instructions that Ian Dencker will act in my capacity on a review of allegations made via protective disclosure by a depot employee today. As instructed Pina Viney will report directly to Ian Dencker." That was your understanding of what was to happen?---Yes.

And on 13 February, 2009, you had a conversation with Mr Cummins, do you remember that?---He came into my office. I remember the conversation.

And you said to him that you were the cleaner?---No, I didn't say that.

40 So you deny that?---I said words, different words but I didn't say those words.

All right. What do you recall saying to him?---I said to him. He came into my office. I said to him, you know, how you going and this was the day after I had the meeting with Mr Viney and Mr Macklin and I said to him, what's going on mate, you know, what, what's happening, do you know? And he, he wouldn't, he said, I can't talk to you on the matter. He said, I can't give you any information.

Did he tell you why?---He said, he said that he wasn't allowed to, to talk to me.

Did he tell you who told him he wasn't allowed to talk to you?---Yeah, he told, he, he, he told me that he'd had a, a conversation with Mr Romano and Mr Romano has excluded him from this matter and he wasn't allowed to talk to me.

10 All right. Did you ask him why?---Already, Mr Romano had already told me why so I could have but it, I think he said they'd had a blue or something.

So who told you that Mr Romano or Mr Cummins?---Mr Romano had told me that and I can't remember if Mr Cummins, I don't think that Mr Cummins said that.

20 And had a blue, is that the words Mr Romano used or are you using your own word there?---I think Mr Romano would've said that to me when he rang me on the - - -

On the 10th?---On the 10th, yes.

Right. So he said, Cummins and I have had a blue about it?---Yep, yep.

And I want you to take over in effect?---Yeah, that's right.

30 And did you say to him, I don't have any interest in this matter. It doesn't involve me. I don't want to do it?---No. I, he explained that, that he'd gone into Mr Cummins office and they both got very emotive.

Right?---And he said look, we've got, that neither of them could make any rational decision. He asked if I could assist.

And what did you understand on the 10th that you were meant to do?---My understanding was from what Mr Romano was saying, that there was a protected disclosure had been made by a depot employee. And that Peter Macklin had information about this matter. I also said something else to Mr Romano, I think it related to your earlier questions. If I can explain?

40 Yes, go on?---Yeah, I said to him, I said, look I'm happy to do it but I sort of made it conditional and I said I think because you're involved you need an external investigator to look at it. So like if the protected disclosure, and that's what I was starting to work out in my mind because I had experience with dealing with similar matters before, that we would have to give the protected disclosure, someone independent to, to the organisation. And I said that to Mr Romano. This might cost him money but we need to get somebody because if, if Pina Viney, whose protected disclosure co-ordinator, if she was to investigate it, in my view it should be, you know

(not transcribable) because it could be a perception that because he's the general manager and she's investigating the CEO or the GM of a Council, that no matter what the outcome was, you're going to be, it was in my view, an unenviable position to put the protected disclosure co-ordinator in. And Mr Romano, he was, he was happy to agree to that. He said, look, I'm happy with that. And then he confirmed that in an email later to me that day, that if I needed additional external resources, he'd, he was, he had no problem with that.

10 All right. Well, let's just unpack that a little bit?---Sure.

You knew at that stage on the 10th when he spoke to you that he had some involvement in the units?---No, I did not.

Well, why were you saying to him you knew he had some involvement?
---When did I say that?

ASSISTANT COMMISSIONER: You just said it.

20 MS RONALDS: Just then?---Sorry. Can I just - - -

ASSISTANT COMMISSIONER: You said because he was involved there had to be an external investigator?---Yeah, yeah. No, he mentioned, he mentioned that he was, he said that the, sorry, no you're right, I did say that, yeah. But I didn't say that he was involved with the units.

MS RONALDS: Well, what did you think he was involved in?---No, he said that the depot, that the protected disclosure involves himself. He didn't say what it was about. He was completely silent on that.

30 So why didn't, and you didn't ask him?---No. I did not ask him, no.

Why not?---Because that would be part of the process that would be set up under the protected disclosure policy. And I was not going to contaminate the process by asking him and then, because then I would be, I would depart from, from any proper process. And in my previous experience investigations, if you have a matter so, so serious as this you're going to make sure you follow a very formal process. And if you depart from that, you can leave yourself open to criticism at a later time.

40 So Mr Dencker, you're just making that up all now aren't you?---I'm not made that up.

You didn't do any of those things did you? I suggest you never treated it seriously did you?---I did treat it very seriously.

You did everything you could to sweep it under the carpet?---I resent that (not transcribable)

And you got rid of it as soon as you could didn't you?---I did not. I did not.

And you did that to cover up for Mr Romano?---I resent that. And I strongly refute that. I did not do that under any circumstances.

Mr Dencker, you sent an email with a connection to a U-Tube clip that you thought was funny didn't you?---That's correct.

10 And it wasn't funny was it?---Well, it was funny at the time to Mr Cummins and myself. We were both laughing at it.

You've heard Mr Cummins evidence haven't you? You know that that was a trigger to his psychological collapse?---At the time I had no inkling of that. He, he willingly participated in that exchange of humour. I asked him for permission to send it to him and he said, yes. I went into his office the following day and he said to me, I can't see it because my speakers don't work. And I said, would you like to come to my office and see it? And he said, yes. And he came to my office and we both laughed. If I had any
20 inkling that that was going to cause him any psychological distress, I would never have done that. And I, I regret sincerely that, if I caused him any psychological distress and I will apologise profusely for that. It was never my intent at any stage.

Thank you. I know senses of humour can differ, Mr Dencker, we'll now watch it and then perhaps you can explain to us what you thought was funny?---And also then get permission to talk about the U-Tube clips that Mr Cummins spoke to me about, seven weeks earlier at the Christmas party.

30 Mr Dencker, you sent him a clip called The Cleaner. You nominated yourself as The Cleaner didn't you?---No, I did not.

And what you meant to convey to Mr Cummins was that you were cleaning out the mess that he'd made?---I did not do that.

That's what you intended to make - - -?---I strongly refute that.

That's what you intended to convey wasn't it?---Absolutely not.

40 And you were covering up for Mr Romano?---I was not. And I strongly refute that.

And you regret it now don't you because it's been disclosed that the matters that Mr Saad raised were very serious matters that should have been properly investigated and you did nothing about them. That's what's happened isn't it?---No, that's incorrect.

And because they have now been revealed firstly in The Sydney Morning Herald and secondly in this Commission, you have been exposed as being entirely inadequate in your job performance haven't you?---I totally disagree with that.

And you assisted Mr Romano in covering his own appalling conduct didn't you?---I did not. And I strongly refute that.

10 And you knew at the time that your role was to shut it down and that was the sole purpose that you sent the email with the U-Tube clip wasn't it?
---Absolutely not.

Well, let's watch it and you can explain to the Commissioner this is what you thought was funny?---I strongly object to this being shown. And if that's going to happen I'm going to ask permission to talk about the U-Tube clips that Mr Cummins spoke to me about the previous - - -

We don't really care what happened at the Christmas party?---Yeah, okay.

20 This was in context of the investigation (not transcribable)

So from the 10th to the 12th you'd ascertained in your view there was no protected disclosure between the 10th and the 12th?---In my mind, yes.

And on the 13th you said that to Mr Cummins?---That's correct.

And you say that that was meant to be funny?---That's correct.

30 What was funny about it?---Harvey Keitel is famous for playing those types, types of role, he's - - -

Maybe. What was funny about it?---Funny about it. I'd seen that film earlier and probably I think it came out in the early nineties.

You have done that. What was funny about it?---I think the only thing that's funny about it was I always appeared to, at Council to get the sort of jobs where they were hard to do so for example I had to restructure the (not transcribable).

40 Well, this one wasn't hard to do was it?---Sorry?

This one wasn't hard to do was it because you didn't do anything?---Well, it was actually hard to do.

Well, it didn't take you long?---No, we took all the necessary steps under the Protected Disclosure Policy, myself, Mr Macklin and Ms Viney.

Can the witness be shown 242, Exhibit 242? And I'd ask you to turn to tab 6 when you receive the document?---And Mr Cummins (not transcribable) as well.

Well, that's not his evidence is it?---Well, he was (not transcribable) at the time. And as I said he - - -

If you just answer the questions please, Mr Dencker?---Yes, senior counsel.

10 Tab 6, the second page. Your email by 11.20 on 12 February, 2009 you say to Mr Macklin, "Further to our meeting it is my understanding that no, underlined, protected disclosure statement has been made by a depot employee." Now, you thought at that stage didn't you that that was the end of the matter as far as you were concerned?---That's correct, yeah.

So you'd cleaned it up?---I disagree with that statement.

20 Well, that's what you wanted to tell Mr Cummins wasn't it? You'd come in and cleaned up the mess you've made by starting an investigation into the allegations made by Mr Saad?---Absolutely not.

Well, that's what you were intending to convey to him when you sent him the YouTube clip wasn't it, Mr Dencker?---Absolutely not. Absolutely not.

Well, what were you, what do you say you were trying to convey?---I've given evidence previously to StateCover about that and I believe that's - - -

You are now giving evidence in a Commission?---Yep.

30 What you've said to StateCover is of no interest at this stage?---Yep. No, I made that statement - - -

Will you please answer the questions?---My evidence has not changed and I can repeat that if you like.

Would you please answer the question?---Yes, senior counsel, sorry.

40 You've been sitting in this Commission for days, you must by now understand the process?---Yes, I do.

I ask the question, you answer it?---Yes, sorry. Could I have the question again?

What do you say, you reject what I've said to you, that is, that you meant to convey to Mr Cummins that you'd cleaned up his mess and you were covering up for Mr Romano. You say you didn't intend that?---That's correct.

Well, I'm giving you an opportunity to say what you do say it was meant to convey?---As I said before I was at Council and I've been there since 2003 and appear to get the challenging jobs. One was to fix up the front counter and the call centre matters and that was - - -

That wasn't conveyed in the YouTube clip was it?---(NO AUDIBLE REPLY)

10 I'm asking you a very simple question, Mr Dencker?---Yeah. I didn't put - -
-

What do you say you were intending to convey to Mr Cummins? You've rejected the proposition I've put to you?---Yeah.

20 In very simple terms what were you intending to convey do you say?---I was trying to engage his sympathy by saying well, great, I always get the greatest job around here to sort out or clean up whatever you, you know, I had to clean up the front counter, I had to clean up the restructure or fixing up the information services which I had to do in 2009 which is another
30 challenging task (not transcribable) and I also had this job. It seemed to me that I was, when the difficult jobs were handed out I seemed to be the only one prepared to take it so here was another one, it was in no way intended to convey, I didn't put - the (not transcribable) I had not seen it for probably 15 years, the only thing I remember is just Mr Keitel up with the suitcase and I must admit when both of us watch it I, I got uncomfortable seeing that last bit because I had forgotten that bit. The only bit that sort of I thought was funny was the bit where Mr Keitel walks off just with the suitcase and it's like I get the, you know, here Mr Dencker, you've got another job to do, fix up the front counter. And, you know, and unfortunately I was the only one
that appeared at the time or (not transcribable) times to put the hand up and, and this was to me another example. 'Cause I was a person, I feel I'm a person that's, that's happy to take on the additional responsibility when I'm asked to and I'm happy to put my hand up but I'll also have my, as long as it's done in the correct and proper manner.

All right?---That was the approach (not transcribable) as well.

40 You and I are going to be doing this for some time and indeed if all your answers are as long as that it will be some, quite some time?---Right.

Could I please ask you to listen to the question and answer it?---Yes.

Do you not editorialise?---Yes.

Do you understand?---Yes.

Don't give the Commissioner a running commentary on everything else you want to tell her about your life, how you do your job et cetera?---Sorry.

Just answer the questions?---I will, I'm sorry.

This job didn't take you long to dispose of at all, within a day and a half it was all gone?---That's, that's - - -

That's right isn't it?---Yeah.

10 You see, it didn't matter did it whether the depot employee made a protected disclosure or not serious issues had been raised hadn't they?---I was not aware of that at the time when I had the matter.

All you cared about - is this your evidence, all you cared about was whether it was a protected disclosure?---No, that's not all I cared about.

Well, that's what you address in your email as you wash your hands of it? ---No, that's not - - -

20 Just have a read of your email, Mr Dencker, if you've forgotten what it says?---Yeah.

It says there's no protective disclosure, protected disclosure - - -

It doesn't talk about the steps that I undertook to come to that conclusion.

No, but you've made the conclusion - - -?---Yeah.

30 - - - by 11.20am on 12 February having had the job since the afternoon of the 10th?---Right. That's right.

And the only matter you're addressing there is whether there was a protected disclosure and as soon as you found out you decided there wasn't one, leave aside whether that was a correct decision or not?---Right.

Once you decided that there wasn't that was the end wasn't it?---Yes.

You did nothing more about it?---That's correct.

40 Never turned your mind to it again?---That's right.

It was dead as far as you were concerned?---At that stage, yes.

Yes. And what I'm suggesting to you is that you made that decision in order to shut it down and cover it up to protect Mr Romano?---That's incorrect.

Thank you. And I'd suggest to you that when you, you were quite proud of having managed to shut it down so quickly because it looked like it was going to be a very serious matter didn't it?---I was not proud at all.

Because that's what you knew Mr Romano wanted didn't you? You knew that Mr Romano wanted to get rid of the thing as quickly as possible and as quietly as possible?---That's incorrect.

And you did exactly what he wanted?---That's completely incorrect.

10

And you'd been working with him for some years by then. He didn't need to ask you directly to do that, did he, because you knew what he wanted?---No, I disagree with that.

And you now understand that that disclosure conveyed very serious matters, didn't it?---Which disclosure?

20

Mr Saad had things to raise about work on the units which has now been disclosed to be a very serious matter?---I was not aware of that at the time. I'm still not aware whether Mr Saad in fact made any disclosure other than what I found out yesterday that Mr Saad spoke to Mr Azer. That's the first time I've been told officially.

There's been no evidence that Mr Saad spoke to Mr Azer at all?---Sorry, Mr Azer spoke to Mr Dardano who spoke to, the evidence that came out yesterday when Mr Azer was questioned.

30

You say that's the first time you heard that?---In terms of, if that is the correct sequence, that's correct, yes.

You didn't know any of that?---That's right.

But you were able to say there was no protected disclosure but you didn't know the course in which the disclosure had run?---That's run.

So how were you able to say there was no protected disclosure?---Well, I can take you to the process I came to in my mind.

40

Well, you're now saying that you didn't know how the process was initiated until yesterday?---That's right. The preceding events on that date I had no idea.

So you weren't very thorough in your review then, were you?---I was. You asked me a question, can I answer it?

Would you just listen to my question?---Yes, yes.

I'm suggesting to you if you are serious that the first time you knew how the issue came up within the Executive at all, was the evidence you heard yesterday, then you weren't very thorough in your review on the 10th, 11th and 12th, were you?---I disagree with that.

Well, you didn't find that out and that wasn't very complicated, was it?
---Well, if I didn't know, well, how could I know what I don't know?

10 It wasn't very complicated, wasn't it?---Well, I didn't know that those sets of circumstances existed.

Because you didn't as, because you didn't - - -?---I did ask.

- - - conduct an investigation, did you?---I, I did conduct a, a interview with Mr Macklin and Ms Viney and I asked - - -

And where are your notes about that?---My notes?

20 Yes?---I had no notes about that other than the email.

Well, it was a serious matter potentially, wasn't it?---Exactly.

You understand that the code of conduct requires that you take notes of serious matters?---Yes.

Well, where are your, why didn't you take any notes?---My notes (not transcribable) on the email on the, on 12 February.

30 You - - -?---As a , as a, as an indication of what happened.

You interviewed Mr Macklin and he'd spoken to the potential discloser, that's right, isn't it?---That's from my understanding, yes.

And you didn't speak to the potential discloser?---No.

So you relied entirely on what Mr Macklin told you about that interview?
---Well, it's not my role to interview - - -

40 You relied entirely on what Mr Macklin told you?---Yes, yes, exactly.

Would you please answer the question?---I'm sorry, sorry, sorry, apologise.

And can you explain then why you have no note of the interview with Mr Macklin?---I didn't feel that I required to take notes at the time.

Why not?---Because as far as I was concerned, after having interviewed Mr Macklin it felt to me and it looked to me and my conclusion was that it had, the matter had not even got to first base. There was no protected

disclosure. There was no statement, there was nobody that had any evidence, a shred of evidence that they could give to myself or Ms Viney to help. There was no, there was not one single shred of evidence and, and because of that I said, well, I rang up Pat and I said to Pat, mate, there's, there's no protected disclosure and Pat said to me, are you sure? He wasn't happy. He was, he was very puzzled because I rang him up and I said, Pat, are you, are you, there's no protected disclosure. And Pat said, mate, that's, that's not right, there must be one. So I went back to Peter Macklin and I said, Peter, I've spoken to the General Manager. He's, he's, he's asked me
10 to check with you again. He, he believes there is a protected disclosure that's made by a (not transcribable) employee. Can you please go back to this person and, and ask Peter that and he, he did that and that happened, and he came back and said, I went to the person, he doesn't want to give it to me, he doesn't want to give me any information. I went back to Mr Romano again and he said, look, can you check one more time. And I went back to Mr Macklin and I said to Mr Macklin, can you please check again and he came back and said, look, I've spoken to, to the person. He does not, the person does not want to make a protected disclosure. He was very adamant about that.

20

And you - - -?---And Mr Romano was unhappy about, he wasn't happy about it. Well, he wasn't angry but he was not happy.

How were you doing anything, other than being a conduit?---I, I've conducted the first steps in accordance with the protected disclosure policy.

Well, where in the policy, just go back to the - - -?---Yes.

- - - Exhibit 121?---Yep, yep.

30

And you'll see there's a tag that says Policy?---Yes.

Turn that up?---Yep.

Where do you say it says you ask someone else to go and make the inquiries if you're the person in charge of the investigation, you rely on everything they tell you, you take no notes about it, you take no independent steps yourself and then you say it's all okay, and we'll just forget about it? Tell me where that is in the policy?---Well, I'd have to look thorough it.

40

Well, please, take your time?---What, can I tell you what - - -

No, you've said it was - - -?---(Not transcribable)

No, don't tell me what you think it says?---Righto.

You just said, your evidence was you followed the policy?---Yep, that's right.

Well, take us to where the policy says you rely on someone else to do everything and take no independent investigation steps yourself?---Well, (not transcribable) the Acting General Manager, point 7.4, disclosures.

What page are you on?---Page 9. So number 1 is I had to satisfy myself what my role is under this and my role is under General Manager.

10 All right?---But that's, IO can't be the General Manager and investigator. I can't have two hats but that was the first thing that went through my mind. I can't wear two hats. The second thing I, so - - -

Well, tell me this. How did you - - -?---Sorry, can I just finish my answer please? So because I can't wear two hats, if I become, if I don't take off my hat as General Manager and then try to become the investigator which is the job as the protected disclosure coordinator, I feel I would be in conflict with the policy and that was the first thing that myself and Ms Viney and Mr Macklin discussed, what our roles were.

20 All right. Well, tell me how you took the step to impartially assess each disclosure? What did you think the disclosure contained? Go back to where you were. You've just taken us to 7.4(a)?---Well - - -

You were required to impartially, you're saying you followed these steps, Mr Dencker - - -?---That's right.

- - - that's your evidence?---That's right.

30 How did you impartially assess the disclosure when you had no notes about it, you had no content about it. On your evidence, you didn't know whether it existed or not?---Because there was no disclosure under, that could accord with any definition of this policy.

Well, that's not the first step, is it? The first one is, you impartially assess the disclosure to determine those matters?---But there was no disclosure. How can I, how can I impartially determine something that doesn't exist?

That's a decision you made, isn't it?---That's not correct.

40 Well, how did this decision get made? Are you saying Mr Macklin told you there was no disclosure?---That's correct.

So he said don't worry about, there's no disclosure?---After we went through the policy, that's what he said.

Well, you just gave evidence that you followed the steps. The steps require you in the step, shoes of the General Manager to take - - -?---I believe I (not transcribable) followed the (not transcribable).

- - - a step, well, Mr Dencker, do you want me to have the tape replayed to you? That was your evidence, you followed the steps in the policy. The first one is, impartially assess each disclosure. Now your evidence is, is it, that Mr Macklin told you there was no disclosure so you just accepted that. You didn't take any step to impartially assess the disclosure yourself, did you?---If, if I said that I, I was, just then, that's not the intention that I meant to convey. What I meant to convey was that myself, Ms Viney and Mr Macklin, before we started the process, we, Ms Viney had (not
10 transcribable) the policy and went through it and we went through what we considered to be the key points of the policy before our conversation started. We wanted to have a good solid foundation for investigation, given the, the importance of the matter and we, that's about four matters we identified as very important.

Well, did you follow the policy or not?---Yes.

All right. Well, how did you impartially assess the disclosure?---Well, as I
20 said, before we got to that step we had to establish was there a disclosure.

No?---I had no evidence presented to me, I had to ask the basic question. Is there a disclosure?

Mr Dencker, read the policy please?---Yes, yes.

“(a), impartially assess to determine whether it appears to be a protected disclosure.” You've got to look at it. You've got to understand what the subject of it is?---Yes.

30 How did you do that if you didn't know?---We had nothing to look at.

Well, there was information around?---What, what information?

Mr Romano knew something didn't he?---He didn't.

You could, he could tell you he had some involvement in it.---He (not transcribable) to me.

40 He could tell you he had some involvement with it, that's your earlier evidence. So he had some facts, didn't he?---And that would be the role of the protected disclosure co-ordinator or, or who I wanted, would be the independent investigator to investigate. I was not going to investigate that.

Mr Dencker you didn't even look at the policy did you?---I looked at the policy very carefully and so did Miss Viney and so did Mr Macklin and we went through four selling points before we started. And if I can get permission I would be happy to explain what those were.

You said you followed the policy – I’m taking you to the step, the very first step in the policy. You can’t do anything until you know what the facts are.---Yeah, that’s right.

And you’re seriously giving evidence that the first time that you knew that it had come up the way it did and the facts as alleged, was when you heard it yesterday.---That’s correct, absolutely. That’s against proceedings- - -

10 ASSISTANT COMMISSIONER: Well, didn’t you want to know the facts, did you want to know what had been said that started this whole ball rolling?---Yes, but under this, under the umbrella of this policy not through a separate ad hoc process that could leave myself and others involved in it subject to criticisms.

For what, for trying to find out for what the allegations were. How could you be criticised for that?---Well, I didn’t know what the allegations were.

Well, did you want to know what the allegations were?---Yes.

20 I thought you were the cleaner, weren’t you brought in to clean up this whole matter.---Yes. And that’s why I wanted to do it properly.

Well, you knew Mr Macklin had been happy to do it hadn’t he? He was removed, he didn’t want to be removed from it.—Sorry, it’s - - -

Mr Romano didn’t want Mr - - -

MS RONALDS: Cummins.

30 ASSISTANT COMMISSIONER: - - -Cummins to do it, did he?---He said that they should both be removed from the process and Mr Cummins.

Well, I could see why Mr Romano should be removed from the process but, Mr Cummins was happy to do the investigation wasn’t he, he was removed?---I’m not sure whether that was conveyed to me or to - - -

40 Well, Mr Romano conveyed to you he didn’t want Mr Cummins to do it, didn’t he?---Yeah, you said that they, you said that it had a heated exchange and they both agreed that they should not be involved in this matter.

Oh, is that what he said. They both agreed that they shouldn’t be involved in the matter.---I believe so, yes.

Well- - -?---That they had come, that they both agreed that I should be dealing, it should be passed to me, that’s correct.

Did you think that- - -?---It’s not a long conversation.

- - -Mr Romano as the subject of the allegation should be deciding who was going to look at it?---To look at it, who should be doing it?

Yes.---The protected disclosure co-ordinator was still Miss Viney so I didn't have an issue with that because that individual had a significant role to play under the policy, so I didn't have an issue with that. But my only issue was and I said that to Mr Romano that, and myself and Miss Viney had some discussion about that because she wasn't certain whether or not the policy allowed for an independent/external investigator to come in to take the place
10 of the protected disclosure co-ordinator and my views were that we might have to seek legal advice on that because I had a strong view that if you're dammed if you do and dammed if you don't if you were going to do that. And I also- - -

I don't know, you seem very interested in the process but I can't believe that you never wanted to know what the allegations were?---Because I wanted to follow, because – and we discussed this. If people start investigating here and there, like if I do a little of investigation and Mr Macklin and Miss
20 Viney who can contaminate the process and the protected disclosure co-ordinator made that very clear to us before that we needed to follow that process correctly so that we don't have me doing a bit of investigation because I also felt myself- - -

MS RONALD: Mr Dencker, if I could just stop you there, if you could answer the question. There's a very different issue between knowing the allegations and investigating them, isn't there? The Commissioner asked you about knowing about the allegations, nothing about investigating did she?---(not transcribable)

30 Can you just listen to her questions.---Yes.

She asked you about, didn't you want to know about what the allegations were.---Yes.

No word investigation crossed her lips.---I did ask, of Mr Macklin on the final day.

And what did he tell you?---He said, he said he'd spoken to Mr Romano and he'd also spoken to the person who had allegedly, you know, wanted to
40 make the protected disclosure – of the person who allegedly wanted a protected disclosure he felt that the persons claims were, if I could use the words, almost vexatious and appeared to be solely (not transcribable) Mr Child. That's what he said about that. So he in his mind thought that, that the allegations were aimed solely at getting at Mr Child.

But that's not telling you the allegations, is it?---No.

That's telling you his opinion about them. What the Commissioner asked you is did you find out- -?---If he, he said, he didn't give any more details sorry I'll- - -

Mr Dencker would you please, would you wait until I finish the question or the transcript gets entirely muddled.---I'll regard that.

The Commissioner asked you a very simple question and I'll ask you for the fourth time.---Yes.

10

It was a very simple proposition. Why didn't you ask what the allegations were? Not Mr Macklin's opinion of them, not his conclusion of them, not whether he thought someone was after Mr Child. The Commissioner wants to know from you, why didn't you ask him what the allegations were? ---Um, I think we, I did, we did asked her, I asked him about them on the final day because I was curious. As to say, well what – because there's no protected disclosure, what was this all about, you know like? And he said, look, he thought it was like a, I think, I'm not sure if he used the words but like a storm in a tea cup. Oh, you know, the person wants to, this is what he told me when I asked him the questions, "What are the allegations?" This is the answer he gave me. Number 1, that he appeared to be, something to do with Mr Child and Mr Romano and there were units involved but that there was a – he felt that the person wasn't, didn't have anything of substance and I was – he gave me the impression that he had not interviewed him or that the person had not disclosed very much information which might have been an off-the-cuff comment. That was the impression that I got when I spoke to Mr Macklin that he had not got very much information at all from this individual, the outdoor employee. He also said that he had spoken to Mr Romano and Mr Romano had freely admitted, yes, I'm doing some work on my units, renovating a unit, I'm doing it in my own time. And Mr Macklin said, it appears to be an issue where Mr Romano to err on the side of caution, he should have declared that as secondary employment and he felt that that's something that needs to be addressed and he had advised Mr Romano to make a declaration or other in his, somewhere to that affect. I felt satisfied that with that answer.

20

30

ASSISTANT COMMISSIONER: You still have no idea what the actual allegations were except they involved a unit and Mr Romano somehow. ---And that's all the information that was given to me.

40

But how on earth could you assess whether there'd been a protected disclosure when you knew nothing at all about what the allegations were, Mr Dencker?---Because I knew some facts, I knew one, that there had been, I knew four things. I knew one, that there had been no, there'd be no voluntary, under the policy, any disclosure must be made voluntarily.

Yes.---And it became very clear to me very early in the process that there, the first critical test of this that it had to be made voluntarily had not been met. And that was went through my mind.

Why wasn't this voluntary?---Because Mr Macklin said the person does not under any circumstances want to make one. That was the first test that you had to pass.

10 Yes. I think you've misunderstood that, but go on. What were the others?
---I'm just saying, that was the test, going through the first test that it had to be made voluntarily and Mr Macklin made it very clear - - -

That's to exclude people who are under a statutory duty to report matters, they're excluded because it's not voluntary. That's the intention of that part of the protected disclosure.---I might have made mistake.

20 Yes, you seemed to have made many mistakes but I just can't believe that this can in any way be called an investigation, I mean.---I never called it an investigation myself.

All right.---Because I thought it never got to first base and look.

MS RONALDS: Well, you wouldn't know whether it got to first base would you, because you never knew what the actual original allegations were.---That's right, that's right.

But you were in charge of addressing the matter.---That's right.

30 You were put as the Acting General Manager and I suggest to you – you completely failed in your duties in relation to this matter. Would you agree?---I'd disagree with that.

And you failed to follow policy. Would you agree?---I totally disagree with that.

And you made sure that it was all shut down very quickly. Would you agree?---I totally disagree with that you.

40 And that no further action was taken by the executive in relation to very serious allegations made against Mr Becerra and the General Manager. Would you agree?---Totally disagree with you.

Well no further action were taken were they?---By who?

By anyone in the executive?---Against the - - -

There was no review about whether the facts as alleged - did you organise for someone to go and interview Mr Child about what was being said about him?---No.

Why not? That wouldn't have been my job. You had to get to first base and in my (not transcribable).

10 Do you understand there's a difference between whether there's a protected disclosure or not and whether a very serious allegation has been made against the General Manager and another senior member of staff?---(NO AUDIBLE REPLY)

Do you understand there's a difference?---The difference between what, sorry?

Between whether there's a protected disclosure or whether material has been revealed to raise serious allegations about the General Manager and a senior member of staff?---I understand there's a difference, yes.

20 Yes. And you understood, didn't you, that Mr Cummins had started an investigation and had discovered certain material?---No, I did not.

So you say you didn't know anything about that until this inquiry?---That's correct. That's correct, yes, and that would've been very helpful if I had that information. I was thinking that because he gave evidence that he had looked at Mr - can I answer that question or am I babbling on?

Yes. The answer was no, you didn't know?---I didn't know.

30 No. You were meant to be the Acting General Manager in relation to the matter?---That's correct.

And what I'm suggesting to you is you acted very swiftly to make sure that it was shut down and nothing happened about it?---I disagree with that completely.

40 And there was no review at all, you didn't ask Mr Macklin to go and interview Mr Child about the matter even though he'd been named and you knew he'd been named?---No, because it wasn't Mr Macklin's role. There would've been a Protected Disclosure Coordinator or what I would've wanted if there had been a protected disclosure would've been the independent (not transcribable), I'm sorry.

I'm asking you about two quite separate things. One is you've decided it's no protected disclosure. I take it you and I disagree about that, right?---Yes, yes.

I have a different view about the Act and it was clearly a protected disclosure but we'll just leave that aside for a moment, right. You say you were following the policy, I can't get you past the first few steps because you didn't know any facts so clearly you weren't following the policy, you've disagreed with me on that and say you were following the policy, okay, but you're unable to identify which bit of the policy you were following because I've asked you to and you took me to one bit which you clearly weren't following. Is there another piece of the policy you want to take me to or take the Commissioner to to say that was the bit of the policy you followed just to make sure we're straight on this one? You took me to 7.4a, right?---Yep.

And said you were following that?---Yeah. And the other one I followed was the - - -

And I'm putting to you you weren't---?- - - was the - can I answer, yep.

But if there's another part of the policy you say that you followed - - -?---My understanding of me following, and I've said that I'm not an expert in this area.

No. Is there another part of the policy you say you were following?---There was four, there was four parts of the policy I believed I was following.

All right. Well, identify the other three?---Can you just give me one second just to collect my thoughts? I'll try to be as quick as I can. The first one I thought was if there was a protected disclosure that has to be made voluntarily that was the first one, I mentioned that. The second thing I mentioned was - - -

The Commissioner has expressed her view about that?---Yes. The second thing I said was in terms of (not transcribable) roles and responsibilities I felt that my role as General Manager was, was such that I, in that role I can't wear two hats so that was the second thing I raised.

Right?---Now, the third, the third aspect and if, if, if there was a protected disclosure, protected disclosure policy (not transcribable) even if it's made orally and it wasn't completely clear to me whether, it appeared to me that some or all information had been exchanged between the individual and Mr Macklin that if the person that receives that information has to write it down and then has to get the other person to sign it to say that's an accurate record of what has been disclosed. Can I find the section?

Please do?---Yeah. 7.2 Nominated Disclosure Policy, it's C. "The nominated Disclosure Officer is responsible for receiving, ordering or acting (not transcribable) put in writing and date any disclosures received orally and have the person making the disclosure sign the document." Now, when

I ask the questions at the time and we all ask ourselves those questions myself, Ms Viney because Ms Viney - it was clear that that did not exist.

At that time?---That's right. And I've given evidence to the inquiry, I'm not sure whether (not transcribable) whether in fact there has been and I still don't know to that date what (not transcribable) if the person who I now know is Mr Saad did in fact make a protected disclosure or give a verbal statement that somebody wrote down and signed but we had discussion about this at the time and we were, we were cognisant of the requirement for that to be the case. And that fitted in with the earlier part where the disclosure also has to be made voluntarily. Now, the last point which, which I guess that I wanted to raise was that a protected can't be made in a frivolous or vexatious, I'm not sure if I've got the words correct so forgive me if I haven't, to get back at another person and it was clear from what Mr Macklin was that his impression was that that was clearly the case.

It's his opinion not the facts?---Well, that's right. And, and, and I - - -

Well, why didn't you ask what facts he'd had before him to arrive at such an important decision?---It didn't come to my mind. I was focused on, I guess because it was such an important (not transcribable) I was so focused on the policy and not stepping outside that, because I'm not (not transcribable) Miss Viney, she's a very particular person in terms of following process. And, and I was, because it involved the general manager I wanted to completely sure from the very onset that we did not step one inch outside this policy.

Well, I suggest to you you were suffering under an illusion at the 10, 11 and 12 February, 2009, if you seriously thought you were meeting the terms of the protected disclosure policy operating at Burwood Council. Would you agree?---No.

And did you ever look at the Act?---No.

Have you ever looked at the Act?---No.

Do you understand there's a provision in the Act that makes it an offence to take a reprisal action against someone who makes a protected disclosure? ---Yes, I'm, I'm aware, I'm not aware of the Act but I'm aware of the ICAC guidelines that talks about whistleblowers and, and I'm not sure about the specific section but I'm aware that you can't take any reprisal action against anybody.

And when do you say you became aware of that?---I think I've been aware for some time.

Before the 10 February, 2009?---Yes, yes, yes, absolutely.

And were you aware that Mr Romano was very agitated about this disclosure as at 10, 11, 12, 13,14, 15, 16 et cetera, February, 2009?

---There was a meeting of the executive that I recall.

10 When?---I'm trying to think. I haven't got a specific recollection of myself seeing Mr Romano agitated about this matter. When he spoke to me on the phone he was, his voice was very calm and he, he didn't seem agitated at all. He was very calm. The only thing that resembled, it wasn't even agitation was, he was concerned that, that there wasn't one. So yeah, there was concern in his voice but not agitation.

And is it your serious evidence that you didn't know who it was?---Yes, at that stage I did not know who it was.

20 Mr Macklin knew because he'd spoken to him?---And sorry, can I make, and the, because Pina, Ms Viney made sure that at the start that, that the, that one of the things we had to be very careful we could not disclose. You have to protect the, the identity of the person making disclosure and that was made very clear to us. That was one of the preambles before we started it so yes, I apologise.

That's your serious evidence?---Absolutely.

You say you didn't know?---Absolutely.

30 You were not party to any informal discussions after 12 February, 2009, where Mr Saad's name was mentioned as being the person who'd made disclosures?---I remember at a, at a later stage and it might've been after the, after the allegations came in the Sydney Morning Herald where Mr Macklin said to me that he mentioned Mr Saad so that was a person who was alleged to have, wanted to make a protected disclosure.

So on or about 4 April or shortly thereafter you knew that Mr Saad was the person who was involved to initiate - - -?---I, I - - -

- - - what was meant to be your role as the General Manager under the protected disclosure policy back in February?---Sorry (not transcribable).

40 Are you now saying that Mr Macklin said something to you such that you knew on or about 4 April or shortly thereafter when the first article in the Sydney Morning Herald was published, you became aware that what you had done on the 10th, 11th and 12 February involved Mr Saad?---Yes. He, he made a, he made a, a comment to me. I can't remember the exact timeframe to be honest but it was, it was not, it was probably about, I'm not sure, he, he, he, I think it was, it was afterwards, probably the week after but I'm not, I haven't got a, a clear recollection in my mind of when it was but I do have a clear recollection of him saying to me that he mentioned the name Joe Saad.

And it was not long after the Sydney Morning Herald was first published, the articles?---I can't remember the exact time.

But about that time, because that's when you were all talking about who would have told the Sydney Morning Herald that and there was a lot of chatter amongst the Executive and Mr Macklin about it, wasn't there, after 4 April?---Sorry, I just (not transcribable)

10 There was a lot of discussion between the Executive members and Mr Macklin after 4 April, wasn't there, about who would have done it, how it could have come about, what you were going to do about it?---It was, it was discussed at the, I can remember a, a meeting on the Monday in the Executive board room.

So that's 6 April?---Yes, and there was a, and, and - - -

And who was at that meeting?---Mr Romano.

20 And who else, just you and Mr Romano?---No, I think, I think we had the, the, most of the Executive there I believe.

Extended Executive, Mr Macklin as well?---I can't be sure but I'm, it's possible.

And it was pretty clear at that stage, wasn't it, that everyone thought that Mr Child was one of the main, if not the sole source of the story?---That's not my recollection. I think, my recollection of that meeting is, is different.

30 You don't remember any discussion about who might have told the Sydney Morning Herald what the material they published by then twice on the 4th and 6th, is that your evidence?---Yeah. I, I remember one thing but not that - - -

Well, what do you remember?---I remember Mr Romano crying on that day.

40 Right?---And that sort of stands out in my mind because I sort of felt sorry for him. He'd broken down and he said, this is, I knew this was going to happen and he was, I think, in the middle of, he was, he was very emotional and I'd never seen Mr Romano cry before and, and that, that stands out clearly in my mind but I, I can't remember any discussion but I think he was sort of inconsolable for a while and then he had to, his, his, I think he received a call from his, his wife in the middle of him being, like in a very emotional state. And I, I don't think, I think we were just all very, I mean, there's, it gets awkward when you see the General Manager crying. I can't recall at that stage that we were having a discussion because, that's my recollection of that, that particular day.

But I suggest to you that even amongst members of the Executive and Mr Macklin, without Mr Romano, you'd all were discussing between yourselves informally weren't you about how the articles had come about? ---I remember one conversation, I can't remember who it was but I think there was a , and I've given this evidence before, that there was one article that, that had a, an extension on it and I think the, I can't remember who told me that but they said that's a, that's a depot, someone from the depot. So it was, there was suspicion that it could be somebody from the depot but I can't remember any specific names being mentioned at that first, but I'm not
10 even sure when that came up that, that, or if somebody did raise it with me.

But the allegations involve people from the depot, didn't they, very clearly? People working on the units were alleged to have been depot workers. People working on the driveway were alleged to be depot workers?---Yeah, that was, that was the obvious conclusion (not transcribable).

And you'd only have to read the articles to know that bit?---Yes.

And what I'm suggesting to you, it was very clear to everyone in the
20 Executive from that meeting or around the meeting on 6 April that Mr Child was the main person who was identified as the source?---I disagree with that because all I can remember in my mind is, is Mr Romano crying because he was like such a - - -

But it might have been that others thought that and you don't remember it? ---I, I, I just can't remember anybody, I can't remember any discussion on, on that day. I just remember the emotional state of Mr Romano and the fact that - - -

30 The source of the articles was of concern to the Executive, wasn't it?
---Yes.

And Mr Romano's explanation that these people were after me because I'm trying to reform the depot?---I remember Mr Romano making - - -

Or words to that effect?---I remember Mr Romano making a comment but it wasn't that.

40 What did he say?---He said, he said, I, I, , I thought this was going to happen when I started the reforms six months ago and but it's a, if they think they're going to break me by bring these malicious allegations they, they, they got me wrong. I'm going to, I'm even more determined more than ever now to bring in the long needed structural reforms required at the depot. So he made like a speech and he was quite emotive about it.

But you now understand that the material published on the 4th and 6th of April, 2009 was essentially correct?---Yes, yes, yes.

And do you say you didn't find that out until this Commission?
---Absolutely, yes.

And at all times you accepted what he said?---I, I, absolutely. The only time I had (not transcribable) Mr Romano between (not transcribable) and, and, it was a silly disagreement. It was in February of this year where myself and Mr Hullick had disagreements with Mr Romano in terms of his, his management.

10 His management of what?---Of Burwood Council and, and some of his, his interactions and what he was - - -

What was that about? Was that about redesigning the - - -?---Yeah, I, I felt that in 2009 that between myself, Les, the lawyers ad Pat that he was trying his best to in terms of being the General Manager to do his job but in my, my, I noticed in, when I came back from leave in February that his, his behaviour had changed and he was, I guess he was, looked to me like the, the pressure of the, of the, of the ICAC was, was getting to him and he was making some decisions that were concerning to myself and, and we brought
20 that to Mr Romano's attention and, and, and to Mr Romano's credit he did say, look, I, I'm glad you told me and I, I'll pull back. So he, but he said, also said, look, I'm, I'm not a, I'm not a well man and you, this is in the, in the month of February so but up until that time I had, there was no issue.

And were you one of the people that Mr Baird referred to as a member of the Executive who went to Mr Baird to get him to intercede on your behalf with Mr Romano when he was doing things that you thought were wrong and you couldn't convince him to come to your point of view? Did you hear that evidence from Mr Baird?---Yeah, I heard that evidence. I'm not
30 sure if I - - -

Did you use Mr Baird in that way?---Not exactly that way. I've used him in different ways.

And how have you used him, so to speak?---My, my, my main dealings I guess up until 2009 has been on planning matters but there may be some times where, and we had to (not transcribable) Pat and I guess Les were looking after Council's property interest but there may be times where there was, there was conflict between what you can do under the planning
40 legislation and Mr Romano was I guess just thinking about getting the, say the maximum value of Council property but that may cross over with, with, on planning rules and, and, and sometimes Mr Romano would say, look, it was, it was a planning law matter, I would get Mr Baird to help and he seemed to be able to, and, and, because Mr Romano was the person that needed to be satisfied that legally he wouldn't just take your word for it. He would want to see something legal, in writing, that was the way he operated. So I've used him, not on a lot of occasions but from time to time I'll have

Mr Baird and, and, and all occasions I have to say Mr Romano was, listened to, to myself or Mr Baird but that didn't happen that often I do say.

Can the witness be shown Exhibit 249. Just wait for it to come. If I could ask you to turn to the second page of the document you're now being provided with and look at the email on the bottom of the page. So on the 12 February at 12.48pm. Do you see that?---Sorry, can I just (not transcribable)

10 That is on the day that you've said there's no protected disclosure. Mr Romano sends an email to Mr Macklin addressed, sent copied to you, Mr Hullick and Mr Azer. Do you see that on the page 2?---Ah, page 2.

See down the bottom, the 12 February, 2009, at 12.48. Do you remember receiving this email?---At, sorry, 12.48?

Yes, the one down the bottom of page 2.---Can I just read it? I can't remember seeing that particular email but if it was, if it was cc'd to me it would have got to my inbox so- - -

20

Well, it's a pretty serious email, isn't it?---I do remember having a, following that, and this may have been the, been this matter that prompted me, I had a discussion with Mr Romano in relation to the protected disclosure policy.

Well, you've given evidence about concern about process. What I'm suggesting to you is that what Mr Romano is proposing here was an entirely inappropriate process. Would you agree?---(NO AUDIBLE REPLY)

30 That is- - ?---I would, I would agree with that, yes.

Anybody tells you anything about me, you've got to come and tell me immediately and I, and nothing should happen until I approve it.---Oh, I'd agree that that would be an inappropriate process, yes.

And you'll see that Mr Cummins wasn't included in the email exchange. Do you remember noticing that at the time?---I can't remember.

40 And Mr Macklin responds. Now, there's no record anywhere of you supporting Mr Macklin. What did you do when you saw this email?
--- I can't remember seeing the email but I can remember an issue around that time when Mr Romano was concerned about how the protected disclosure policy was administered, and I had a view on that I and had that, I had an exchange of conversation with Mr Romano about it and I made some recommendations to him.

That's all very well, Mr Dencker. That's not what I'm asking you about. ---Yeah. Right.

I'm asking you about this email specifically.---Okay.

And what Mr Romano is proposing is an entirely inappropriate proposal and I'm suggesting to you that Mr Macklin stood up to Mr Romano and said, no, I don't think that's appropriate. What did you do?---To the best of my recollection, I recall having a discussion with Mr Romano and I think Mr Macklin, the executive was there, and it was my view that we, that the protected disclosure policy needed review and I set about organising a meeting with Mr Baird and Mr Howe who had experience in local government and with Miss, Miss Viney. And my, my key concern was that where you have a, so, so that was my response to this issue, I, I- - -

Is your answer to my question, what did you do about the email and supporting or not supporting Mr Macklin, nothing, you took no steps?---No.

Is that your answer?---No, that's not my answer. I believe that this issue came up in discussion and that as a result of that, a meeting was organised and I remember a meeting in my office and the matter was, I think we had Miss Viney, I can't remember, it was around this time, and I think the two are connected, 'cause I remember there was discussion about it 'cause I remember Mr Romano had some suggestions and I didn't feel that that was the way to go. I felt the key problem, 'cause Miss Viney had problems with, with the, with the process and I, and I remember, I can't remember the email but I can remember that he expressed a view and that he wasn't happy and I, I, I remember myself responding to that and my response was that we needed to properly review the (not transcribable) but it should not be done by this email, it should be done by, with the inclusion of Mr Baird and Mr Howe and with Miss Viney as well. So my recollection is that a meeting was set up but I think when the Sydney Morning Herald allegations, that matter was put on hold, but we have recently- - -

Thank you. I noticed the time, Commissions.

ASSISTANT COMMISSION: Yes. Mr Dencker, you said you thought what he was proposing was inappropriate.---Yeah.

I guess all we want to know is, did you ever say to him in writing or orally, this is inappropriate, this shouldn't happen?---Yeah. Well, I said, "I don't agree, Pat, with this, I don't think this is the right way to go, we should involve Mr Baird and Mr Howe and do a proper review.

So you had a discussion with him after the email.---I think it was discussion with, with others present, but I definitely recall having that discourse with him and he agreed that that would be a proper way forwards, that we (not transcribable) Mr Baird and Mr Howe or somebody like that to look at it. And we did take some first steps to try and get that happening.

Okay. Yes. All right. Well, we'll adjourn at this stage until 10 o'clock tomorrow morning. Thank you.

AT 4.07PM THE MATTER WAS ADJOURNED ACCORDING UNTIL
10.00AM ON THURSDAY 27 MAY 2010 [4.07PM]