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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION MAGUS

Reference: Operation E09/0560

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY, 27 APRIL 2010

AT 10.04 AM

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1 ASSISTANT COMMISSIONER: Thank you. Please be seated.
2 Yes, Ms Ronalds.
3
4 MS RONALDS: I call Mr Giangrasso.
5
6 <GUISSEPPE GIANGRASSO, on former oath: [10.04am]
7
8 MR RODGERS: Mr Rodgers. I continue to seek leave for
9 Mr Giangrasso.
10
11 ASSISTANT COMMISSIONER: Yes, Mr Rodgers.
12
13 MR RODGERS: He still seeks a declaration under
14 section 38, Commissioner.
15
16 MS RONALDS: If you can head over in that direction.
17
18 ASSISTANT COMMISSIONER: Now, Mr Giangrasso, you've
19 previously taken an oath to tell the truth and I declare
20 that the section 38 declaration previously made applies to
21 your evidence today as well.
22
23 THE WITNESS: Okay.
24
25 <FURTHER EXAMINATION BY MS RONALDS:
26
27 MS RONALDS: Q. Mr Giangrasso, do you recall on the 4th of
28 March 2009 you were involved in an incident with
29 Ms Rita [sic] Tompsett?
30 A. Yes, I do.
31
32 Q. Are you able to tell the commissioner your
33 recollection of that event; what happened before, during
34 and then immediately after?
35 A. I'd arrived at work on that morning and my fellow
36 colleagues approached me and were - and told me that Ronita
37 Tompsett was saying that I had stolen pavers or done
38 something with these pavers and she had reported it to the
39 management, and whatever, and I got a little bit upset with
40 that, so.
41
42 Q. And you had had nothing to do with the removal of
43 pavers?
44 A. No. The previous day we had to use pavers on a job
45 and my team with the forklift moved pavers from one area to
46 another to access what we needed to - to gain that day.
47

1 Q. So you'd legitimately moved pavers for your work?
2 A. Correct.
3
4 Q. And as far as you were aware, there was no basis, if
5 she was saying anything about pavers, for her to say
6 anything about you and pavers going missing?
7 A. That's right.
8
9 Q. So you then approached her?
10 A. I - then I approached her.
11
12 Q. What time of the day was that?
13 A. This is when we first started in the morning.
14
15 Q. So --
16 A. So - we start at 7am, so it could have been, I don't
17 know, 10 past, quarter past, something like that.
18
19 Q. And what's her position in the depot, doing the best
20 you can? What sort of work does she do there?
21 A. She's in the store.
22
23 Q. So she's not a outdoor working?
24 A. She's not a - well, she's part of the depot, so that
25 could be considered as an outdoor worker. So I'm not --
26
27 Q. But she doesn't work with you out on Railway Parade --
28 A. No, she doesn't.
29
30 Q. -- laying pavers?
31 A. No, no, no.
32
33 Q. And do you recall what you said to her?
34 A. Yes. I basically said to her that I didn't like - I
35 was angry, I didn't like the rumours that she was spreading
36 and what she had said, basically, to the --
37
38 Q. You said a bit more than that, didn't you?
39 A. I might have said a few choice words in amongst it,
40 yes.
41
42 Q. And you told her you were angry and upset?
43 A. Yeah, well - she could see that.
44
45 Q. By your manner?
46 A. To a certain degree, yeah.
47

1 Q. And the way - and the way you spoke to her?
2 A. Yes.
3
4 Q. What was your relationship with her prior to this
5 incident on the 4th of March?
6 A. Well, I've known her for about 18, 19 years.
7
8 Q. And had you ever known her to say bad things about you
9 before?
10 A. Well, I've known her to say bad things about a lot of
11 people.
12
13 Q. But I'm only asking about you.
14 A. Yes and no, yeah.
15
16 Q. Had you had any exchanges like this with her before?
17 A. No, never.
18
19 Q. And what happened, as far as you can recall,
20 immediately after the exchange?
21 A. Immediately after the exchange John Dardano, which he
22 was the acting work superintendent, drove into the yard,
23 slammed his brakes on, got out of the car, slammed the door
24 and started screaming my name on the top of his voice. I
25 can't recur - but he was - he swore at me and he was
26 basically yelling at me and saying "Get over here, don't
27 move". I - I can't recall everything that he said because
28 I was in an emotional state at that - that stage myself, so
29 yeah, and I felt physically threatened by him.
30
31 Q. And what did you understand he was complaining to you
32 about?
33 A. That I had assaulted Ronita Tompsett.
34
35 Q. And had you laid a hand on her?
36 A. No way.
37
38 Q. So you'd spoken to her in a loud voice?
39 A. Yes, I did.
40
41 Q. And you swore at her?
42 A. Yes, I did.
43
44 Q. And you agree now, don't you, that the way you spoke
45 to her was inappropriate?
46 A. That's correct.
47

1 Q. And what you said to her was inappropriate?
2 A. Possibly, yes.
3
4 Q. And you apologised to her, didn't you?
5 A. I did and we - we also hugged at the end.
6
7 Q. And how long after the incident was that?
8 A. Well, HR then showed up and we had a meeting, so my
9 apology could have come within 45 minutes --
10
11 Q. Right.
12 A. -- of the incident --
13
14 Q. And did --
15 A. -- 45 to an hour. It's hard to recall now because
16 it's over a year ago, so yeah.
17
18 Q. But within a hour you'd apologised, you'd hugged and
19 did you then understand that the matter was then over?
20 A. As far as I was aware, yes, the whole matter was - was
21 over because --
22
23 Q. And when - sorry.
24 A. -- because Peter Macklin at the meeting said that he
25 would be happy with that and as far as he was - he was
26 concerned, that no other action would be taken.
27
28 Q. And when Mr Dardano was calling for you and then spoke
29 to you, he was using a loud voice?
30 A. Yes, he was screaming.
31
32 Q. And so others heard him calling and speaking to you?
33 A. Yes, he - yes they did --
34
35 Q. As far as you knew --
36 A. Yeah.
37
38 Q. -- because there were people around?
39 A. Yes, they did.
40
41 Q. The depot was busy, people were still packing up to go
42 out for the day?
43 A. Correct.
44
45 Q. And has Mr Dardano apologised to you for the way he
46 spoke to you?
47 A. Never has.

1
2 Q. Has Mr Macklin had a meeting with you and Mr Dardano
3 about that incident, that is, the way Mr Dardano spoke to
4 you and what he said?
5 A. Never happened.
6
7 Q. And so there's been no follow through on the way he
8 spoke to you?
9 A. No, none whatsoever.
10
11 Q. And do you have any views about whether that's
12 appropriate?
13 A. Yes, I do because at the meeting that we had following
14 the - the incident, that was a concern that I raised with
15 Peter Macklin and he basically said to me if - "If you feel
16 it was inappropriate, then you should put some sort of
17 grievance form in to complain about it".
18
19 Q. So he wasn't prepared to do anything on the basis of
20 your oral advice?
21 A. No, but I did read Mr Dardano's statement to the
22 insurance company and he basically said that he should've
23 apologised to me and that he was surprised that management
24 didn't confront him on that incident.
25
26 Q. Right. Now, you're aware that Ms Tompsett then put in
27 a written complaint?
28 A. No, I wasn't.
29
30 Q. Have you ever seen it?
31 A. Yes, I have.
32
33 Q. Is it only during the course of this inquiry?
34 A. No. I received that on the 20th of April.
35
36 Q. Okay. Well, I'll just show you --
37
38 MS RONALDS: If the witness could be shown exhibit 152,
39 page 5.
40
41 Q. Just bear with us, we're just finding our trainer
42 wheels at the moment. You see that that's an email sent
43 at - on the 4th of March 2009 at 10.04am. Do you see that
44 up the top?
45 A. Yes, I do.
46
47 Q. Now, on the evidence you've just given, by 10.04am you

1 understood that it was all over and resolved?
2 A. That's correct.
3
4 Q. And no-one told you - Ms Tompsett didn't tell you on
5 the day that after that incident she'd lodged a formal
6 complaint?
7 A. No.
8
9 Q. And what do you say were the circumstances that you
10 were given this on the - sorry, did you say the 20th of
11 April?
12 A. 20th of April --
13
14 Q. Right.
15 A. -- I had a council employee knock on my door --
16
17 Q. Right.
18 A. -- and give me a letter.
19
20 Q. All right. Well, if I could ask you to turn to the
21 next page. See there's some handwritten numbers down the
22 bottom. See page 6?
23 A. Yes.
24
25 Q. See there's a letter dated the 20th of April 2009?
26 A. Yep.
27
28 Q. Is that what you're referring to?
29 A. That's what I'm referring to.
30
31 Q. Now, by the 20th of April 2009 you were on leave,
32 weren't you?
33 A. That's correct.
34
35 Q. You were on sick leave?
36 A. Yes.
37
38 Q. And what was the basis of the sick leave?
39 A. Stress and anxiety.
40
41 Q. Right. And --
42 A. I had a mental breakdown, basically.
43
44 Q. And do you say it was work related?
45 A. Yes.
46
47 Q. And what do you say was the trigger. What caused it?

1 A. Well, I suppose the - the Ronita incident was the -
2 what set it off totally but it - it all went back much
3 longer than that, yeah.
4
5 Q. And what, if anything, do you say that had to do with
6 Mr Romano?
7 A. It had everything to do with Mr Romano.
8
9 Q. Why?
10 A. Of what I did for him.
11
12 Q. Why did that cause you to be upset?
13 A. Because it was wrong what I did.
14
15 Q. And you knew at the time it was wrong?
16 A. Maybe not at the time but after it was all over I - I
17 certainly knew it was - it was wrong.
18
19 Q. What caused you to change your view about it?
20 A. Well, after our breakdown in our relationship with
21 Romano, he still wanted us to complete the fourth unit,
22 even after --
23
24 Q. And these are the Edward Street units, just so the
25 transcript's clear?
26 A. Yes, yes, the Edward Street units. He still wanted us
27 to complete the fourth unit and - even after our dust-up
28 and break-up and it made me realise that - what I'd been
29 involved in and what it had done to - and what it was doing
30 to my mental health. I wanted to do something but I'd
31 never been involved in anything like this before. I hadn't
32 even heard what a protective disclosure was --
33
34 Q. Right.
35 A. -- or that it even existed, so I didn't know what to
36 do.
37
38 Q. So do you say you'd not had any training as a council
39 employee about a protected disclosure policy?
40 A. I've had no training whatsoever as far as that goes.
41
42 Q. What about discrimination, harassment, bullying?
43 A. I think that I had done a course many, many years ago,
44 yes.
45
46 Q. What about code of conduct training, have you
47 had any --

1 A. None.
2
3 Q. -- training on the --
4 A. No.
5
6 Q. Just wait for me to finish the question.
7 A. Sorry.
8
9 Q. Had you had any training on the code of conduct in,
10 say, the last two or three years before April 2009?
11 A. Not that I'm aware of, no.
12
13 Q. Not that you recall?
14 A. Not that I recall. I don't think so.
15
16 Q. All right. And you've given evidence before about
17 going to The Sydney Morning Herald, so we don't need to
18 traverse that and making a protective disclosure to the
19 commission, so we don't need to repeat what we've done
20 before, but they were in part your response to how you
21 felt?
22 A. Yes.
23
24 Q. And do you say that the way you spoke to Ms Tompsett
25 was a response to the way you felt?
26 A. Yes.
27
28 Q. That is, you felt under attack; is that correct?
29 A. Well, I don't think I was under attack, but --
30
31 Q. Right.
32 A. -- it was just a - a - a - a build up of, I don't -
33 see, I was - also had a lot of stress at home --
34
35 Q. Right.
36 A. -- in relation to what I had done for Pat Romano and
37 my family felt that I should let it go because they feared
38 for my mental state and also that - the exposure it could
39 create. So I was under a lot of pressure from my family as
40 well.
41
42 Q. To just drop it, walk away from it?
43 A. Yes.
44
45 Q. And you didn't do that or you wouldn't be sitting
46 here.
47 A. Well, at - at - at that time that was just before sort

1 of Christmas, so I - I really didn't do anything then but
2 the first time I heard of about - about a protective
3 disclosure was when Joe Saad made one to management and how
4 I heard was that Steve Child told me that Romano had phoned
5 him up and told him that Saad had made allegations about
6 corruptions that Peter Macklin and Khaled Azer had told
7 him, so that was the first knowledge that I had of that and
8 with that we started taking advice and part of that advice
9 was from the anti-corruption people.

10

11 Q. And that's Danny --

12 A. That's --

13

14 Q. -- Lim and --

15 A. -- and Andrew Hoy and Danny Lim.

16

17 Q. Right.

18 A. And also Steve engaged a - a private solicitor and
19 he - that solicitor gave him advice that we should go to
20 ICAC to report this and also when - when I did have my
21 mental breakdown and I went off from work I - I sought
22 medical assistance and my treating doctor and my
23 psychiatrist both thought that - both suggested that I
24 should report what I had been involved in because it would
25 also help me with my healing process, basically.

26

27 Q. So it would assist you to recover if you told --

28 A. Yeah.

29

30 Q. -- others who - who would be able to deal with the
31 issue or may deal with the issue?

32 A. That's correct.

33

34 Q. Rather than just keeping it to yourself?

35 A. That's right.

36

37 Q. Was that their advice?

38 A. Yeah.

39

40 Q. All right.

41 A. And that was basically - and that's - the rest is
42 history. We made the --

43

44 Q. Well, you'll see on - at page 6 there's the letter of
45 the 20th of April; do you see that, at exhibit 152?

46 A. Yes, yes.

47

1 Q. And you'd been on leave since - what was the day you
2 went on leave? I'm sorry, I've forgotten.
3 A. I think it was the 4th of March.
4
5 Q. Right. And so this was hand delivered to you at home?
6 A. Hand delivered at home, yes.
7
8 Q. So no - did anyone calls you to tell you a letter was
9 coming?
10 A. No.
11
12 Q. So it just arrived out of the blue?
13 A. Just arrived - I got a knock on the door, yeah.
14
15 Q. And how did that make you feel?
16 A. More anxious, built the anxiety up a little bit, even
17 before I opened the letter.
18
19 Q. And you'll see there that the letter told you - you
20 read it when you got it?
21 A. Yes, I did.
22
23 Q. And it said that it was investigating allegations that
24 you'd been engaged in secondary employment?
25 A. That's correct.
26
27 Q. And when you read - see paragraph numbered 1?
28 A. Yep.
29
30 Q. That you're engaging in secondary employment that you
31 haven't declared, what did you understand that to mean?
32 A. That my secondary employment that I had - had - was
33 doing I hadn't declared it.
34
35 Q. And that's correct, isn't it?
36 A. That's correct.
37
38 Q. You had a rubbish removal business?
39 A. Yes.
40
41 Q. And you'd been advised you should declare it?
42 A. No.
43
44 Q. Mr Romano had told you that, hadn't he?
45 A. Not - not really.
46
47 Q. So you say you didn't know that you were meant to tell

1 someone about that?
2 A. No, not really, no.
3
4 Q. You'd received letters before about secondary
5 employment; do you remember that?
6 A. I received a letter on the 3rd or the 4th of March.
7
8 Q. Right. But even then you didn't do it?
9 A. Well, I - I sought legal advice and the legal advice
10 was that --
11
12 Q. Sorry.
13 A. -- if it didn't conflict with council interest, there
14 was no need for me to - to declare any secondary
15 employment.
16
17 Q. Right. Second was that you were claiming sick leave
18 while engaging in secondary employment. Do you see that?
19 A. Yes.
20
21 Q. Now, while you were on sick leave from the council
22 were you working in your rubbish business?
23 A. Yes, I was.
24
25 Q. And how was it that you could work in your rubbish
26 business but - I don't mean to be rude about your rubbish
27 business but - your rubbish removal business --
28 A. Yes.
29
30 Q. -- but for not council?
31 A. Well, it wasn't rubbish removal business. I was -
32 could have been labouring just giving people a hand or
33 doing anything.
34
35 Q. But they were paying you for it?
36 A. Some were, some weren't.
37
38 Q. Right. And how was it you were able to do that work
39 but not work for council?
40 A. Because my treating doctor, as well as my
41 psychiatrist, said that I should be trying to live a normal
42 life what I've done all my life and that - that is working,
43 that "No, you can't work in the environment of
44 Burwood Council because of the obvious but part of your
45 treatment and healing would be to try and do something,
46 keep yourself busy" and that's what I did.
47

1 Q. Right. And their advice to you was that you couldn't
2 return to the council at that time?
3 A. That's right.
4
5 Q. And the third one is - did you understand that to
6 relate to the incident with Ms Tompsett?
7 A. Yes, because I - I think her statement - her letter
8 was attached --
9
10 Q. Right.
11 A. -- to this letter as well.
12
13 Q. Right.
14 A. If I remember right, I think it was attached. I'm -
15 I'm not sure now.
16
17 Q. It doesn't refer to it but it may have been.
18 A. Well, if it wasn't this one it probably was the second
19 letter that I received from them, I - I can't remember now.
20
21 Q. And you then consulted your union; is that correct?
22 A. That's correct.
23
24 Q. And --
25 A. And my psychiatrist as well.
26
27 Q. And your psychiatrist prepared a report, do you see
28 that, that's at page 7? I'm not sure - have you had
29 occasion to look through this bundle of documents --
30 A. Well, I'm --
31
32 Q. -- since they were tendered?
33 A. I probably have, yeah, but I remember them because I
34 was involved with them. Yes, that's my psychiatrist's
35 report.
36
37 Q. And that was a report written because of the letter
38 you'd received or --
39 A. Yes.
40
41 Q. -- just generally?
42 A. Written and generally, yeah.
43
44 Q. Right. And then there was a letter you see dated the
45 29th of April --
46 A. Yes.
47

1 Q. -- at page 8?
2 A. Yep.
3
4 Q. And I'm sorry, the letter - if you look at page 2,
5 you'll see that that refers to "a copy of Ms Tompsett's
6 complaint against you is enclosed". So it was enclosed
7 in - in that second letter?
8 A. Yeah, that's - yeah.
9
10 Q. And you'll see that it reports in the second
11 paragraph on - numbered page 8: "On 21 April you advised
12 through your union representative, Mr Wayne Moody, you were
13 unable to participate in a meeting or in council's
14 investigation due to illness. On that basis it was agreed
15 with Mr Moody you would participate by providing your
16 responses to certain issues in writing" and that was the
17 position that you asked Mr Moody to put to council on your
18 behalf?
19 A. It may well have been but I don't recall.
20
21 Q. You don't recall?
22 A. No.
23
24 Q. But certainly you didn't attend an interview with
25 Mr Macklin?
26 A. No, I didn't.
27
28 Q. And you were then provided with a series of questions.
29 Do you see those set out and I won't go through them but
30 you set out --
31 A. Yes, I do.
32
33 Q. -- numbered 1 to 13?
34 A. Yes.
35
36 Q. And then number 14 is about the Ms Tompsett complaint?
37 A. That's correct.
38
39 Q. And then on the 6th of May, if you look at page 10, do
40 you see the union writes on your behalf?
41 A. Yes.
42
43 Q. Did you agree to this letter before it was sent?
44 A. Well, I'm not sure if I agreed --
45
46 Q. Page 10?
47 A. -- to --

1
2 Q. Sorry.
3 A. I'm not sure if I agreed to it or not but he did say
4 that he would send some correspondence to the council and
5 obviously this is what it was, yeah.
6
7 Q. An that address is, in particular, the bullying
8 incident with Ms Tompsett?
9 A. Yes.
10
11 Q. And expressing concern that it was an attempt to
12 reopen it?
13 A. Correct.
14
15 Q. And what do you say happened in relation to your
16 employment after that May date? You continued on sick -
17 just so you understand what I mean, you continued on sick
18 leave?
19 A. I continued on sick leave but I also had lodged a
20 workers compensation claim against Burwood Council.
21
22 Q. Right. And that was denied?
23 A. That was denied.
24
25 Q. And have you challenged that denial?
26 A. We - ICAC put a stop to it until these proceedings are
27 over.
28
29 Q. Right. And if I could ask you then to turn to page 12
30 of the bundle; do you see that?
31 A. Yes.
32
33 Q. You see that's a letter dated the 3rd of September?
34 A. That's correct.
35
36 Q. And that, in essence, suspended you?
37 A. Correct.
38
39 Q. And did anyone advise you prior to receiving this
40 letter that you were to be suspended; did anyone tell you?
41 A. No-one whatsoever.
42
43 Q. So you didn't --
44 A. I never received a phone from Burwood Council since
45 the day that I left.
46
47 Q. Right. So you were on sick leave?

1 A. At that stage I was on sick leave.
2
3 Q. And you advised the council that you wanted to return
4 to work?
5 A. Correct because I was running out of sick leave and I
6 have to feed my family somehow --
7
8 Q. Right.
9 A. -- and under duress I went to the doctor and I had to
10 get a - a clearance to go back to work - to work so I could
11 earn some money; correct.
12
13 Q. Right. And you got that clearance?
14 A. I got that clearance.
15
16 Q. You provided that to Mr Macklin?
17 A. Yes.
18
19 Q. And - or you sent it in to him?
20 A. Yeah, I - yeah.
21
22 Q. And then is it not correct that shortly thereafter you
23 received this letter?
24 A. Correct.
25
26 Q. So you didn't ever actually return physically to work,
27 did you?
28 A. No.
29
30 Q. So you told them you wanted to come back to work and
31 you were able to return to work and then pretty promptly
32 you received this letter dated the 3rd of September telling
33 you you were suspended?
34 A. That's right.
35
36 Q. And what was your reaction when you received this
37 letter?
38 A. Shocked.
39
40 Q. Did you take advice?
41 A. I did.
42
43 Q. And you see it says "pending the outcome of the
44 investigation into the allegations of secondary employment
45 bullying and harassment". Now, since receiving this
46 letter, what contact, if any, have you had from the council
47 asking you to participate in an investigation?

1 A. None.
2
3 Q. And are you aware whether there has been an
4 investigation?
5 A. No, I'm not.
6
7 Q. And again it refers to the Ms Tompsett incident which
8 you understood to be resolved by on or about 9am on the
9 4th of March?
10 A. That's correct.
11
12 Q. And what was your reaction to that being included as a
13 basis for your suspension?
14 A. Basically they're out to get me.
15
16 Q. And you've heard the use of the word "reprisals" or a
17 response to what you --
18 A. Not - not really but yeah, I have - I - I'm very aware
19 of what a reprisal is now.
20
21 Q. Right. And when you received the letter in September
22 did you think that it was because you were part of a group
23 of people who'd made protected disclosures?
24 A. Absolutely.
25
26 Q. And why did you think that?
27 A. I was thinking that because I know that Romano would -
28 wanted to get rid of me --
29
30 Q. And - and --
31 A. -- and he rules the roost in Burwood Council and what
32 he says goes.
33
34 Q. And was that just - now, I don't know if you know the
35 difference between subjective and objective. Was that
36 your?
37 A. That - that's my view, yeah.
38
39 Q. He hasn't rung you up and said "I'm going to get even
40 with you" --
41 A. No.
42
43 Q. -- "for going to The Sydney Morning Herald and
44 making" --
45 A. No. I had no contact with any of those people at all.
46
47 Q. Right. So there's nothing that Mr Romano had ever

1 said to you directly that led you to that view?
2 A. Apart from the car park incident where he did say that
3 I would pay for what I did, yes.
4
5 Q. Right. And you saw this as part of paying for what
6 you'd done?
7 A. Possibly, yeah.
8
9 Q. But you'd done - since the car park incident and the
10 conversation about the liberals, et cetera, you'd made a
11 protected disclosure and The Sydney Morning Herald articles
12 had appeared in April?
13 A. That's correct.
14
15 Q. And did you see this letter in any way a response to
16 those incidents?
17 A. Yes.
18
19 Q. And - but that again is your subjective view, it's
20 not --
21 A. Whatever "subjective" means, yes, that was my view.
22
23 Q. That's your personal view --
24 A. Yes.
25
26 Q. -- not based on what Mr Romano had said to you or
27 Mr Macklin had said to you?
28 A. No, that was my - that was my personal view.
29
30 Q. Right. And you've mentioned the worker's compensation
31 claim. You're aware that Mr Romano has put in some
32 statements about the worker's compensation claim?
33 A. Yes, I do.
34
35 Q. And did - had you seen those at the time?
36 A. I had seen the - I - yes, I have seen them before this
37 commission, yes, because the insurance company provided
38 them to me.
39
40 Q. All right. Well, I'll just show you a document, which
41 is - it's a statement from Mr Romano dated the 9th of --
42 A. Thank you.
43
44 Q. Now, that's a statement you've seen before. See it's
45 dated the 9th of June?
46 A. Yes, I have seen this.
47

1 Q. And that's in response, as you understand it, to your
2 worker's compensation claim?
3 A. That's correct.
4
5 Q. And if I could ask you to turn - sorry, when you read
6 this what was your response?
7 A. It's lies.
8
9 Q. And - so you say that Mr Romano hasn't told the truth
10 in this statement?
11 A. Yes, that's what I'm - that's - that's exactly right.
12
13 Q. And - we could go through them all but we'll --
14 A. Yep.
15
16 Q. -- be here for weeks if we do that. If I could ask
17 you just to turn to paragraph 26. He says: "During my
18 employment at council" - that's Mr Romano, do you see that?
19 A. Yes.
20
21 Q. That's on page 3: "I've not had a lot of direct
22 contact with Mr Giangrasso, however, on each of the
23 infrequent occasions I've met him he said to me words of
24 the effect 'Council doesn't appreciate me enough or council
25 doesn't pay me enough.'" Now, you and I have talked about
26 this before. You agree that on occasions you said that?
27 A. Big deal, yeah.
28
29 Q. But that wasn't what you said to him on a regular
30 basis when you met him?
31 A. No, I had - I had mentioned it. Yes, I probably had.
32
33 Q. To assist the transcription person, Mr Giangrasso, I
34 go and then you go.
35 A. Sorry.
36
37 Q. If you talk over the top of me she can't get it down,
38 okay.
39 A. Sorry.
40
41 Q. That's all right. It's just that we're used to live -
42 sound recording but this time we've got a real person doing
43 it, okay. And what did you think when you received this
44 statement?
45 A. It was a - it was false and it was a lie --
46
47 Q. And --

1 A. -- and that's probably why my worker's compensation
2 claim got knocked back.
3
4 Q. And have you seen, and I'll show you a document - this
5 is folder 9, tab 25 --
6
7 MS RONALDS: Sorry, folder 9. Sorry, just bear with us.
8
9 Q. Now, I'm handing you a bundle of statements which are
10 Mr Romano's, Ms Viney's and Mr Macklin's. You'll see
11 Mr Romano has "Draft" written on it. Now, have you seen
12 these statements before? Don't worry about the letter on
13 the front, that's to Mr McKenzie and shouldn't have been
14 included with it. Don't worry about the letter on the
15 front, just go to the statement. Do you see that, dated
16 September?
17 A. Yes.
18
19 Q. Have you seen this one before?
20 A. I've never seen any of this before.
21
22 Q. You haven't seen this one before?
23 A. No.
24
25 Q. Well, if you look at page 3, paragraph 20, he's
26 responding paragraph by paragraph to what you've said, do
27 you see that? So he says: "In paragraph 19 he alleges
28 that I initiated a personal friendship with him in late
29 2006. This is absolutely untrue." Now, you've given
30 evidence before about you've recounted how the things
31 happened from --
32 A. Yes.
33
34 Q. -- your perspective and you'd agree that that
35 statement doesn't accord with the evidence you've given?
36 A. I agree that that's untrue.
37
38 Q. Yeah. And then he says you were not friends. See in
39 paragraph 21 on page 3?
40 A. Yep.
41
42 Q. "Our relationship was strictly a work one", et cetera.
43 Now, on the evidence you've given that's not correct, is
44 it?
45 A. No, because we - we've also been out to dinner with
46 our wives on the 12th of April.
47

1 Q. All right. And see that the next one is: "I meet with
2 Mr Giangrasso only once outside the work environment, this
3 was in around December 2007 when my wife and I had dinner
4 with Mr Child and his wife and Mr Giangrasso and his wife".
5 A. Mmm.
6
7 Q. So he's referring to that?
8 A. Yeah.
9
10 Q. You say that was - what was a date you put that at?
11 A. 12th of April it was.
12
13 Q. What year?
14 A. 2008.
15
16 Q. 2008, so not December 2007?
17 A. No.
18
19 Q. And how are you so sure about the date?
20 A. Because before this commission started I went through
21 our credit card records and I think I produced that to ICAC
22 to let them know that was the date that we socialised.
23
24 Q. And how come you had a credit card record?
25 A. Because I paid for it.
26
27 Q. So Mr Romano and his wife --
28 A. Steve Child and his wife --
29
30 Q. Yes.
31 A. -- and myself --
32
33 Q. My turn, remember. Mr Romano and his wife, Mr Child
34 and his wife and you and your wife went out for dinner.
35 Where to?
36 A. Il Buco Restaurant.
37
38 Q. Showing some lack of originality you went to Il Buco
39 and you paid?
40 A. Me and Steve Child paid.
41
42 Q. So you put it on your credit card, what, you and
43 Mr Child sorted it out later?
44 A. Yes, correct.
45
46 Q. Why did you think you should take Mr Romano out to
47 dinner?

1 A. Well, I don't think that we were taking him out for
2 dinner, it was just a - a mutual agreement that we all go
3 out to dinner.
4
5 Q. He says that it was a thankyou?
6 A. Thankyou for what?
7
8 Q. I'll just read the rest of that paragraph. You see
9 underneath he says that: "This was arranged at a Christmas
10 time thankyou for the hard work they'd performed during the
11 year".
12 A. So did he pay for the dinner or did I pay for the
13 dinner?
14
15 Q. So - well, it's not at Christmas?
16 A. No.
17
18 Q. And you say you and Mr Child paid for it?
19 A. That's correct.
20
21 Q. And --
22 A. And I've - I --
23
24 Q. There was only one dinner. You're not --
25 A. No, there was only one dinner.
26
27 Q. With - with the spouses?
28 A. Yeah.
29
30 Q. And you say that you have the record of that dinner?
31 A. Yeah, I've - I - I'm pretty sure that it's been
32 submitted to ICAC.
33
34 Q. You understand we're drowning in paper, Mr Giangrasso,
35 so one receipt may have slipped us by.
36
37 MS RONALDS: If I could tender those two documents. They
38 can probably go in the one exhibit.
39
40 ASSISTANT COMMISSIONER: In one, all right. The statement
41 of 9 June and the draft statement of Mr Romano will be
42 exhibit 206.
43
44 EXHIBIT #206 STATEMENT OF MR GIANGRASSO DATED 9/6/2009 AND
45 DRAFT STATEMENT OF MR ROMANO DATED SEPTEMBER 2009 WITH
46 ATTACHMENTS.
47

1 MS RONALDS: And I just note for the record that attached
2 to the back of the second lot are two other statements from
3 Ms Viney dated 19 August and Mr Macklin dated 13 May 2009.

4
5 Can the witness be shown exhibit 138, please.

6
7 MS RONALDS: Q. Now, this is a series - document showing
8 a series of phone calls, which I think you've probably seen
9 before. Now, you see there's a couple of calls in January
10 2008?

11 A. Yes.

12
13 Q. And that was the period, as I understand it, that
14 Mr Child was overseas or he was on holiday?

15 A. I believe so, yeah.

16
17 Q. He was gone, I think, from the 19th to the end of the
18 month?

19 A. Yeah, two weeks I think he was off for.

20
21 Q. And it's correct, is it not, that you were acting in
22 his position?

23 A. Yes.

24
25 Q. And there seem to be more phone calls proportionately
26 during that time. Do you recall what those series of phone
27 calls were about?

28 A. I don't recall specifically but - but they were all to
29 do with the units.

30
31 Q. So they were not to do, were they, with you acting in
32 Mr Child's position and, therefore, work related?

33 A. No, because he - it doesn't work that way, it works
34 through the chain of command. So if there was anything for
35 me to do, it would come from my immediate supervisor, not
36 from the top.

37
38 Q. Right. And so you say that these series of phone
39 calls were related to the unit and the rest of the phone
40 calls on that sheet, do you recall were they work - they
41 related to the units as well?

42 A. I would say so, yes.

43
44 Q. So is it your evidence that the only time you spoke to
45 Mr Romano on the telephone related to the work on the
46 Edwards Street units?

47 A. Basically, yes.

1
2 MS RONALDS: I'm sorry. If the witness could have 206
3 returned, that was the one just - just tendered, 206, the
4 second proportion, the fatter portion; yes.
5
6 Q. Now, I understand that you're saying you haven't read
7 this before but this is an account - if you could turn to
8 paragraph 71 on page 8, that's the statement with "Draft"
9 on it?
10 A. Yes.
11
12 Q. Do you see that 71, this is about the driveway,
13 just --
14 A. Yeah.
15
16 Q. -- so you understand. See the heading? And it's
17 responding again to your statement.
18 A. Yep.
19
20 Q. "I never talked to Mr Giangrasso about replacing my
21 'driveway' at my property or any other matter in relation
22 to my property." No you deny that, don't you?
23 A. That's a lie.
24
25 Q. And since you've given your evidence about the
26 driveway, you - you don't wish to change that to the
27 commission?
28 A. No, absolutely not.
29
30 Q. There's nothing that was - you wish to alter about
31 your account?
32 A. No.
33
34 Q. And if I could ask you then to turn to paragraph 100,
35 which is on page 11: "I never asked Mr Giangrasso to
36 perform any work whatsoever on the property." "The
37 property" means the Edward Street units, just so you
38 understand what it means. What do you say about that?
39 A. That - that's a lie also.
40
41 Q. And you don't have any reason to change the evidence
42 you gave previously --
43 A. None whatsoever.
44
45 Q. -- about. Thank you. And in relation to the
46 statements by Mr Romano in these worker's compensation
47 statements which are September and June 2009, what, if any,

1 relationship do you think it has to your protected
2 disclosure and the articles in The Sydney Morning Herald?
3 A. What Mr Romano has said?
4
5 Q. Yes.
6 A. I think he was just trying to protect himself by
7 saying what he did.
8
9 Q. Right.
10 A. That's basically all I can put it down to, yeah.
11
12 Q. Now, in - on the 27th of February 2009 on - at 12.34pm
13 did you send a text message - you know what I mean, on the
14 telephone - to Mr Romano saying: "Your corruption is about
15 to be exposed"?
16 A. Yes, I did.
17
18 Q. And why did you do that?
19 A. I know it was wrong what I did. I wasn't myself and I
20 was under tremendous stress and I wanted Romano to feel
21 something that I felt he created and was responsible for.
22
23 Q. And then did you send a second one on the 3rd of March
24 2009 at 7.28am saying: "Your corruption is about to be
25 exposed very soon"?
26 A. Possibly. I know I sent the first one and --
27
28 Q. Did you --
29 A. -- I possibly send the second one too.
30
31 Q. And did you send one to Mr Becerra?
32 A. Yes, I did.
33
34 Q. Saying - on the 3rd of March at 9.23pm - sorry, 2 -
35 sorry, I withdraw that. Did you send one to Mr Becerra on
36 the 3rd of March 2009 at 2.33pm saying: "Your corruption is
37 about to be exposed very soon with your mate"?
38 A. That's correct.
39
40 Q. Now, they were sent from a mobile 0415 755 621.
41 That's not your normal --
42 A. No, it's not.
43
44 Q. So did you borrow someone's email - sorry, someone's
45 mobile phone?
46 A. No, I just went and bought a SIM card.
47

1 Q. Right. And you'd agree, wouldn't you, that that had
2 nothing to - that SIM card you purchased had nothing to do
3 with the XXXXX?
4 A. XXXXX?
5
6 Q. Yes.
7 A. I don't understand.
8
9 Q. Well, you'd agree that when you purchased it you
10 didn't put it in the name of the XXXXX?
11 You've never heard of the XXXXX --
12 A. No.
13
14 Q. -- by the --
15 A. No, I don't know what you're talking about.
16
17 Q. -- by your response?
18 A. No.
19
20 Q. So that if someone thought that the text had been sent
21 from the XXXXX that wouldn't be correct,
22 would it?
23 A. No, I sent those text messages.
24
25 Q. You sent those texts?
26 A. That's right.
27
28 Q. And you bought a SIM card specially for the purpose?
29 A. Yes.
30
31 Q. And do you recall that on the 3rd of March at 5.23pm
32 2009 you received - did you receive a response saying: "Not
33 sure who you are but be aware I've already noted" -
34 "notified ICAC of the text message and I'm not concerned
35 with your threats".
36 A. Never received a text message at all.
37
38 Q. Right. Do you understand Mr Romano says he sent one
39 back?
40 A. That you just told me so, yes, but I - this is the
41 first time I'm aware of that.
42
43 Q. Right. So you sent three texts: two to Mr Romano and
44 one to Mr Becerra, and to you say you didn't receive any
45 response from those?
46 A. I received no response.
47

1 Q. And why did you include Mr Becerra in the texts?
2 A. Because they were partners in crime, so I thought it
3 was appropriate for him to have one too.
4
5 Q. Now, I'm not sure whether - have - have you seen the
6 allegations made by Mr Saad about you?
7 A. I just seen them during this commission.
8
9 Q. So --
10 A. A couple of weeks ago when I saw his statement.
11
12 Q. Right. No-one from Burwood Council ever raised
13 matters with you that Mr Saad had complained about you or
14 made allegations against you?
15 A. Never.
16
17 Q. All right. Well, I'll just put these matters to you
18 so you can respond to them. Now, Mr Saad alleged that you
19 stole fuel from the depot. What do you say to that?
20 A. That's incorrect.
21
22 Q. So you say you didn't ever steal fuel from the depot?
23 A. I never stole any fuel.
24
25 Q. And that you stole fuel and put it in your own rubbish
26 removals truck?
27 A. That's a lie.
28
29 Q. And Mr Saad alleged that you took brooms, you stole
30 brooms?
31 A. That's a lie.
32
33 Q. A shovel?
34 A. Incorrect.
35
36 Q. And a dozen yellow gloves?
37 A. Incorrect.
38
39 Q. He also alleged that you would pick up rubbish from
40 the Golden Globe Restaurant from Burwood in council time
41 and that you would do that, in essence, as a private job
42 for the owners of the restaurant?
43 A. That's incorrect.
44
45 Q. So do you say you've never picked up rubbish as a
46 special job from the Golden Globe Restaurant in Burwood?
47 A. No, not - no. What we were under instructions, and

1 this also come from Pat Romano, that Burwood Road, or - was
2 to be kept clean at all stages, regardless what it was, he
3 didn't want to see any rubbish around. So if there was
4 rubbish, we would clean the rubbish up, regardless.
5
6 Q. Well, as I understand the allegation from Mr Saad, it
7 is that you would go and you took him on occasions to pick
8 up rubbish from the Golden Globe Restaurant and to dump it
9 at the council and that in exchange you would receive free
10 meals from the Golden Globe Restaurant in --
11 A. That's incorrect.
12
13 Q. It's a Chinese restaurant, as I understand it.
14 A. I know the Golden Globe, yes.
15
16 Q. Have you actually dined there?
17 A. I've dined there.
18
19 Q. Have you received free meals from the --
20 A. No, I haven't.
21
22 Q. -- from there?
23 A. I've dined there on a few occasions and also with
24 Burwood Council I've dined there.
25
26 Q. Right. But do you deny, then, the allegation that you
27 would pick up rubbish essentially as a private job for the
28 Golden Globe, dump it in the council and be paid in the
29 form of free meals?
30 A. Correct.
31
32 Q. And you say that you were unaware of that allegation
33 until you obtained the information in relation --
34 A. I only read that when I got it a couple of weeks ago,
35 I think, when Joe Saad's statement was submitted.
36
37 Q. So that was never included - in the correspondence
38 we've looked at there's no reference to it and no - there's
39 no other letters, apart from the ones I've shown you, that
40 you've received from Burwood Council about investigations
41 into your conduct?
42 A. Nothing whatsoever.
43
44 Q. You've not been told there's an investigation into any
45 allegations --
46 A. No.
47

1 Q. -- made by Mr Saad about you and the matters we've
2 just looked at, the Golden Globe, et cetera?

3 A. That's correct.

4

5 MS RONALDS: I have nothing else at this stage.

6

7 ASSISTANT COMMISSIONER: Yes. Does anybody wish to seek
8 to question this witness? No? Mr Blake?

9

10 MR RODGERS: I - I have a - I have a couple of questions,
11 Commissioner, but I can wait till the end.

12

13 ASSISTANT COMMISSIONER: Well, I think Mr Blake should go
14 first.

15

16 <EXAMINATION BY MR BLAKE:

17

18 MR BLAKE: Q. Mr Giangrasso, you mentioned, I think, am
19 I correct in hearing you, that you had no prior issues with
20 Ronita Thompson [sic] prior to the 4th of March 2009?

21 A. Not that I can recall of, no.

22

23 Q. Had she been making - had you understood she'd been
24 making complaints about you, stealing for about a year and
25 a half?

26 A. No. She hadn't been making complaints that I was
27 stealing. The complaints that she made was that if we had
28 taken something from the store, it wasn't always noted
29 down.

30

31 Q. So have you ever thought that Ronita Thompson [sic]
32 had been making complaints to the council management about
33 you stealing, prior to the 4th of March 2009?

34 A. It's not a thought that entered my mind.

35

36 Q. Have you ever thought prior to the 4th of March 2009
37 that Ronita Thompson [sic] had been making complaints to
38 Burwood Council management that you'd been dumping rubbish
39 in the works depot?

40 A. No.

41

42 Q. Had you ever thought that she had been - had made a
43 complaint to Burwood Council prior to the 4th of March 2009
44 that you had been doing private work while employed by the
45 council?

46 A. No, not really.

47

1 Q. You're quite sure about that?
2 A. I'm quite sure.
3
4 Q. Thank you. And - and --
5
6 MR BLAKE: Can Mr Giangrasso be shown exhibit 152, please.
7
8 Q. Can you turn to page 5, please, the email from
9 Ms Tompsett sent on 4th of March 2009. Do you see that?
10 A. Got it.
11
12 Q. You've had a chance to read that before, have you?
13 A. Yeah, I read it once I received it.
14
15 Q. Yes. And - and she sets out in the email what
16 happened on the occasion of the incident; you agree with
17 that?
18 A. Well, I'm not reading it but yeah, I know she does,
19 yeah.
20
21 Q. And that accurately sets out what happens, does it -
22 doesn't it, or what happened?
23 A. Well, just give me a moment and I'll have a read. I
24 don't recall that, no.
25
26 Q. You wouldn't disagree with any of it, would you; the
27 bits where you are involved, I'm thinking particularly of
28 the third, fourth, fifth and sixth and seventh paragraphs?
29 A. Where she says that she didn't go to the council
30 chambers, is that what you're referring to?
31
32 Q. I'm talking to the paragraphs: "Joe was gesturing
33 wildly" to the end of the paragraph beginning "Apart from
34 Joe Giangrasso and Jimmy O'Rourke". Do you see those
35 photographs?
36 A. "Joe was gesturing wildly"?
37
38 Q. It's the third paragraph?
39 A. Yeah, okay, yes.
40
41 Q. Those paragraphs set out accurately what happened,
42 don't they?
43 A. I was gesturing wildly. Well, I do come from an
44 Italian background.
45
46 Q. No, no, just answer the question, please.
47 A. No, I'm just telling you - and it's natural for me to

1 use my hands when I talk anyway.
2
3 Q. So you agree, is that the --
4 A. I agree that I use my hands when I talk, yes.
5
6 Q. Yes, and --
7 A. -- regardless.
8
9 Q. And you agree that those paragraphs set out accurately
10 what happened?
11 A. That I use my hands, yeah. If you call that gesturing
12 wildly, I agree with you.
13
14 Q. Yes. I'm talking - just trying to save some time, I'm
15 talking about the entirety of those paragraphs. Do you
16 agree that that accurately sets out what happened on that
17 occasion?
18 A. Yes and no.
19
20 Q. Well, which parts do you agree with and which parts do
21 you disagree with?
22 A. Well, "wildly", I don't know what "wildly" means. I
23 use my hands when I talk --
24
25 Q. Yes.
26 A. -- regardless.
27
28 Q. Is there anything else that you disagree with?
29 A. "His finger was about 6 to 8 inches away from my
30 chest", so I - I don't recall that, no.
31
32 Q. Do you disagree with that --
33 A. If I had my hands out like that and talking (Witness
34 indicates) and talking, well, it could've been close, I
35 don't know.
36
37 Q. Right. You can't remember one way or the other; is
38 that correct?
39 A. Yes, but I didn't specifically --
40
41 Q. Okay.
42 A. -- point my fingers into her chest, no.
43
44 Q. And the rest is accurate?
45 A. I might have swore at her, yes.
46
47 Q. You in fact threatened her, didn't you?

1 A. No, I didn't. I just told her --
2
3 Q. You're quite sure about that?
4 A. Am I quite sure? I'm positive about that.
5
6 Q. Right.
7 A. I was upset, yes.
8
9 Q. You - you told her that you would try and bring her
10 down, didn't you?
11 A. That I would probably report her for the way - her
12 conduct, yes, about making accusations against people.
13
14 Q. You intended to convey to her that you would try and
15 remove her from her position at the council, didn't you?
16 A. I might've mentioned that, yeah.
17
18 Q. Yes. And I think you said, if you go to page 6 of
19 exhibit 152, I think that's in front of you, you received
20 that letter from the council?
21 A. Yes.
22
23 Q. Yes. And at that time, I think in answer to
24 Ms Ronalds, you had been working at least partly for money
25 while you'd been on sick leave?
26 A. That's correct.
27
28 Q. And you then received the letter on the 29th of April
29 2009, on or about that date; is that correct --
30 A. That's right.
31
32 Q. -- page 8. And you knew at that time that the matter
33 with Ms Thompson [sic] had not been resolved as you thought
34 it had, is that - that's correct, isn't it?
35 A. I thought that the - sorry, my understanding was that
36 the matter with Ms Tompsett were resolved on the day, on
37 the 4th of March.
38
39 Q. Yes. Well you knew, once you received the letter of
40 the 29th of April, that that was incorrect; your
41 understanding?
42 A. Well, my understanding is that that's what this letter
43 did say from Burwood Council, nearly, what, two months
44 after the event.
45
46 Q. Now, a number of complaints have been made in 2008
47 about you stealing property from the council, haven't they?

1 A. I've just heard of them, yes.
2
3 Q. Larry Nielson had made them?
4 A. Not aware of that.
5
6 Q. Mark Avard?
7 A. Not aware of that.
8
9 Q. Robert Risteski?
10 A. Not aware of that.
11
12 Q. John Whitecunas?
13 A. Not aware of that.
14
15 Q. John Whitecunas was the union representative, wasn't
16 he?
17 A. One of.
18
19 Q. Yes. So you would be completely surprised to learn
20 that allegations had been made about you stealing by Larry
21 Nielson, Mark Avard, Robert Risteski and John Whitecunas,
22 would you?
23 A. Nothing surprises me any - any - anymore but this is
24 the first I've heard and if those allegations were made,
25 why weren't they acted upon there and then, instead of
26 bringing them up right now?
27
28 Q. Now, you made a worker's compensation claim I think in
29 about May, is that correct, of 2009?
30 A. I'm not exactly sure on the date.
31
32 Q. But around about then?
33 A. Could have been, yes.
34
35 Q. And you saw the response of the insurer. I think you
36 described the response of the insurer?
37 A. I described the response of the insurer?
38
39 Q. The insurer, denying liability?
40 A. That's right, yes.
41
42 Q. It included a number of statements?
43 A. Yes.
44
45 Q. A statement by Mr Macklin?
46 A. Yes.
47

1 Q. A statement by Mr Dardano?
2 A. Yes.
3
4 Q. A statement by Ms Tompsett?
5 A. Mmm-hmm.
6
7 Q. A statement by Mr Rudd?
8 A. Yes.
9
10 Q. A statement by Ms Langshaw?
11 A. Yep.
12
13 Q. And a statement by Mr Whitecunas?
14 A. Yep.
15
16 Q. As well as a statement by Mr Romano?
17 A. That's correct.
18
19 Q. And did you read all those statements?
20 A. I probably did, but I wouldn't be able to recall them
21 now.
22
23 Q. And you gave evidence that you regarded Mr Romano's
24 statement as containing lies; you recall that?
25 A. Yes, I do.
26
27 Q. Did you regard any of the other statements as
28 containing lies?
29 A. Not really, no.
30
31 Q. Not really, so the statements of Mr Macklin,
32 Mr Dardano, Ms Tompsett, Mr Rudd, Ms Langshaw and
33 Mr Whitecunas you regarded as being - accurately setting
34 out the position when you read it?
35 A. Well, I can't recall now because we're talking about
36 six months ago, maybe even more, so I'm not sure but I'm
37 dead certain about Pat Romano's one.
38
39 Q. Right. Is your evidence you just can't recall one way
40 or the other what view you formed about the other
41 statements --
42 A. Well, the view, that I --
43
44 Q. Just let me finish, please - the other statements
45 apart from those of Mr Romano; is that your evidence?
46 A. Yes, and the view that I have is they were probably in
47 the dark of what went on anyway, so they wouldn't -

1 wouldn't have been aware what - what went on --
2
3 Q. I see.
4 A. -- except for Mr Romano.
5
6 Q. Mr Dardano for some time was your supervisor at
7 council, is - at the works depot; is that correct?
8 A. Three or four weeks, something like that, yeah.
9
10 Q. And Ms Thompson [sic] had worked at the works depot
11 for a substantial period of time?
12 A. That's correct.
13
14 Q. Yes. They would be in a position to observe you at
15 work, do you agree with that?
16 A. Well, my supervisor should have been, yes.
17
18 Q. Yes. And Mr Whitecunas also worked at the works
19 depot?
20 A. That's correct.
21
22 Q. And he would have been in a position to observe you at
23 the works depot, wouldn't he?
24 A. Well, yeah, anyone that works there would be able to
25 observe anybody else.
26
27 Q. Thank you. And you prepared a response to the
28 workers' compensation insurer, didn't you?
29 A. A response?
30
31 Q. Yes. Do you recall that?
32 A. A response to what regards?
33
34 Q. A written response in answer to the denial of
35 liability by the insurer. Do you recall doing that?
36 A. I probably did but I wouldn't know what I wrote in
37 there. It's - it's a while back now.
38
39 MR BLAKE: I show Mr - 3; 3, I think it is.
40
41 MS RONALDS: I haven't seen it and I'm - I'm not the sure
42 the source of it or how it is Mr Romano says he probably
43 has it as a private person to use documents from
44 Mr Giangrasso's workers' compensation claim but I'm not
45 privy to the set of documents you're tendering - you're
46 seeking to tender, despite having requested on a number of
47 occasions that I get them beforehand.

1
2 MR BLAKE: The point has certainly been made.
3
4 Q. Can I show you this --
5
6 MS RONALDS: Well, it doesn't seem to have any effect and
7 where does Mr Romano say he obtained these documents which
8 appear to be the workers' compensation documents?
9
10 MR BLAKE: Well, that will be a matter for submissions.
11
12 MS RONALDS: Well, with respect, that's not right.
13
14 MR BLAKE: Well, the position is that Mr Romano was
15 retained by Burwood Council, as with other staff, to
16 respond to and deal with the workers' compensation claim.
17
18 MS RONALDS: Yes; if it's his own statement I'm not
19 troubled by it but if it's others' statements then I am
20 troubled by it and I would have had a discussion with you
21 earlier had I known you were intending to tender it.
22
23 (Document shown to witness)
24
25 ASSISTANT COMMISSIONER: Mr Blake, does this statement
26 come from some file in the council? Where did - where did
27 it come from?
28
29 MR BLAKE: You'll see, Commissioner, it's annexed to or
30 attached to a series of emails from Mr Dencker, Mr Baird,
31 Mr Hullick, Mr Macklin, Mr Azer, Mr Gardener --
32
33 ASSISTANT COMMISSIONER: Yes.
34
35 MR BLAKE: -- and the council's lawyers and a number of
36 council staff.
37
38 ASSISTANT COMMISSIONER: Sorry, so Darren Gardener from
39 Maddocks says he's been instructed to send it to them
40 following discussions about the progress of the ICAC
41 investigation. I don't really know what this would have to
42 do with that. All right, so the issue is discussed at the
43 top of page - the second page. The statement is addressed
44 to the general manager, so it seems Pat Romano is properly
45 entitled to a copy of it.
46
47 MR BLAKE: Well, that's Mr Gardener's expressive opinion.

1
2 ASSISTANT COMMISSIONER: Yes. So it - I suppose
3 we'll have - perhaps we can go into this with Mr Romano.
4 I'm not sure who - at this stage who Maddocks were actually
5 acting for. I presume they were acting for the council.
6 In any case, you want to put something to the witness
7 arising from this statement, I take it?
8
9 MR BLAKE: I do.
10
11 ASSISTANT COMMISSIONER: Q. Do you recognise this
12 statement, Mr Giangrasso?
13 A. I do but it's not in response to my denial, it's part
14 of the investigation when the investigator come out to
15 interview me of what was done. It's not a response to a
16 denial of my claim.
17
18 Q. Sorry, it was a statement given to a workers'
19 compensation investigator?
20 A. Investigator, yes.
21
22 Q. Right.
23
24 MR BLAKE: Q. Mr Giangrasso, at the bottom of each page
25 there's a signature. Is that your signature?
26 A. Yes, that's correct.
27
28 Q. And when you signed this you gave careful
29 consideration to what was stated in the statement; do you
30 agree with that?
31 A. Yes.
32
33 Q. And you set out fully and accurately the matters set
34 forth in the statement; do you agree with that?
35 A. As far as I could talk about things because some
36 things were suppressed because of the ICAC investigation,
37 so I couldn't go into those or elaborate on --
38
39 Q. Yes.
40 A. -- those things.
41
42 Q. And in paragraph 7 - sorry, so paragraphs 5 through to
43 paragraph 14 sets out the events of the 4th of March 2009;
44 you agree with that?
45 A. Yes.
46
47 Q. And in paragraph 7 you set out that Ronita

1 Thompson [sic] had reported you to the management on
2 numerous previous occasions during the previous year or
3 year and a half, accusing you of stealing and misusing
4 equipment, dumping rubbish in the yard, seeking to do
5 outside work while employed by the council?
6 A. Yeah, I see that.
7
8 Q. And that was a false statement, wasn't it?
9 A. No, it's not. Well - no, it's not.
10
11 Q. And --
12 A. If I said it, I said it.
13
14 Q. And in paragraph 9 you set out that you didn't touch
15 Ronita, you were about a metre away, you did say you would
16 try and bring her down and you meant you'd try to remove
17 her from her position and that's something that you said
18 and meant at the time, wasn't it?
19 A. Yes, it was.
20
21 Q. And the true position is you decided not to make a
22 complaint about Mr Dardano, didn't you?
23 A. I didn't make a complaint about Mr --
24
25 Q. But you - you were given the option of making a
26 complaint and you decided not to make one; do you agree
27 with that?
28 A. No, not really.
29
30 Q. Well, can you have a look at paragraph 13, please.
31 A. I had left work by that stage and --
32
33 Q. Can you look at paragraph --
34 A. -- I just didn't pursue it anymore.
35
36 Q. -- 13, please?
37 A. Yes, I can see.
38
39 Q. And you were told by the - the HR people, that was
40 Mr Macklin and Mr Chris Rudd; is that correct?
41 A. That's right.
42
43 Q. They could - told you that you could follow the
44 grievance procedure if you wish to?
45 A. That's right.
46
47 Q. And you understood, as you've set out, that you could

1 lodge an official complaint under the council's grievance
2 policy?

3 A. That's correct.

4

5 Q. And you didn't make an official complaint, did you?

6 A. No, I didn't because it would have been a waste of - a
7 waste of time me doing that.

8

9 ASSISTANT COMMISSIONER: Mr Blake, the last two issues
10 you've taken the witness to he's already agreed to in his
11 initial evidence. He agreed that he said, you know, "I'm
12 going to get you" meaning he'd try to get her removed and
13 he agreed that he was told he could make a grievance and
14 that he didn't. I don't really see the point of going over
15 these issues.

16

17 MR BLAKE: Q. And in paragraph 20, Mr Giangrasso, you
18 say that by early 2007 Mr Romano was giving you direct
19 orders about work?

20 A. That's right.

21

22 Q. And that continued throughout 2007?

23 A. Yes.

24

25 Q. And throughout 2008?

26 A. No, because by then Graham McPherson had jacked up
27 about what was going on and had confronted Romano and
28 myself and basically said if anything comes through, it has
29 to come through him because he was sick of Romano coming
30 straight to us and giving us orders.

31

32 Q. Well, I suggest that Mr Romano was also giving you
33 direct instructions in 2008 as well. You disagree with
34 that, do you?

35 A. No, he was giving me direct instructions on what to do
36 on his properties; yes, that's correct.

37

38 Q. And also on council work as well?

39 A. I can't recall.

40

41 Q. And paragraph 37, could you look at that, please. You
42 agree that from 2008 onwards you were told about
43 allegations made by council employees that you were
44 stealing items from the depot, dumping rubbish and using
45 council materials on private jobs?

46 A. There was rumours, yes.

47

1 Q. And you were told that those rumours came from
2 Ms Tompsett, Larry Nielson, Mark Avard, Robert Risteski and
3 John Whitecunas, weren't you?
4 A. No, I didn't.
5
6 Q. Can you explain why you put that in your statement,
7 then?
8 A. I knew that come from Ronita but not - not the others.
9
10 Q. Can you explain why you mentioned the other names in
11 your statement, then?
12 A. Because they had formed an alliance, these people
13 here.
14
15 Q. And in paragraph 54 you report - you refer to
16 information provided by a council senior manager. Who was
17 that?
18 A. Who the senior manager was?
19
20 Q. Yes.
21 A. John Inglese.
22
23 Q. John Inglese?
24 A. (Witness nods).
25
26 Q. And on a number of occasions through the statement you
27 refer to "my informant". Does that in each case refer to
28 Mr Inglese?
29 A. Probably not, no.
30
31 Q. Okay. Well, paragraph 56, who was the informant
32 there?
33 A. That was John Inglese.
34
35 Q. And the last sentence in paragraph 57, who was the
36 informant there?
37
38 MS RONALDS: Well, I object. I'm not quite sure what the
39 relevance of this - this line of questioning is.
40
41 MR BLAKE: Well, this goes to the very reprisal issue.
42
43 ASSISTANT COMMISSIONER: Yes. Go on.
44
45 MR BLAKE: Q. Who was the informant in paragraph 57, the
46 last sentence?
47 A. That was Mike Permentor.

1
2 Q. I beg your pardon?
3 A. Mike Permentor.
4
5 Q. Are you able to spell the surname for me?
6 A. No, I wouldn't have a clue.
7
8 Q. Permentor, is it?
9 A. (Witness nods).
10
11 Q. And who - what position did he - he hold in the
12 council?
13 A. I'm not sure. He's a general caretaker or something,
14 I don't know.
15
16 Q. Did he work at the works depot?
17 A. No, he works in the chambers.
18
19 Q. He works in the chambers. And on what occasion did
20 you speak to Mike Permentor, please?
21 A. What do you mean --
22
23 Q. In relation to paragraph 57, was it at the council
24 chambers or the depot?
25 A. Well, Mike's out on the roads all the time as well, so
26 he does and does things on different council property, so I
27 could have met him anywhere.
28
29 Q. So you're unable to recall now where you had --
30 A. I can't recall --
31
32 Q. Where you had this conversation?
33 A. -- where I would've had the conversation with him, no.
34
35 Q. And in paragraph 62, who was the informant referred to
36 there?
37 A. That was Mike Permentor, too.
38
39 Q. And the several other council workers, who - who were
40 you referring to when you referred to them?
41 A. Hang on. Let me read it. What several other council
42 workers?
43
44 Q. Well, that's what I'm asking you, Mr Giangrasso?
45 A. What paragraph is that in?
46
47 Q. Paragraph 62, the first line: "My informant and

1 several other council workers have told me".
2 A. I can't recall now but I know it was Mike Permentor.
3
4 Q. You can't recall the others, though?
5 A. No.
6
7 Q. Thank you. And in paragraph 75 you refer again to "my
8 informant"?
9 A. I'd say it was Mike Permentor again.
10
11 Q. And in paragraph 77 you also refer to "my informant"?
12 A. That was him again.
13
14 Q. Mike Permentor?
15 A. Yep.
16
17 Q. Thank you. Can you go to paragraph 47, please. Does
18 that - the last half of that paragraph, does that - the
19 last half of that paragraph, does that refer to a
20 conversation you had with Mr Romano?
21 A. That's correct.
22
23 Q. I suggest to you that conversation never took place
24 and it's false; do you agree with that?
25 A. No, I don't. It's - that's - my statement is correct
26 and Steve Child was present as well.
27
28 MR BLAKE: I tender the email and attached document.
29
30 ASSISTANT COMMISSIONER: Yes, that will be exhibit 207.
31
32 EXHIBIT #207 EMAIL FROM DARREN GARDNER TO MR BAIRD,
33 MR MACKLIN AND MR ROMANO DATED 23/6/2009, SUBJECT: BURWOOD
34 COUNCIL - ICAC INVESTIGATIONS WITH COPY OF MR GIANGRASSO'S
35 STATEMENT DATED 17/6/2009 ATTACHED.
36
37 MR BLAKE: Q. Mr Giangrasso, did you have a - a
38 conversation with Stan Aidinlis on the 30th of July 2009?
39 A. No, I had a - a conversation with him on the 29th of
40 July.
41
42 Q. 29th of July. And did you ask him to pass on a
43 message to Robert Risteski?
44 A. No, that's not correct.
45
46 Q. Stan Aidinlis, what position did he hold at council?
47 A. He's just a labourer, I think.

1
2 Q. A labourer. He works at the works depot?
3 A. That's correct.
4
5 Q. And do you still have exhibit 152 in front of you?
6 A. Yes.
7
8 Q. And you'll see at the bottom of page 11 there's a
9 reference to a heading "Meeting of 30 July 2009"?
10 A. Yes.
11
12 Q. And can you just look at the last paragraph of that
13 memorandum, please. Just read it to yourself.
14 A. Yes.
15
16 Q. That accurately records there a conversation that you
17 had with Mr Aidinlis, doesn't it?
18 A. That's false.
19
20 Q. That's false. So you say that what is recorded in
21 this memorandum in the last paragraph is false?
22 A. That's correct.
23
24 Q. And - and if that came from Mr Aidinlis, he was
25 telling - making an untrue statement about the conversation
26 you had with him?
27 A. That didn't come from Mr Aidinlis, that come from
28 management. I've got a stat - a stat dec from Mr Aidinlis
29 stating that that's not correct and it's been presented to
30 ICAC this morning.
31
32 Q. Well, do you have any explanation as to why this
33 allegation appears in this memorandum that appears to come
34 from Mr Aidinlis?
35
36 MS RONALDS: Well, I object.
37
38 A. I didn't write it.
39
40 MS RONALDS: This - how could this witness possibly have
41 any explanation of the contents of a memorandum sent to the
42 senior executive team from - by Mr Macklin? With
43 respect --
44
45 MR BLAKE: He just referred to a stat dec that presumably
46 explains this.
47

1 MS RONALDS: That's not --
2
3 MR BLAKE: He's obviously spoken to Mr Aidinlis.
4
5 MS RONALDS: With respect, that's not the question. The
6 question was asked whether he could explain the contents of
7 a memorandum which he clearly had nothing to do with it.
8
9 ASSISTANT COMMISSIONER: Yes, I agree. He can't - he
10 can't comment on this memorandum.
11
12 MR BLAKE: Q. But you do say, Mr Giangrasso, that what's
13 in the last paragraph is false?
14 A. It's false. It could have been fabricated by Peter
15 Macklin, I don't know.
16
17 Q. I see. And you agree that in paragraph - sorry, I
18 withdraw that. Pages 12 and 13 contain a letter of the
19 3rd of September 2009 to you from Burwood Council?
20 A. Yes.
21
22 Q. And the fifth paragraph on the first page, it is
23 alleged that you made contact with Stan Aidinlis. Do you
24 see that paragraph?
25 A. Yes, I do.
26
27 Q. You say the material in that paragraph is false, do
28 you?
29 A. I did make contact with Stan.
30
31 Q. Yes.
32 A. I didn't ask him to pass any messages on.
33
34 Q. Well, what did you tell him, Mr Giangrasso?
35 A. I told him that I had heard that Risteski had been
36 making allegations against me and hope he's got his facts
37 straight because if he hasn't, I'd sue him. I don't
38 consider that a threat anyway, and I didn't ask him to pass
39 any message on. He done it out of his own will.
40
41 Q. In the early part of 2009, Mr Giangrasso, did you do
42 some private work at Belfield on council time?
43 A. No.
44
45 Q. Did you use a council truck during a weekend doing
46 private work in the early part of 2009?
47 A. Absolutely not.

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Q. And did you do any private work for a person of Chinese ethnicity next to the Tulloch Estate in Park Road?
A. Incorrect.

MR BLAKE: Commissioner, I just want to get some instructions about a couple of things raised by Mr Giangrasso in his evidence. I am just wondering would it be convenient to take the morning tea adjournment now?

ASSISTANT COMMISSIONER: Yes.

MR RODGERS: Can I just make one application before morning tea is taken? Can I just seek for the commission to consider a suppression order in relation to the evidence relating to Mr Giangrasso naming what's described as "informants" in his statement that's been tendered this morning? Obviously those word - that word - the word "informant" was used in that statement for specific reasons, in particular the nature of some of the things that have come out in this inquiry. I'd - I'd seek that that - that the commissioner perhaps consider a suppression order in relation to --

ASSISTANT COMMISSIONER: Mr Rodgers, I don't really see the point of making a suppression order.

MR RODGERS: Well, Mr Giangrasso has been asked questions and answered in relation to some names that have been --

ASSISTANT COMMISSIONER: Yes, he's - he's named the people and I understand from his statement he didn't want to name them previously because he thought there might be some reprisal action taken against them. I think that's better dealt with by making sure there is no reprisal action taken against anybody just because they provided information and if any action were taken, then the commission would certainly be willing to look at that but I don't see the point in suppressing the names. It's going to have to be canvassed at some stage.

MR RODGERS: Thank you.

ASSISTANT COMMISSIONER: Thank you. We will adjourn for 15 minutes.

SHORT ADJOURNMENT

1
2 ASSISTANT COMMISSIONER: Thank you. Please be seated.
3 Yes, Mr Blake.
4
5 MR BLAKE: Q. Mr Giangrasso, you gave some evidence this
6 morning of a meal at Il Buco Restaurant with yourself,
7 Mr Child, Mr Romano and the respective spouses; do you
8 recall that evidence?
9 A. Yes, I do.
10
11 Q. I suggest you were mistaken in locating that meal in
12 April of 2008. It was in fact in December 2007. Do you
13 agree you could be mistaken?
14 A. No, I don't.
15
16 Q. Thank you.
17
18 MR BLAKE: Nothing further, Commissioner.
19
20 ASSISTANT COMMISSIONER: Thank you, Mr Rodgers.
21
22 <EXAMINATION BY MR RODGERS:
23
24 MR RODGERS: Q. Mr Giangrasso, I just want to clarify
25 one issue in relation to the 4th of March incident you've
26 given evidence about this morning. You mentioned that you
27 apologised to Ms Tompsett after the incident. Did that
28 come after a discussion with other people within the depot?
29 A. Yeah, that's correct. We had a - a meeting with Peter
30 Macklin, Steve Child, union delegates and I think
31 Chris Rudd from HR might have been there as well.
32
33 Q. So the statement that's been shown to you this
34 morning, workers' comp statement that's dated the 17th of
35 June 2009, have you still got a copy of that in front of
36 you there?
37 A. No, I haven't.
38
39 MR RODGERS: It's 207.
40
41 A. Which statement are you talking about?
42
43 MR RODGERS: Q. The one that Mr Blake handed up to you
44 this morning.
45 A. No, I haven't got a copy of that.
46
47 (Statement handed to witness)

1
2 Q. If you could just go to paragraph 12 of that
3 statement. Have you got paragraph 12 in front of you
4 there, Mr Giangrasso?
5 A. Yes, I have, yeah.
6
7 Q. It starts: "HR had a meeting with me, Steve". I guess
8 you're talking about Steve Child there, is that right?
9 A. That's correct, yeah.
10
11 Q. When you say "HR", who are you referring to there?
12 A. Macklin and Chris Rudd.
13
14 Q. And so it goes on there: "They said that they had
15 spoken to Ronita and it was a nothing issue as long as I
16 would apologise". When you say "they" who - do you know
17 who you're speaking about there?
18 A. HR.
19
20 Q. And so when you spoke about earlier how you thought
21 the - that that incident had resolved on that day, is that
22 - is that the type of resolution that you're talking about
23 there when they said it was a nothing incident as long as
24 you apologised; is that right?
25 A. Correct.
26
27 Q. And that was something that came directly from
28 Mr Macklin himself --
29 A. That's right.
30
31 Q. -- or Mr Rudd? Do you remember who actually said
32 that?
33 A. No, no, Mr Macklin was doing the talking.
34
35 Q. Thank you. Do you still have exhibit 152 in front of
36 you?
37 A. Yes.
38
39 Q. If you just go to page 11 of 152. So you can see that
40 that's a memo dated the 30th of July 2009. You were asked
41 some questions earlier about the final paragraph of that -
42 of that memo?
43 A. That's right.
44
45 Q. You stated that that was not a true representation of
46 the conversation that you had with Stan Aidinlis; is that
47 right?

1 A. That's correct.
2
3 Q. And I think you said that that conversation took place
4 on the 29th of July?
5 A. The conversation I had with Stan took place the 29th,
6 that's right.
7
8 Q. Okay. Now, you then received - after that memo on the
9 30th of July you then received that - that letter on the -
10 on the 3rd of September 2009 --
11 A. Yep.
12
13 Q. -- which is the next document. Was that the - on the
14 3rd of September 2009, was that the first time that you had
15 heard that there was an issue, if I can use that word,
16 about your conversation with Stan Aidinlis on the - on the
17 29th of July?
18 A. That's correct.
19
20 Q. Did you speak to Mr Aidinlis after the 3rd of
21 September or firstly, immediately after the 3rd of
22 September when you received that letter?
23 A. After I received this letter I did speak to Stan.
24
25 Q. Do you remember how long after the 3rd of September?
26 A. I couldn't tell you, no. Could have been within the
27 week or days, I'm not sure.
28
29 Q. And did you ask him a question or discuss with him the
30 conversation that - that he had with Mr Macklin or anybody
31 else at that council?
32 A. I did.
33
34 Q. And what was the substance of that conversation?
35 A. That what I had stated to him that I'd read off the
36 letter was incorrect.
37
38 Q. And did he --
39 A. That he did not make those statements.
40
41 Q. Sorry, just say that again?
42 A. That Stan did not make those statements that were in
43 the letter that I'd received.
44
45 Q. You were saying that to him or he was saying that to
46 you?
47 A. He was saying that to me.

1
2 Q. Okay. Did he indicate to you whether or not he'd
3 spoken to Mr Macklin or - or anybody else?
4 A. Yes, he told me he had a meeting the following morning
5 and - all he told them was that the conversation that we
6 had the day before that, all I had said to him was that
7 Risteski better have his facts right, otherwise I would sue
8 him. Not to pass on any message or not to mention anything
9 about a so-called letter and he should watch himself, none
10 of that was mentioned by him --
11
12 Q. Okay.
13 A. -- or by me.
14
15 Q. And - but what you're also saying is that you did not
16 say the words "He should watch himself" to Stan Aidinlis;
17 is that right?
18 A. That's right.
19
20 Q. Okay. Now, can I just show you this document here.
21 Now, this is a document that appears to be a stat dec from
22 Stan Aidinlis?
23 A. That's correct.
24
25 Q. Have you - can I just ask you this question: have you
26 had recent contact with Stan Aidinlis?
27 A. Yes, I have.
28
29 Q. And is this a document that he had personally handed
30 to you?
31 A. That's correct.
32
33 MR RODGERS: I tender that document.
34
35 ASSISTANT COMMISSIONER: Yes. Well, that will be
36 exhibit 208.
37
38 EXHIBIT #208 STATUTORY DECLARATION OF STANLEY AIDINLIS
39 DATED 26/4/2010.
40
41 MR RODGERS: I have nothing further.
42
43 ASSISTANT COMMISSIONER: Thank you? Yes. Mr Giangrasso,
44 is he stood down, Ms Ronalds, or excused at this stage?
45
46 MS RONALDS: He's excused.
47

1 ASSISTANT COMMISSIONER: He's excused. Yes,
2 Mr Giangrasso, you're excused from further attendance.

3
4 THE WITNESS: Thank you.

5
6 <THE WITNESS WITHDREW

7
8 ASSISTANT COMMISSIONER: Before we go on, Ms Ronalds,
9 could I just say something about documents. In an inquiry
10 of this kind documents are produced by counsel assisting in
11 the normal course. I'm not going to receive any further
12 documents unless they have been shown to counsel assisting
13 and their provenance verified by her. Now, that will delay
14 proceedings if they're not shown to her in advance, so be
15 it. I am not going to receive documents unless counsel
16 assisting agrees to their tender. Thank you, yes.

17
18 MS RONALDS: I just note that exhibit 208 had been
19 provided to me earlier and that I'd seen it before, it
20 doesn't fall into the admonishment (indistinct).

21
22 I call Mr Ellul.

23
24 MR SIVA: Assistant Commissioner, my name is Siva, spelt
25 S-I-V-A. I seek leave to appear for Mr Ellul.

26
27 ASSISTANT COMMISSIONER: Yes, Mr Siva.

28
29 MR SIVA: He will be seeking the declaration..

30
31 ASSISTANT COMMISSIONER: Is this Mr Ellul's first
32 appearance?

33
34 MS RONALDS: Yes.

35
36 ASSISTANT COMMISSIONER: Yes, Mr Ellul, you've been called
37 here to provide evidence. You are required to answer all
38 of the questions that are put to you. Your legal adviser
39 has indicated that you wish to seek a declaration under
40 section 38 of the Act; is that correct?

41
42 THE WITNESS: That's correct.

43
44 ASSISTANT COMMISSIONER: Pursuant to section 38 of the
45 Independent Commission Against Corruption Act I declare
46 that all answers given by this witness and all documents
47 and things produced by this witness during the course of

1 today's hearing are to be regarded as having been given or
2 produced on objection and there is no need for the witness
3 to make objection in respect of any particular answer given
4 or document or thing produced.

5

6 Mr Ellul, you are required to take an oath or make an
7 affirmation to tell the truth.

8

9 THE WITNESS: Yes.

10

11 ASSISTANT COMMISSIONER: Do you have a preference?

12

13 THE WITNESS: The Bible.

14

15 ASSISTANT COMMISSIONER: Yes. Could you stand up, please,
16 and take the Bible in your right hand. Do you swear that
17 the evidence you are about to give shall be the truth, the
18 whole truth and nothing but the whole truth so help you
19 God?

20

21 THE WITNESS: I do.

22

23 ASSISTANT COMMISSIONER: Yes. Please take a seat.

24

25 <STEPHEN ELLUL, sworn: [12.08pm]

26

27 MS RONALDS: My name is Ronalds, I'm counsel assisting. I
28 will be asking you some questions.

29

30 THE WITNESS: Okay.

31

32 <EXAMINATION BY MS RONALDS:

33

34 MS RONALDS: Q. Can you tell the commission your full
35 name?

36 A. My name is Stephen Ellul.

37

38 Q. And it's E-L-L-U-L?

39 A. That's right.

40

41 Q. And how do you say it?

42 A. "E-LULL".

43

44 Q. Thank you. And what is your occupation?

45 A. I'm the senior manager for works and operations at
46 Burwood Council.

47

1 Q. You don't have to worry about leaning to the mike --
2 A. Okay.
3
4 Q. -- it'll pick you up.
5 A. Okay; right.
6
7 Q. And how long have you worked there?
8 A. Since the 23rd of March 2009.
9
10 Q. And prior to that you were not employed by the
11 council?
12 A. No.
13
14 Q. Where - where were you employed previously?
15 A. I was employed by a civil construction company as an
16 operations manager, the company's name is Ally Property
17 Services.
18
19 Q. And you applied for a position in an open competition,
20 did you?
21 A. Yes.
22
23 Q. And who interviewed you?
24 A. The initial interview was conducted by Khaled Azer,
25 the director of technical services and operations, Peter
26 Macklin, the HR manager and also John Dardano, who was the
27 acting person in this role that I currently hold.
28
29 Q. And you were offered and then accepted the position.
30 Did you meet Mr Romano at some stage during the recruitment
31 process?
32 A. Yes. I had a second interview, that was with
33 Mr Romano and also with Khaled Azer.
34
35 Q. And that was prior to accepting the position, was it?
36 A. Yes.
37
38 Q. And someone told you what the focus of your job was to
39 be. Who advised you about what the focus of your job was
40 to be?
41 A. Well, the focus of the job was conveyed to me at the
42 initial interview --
43
44 Q. Right.
45 A. -- which was the people at the interview panel.
46
47 Q. Right. And what did you understand the focus of your

1 job was to be?
2 A. Well, to be responsible for council's outdoor
3 activities which were based at the depot.
4
5 Q. And did you understand that there was a reform process
6 in train?
7 A. Yes, I was advised of that.
8
9 Q. And did you understand your position was, at least in
10 part, to drive that reform process?
11 A. Yes.
12
13 Q. And prior to accepting the job were you given access
14 to what is known as the Morrison Low report?
15 A. I can't recall getting it prior to but I was advised
16 that the - that the review had been conducted from July
17 2008 to December 2008.
18
19 Q. And did you have some understanding, either before
20 accepting the job or shortly thereafter, about the reason
21 that review had been put in place?
22 A. I recall that there was concerns about the overall
23 efficiency of the depot and there were other issues
24 surrounding the activities that were based at the depot.
25
26 Q. And during that initial period, so say in the first
27 two or three weeks after you started the position, were you
28 given detailed briefings by anyone?
29 A. Yes. I was given a copy of the report, the
30 Morrison Low report, and I also had several - in fact daily
31 briefings or updates by - by my boss, Khaled Azer, and in
32 discussions with other people such as John Dardano, who was
33 still there after my commencement, was a bit of an overlap,
34 so that --
35
36 Q. Right.
37 A. -- we could sort of pass the baton on, so to speak.
38
39 Q. So you had a handover with Mr Dardano?
40 A. Yeah, that's right.
41
42 Q. And so let's take them one by one. Did Mr Dardano
43 give you an overview of people working in the depot?
44 A. Yes, he - he advised me as to who was who in the zoo,
45 so to speak.
46
47 Q. And who was it that he identified, do you recall?

1 A. Well, he identified Chris Lane, who was the parks
2 coordinator, and Steve Child, who was the civil maintenance
3 coordinator.
4
5 Q. And what did he identify in relation to Mr Lane?
6 A. Chris Lane had responsibility for all of the
7 activities regarding the parks and recreational facilities.
8
9 Q. And were there deficiencies in his performance or
10 concerns about his performance that were being drawn to
11 your attention?
12 A. No. John Dardano actually made a point of saying that
13 Chris Lane runs a fairly tight ship and his - his conduct
14 was quite good.
15 Q. And in relation to Mr Dardano's briefing in relation
16 to Mr Child, do you recall what he advised you about
17 Mr Child?
18 A. He'd advised me that there were a few reported
19 incidents and questions regarding some of the day-to-day
20 activities in that area and that they were also reported on
21 in the Morrison Low report in some detail as being an area
22 of concern.
23
24 Q. And - and when you met with Mr Romano in the second
25 interview, do you recall roughly when that was; shortly
26 before you'd commenced work, would it --
27 A. Yeah, look, it might have been perhaps one to two
28 weeks prior to me being - prior to me commencing in the
29 position.
30
31 Q. Did you have to - you didn't have to give four weeks
32 notice to your previous employer?
33 A. I think I gave them about two weeks, so yeah, it would
34 have been some - it could have even been around three
35 weeks, then.
36
37 Q. So it might have been late March/early - sorry, late
38 February/early March?
39 A. Yeah, I think it was around the middle of February
40 actually, now that you mention it.
41
42 Q. And what, if anything, do you recall Mr Romano telling
43 you what he expected of you for the job?
44 A. Well, he expected that the - the depot restructuring
45 and - and the report that was tabled by Morrison Low, which
46 had some 22 recommendations, would be acted upon and that
47 the overall effectiveness and efficiency of that operation

1 up there was - was brought up to a standard that was - that
2 the community expected.
3
4 Q. And did he identify any individual workers who he
5 thought you might need to specially supervise or specially
6 instruct?
7 A. He identified that I would probably meet some
8 resistance --
9
10 Q. Mmm-hmm.
11 A. -- from Steve Child in particular in relation to
12 trying to implement any changes.
13
14 Q. And did he tell you why or the basis of his knowledge?
15 A. Only that he indicated that - I think Mr Child had a -
16 had indicated a - a - somewhat of a resistance to - to
17 change and that was reinforced by subsequent meetings that
18 I had with John Dardano as well.
19
20 Q. All right. Well, let's - I'm just trying to do --
21 A. Sure.
22
23 Q. -- it one at a time so we have quite clear who we're
24 talking about.
25 A. Mmm-hmm.
26
27 Q. And did Mr Romano identify any other worker at the
28 depot who you might need to subject to particular scrutiny?
29 A. Yeah, I think there was something in relation to Wayne
30 Quirk, who was the workshop supervisor at the time.
31
32 Q. And were there concerns about his conduct?
33 A. Yeah, there - I can't recall any specific examples
34 given but I seem to recall the name cropped up in the
35 conversation.
36
37 Q. And do you recall in this first conversation with
38 Mr Romano any mention of Mr Giangrasso?
39 A. No, I don't.
40
41 Q. And - so you had some briefings with Mr Dardano and he
42 told you about Mr Child?
43 A. Yes.
44
45 Q. And what did he indicate to you about Mr Child?
46 A. That he was very resistant to change. That he was
47 also the subject of a lot of claims of harassment and

1 bullying in the depot by quite a number of people at the
2 depot.
3
4 Q. And after you started and in the next, say, period of
5 several months, how much contact did you have with
6 Mr Romano?
7 A. I suppose it would be every couple of days or so.
8
9 Q. And what would that contact be?
10 A. Just in relation to wanting to know how things were
11 going down there and what I was finding and just really
12 pretty much a - an update on what was going on.
13
14 Q. So he initiated that contact, not you?
15 A. They weren't always planned. If I happened to be in
16 my director's office and Pat Romano walked past and he'd
17 seen me there, he might pop his head in and just, you know,
18 cordial "Hello" and "How's it going?" and "What's the
19 latest?" and so forth.
20
21 Q. Were there occasions where he telephoned you directly
22 to make inquiries of you about progress?
23 A. I did receive the odd phone call from Pat Romano on -
24 on various issues.
25
26 Q. And who was your direct supervisor?
27 A. Khaled Azer, the director of --
28
29 Q. Right. So --
30 A. -- technical services.
31
32 Q. He's - he's your direct supervisor?
33 A. Yes.
34
35 Q. And you reported with him on a regular basis?
36 A. Yes.
37
38 Q. And you worked closely with him about implementing the
39 depot reforms?
40 A. Yes.
41
42 Q. And would it be correct that the two of you were
43 really the sort of reform team?
44 A. Yes, that's correct.
45
46 Q. In an active role but there were a - there were group
47 meetings about the reform process, weren't there?

1 A. Well, there were daily meetings with Khaled Azer, he
2 wanted to keep a close handle on what was happening, and
3 shortly after the issues that were raised in the press,
4 which was only about two - two to three weeks after I
5 commenced, shortly after that I think the cross-functional
6 team for the depot reforms was created.

7

8 Q. Mmm-hmm.

9 A. So I had a - a more formal meeting then with the
10 senior executive.

11

12 Q. All right. We'll go to those minutes in a moment but
13 just so we get an overview of what was happening: and how
14 would you describe your relationship with Mr Child after
15 you'd commenced working at the depot?

16 A. Well, we only had a - an overlap initially of three
17 days. I started on the 23rd and on the 26th he then went
18 off on sick leave for a short time.

19

20 Q. Right.

21 A. And I think he returned early in April, after being
22 absent for some week and a half or so.

23

24 Q. Then he remained there only for a short time before
25 going on leave again?

26 A. That's right.

27

28 Q. And as far as you know he's not returned?

29 A. That's right.

30

31 Q. So would it be correct that you'd worked in total
32 about six days with him?

33 A. To that effect, I suppose, yes.

34

35 Q. And how would you describe your relationship with him
36 during that period?

37 A. Well, the first three days we didn't have too much to
38 do with each other because I was being brought up to speed
39 by others, such as John Dardano and so forth.

40

41 Q. Mmm-hmm.

42 A. And then after Steve Child's absence of about a - a
43 week and a half or so, because he was absent for that time
44 I had to take direct control of organising the - the
45 activities of the civil area.

46

47 Q. Right.

1 A. And I - I found that there was - seemed to be a - an
2 absence of any forward planning that was taking place, so
3 upon Steve Child's return he and I had a conversation and I
4 asked him if he could demonstrate what kind of forward
5 planning he actually has implemented in his area and while
6 I could see that there was a system in place that was put
7 in place by John Dardano, I could see no real evidence that
8 it was actually being implemented to the extent that was
9 expected.

10

11 Q. And what was Mr Child's response to that?

12 A. He wasn't happy about that statement.

13

14 Q. No, that's - that's a - that's your view. I'm asking
15 what his response was?

16 A. I can't remember the exact words but he indicated to
17 the effect that what I was saying was a load of BS.

18

19 Q. It's all right, you can say whatever he said.

20 A. Okay. He said it was a load of bullshit.

21

22 Q. Right. And did he then - was he able to satisfy you
23 that that he did have some plans for forward planning -
24 some forward plan, sorry.

25 A. No.

26

27 Q. So he didn't demonstrate to you that there were in
28 place processes that you considered were - would meet your
29 requirements?

30 A. The conversation that we had was - was based on the
31 fact that his staff kept milling around the office
32 immediately upon his absence and I said "Can you please
33 explain why your staff keep milling around the office, not
34 knowing what to do?". So to me that was the evidence that
35 there was no real form of planning or his staff didn't know
36 about any form of planning.

37

38 Q. And if Mr Child was absent was someone put - acting
39 into his position?

40 A. At that time, no. I was taking on that role as well.

41

42 Q. Right. And so then it became your responsibility to
43 provide them with plans on the work to do?

44 A. That's right. I was taking the work home with me of a
45 night and working it out and - and setting up their milk
46 runs, if you like to call it that, for the next day, the
47 next few days.

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Q. Right. And Mr Child, would it be fair to say, was unhappy about you, in effect, criticising his work performance?

A. Absolutely.

Q. And did you have any other conversations with Mr Child about depot reform?

A. Yes. Shortly following his absence, upon his return, he and I had a conversation out in the yard, where he indicated to me that what I was doing in relation to having discussions with staff, to use his term, was very unprofessional and that it wouldn't be a - a good way to start the working relationship, given that he and I were going to be working together for quite some time.

Q. And what conversations were you having with staff that he was referring to?

A. Well, during Steve Child's absence I was inundated with concerns by numerous staff regarding the environment of bullying and harassment and intimidation that had been going on for quite some time, so I called a meeting of all depot staff and I indicated to them that if they had any genuine concerns, that they're quite welcome to come and see me about it. I was even prepared to meet with them off site, in case there was any fear of reprisals by others seeing them talking to me and that was the - the gist of the - the meeting that I had with them.

Q. Now, you'd worked in those sort of environments before?

A. Yes.

Q. In your experience was it unusual to find staff concerned about reprisals from other staff at this sort of level?

A. To the extent that I found at Burwood, it was - I could honestly say it was unprecedented.

Q. And - so you had these conversations, you considered that that was properly acting within your job?

A. Absolutely.

Q. And how did you react when Mr Child said that you were being unprofessional?

A. I just - I went up to him a little bit closer and I laughed at him and walked away and said "That's not the way

1 it's going to happen in future".
2
3 Q. And what did he do?
4 A. We - that was the end of the conversation.
5
6 Q. And was that, in effect, the last conversation you had
7 with him?
8 A. Pretty much.
9
10 Q. Now, if I can show you a copy of the report - just so
11 it's clear we're all talking about the same document --
12
13 MS RONALDS: This is attached somewhere else but for ease
14 of convenience I'll tender it separately so that it's
15 easier to find.
16
17 Q. Now, on the front you'll see is a memo from
18 Mr Macklin. Do you see that?
19 A. Yes.
20
21 Q. And then behind that - I'm sorry the pages aren't
22 numbered separately but behind that there's a document
23 called "Depot Operations Review" which is what I think we
24 call the Morrison Low report?
25 A. Yes.
26
27 Q. And you'll see that Mr Macklin's memo sets out a
28 series on the third page - sorry, on the first - on the
29 second and third page there's a series of consultation
30 processes, see down - starting down the end of the page --
31 A. Yes.
32
33 Q. -- or page 2 and then the third page there's 11
34 recommendations. Now, you were provided with this when you
35 started?
36 A. Yes.
37
38 Q. So this was a December 2008 memorandum but did you
39 understand that this was the accepted position of council?
40 A. I understood that this was the report that had been
41 submitted to council.
42
43 Q. And that the processes set in place by Mr Macklin in
44 this - did you understand they were the - in essence, the
45 guiding principles for you in your job?
46 A. Yes.
47

1 Q. And - and it was Mr Azer and you who were then working
2 closely to implement these reforms?
3 A. That's right.
4
5 MS RONALDS: If I could tender that document.
6
7 ASSISTANT COMMISSIONER: Yes, that will be exhibit 209.
8
9 EXHIBIT #209 MEMORANDUM FROM BURWOOD COUNCIL HR MANAGER TO
10 THE GENERAL MANAGER DATED 15/12/2008, SUBJECT: REVIEW OF
11 DEPOT BY MORRISON LOW - FINAL REPORT - EXECUTIVE SUMMARY
12 AND RECOMMENDATION.
13
14 MS RONALDS: Now, if the witness could be shown
15 exhibit 150, page 6.
16
17 Q. That's letter to Mr Child dated the 21st of January in
18 effect confirming that he was to maintain a - his position;
19 do you see that?
20 A. Yes.
21
22 Q. Were you shown that letter at the time that you
23 started?
24 A. I don't recall seeing the letter --
25
26 Q. Right.
27 A. -- but --
28
29 Q. Did you - were you aware that such correspondence had
30 been sent to him?
31 A. I was aware that he had been advised that - as a
32 result of the Morrison Low report, that he had been advised
33 his position would largely remain unchanged.
34
35 Q. Right. But are you saying that you weren't shown -
36 given a copy of that actual letter?
37 A. I may have, I just can't recall actually but I - the -
38 the contents of it had been discussed.
39
40 Q. Right. And you'd agree that that wasn't the eventual
41 position?
42 A. No, because I did actually say at the interview I had
43 with Pat Romano when he indicated the review had been
44 conducted, that I would reserve the right to have a look at
45 the recommendations and see if I actually agreed with them
46 and may have to make some minor changes to it.
47

1 MS RONALDS: Sorry, I've just got a lost folder here. If
2 the witness could be shown exhibit 200.

3
4 THE WITNESS: Thanks.

5
6 MS RONALDS: Q. Now, you'll see there's some numbered
7 pages down the bottom. There's minutes of a meeting on the
8 17th of February, obviously you weren't present. Did
9 anyone give you a copy of these minutes when you started
10 your job?

11 A. No, I don't recall seeing these.

12
13 Q. All right. If I could ask you - see the handwritten
14 down the numbers down the bottom, if I could ask you to
15 turn to numbered page 4, you'll see that's the minutes of a
16 CFT, which I understand is cross-functional team for depot
17 reforms with Dencker, Hullick, Azer, Macklin, yourself and
18 Ms Oust - I can't say it - taking minutes?

19 A. Mmm-hmm.

20
21 Q. So these were formal meetings and they were held, were
22 they not, on a regular basis?

23 A. Yes.

24
25 Q. And if I could ask you to look down at 2.4, do you see
26 that? "PM" - that's Macklin and you - "to meet with Child
27 to advise the position has been significantly re-profiled
28 as a result of Morrison Low report and that the position
29 will be reviewed by the consultative (indistinct) the role
30 readvertising" blah, blah.

31 A. Mmm-hmm.

32
33 Q. "And that SK can reapply for the role". Now, to the
34 best of your recollection, how was it that that happened on
35 the 7th of April 2009?

36 A. I had - when I commenced on the 23rd of March --

37
38 Q. Yes.

39 A. -- I had a look at the Morrison Low report and I
40 submitted - I was briefing - I'd gone through and we'd had
41 discussions, informal discussions, with my boss, Khaled
42 Azer and also I think with perhaps Peter Macklin as well,
43 with regards to what I saw as a - a need to depart from
44 what Morrison Low had recommended as part of their
45 recommendations. So the discussions had been going on
46 for - for a short time prior to my final submission, which
47 was I think dated on about the - somewhere between the

1 17th to the 20th of April.
2
3 Q. The 22nd of April, we'll get to that in --
4 A. Mmm.
5
6 Q. -- in a minute but this is before then, this is on the
7 7th of April --
8 A. Yes.
9
10 Q. -- where there's a decision being made and I'm just
11 trying to explore with you how it was that it happened at
12 that date?
13 A. Well, only that - that I'd gone through that and we'd
14 - we had discussed it at the CFT prior to my formal report
15 being submitted to them.
16
17 Q. Right. And on the 7th of April, on or prior to the
18 7th of April, had you discussed directly with Mr Romano the
19 position of Mr Child's job?
20 A. Can't recall any specific conversation with him but
21 the conversations that I would have had would have been
22 with Mr Director.
23
24 Q. Did at any stage Mr Romano, around the 7th of April -
25 just on or before the 7th of April - say to you that he
26 wanted you to work to remove Mr Child from his position?
27 A. Absolutely not.
28
29 Q. Did he give you a direction that you were to remove
30 Mr Child from the position?
31 A. No.
32
33 Q. And that you were to restructure it in such a way that
34 it became impossible for him to apply?
35 A. No.
36
37 Q. And just to assist you: The Sydney Morning Herald
38 article was on - the first one was on the 4th of April,
39 which was the Saturday?
40 A. Mmm-hmm.
41
42 Q. So this is the Tuesday thereafter, you'll see it's a
43 relatively short period of time.
44 A. Sure.
45
46 Q. Did you read the article on or about the 4th of April?
47 A. I would have read it at the time.

1
2 Q. There were discussions, were there not, amongst
3 yourself and others at the time?
4 A. Yes.
5
6 Q. And you'd agree that Mr Child was mentioned, either by
7 yourself or others in conversations you were in, as a
8 possible source of the article?
9 A. There was some speculation around the place.
10
11 Q. And that it was pretty common knowledge, wasn't it,
12 that it was referring at least to him, if not to others?
13 A. I honestly can't recall the conversation specifically.
14
15 Q. I'd suggest to you it was not secret in the workplace
16 by the 6th, that is the Monday, that Mr Child was involved
17 in talking to the journalist?
18 A. I think people were speculating on those kind of
19 things.
20
21 Q. And is it your evidence that - sorry, I withdraw that.
22 What role, if any, did that speculation have on the
23 contents of the meeting on the 7th of April?
24 A. Well, they were totally separate issues.
25
26 Q. So you say that it was unconnected - the restructure
27 of the job was unconnected?
28 A. Absolutely.
29
30 Q. And it's your evidence that you were never subjected
31 to any direction from Mr Romano to get rid of Mr Child?
32 A. That's correct.
33
34 Q. You'd agree that the job was restructured in such a
35 way that it required a person with a degree?
36 A. It needed someone that had a - I suppose a high level
37 of skill and the reason for that was that - the Morrison
38 Low report actually recommended that the civil maintenance
39 coordinator's role - Steve Child's role - focus on just
40 planning and organising the activities of the day - day
41 labour operation within council, that's council staff. The
42 contract management aspect was a responsibility that was
43 going to be given to another coordinator, yet to be
44 created, but given my recent private sector experience and
45 how I would have structured a business to actually conduct
46 this work, I saw that there was a real benefit in actually
47 consolidating all the activities of a civil nature under

1 the responsibility of one person.
2
3 Q. And that person needed some degree of organisational
4 skills?
5 A. Correct.
6
7 Q. And a capacity to plan and execute quite complex
8 arrangements?
9 A. Well, they certainly needed a lot of - they needed
10 technical skills.
11
12 Q. And what sort - sorry, what sort of technical skills
13 do you say they needed?
14 A. Well, in relation to, you know, the interpretation of
15 drawings, setting out the work and so forth, perhaps even
16 doing some survey work as a preliminary to the construction
17 work commencing and also the contract management aspect of
18 it as well, having to negotiate and - and engage
19 contractors and define the scope of their work.
20
21 Q. And is that the sort of - do you gain that from
22 experience or - or is that commonly academic training and
23 experience?
24 A. It's a combination of both. You need some training,
25 perhaps in relation to doing survey work. Contract
26 management, well, a combination of both some training and
27 also some on-the-run experience, if you like.
28
29 Q. And yourself, do you have some post-secondary
30 qualifications?
31 A. Yes, I have a diploma in management and also the
32 degree in engineering.
33
34 Q. So you are an engineer?
35 A. Yes.
36
37 Q. Right. And were you aware that - of Mr Child's
38 post-secondary qualifications, if any?
39 A. I was aware that he was - that he did not have any
40 diploma or - or degree in any relating - related field.
41
42 Q. And was that a matter that troubled you while you were
43 setting about recasting the position?
44 A. It wasn't a prime consideration in my - in - in the
45 way that I approached this. I'd looked at it objectively
46 on how I saw that the activities needed to be organised.
47

1 Q. Right. And your focus was on introducing structural
2 reform to the depot?
3 A. That's right.
4
5 Q. And you understood that that was your fiat, that is,
6 that you'd been given the carte blanche to do that?
7 A. Yes.
8
9 Q. And did you consider, by the meeting on the 7th of
10 April - I'm just trying to take you to the stages and we'll
11 get to your memo in a moment - but that by the time the
12 decision is made as reflected in 2.4, that it may be
13 necessary to make Mr Child redundant?
14 A. Well, it would mean that the position as it currently
15 stood would - would have to be declared redundant and that
16 if there was another suitable position for him, if he was
17 unsuccessful in applying for it and securing it, then
18 under - under the award provisions for redeployment and
19 redundancy that would be an option to be considered.
20
21 Q. And did you cause to turn your mind to that matter at
22 that stage, as at the 7th of April?
23 A. Well, that would - that would have been an outcome as
24 a result of the restructure that I was proposing.
25
26 Q. And - and you turned your mind to that and that was -
27 that was just an outcome because of the new structure you
28 sought to put in place?
29 A. That's correct.
30
31 Q. And did you meet with Mr Child, consistent with what
32 was proposed on the 7th of April?
33 A. We subsequently had a meeting with Steve Child, that
34 was Peter Macklin and myself, on about the 20th of April, I
35 think --
36
37 Q. Right.
38 A. -- to discuss the outcomes and the implications of
39 what was being proposed.
40
41 Q. And if I could just - just ask you: there's a meeting
42 then on the 14th you'll see, just working through the
43 minutes, where there's - you are to "update on the position
44 descriptions in line with Morrison Low to be forwarded to
45 all attendees. Once all approved the PDs are to be run
46 past Maddocks". Who did you understand Maddocks to be?
47 A. Maddocks I thought was - well, the - the legal firm

1 that council had engaged.
2
3 Q. And then "Maddocks to advise if PDs need to go through
4 ICAC"?
5 A. That's right.
6
7 Q. And is that your view or was that some - does that
8 reflect someone else's view?
9 A. Wouldn't say that's my view but I understood that to
10 be the - the process that we had to work through.
11
12 Q. Right. And then if I could ask you to turn to the
13 next page numbered page 6, you'll see it's the 16th of
14 April?
15 A. Yes.
16
17 Q. And then if I could ask you to look at 1.1?
18 A. Yes.
19
20 Q. And then "SE to" - that's you - "to send draft report
21 on depot changes to Macklin to review. Once all members
22 are happy with the report, Macklin to organise meetings
23 with Child to discuss changes to job description".
24 A. Yes.
25
26 Q. And - and that was your proposal?
27 A. Yes.
28
29 Q. And so that by the 16th of April the process was
30 further in train and do you say that that process had
31 nothing to do with anything that had been told to this
32 commission about matters involving Burwood Council?
33 A. That's correct.
34
35 Q. And nothing to do with what had been in The Sydney
36 Morning Herald?
37 A. That's right.
38
39 MS RONALDS: If the witness could be shown exhibit 150.
40
41 MS RONALDS: Q. And if I could ask you to turn to page 8
42 of that bundle.
43 A. Ta.
44
45 Q. You see that's a letter to Mr Child?
46 A. Yes.
47

1 Q. Were you responsible for drafting that letter?
2 A. I think the letter was actually drafted by Peter
3 Macklin but I probably would have seen the draft prior to
4 it actually being ready for issue.
5
6 Q. And that set out certain matters in relation to the
7 position?
8 A. Yes.
9
10 Q. And that was sent to him, as far as you know?
11 A. Yes.
12
13 Q. And I'm sorry to ask you to jump between two
14 bundles --
15 A. That's okay.
16
17 Q. -- but if you could go back to the other bundle,
18 you'll see then there's your memo of the 22nd of April. Do
19 you see on page 7?
20 A. Yes.
21
22 Q. Now, that reflects your views at the time?
23 A. Yes.
24
25 Q. And that was proposed to the - to the - to the group
26 or to the CFT?
27 A. Yes.
28
29 Q. And again, that position put by you you say had - was
30 consistent with your understanding of your position to
31 restructure the depot?
32 A. That's right.
33
34 Q. And nothing to do with this commission or matters
35 before this commission?
36 A. I would have proposed this whether there was an ICAC
37 inquiry or not.
38
39 Q. Right. And then if I could take you back to the other
40 bundle --
41 A. Okay.
42
43 Q. -- page 10. You see that then there's a letter dated
44 the 30th of April?
45 A. Yes.
46
47 Q. Did you draft or have some involvement in that letter?

1 A. I think Peter Macklin would have actually drafted that
2 letter but as is Peter's normal process, he would have run
3 that past me at some stage. I think I probably would have
4 seen it at the time, before it was issued.
5
6 Q. Because if you just go to page 9 of - of exhibit 200,
7 which is the other bundle - I'm sorry about this --
8 A. That's okay.
9
10 Q. -- you'll see there at 1.1, at that stage briefing
11 notes, et cetera: "Awaiting further input from S Child re
12 proposed position of civil maintenance construction
13 supervisor". Was it correct that you were genuinely
14 waiting for input from Mr Child?
15 A. Well, in procedural fairness you'd have to give a
16 person who's the incumbent whose position is actually
17 affected the opportunity to make some comment and feedback.
18
19 Q. But you'd made all the decision, hadn't you?
20 A. Well, I could see that there was a need for some
21 change to the role.
22
23 Q. I mean, the consultation process with Mr Child wasn't
24 genuine, was it?
25 A. It was to the point where we were making sure that we
26 actually hadn't overlooked anything and that was an
27 opportunity for the incumbent to actually raise any of
28 those issues that perhaps we may have not been made aware
29 of, but --
30
31 Q. But you weren't particularly concerned about his
32 views, were you?
33 A. Just to the point that I've mentioned where in case we
34 did actually overlook some major issue.
35
36 Q. Well, you didn't have any doubt that he was - he would
37 be unhappy about it?
38 A. That's correct, I - and most likely would not have
39 been happy with the outcome that we were proposing.
40
41 Q. And it was pretty clear, wasn't it, the outcome would
42 be that he would not be in the position any longer?
43 A. That was most likely an outcome.
44
45 Q. And that was fully on the agenda, wasn't it?
46 A. In terms of - could you explain exactly --
47

1 Q. Well, it was fully understood by everyone who was at
2 these meetings - Dencker, Hullick, Azer, Macklin and
3 yourself --
4 A. Mmm-hmm.
5
6 Q. -- that by restructuring the position Mr Child was, in
7 effect, being restructured out?
8 A. Well, the position would change.
9
10 Q. Yeah. And he didn't have the skill or the training to
11 properly apply for it, did he?
12 A. He probably would not have been the final person in
13 that role.
14
15 Q. And you knew that at the time that you were
16 restructuring?
17 A. At the time most likely that that would have been an
18 outcome, yes.
19
20 Q. Yes, and that was discussed, wasn't it, openly between
21 you?
22 A. Yes.
23
24 Q. And it was accepted by everyone present at these
25 meetings that that would be the outcome?
26 A. That would most likely be an outcome, yes.
27
28 Q. And that Mr Child would be made redundant?
29 A. He would have the opportunity of either being
30 redeployed or being - or being offered the redundancy,
31 whichever he chose to take.
32
33 Q. But you had discussions, didn't you, about the fact
34 that there wasn't any position in which to redeploy him
35 either?
36 A. At the time we'd - I can't recall exactly whether
37 there was any other vacancy that may have come out of the
38 restructure, perhaps a team leader's role or - or similar
39 that he may have been suitable for.
40
41 Q. Well, what I'm suggesting too you was that you had
42 open discussions at the cross-factional meetings about the
43 fact that there wasn't any other position that was going to
44 be suitable for Mr Child?
45 A. I can't remember the specifics of those kind of
46 conversations in relation to that but I'd have to go
47 through the minutes to see exactly that particular point.

1
2 Q. Well, I can't find anything in the minutes that
3 records any discussion about another position that may have
4 been considered suitable for Mr Child. So what I'm
5 suggesting to you is, it was a pretty open discussion
6 between the members of that team, including yourself, that
7 Child was not going to be suitable for the position and
8 that there wasn't any other appropriate position for him?
9 A. Well, that he wouldn't be suitable for the position
10 was most likely to be an outcome, but in relation to any
11 other position that he may have actually been suitable for,
12 through redeployment, I don't think that that had been
13 canvassed at that stage.
14
15 Q. Well, wasn't that an important issue to think about,
16 in terms of someone who already worked for council and who
17 was going to be discommoded by the changes?
18 A. Any restructure that I've ever been involved with you
19 have to tend to look at it in an objective manner and not
20 be too subjective as to exactly how you're going to go
21 about it. So I tended to look at what the organisation
22 required and the manner in which the structure was going
23 to - what the final outcome was going to be.
24
25 Q. So the human cost, if I could call it that, is not a
26 matter that you turned your mind to; that is, the
27 individual in the position?
28 A. Yeah, it's a - I suppose you can put it that way.
29
30 Q. And you'll see, if you go back to page - numbered
31 page 9 of exhibit 200?
32 A. Which one's that?
33
34 Q. You'll see down the bottom - that's the minutes of the
35 23rd of April.
36 A. Okay. Yep, sorry, what page was that again?
37
38 Q. Page 9.
39 A. Yep.
40
41 Q. "Proposed new position" - do you see that under 1.6?
42 A. Yes.
43
44 Q. "To be advertised once consultation with current
45 incumbent and any amendments have been made and after
46 consultative committee has given their approval.
47

1 A. That's right.
2
3 Q. And again I suggest to you that the consultation with
4 the incumbent was really a process with no substance; would
5 you agree?
6 A. Only to the extent where we needed to make sure, as I
7 mentioned, if there was anything that we'd largely
8 overlooked.
9
10 Q. Then if I could ask you to turn to the next page,
11 you'll see there's a letter from the union about the
12 matter?
13 A. Yes.
14
15 Q. Were you - you were - you saw this letter at the time?
16 A. At the time I would have seen it, yes.
17
18 Q. And do you recall whether it caused any concern in the
19 cross-functional team?
20 A. I can't recall specifically if - what the concerns may
21 have been at the time.
22
23 Q. In any event, it didn't cause things to stop, did it?
24 A. No.
25
26 Q. The process continued and the job was, in fact,
27 advertised?
28 A. That's right.
29
30 Q. And then you'll see there's a letter back on page 14
31 of that bundle.
32 A. Yes.
33
34 Q. And did you have any hand in drafting this letter,
35 which is from Mr Macklin to Mr Moody, in relation to the
36 union raising issues in relation to Mr Child?
37 A. Yes, I would have seen that before it was actually
38 dispatched.
39
40 Q. And on the number of bottom of page 2 numbered page 15
41 you see: "It is council's intention to advertise this
42 position both internally and externally once the position
43 description has been provided to the staff consultation
44 committee and they've been given an opportunity to review
45 the position".
46 A. That's right.
47

1 Q. So that that's the second part of what was decided on
2 the 16th, that is, before it was "consult with the
3 incumbent and the staff committee". By this time it's just
4 become "consult with the staff committee"; do you see that?
5 A. Yes, that's the last paragraph?
6
7 Q. Yes.
8 A. Yes.
9
10 Q. And that's what happened, wasn't it?
11 A. It - actually, could you repeat the question, please?
12
13 Q. It went before the staff consultation - consultative
14 committee?
15 A. Yes.
16
17 Q. And it was approved?
18 A. Yes, it was.
19
20 Q. And was advertised?
21 A. Yes.
22
23 Q. And now if I could ask you to just turn over to
24 page numbered 16, which is the third page of that letter:
25 "To provide all reasonable assistance to Mr Child, council
26 will offer him the access to an external organisation to
27 assist him in preparing an application for this position".
28 Was that your idea or was that Mr Macklin's idea?
29 A. I think that's just a normal part of the process. It
30 would apply to any position like this.
31
32 Q. Right. So that's just a standard approach, is it?
33 A. It is, yes.
34
35 Q. Now, then on - on the 30th of April you'll see on
36 page 17 it notes that: "The coordinator's PD to go to the
37 consultative committee within SC annual leave"; that is,
38 Mr Child had been directed on annual leave. Do you recall
39 that?
40 A. Yes, that's right.
41
42 Q. And - so while he was on leave - this seems to be
43 suggesting that it should go to the committee while he was
44 on leave; that is, so that he wasn't present. Am I
45 misreading that?
46 A. I'll just have a read of that.
47

1 Q. Just on 1.1.
2 A. I think it was more a case of, yes, trying to get that
3 to the consultative committee, with a view to just trying
4 to speed the process up and have that procedural issue
5 dealt with in relation to their involvement.
6
7 Q. And then if you go to page 18 there's minutes of the
8 18th of May, 1.1: "PM" - Macklin - "is ensuring every
9 opportunity is given for current supervisor to apply for
10 the role". So that had become Mr Macklin's job, had it, to
11 make sure that Mr Child was given every opportunity to
12 apply for the role?
13 A. Yes.
14
15 Q. And Mr Child didn't apply for the role, did he?
16 A. That's right.
17
18 Q. And he was on leave at that stage?
19 A. I believe so, yes.
20
21 Q. And he's not returned?
22 A. That's right.
23
24 Q. And what's happened to the position in the meantime?
25 A. It's being filled by another current staff member in
26 an acting capacity.
27
28 Q. Since then?
29 A. Probably for about the last four to six months or so.
30
31 Q. And that's partly because of this inquiry or solely
32 because of this inquiry?
33 A. Well, it's not been filled because there was a stop
34 put on the - the filling of that role.
35
36 Q. Uh-huh.
37 A. We still had work to get down and that's why I've
38 just - I've elevated one of the other staff on an - in an
39 acting capacity.
40
41 Q. And that's not a staff who has the sort of training or
42 experience we were talking about a moment ago that you
43 envisaged for the restructured role?
44 A. Well, he actually does have a fair amount of
45 experience and I believe he actually does have a - a - a
46 qualification in - in engineering on that as well.
47

1 Q. And - but Mr - if Mr Child were to return tomorrow --
2 A. Mmm.
3
4 Q. -- would he be put into that position? Is that still
5 considered his position, in your view?
6 A. Well, the change to the position hasn't actually been
7 implemented as a result of the inquiry.
8
9 Q. Of this inquiry?
10 A. That's right.
11
12 Q. Yes.
13 A. But the - the work had to continue on, so we did
14 provide that other person the opportunity to actually
15 conduct that - the activities of that role.
16
17 Q. Right. And that continues to be the position?
18 A. That's right.
19
20 Q. If I could ask you, then, to - to - if we could move
21 to another matter. If I could ask you in exhibit 200 if
22 you could turn back to page 12, which is headed - an email
23 from you dated the 27th of April 2009, "The Joe Saad
24 Issue"?
25 A. Yes.
26
27 Q. Now, just take a moment. Is it some time since you've
28 seen this email?
29 A. Yes, it would have been.
30
31 Q. Just take a moment to read it and tell me when you've
32 finished.
33 A. Yes.
34
35 Q. Now, if I can take you to the top bit "Hi, Ian",
36 that's - that is Mr Dencker?
37 A. That's right.
38
39 Q. Now, why is it that you were writing to Mr Dencker
40 when Mr Azer is your supervisor?
41 A. Because the cross-functional team that had been set up
42 for depot reforms, Ian Dencker was the acting general
43 manager to - to run that - that team.
44
45 Q. Right. So that's the role - I was just trying
46 to determine --
47 A. Yeah.

1
2 Q. -- the role you were writing. And you say: "I - I
3 will take this final opportunity, once again request a
4 further deferment of this matter". Now, that's the, in
5 effect, removal of Mr Saad from casual employment?
6 A. That's right.
7
8 Q. And what did you understand was the background to
9 that?
10 A. I was told that there was a - a budgetary issue and
11 that meetings had taken place prior to my commencement in
12 relation to the termination of council casuals.
13
14 Q. And there was - there were other concerns about
15 Mr Saad, weren't there?
16 A. I subsequently found out that there were other
17 concerns about Mr Saad.
18
19 Q. Mr Saad was considered, would you agree, at the
20 cross-factional team meetings, to be unreliable in the
21 information he reported to others?
22 A. That comment had been made.
23
24 Q. And made before the 27th of April 2009?
25 A. Yes.
26
27 Q. And do you recall who made that comment?
28 A. I think they were statements that may have been made
29 by both John Dardano and also I think Khaled Azer as well.
30
31 Q. And that was on the basis of matters that Mr Saad had
32 complained about which had turned out to be not true?
33 A. I believe so.
34
35 Q. But you weren't involved in any of those issues?
36 A. No.
37
38 Q. Mr Saad didn't make any complaints to you about other
39 workers?
40 A. I had taken a statement down on Mr - on Saad's behalf
41 and submitted it to the ICAC for him because I think he has
42 a bit of a literacy issue.
43 Q. Right. But in terms of investigating matters he'd
44 raised in the depot about other depot workers, that hadn't
45 occurred for you?
46 A. He did raise one specific issue that was in relation
47 to an attempted extortion by Wayne Quirk, the workshop

1 supervisor, to obtain free tyres from the tyre supplier
2 that we had for - for private purposes and we obtained a
3 statement from the tyre supplier and submitted that to the
4 ICAC.

5

6 Q. Right. And - but in terms of Mr Child, had he raised
7 any matters about Mr Child with you?

8 A. He had, in relation to the appointment of a person to
9 a permanent position, which he felt that he had been
10 unfairly dealt with.

11

12 Q. That is, he thought he should have got the position
13 over the person who did?

14 A. That's right.

15

16 Q. And he thought he was, what, more qualified?

17 A. He thought he was more suitably skilled to do that
18 job.

19

20 Q. And Mr Child had been involved in a process where
21 another person was selected?

22 A. That's right.

23

24 Q. And Mr Saad was unhappy about that?

25 A. Yes.

26

27 Q. And he told you that?

28 A. That's right.

29

30 Q. And had he made any complaints about Mr Giangrasso to
31 you?

32 A. Yes, he had made statements about Joe Giangrasso.

33

34 Q. In what - and alleging what?

35 A. Alleging that he was doing private jobs, utilising
36 council facilities and so forth.

37

38 Q. And what, if anything, did you do about those
39 allegations?

40 A. Well, I understood that those issues had been
41 previously raised with management, so I didn't see that -
42 that it was going to be constructive use of my time to
43 rehash old - old allegations in that respect.

44

45 Q. And did you understand there'd been any sort of
46 investigation of the allegations about Mr Giangrasso?

47 A. I believe that there may have been.

1
2 Q. You didn't trouble - you didn't --
3 A. I --
4
5 Q. -- concern yourself about that matter?
6 A. No, I - there might have been a - a brief conversation
7 with - with HR and also my boss at the time, indicating
8 that these matters were being raised and that there would
9 have - and I think I would have been told that there was a
10 prior investigation into these matters.
11
12 Q. And in relation to the handover between yourself and
13 Mr Dardano, did he tell you about Mr Saad making a series
14 of allegations against people?
15 A. Yes.
16
17 Q. Did he tell you that he'd gone and drilled some
18 concrete because Mr Saad had told him that the full
19 allocation hadn't been used?
20 A. Yes.
21
22 Q. And it turned out that the allegation made by Saad was
23 false?
24 A. Yes.
25
26 Q. And that the concrete was as thick as it should have
27 been?
28 A. Well, it was actually thicker.
29
30 Q. And that the allegation was false?
31 A. In relation to the possible theft of the concrete,
32 yes.
33
34 Q. And he was embarrassed about that?
35 A. Yes.
36
37 Q. And he - did he tell you he regretted that he had
38 accepted Mr Saad as a person of - that - upon whom one
39 could rely in the nature of complaints?
40 A. There may have been words to that effect.
41
42 Q. Well, there were, weren't there, they're not "may have
43 been". He - that's what he said to you, wasn't it?
44 A. Yeah, that was the implication of what he was saying.
45
46 Q. Yes, he said "I shouldn't have relied on him, he's
47 clearly not telling the truth"?

1 A. Well, I can't remember the specific words but that was
2 the gist of what he would have said.
3
4 Q. Yeah, and he was embarrassed about it?
5 A. Mmm.
6
7 Q. And were you - did Mr Child make it - you aware that
8 he'd found out about that?
9 A. No, I don't recall him actually saying that.
10
11 Q. So he didn't discuss that issue with you?
12 A. No, I don't believe so.
13
14 Q. So you knew that about Mr Saad but you're saying here,
15 as I read it, that you're against the termination of
16 Mr Saad's casual employment or - tell me if I've misread
17 that first paragraph. That's what I understand you to be
18 saying --
19 A. Yeah.
20
21 Q. -- that you didn't really want it to happen?
22 A. No, I didn't because I found that irrespective of Joe
23 Saad's reliability, in terms of matters he may have been
24 making statements about, I found him to be a fairly
25 reliable worker in terms of concreting and at the time we
26 were a little bit short staffed and I didn't see that there
27 was any benefit in letting him go at this point in time.
28
29 Q. And you were, in effect, overruled?
30 A. Yes, I was.
31
32 Q. And who, in effect, overruled you?
33 A. Well, it was the - it was the members of the CFT.
34
35 Q. And you had some concerns, did you not, that there was
36 some other reason for the termination of Mr Saad's
37 employment that you weren't being told about?
38 A. At the time I think I made a statement to that effect.
39
40 Q. And did anyone respond to you?
41 A. No.
42
43 Q. And after you terminated Mr Saad's employment did you
44 find out that there may have been some other reason behind
45 it?
46 A. No, only since reading the transcripts of this
47 inquiry.

1
2 Q. Right. And that you now understand that your
3 instincts may have been correct?
4 A. Possibly.
5
6 Q. But at the time you raised it at a - at a
7 cross-functional team, as I understand your statement --
8 A. Yes.
9
10 Q. -- you said that you thought there was something else
11 about it but nobody addressed your issue and then the
12 termination went ahead?
13 A. Well, both John Dardano and I argued against Joe
14 Saad's termination.
15
16 Q. Right. But you were overruled?
17 A. Correct.
18
19 Q. By Mr Dencker as the chair and the other members of
20 the cross-functional team?
21 A. Well, even Khaled Azer actually was backing both
22 myself and John Dardano on that matter.
23
24 Q. So he supported you?
25 A. Yes.
26
27 Q. And Mr Macklin, where did he fall?
28 A. My recollection is I think that Peter Macklin also
29 tended to agree that it would destabilise the - the change
30 process that we were trying to implement down there at the
31 depot.
32
33 Q. And why would it destabilise that process?
34 A. Only that it would, I guess, be seen that we were
35 potentially letting go of someone who was seen as a - as a
36 good employee, as someone who was quite reliable, in terms
37 of their ability to do the job.
38
39 Q. So that he was reliable to do his job but he was not a
40 reliable source of information about his co-workers?
41 A. Well, yeah, that's - could be an inference you'll draw
42 from that.
43
44 Q. And Mr Hullick, where did he fall?
45 A. I - my recollection of that is I think Les Hullick
46 also supported his termination.
47

1 Q. So, I'm just looking at who comes to the meetings.
2 Mr Dencker must have supported the termination?
3 A. Yes.
4
5 Q. Mr Hullick supported the termination but the other
6 three of you didn't support it?
7 A. That's right.
8
9 Q. But - so numerically you should have won, on my
10 counting of the votes?
11 A. Not a case of one person, one - one vote. They'd -
12 they weren't all equal.
13
14 Q. All men are not equal?
15 A. That's right.
16
17 Q. And so Mr Dencker and Mr Hullick carried more sway,
18 did they, than you, Mr Dardano, Mr Azer and Mr Macklin all
19 put together?
20 A. Well, yeah, and - and what I also found was that there
21 was a prior meeting and decision to actually let go of
22 council casuals much earlier, prior to my commencement, and
23 that I think Joe Saad's employment had actually been
24 extended as a result of both John Dardano and Khaled Azer
25 previously arguing to keep him on prior to my commencement
26 as well.
27
28 Q. And what role, if any, did you understand Mr Romano
29 had in the termination - the decision to terminate casuals?
30 A. In relation to Joe Saad or in relation to others?
31
32 Q. No, just generally the termination of casuals, first?
33 A. Well, I - I wasn't aware of any specific involvement
34 of Pat Romano in that particular matter.
35
36 Q. And in relation to Mr Saad particularly, was there any
37 discussion of any direction from Mr Romano that Saad had to
38 be got rid of, in effect --
39 A. No.
40
41 Q. -- or terminated?
42 A. No, nothing at all.
43
44 Q. So that at the meeting in the end it was Mr Dencker
45 and Mr Hullick won the day and Mr Saad was terminated; is
46 that correct?
47 A. That's correct.

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MS RONALDS: Thank you. I notice the time, Commissioner.

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

LUNCHEON ADJOURNMENT

1 UPON RESUMPTION:
2
3 ASSISTANT COMMISSIONER: Thank you. Be seated.
4
5 MS RONALDS: Q. In relation to the position that was
6 being created as the - the former Child position, it was
7 going to be an increase in salary for that position, wasn't
8 there, from the --
9 A. That's right.
10
11 Q. -- position that Mr --
12 A. Sorry.
13
14 Q. From the position that Mr Child held. Do you recall
15 how much the increase was to be?
16 A. I can't remember the exact figure or the - or the
17 number of grades. I think it might have --
18
19 Q. Roughly.
20 A. Might have gone up a couple of grades, I think, from
21 what it currently was.
22
23 Q. And was there discussion about that increase in the
24 cross-functional team?
25 A. I'd say it would have been discussed but I can't
26 remember any specific conversation on it.
27
28 Q. I couldn't find any notes in the - and I may have
29 missed it - in the minutes about any increase?
30 A. Yeah, I - I think it probably would have been a - you
31 know, a minor consequence in the scheme of things.
32
33 Q. When you started were you told that there was a budget
34 for depot reform?
35 A. I - I think I might have had a conversation with my
36 director regarding the overall operating budget for the
37 depot and I think, yeah, there was an expectation that any
38 improvements would also be reflected in the budget anyway.
39
40 Q. It just seems that at once - on one hand we've got
41 concerns about casuals who have to be sacked because of
42 money but we can - you can increase the salary in a new
43 position without apparent any - any concern addressing the
44 fiscal outcome. I'm just not sure how - trying to explore
45 with you how that could logically have happened?
46 A. Well, in general terms when you're looking at that
47 kind of a restructure, you need to, I guess, invest in

1 the - in an appropriate person at an appropriate level to
2 actually run that part of the operation. You would hope
3 that they would then bring in some efficiencies into the
4 organisation and that that would actually then translate
5 into a net benefit to the organisation.

6
7 Q. Well, that may be the hope but where was that
8 translated into any documents?

9 A. I don't think it was actually translated into any
10 documents but that's a - I guess a given in any
11 organisational restructure.

12
13 Q. And where was the implementation plan that you
14 introduced or that you drafted or prepared?

15 A. That was a proposal that I tabled I think dated about
16 the 20th of April.

17
18 Q. So that's not the one we looked at before, the memo
19 the 22nd of April?

20 A. Could I refer back to that, please?

21
22 Q. Certainly. It's in exhibit 200.

23 A. Yep.

24
25 Q. Page 7.

26 A. Yeah.

27
28 Q. Have you still got exhibit 200 there? Is that --

29 A. Yeah.

30
31 Q. -- what you were talk about?

32 A. Yes, yes. And there were a few attachments which went
33 with that that actually showed an organisational chart,
34 yep.

35
36 Q. Right. So - when it was produced to us it didn't have
37 its annexures but that's what you would call your
38 implementation strategy?

39 A. Yes.

40
41 Q. Right. And again in that, though it may be in the
42 attachments, the financial flow-on, from what your
43 proposal don't - proposing don't seem to be addressed;
44 would that be correct?

45 A. I didn't go into the fine detail of it but I think,
46 from memory, in this particular item it actually mentions
47 that part of it, para - I think it's probably the

1 second-last paragraph on page 7: "Thus it is proposed to
2 reduce the full-time equivalents by three positions,
3 resulting in 12 full-time positions". So you'd offset an
4 increase in one area by a decrease in another area.
5

6 Q. But you weren't given any specific financial
7 parameters by Mr Azer or anyone else?

8 A. Not a specific figure but, as I said, the expectation
9 would be that it would - any changes would translate into a
10 net financial benefit to the organisation.
11

12 Q. And Mr Inglese, I understood, was responsible for the
13 management of contractors. Was that your understanding, as
14 at when you started your position in March?

15 A. Yeah, part of his role would - would have been to
16 manage and administer the large capital works program.
17

18 Q. And when you were describing the position, the former
19 Child position earlier today, I understood you to say that
20 that was to be involved with contractors?

21 A. That's right.
22

23 Q. Is that the same role?

24 A. There's two aspects to the engagement of contractors
25 to do works. From what I can ascertain, the involvement of
26 John Inglese in relation to the large capital works
27 appeared to have also been a result of not having adequate
28 staff - adequately skilled staff at the depot, so they more
29 or less took that role on up - up at the chambers. It was
30 always my intent and my belief that that kind of activity
31 should actually be down at the depot, so I needed to set
32 the operation up to be able to handle that.
33

34 Q. Right. So it wasn't - so it was taking out part of
35 his job but he was carrying it just because there was
36 no-one else there?

37 A. That - that's my understanding of how the - that
38 current situation had - had evolved.
39

40 Q. Right, and so it wasn't seen as his role - role being
41 diminished in any way?

42 A. Not particularly. If I could just add one other
43 thing, too: the - the engagement of contractors by the
44 depot was also something that was going to greatly
45 increase. We also had a lot of what they call restorations
46 work when the utilities providers, like Energy Australia,
47 comes through and rip up vast areas of footpath and roads,

1 you basically had to manage that reinstatement of those
2 works, so they weren't high in the level of specification
3 writing, but it was always my belief that those kind of
4 activities are best handled by the contractors, so I could
5 see the need for that contract management role down at the
6 depot.

7
8 Q. And, what, they rip them up and you have to put them
9 back together again?

10 A. Pretty much, yeah. Like they pay for the
11 reinstatement of it.

12
13 Q. But it's the council's responsibility to do it?
14 A. Well, yes, through negotiations with the utilities.

15
16 Q. And had you ever heard of Mr Child having any
17 nickname?

18 A. He was called a lot of things, but I don't know of any
19 specific nickname.

20
21 Q. Had you ever heard him referred to as a "koala" or "a
22 protected species"?

23 A. I hadn't heard that - that term.

24
25 Q. Had you heard of anything similar to suggest that he
26 was someone who was in some way untouchable?

27 A. I had heard from various staff that going back over
28 the last couple of years that if anyone stood in Steve
29 Child's way he would rectify that situation either by
30 making a phone call to the general manager and having it
31 dealt with, or alternatively he would harass and bully and
32 intimidate those people to get out of his way.

33
34 Q. And were you surprised that someone in his position
35 would have a capacity to have a direct contact with the
36 general manager?

37 A. Yeah, very.

38
39 Q. And did you put in train anything to stop that
40 happening?

41 A. That had largely been put in place prior to my
42 commencement.

43
44 Q. And had - what do you say had happened?

45 A. That I - that John Dardano and Khaled Azer had
46 actually implemented a - more of a stricter hierarchical
47 reporting mechanism where the supervisors at the depot

1 would report to the depot manager, the position that I
2 have, and that person in turn would report to the director.
3
4 Q. And had you been advised that on occasions Mr Romano
5 contacted - I don't mean in any pejorative sense - but
6 lower down the hierarchy staff directly?
7 A. Yeah, it was a surprising thing to hear.
8
9 Q. And - but you'd been told that that had happened?
10 A. Yes.
11
12 Q. And that he'd given directions to that staff on - on
13 the way to perform certain projects, or work on certain
14 projects?
15 A. Yeah, it would be fair to say that he tended to
16 micro-manage certain projects and - and activities.
17
18 Q. And that was a hierarchical structure you weren't used
19 to working in?
20 A. Very much so.
21
22 Q. And one that you weren't keen to allow to continue?
23 A. Oh, yeah, exactly.
24
25 Q. And that's because it creates disharmony, apart from
26 anything else?
27 A. It creates havoc.
28
29 Q. And did you understand the new reporting lines were
30 partly to stop Mr Child going in one direction but
31 Mr Romano coming in the other?
32 A. I think that was largely the - the rationale behind
33 it.
34
35 Q. And was that explained to you by Mr Azer?
36 A. Yeah, we had conversations to that effect.
37
38 Q. So Mr Azer was aware of the interference, if I could
39 call it that, by Mr Romano?
40 A. Yes.
41
42 Q. And the detrimental impact that had on the projects
43 that were being performed?
44 A. Yes, because you were constantly having to rip up work
45 that you'd just previously done and the designs were
46 constantly changing on the run.
47

1 Q. Because of the interference of Mr Romano?
2 A. That's what I've heard.
3
4 Q. And he decided to redesign projects himself on
5 occasion?
6 A. So I believe.
7
8 Q. But none of that - that had all been sorted out as far
9 as you knew prior to your commencement?
10 A. Pretty much.
11
12 Q. But you were - you were told that that had been a
13 problem?
14 A. Yes.
15
16 Q. Now, in relation to Mr Child, you're aware that he
17 was - he was off on leave and then sought to return and was
18 sent a letter of suspension in relation to an investigation
19 of allegations made by Mr Saad --
20 A. Yes.
21
22 Q. -- are you aware of that?
23 A. Yes.
24
25 Q. What role, if any, did you play in making the decision
26 to suspend him?
27 A. That was a decision made by the senior executive, I
28 believe, in consultation with HR. It's - I didn't have any
29 direct involvement in that aspect.
30
31 Q. Right. Were you consulted?
32 A. I probably would have been involved in some discussion
33 on the matter as to what was being proposed with one of the
34 staff that answers to me.
35
36 Q. But it wasn't your decision?
37 A. Not in this instance, no.
38
39 Q. And you're aware that Mr Giangrasso - I think you were
40 here this morning - Mr Giangrasso was suspended pending an
41 investigation into certain matters?
42 A. Yes, I believe so.
43
44 Q. What role, if any, did you play in that?
45 A. I didn't play any role in relation to his suspension,
46 but I was involved in the discussions leading to the
47 suspension.

1
2 Q. And who did you have discussions with?
3 A. I would have had discussions with Peter Macklin from
4 HR.
5
6 Q. And who do you understand made that decision?
7 A. I think it was - that would have been a decision made
8 by the cross functional team or the senior executive. I
9 can't remember specifically who in that instance.
10
11 Q. And in relation to Mr Issa - do you know who I mean?
12 A. Yes.
13
14 Q. What - how often, or if ever, have you reviewed depot
15 positions to see if you could identify a depot position he
16 could perform with the restrictions he had on his capacity?
17 A. I would have looked at the situation to see if we
18 could accommodate him with his restrictions in relation to
19 the injuries that he was carrying, but because it's - the
20 positions down at the depot are predominantly out on the -
21 in - in the field, there really wasn't anything of any -
22 that would suit his restricted duties that he would have to
23 be allocated.
24
25 Q. And do you recall ever preparing a written report to
26 that effect?
27 A. No, I don't think so.
28
29 Q. And have you been asked to conduct that sort of review
30 on more than one occasion?
31 A. Not formally.
32
33 Q. Well, informally?
34 A. I would have been in conversations "Have you got
35 anything for Ammar down at the depot?" and the answer would
36 have been, well quite simply, "No."
37
38 Q. When was the last time do you recall having that sort
39 of conversation and with whom did you have it?
40 A. It would have been - probably, oh, would have been
41 towards the middle of 2009, I think, somewhere around
42 there, and the discussions would have been with HR, because
43 any return to work plan that would have been submitted by
44 Mr Issa's doctor would have had the restrictions indicated
45 on it, and then there would have been - well, we would have
46 had to look for what duties would have been suitable for
47 him to actually comply with his return to work plan.

1
2 Q. Yes, I realise that's what you should have done. I'm
3 just seeking to explore with you whether you ever produced
4 any sort of written document about what you'd done, what
5 positions you'd reviewed, and why you were unable to
6 identify any position?
7 A. I wouldn't have conducted any formal written report
8 into the matter, but the depot operations aren't that
9 large. I mean, there would have only been no more than
10 three, if that, positions that he possibly could have
11 filled, if - if they were vacant, but they weren't, so we
12 really had no activities for him that would meet that
13 requirement.
14
15 Q. And have none of those positions become vacant since
16 the middle of last year?
17 A. No, not really, nothing that he - would suit him.
18
19 Q. And is that a matter that you considered at any stage
20 and discussed with Mr Macklin, that is it's important to
21 get staff back to work once they've been injured?
22 A. Oh, it's definitely important to get them back as soon
23 as possible, also from a - an insurance liability point of
24 view, but we certainly did not have anything suitable for
25 him.
26
27 Q. Now, on the 30th of July 2009 you, Peter Macklin, John
28 Whitecunas and Stanley Aidinlis had a meeting; do you
29 recall that?
30 A. I think so.
31
32 Q. Well, doing the best you can, what happened at that
33 meeting?
34 A. Is that the matter in relation to the - the issue that
35 was raised earlier, I think regarding --
36
37 Q. Well, do you remember having a meeting on the 30th of
38 July?
39 A. I remember having a meeting.
40
41 Q. At about 7 o'clock?
42 A. I can't remember the specifics of the details. I have
43 meetings many times with the staff, and I can't remember a
44 specific meeting, but I have met with Stan Aidinlis and
45 John Whitecunas on - there was one matter that occurred
46 last year.
47

1 Q. All right, well, tell the Commissioner what that
2 matter was and what you recall?
3 A. Okay. I recall that - that we had a meeting regarding
4 a - information that - or a message that Stan Aidinlis had
5 received from Joe Giangrasso in relation to statements that
6 were alleged to have been made by Robert Risteski, and that
7 Joe Giangrasso was conveying the message back through Stan
8 Aidinlis that - what's his name - that Risteski had - I
9 think it was words to the effect that "You'll end up taking
10 legal action against him" - words to that effect. I can't
11 remember the specifics of it.
12

13 Q. But that's all you can recall about it?

14 A. Yes.

15

16 MS RONALDS: I have nothing further at this stage.

17

18 ASSISTANT COMMISSIONER: Yes. Does anybody seek to
19 question this witness?

20

21 MR HANLEY: Yes, Commissioner, I have some questions.

22

23 <EXAMINATION BY MR HANLEY:

24

25 MR HANLEY: Q. Mr Ellul, I appear for Mr Child. Your
26 qualifications again are what, a degree in engineering?

27 A. Yes.

28

29 Q. And something in management?

30 A. Diploma in management that was half of an MBA.

31

32 Q. And where did you get that?

33 A. The diploma and management was through Deakin
34 University.

35

36 Q. And was that involved in relation to looking at
37 structuring management and positions in various councils or
38 similar bodies?

39 A. The course content wasn't specifically looking at
40 organisational structure. That's more or less an
41 experience I'd gained in my time in local government
42 previously.

43

44 Q. And where had you worked in local government
45 previously?

46 A. I had worked at Bankstown City Council for
47 approximately nine years.

1
2 Q. In what position?
3 A. I was the business unit manager for one of the
4 business units there at council.
5
6 Q. Anything else?
7 A. I also worked at Collex Waste for a period, and then I
8 went to Baulkham Hills Council, and then at that civil
9 contracting company Ally Property Services before coming to
10 Burwood.
11
12 Q. So is your skill mainly engineering or management?
13 A. In my latter years it's been more a case of
14 management.
15
16 Q. And when you were replying to the position that was
17 being advertised, what was your role to be at the council,
18 Burwood Council?
19 A. As the senior manager for works and operations at
20 Burwood Council.
21
22 Q. Prior to taking up that position had you had lengthy
23 conversations with Mr Dardano?
24 A. Not prior to taking up the position.
25
26 Q. So sometime after the 23rd of March 2009; is that
27 correct?
28 A. Yes.
29
30 Q. And do I take it that when you commenced work at
31 council on that day, you took some days to get familiar
32 with people and positions that people had; is that right?
33 A. Yes.
34
35 Q. Getting to know everyone?
36 A. As best you could in the first few days.
37
38 Q. And having meetings with, what, senior management
39 during those days?
40 A. Yes.
41
42 Q. And did you speak to Mr Dardano during those couple of
43 days, just after you took up your position?
44 A. Yes.
45
46 Q. And he was, in effect, filling you in on his views of
47 the depot and the staff that were employed there?

1 A. Yes.
2
3 Q. And he - you got the impression very quickly that he
4 didn't like Mr Child?
5 A. I could see that there was some personality issues.
6
7 Q. He told you in pretty direct terms, didn't he?
8 A. I can't remember the specific conversations that we
9 had, but I know that he did not hold Steve Childs [sic] in
10 high regard.
11
12 Q. Did that colour your view about him before you met
13 Mr Child?
14 A. No, it didn't. I just had --
15
16 Q. Not at all?
17 A. I was aware of him and I kept an open mind to things.
18
19 Q. And you were wary of him, too, were you?
20 A. Well, I certainly was cautious.
21
22 Q. Had Mr Dardano told you that he had received some very
23 disturbing complaints from Mr Joe Saad about members of the
24 depot working on council time to work on units for the
25 council architect or general manager?
26 A. No, I'd heard nothing about that.
27
28 Q. He didn't mention that to you?
29 A. No, it wasn't an issue that came up in conversation.
30
31 Q. You told us in your statement that you had some
32 conferences, I think, with Mr Azer and there were
33 discussions about bullying at the depot?
34 A. Yes.
35
36 Q. And one of the people mentioned it was Mr Child?
37 A. Yes.
38
39 Q. And was that in relation to Joe Saad?
40 A. It was in relation to a range of people.
41
42 Q. Well, can you answer that question: was it in relation
43 to Joe Saad?
44 A. He would have been one of the people involved in that.
45
46 Q. Not "would have". Was he one of the people you were
47 told about?

1 A. To the best I can recall, yes.
2
3 Q. And what about Mr Risteski; was he one of them?
4 A. I can't recall specifically.
5
6 Q. Did you get any specific details of these complaints?
7 A. I did not get any written correspondence regarding the
8 complaints, but I was aware that the matters had been
9 previously lodged and had been investigated.
10
11 Q. And in relation to Mr Saad they had been proven to be
12 totally without any foundation, hadn't they?
13 A. In relation to the bullying of him?
14
15 Q. Yes.
16 A. There was certainly no conclusion reached that he was
17 bullied at that stage.
18
19 Q. And, in fact, Mr Dardano told you that Mr Saad had
20 told him a number of things complaining about Mr Child
21 which had been investigated and had proved to have no
22 foundation?
23 A. That's correct.
24
25 Q. You must have been somewhat suspicious about Mr Saad's
26 reliability and veracity?
27 A. I was cautious with him, too.
28
29 Q. And in view of the fact that you had some warning that
30 there were complaints of bullying, did you go and get
31 statements from the people who were making these
32 allegations?
33 A. I obtained three statements from staff which were
34 subsequently forwarded into the ICAC.
35
36 Q. And they are annexed to your statement, aren't they?
37 A. Yes, I believe so.
38
39 Q. And one of them was Mr Saad?
40 A. Yes.
41
42 Q. And in relation to those complaints did you go to the
43 people who were being complained about and speak to them
44 and get their side of the story?
45 A. Well, that was a bit difficult at that stage because
46 Steve Child wasn't at work.
47

1 Q. Was that something you would normally do, get both
2 sides of the story?
3 A. Absolutely.
4
5 Q. So Steve Child wasn't at work when you started, was
6 he?
7 A. Can you repeat that, please?
8
9 Q. Steve Child wasn't at work when you started?
10 A. He was for the first three days.
11
12 Q. Then he went on sick leave on the 27th?
13 A. 26th, I think it was.
14
15 Q. 26th? So you had been there about three days?
16 A. That's right.
17
18 Q. Had you been down to the depot and observed how he ran
19 it or didn't run it during those three days?
20 A. I was there for the majority of the time, and I did
21 make my observations as to how things were running.
22
23 Q. I thought you told me earlier that on the first three
24 days you were getting to know people and had meetings with
25 people like senior staff members?
26 A. That too.
27
28 Q. That too. And did you see in those first three days
29 whether the depot workers were going out and doing various
30 jobs for the council?
31 A. I saw that they were leaving the depot in the morning,
32 and I was - at that stage I hadn't gotten around to seeing
33 the specific jobs that they were working on, because I was
34 still just - just having arrived there.
35
36 Q. But they appeared to be managed and sent out to
37 whatever jobs they were required to do; is that what you
38 had observed?
39 A. Well, I could see that they were leaving the depot.
40 That's what I could see.
41
42 Q. There was nothing that you saw during those three days
43 that indicated to you that Mr Child lacked any management
44 skills, was there?
45 A. At that stage I haven't - hadn't descended into the
46 micromanaging of the individual tasks and activities that
47 the supervisors were conducting.

1
2 Q. Can I take it that during those three days you didn't
3 make anything that would suggest that he wasn't managing
4 the operation?
5 A. I did not get into the fine detail of what he was
6 doing at that stage.
7
8 Q. Was that you agreeing with me or not?
9 A. Well, what I was trying to do was allow my immediate
10 subordinates to conduct business in the way that they had
11 been conducting it.
12
13 Q. You saw nothing that indicated he wasn't doing his job
14 properly during those three days, did you?
15 A. During those three days? No.
16
17 Q. And on the 27th or 26th he went on sick leave?
18 A. That's right.
19
20 Q. And he was away for some days, wasn't he?
21 A. That's correct.
22
23 Q. And during that time you became aware from gossip or
24 otherwise that there'd been a complaint made about the
25 general manager and Mr Sherry in relation to work being
26 done by council officers?
27 A. The only issue I was made aware of was when it hit the
28 press.
29
30 Q. And that happened on the 4th and 6th of April?
31 A. I think that's right.
32
33 Q. Had you seen Mr Child at work prior to those days?
34 A. Only between the 23rd to the 26th.
35
36 Q. Which you hardly saw him doing anything at all that
37 could have caused you to have any complaints about his
38 performance or management skills; is that correct?
39 A. Through those three days, that's correct.
40
41 Q. And you didn't see him working on the 4th or the 6th
42 of April, did you?
43 A. I'd have to refer back to my notes.
44
45 Q. Well, do you recall it?
46 A. I can't remember that specific date.
47

1 Q. But by the 7th of April you were at a cross functional
2 team meeting with Mr Macklin and Mr Azer, weren't you?
3 A. That's right.
4
5 Q. And it was at that meeting that you suggested that
6 Mr Child's position be drastically changed?
7 A. That's correct.
8
9 Q. On no evidence at all that you had observed?
10 A. Oh, there was plenty of evidence during his absence
11 that I found that there was an absence of planning in his
12 area.
13
14 Q. So in his absence when he's sick no-one seemed to know
15 what to do?
16 A. Pretty much.
17
18 Q. And at that stage were you made aware that there'd
19 been a - previously been a depot manager Mr McPherson who'd
20 been either relinquished or sacked in around
21 December/January 2008/2009?
22 A. Yeah, that's correct.
23
24 Q. And that would be part of the depot manager's job?
25 A. In relation to what?
26
27 Q. Organising the workers?
28 A. No, that would be specifically a task the coordinators
29 and supervisors would have responsibility for.
30
31 Q. When you saw that Mr Child was sick and no-one knew
32 what to do, did you speak to Mr Azer who was in charge of
33 that area and say, "What is the way this is dealt with if
34 someone like Mr Childs [sic] becomes ill?"
35 A. My discussion was with John Dardano who was still
36 there at the time. We'd had a bit of an overlap in terms
37 of John Dardano's eventual leaving the - the depot and my
38 taking up the responsibilities, and what I could see was
39 that John Dardano had tried to implement a - a system
40 whereby works were allocated a works ordinance number. So
41 I could see evidence that a system had been put in place,
42 and John confirmed that he was the main instigator of that,
43 but I could see no evidence that it was really being
44 complied with.
45
46 Q. And Mr Dardano told you that he was to, in effect,
47 step up to the mark and start running things when Mr Child

1 was ill?
2 A. Did he suggest that I do that?
3
4 Q. No, did he suggest who would do that in this
5 rearrangement or restructuring that he had set up?
6 A. What he suggested was that the work was supposed to
7 have been planned in advance, so that if a person really
8 wasn't there for a day or so, the work was still there
9 ready to be allocated out, that you would have sufficient
10 work in the pipeline to allocate to the crews, and that's
11 what I found no evidence of.
12
13 Q. Who would do the allocating?
14 A. Well, the civil coordinator.
15
16 Q. But if he's ill for a prolonged period --
17 A. If he's ill for a prolonged period, then there would
18 have been other staff that would have stepped up to the
19 mark.
20
21 Q. Such as?
22 A. Such as either Daniel Scroi, who was currently
23 assisting with the restorations work and had previously
24 carried out that role for an extended period of time.
25
26 Q. Did you ask him to do it?
27 A. Eventually I got them to actually do that kind of work
28 but I wanted to take a hands-on role initially so I could
29 understand the manner in which it was actually being
30 organised, or supposed to be organised.
31
32 Q. So for how long was Mr Child away when you made these
33 observations?
34 A. Would have been in the vicinity of around about a week
35 or so, just a bit over a week.
36
37 Q. I suggest it was less than that?
38 A. Well, he was absent 26, 27. That took him to the end
39 of that week, and I think he was off for rest of the next
40 week.
41
42 Q. And on the 7th of April had he returned to work?
43 A. I think so. I'd have to check the date specifically.
44 I can't recall.
45
46 Q. By the 7th of April you'd put together a re-evaluation
47 of his position?

1 A. What I had done - and there was two crucial issues
2 here - the restructure of the organisation was required
3 irrespective of whether Steve Child was performing his job
4 to 100 per cent of my satisfaction because I could see that
5 there were some fundamental problems with the structure.
6 As it turned out, it was compounded by the fact that he
7 wasn't doing the job well.
8
9 Q. You'd had a very short period of time to make that
10 observation, hadn't you?
11 A. Sufficient.
12
13 Q. In your mind?
14 A. Yes.
15
16 Q. You were aware that Morrison and Low who are
17 apparently specialists in this area spent months reviewing
18 these things?
19 A. Mmm-hmm.
20
21 Q. And had you been told that the day after the report
22 had been signed off by the general manager that Mr Child's
23 position had been changed by Mr Azer and Mr Macklin --
24 A. Mmm-hmm.
25
26 Q. -- in accordance with the Morrison Low report?
27 A. Yes.
28
29 Q. The report had been complied with as far as its
30 recommendations in relation to the position, hadn't they?
31 A. That was part of the recommendations of the final
32 report.
33
34 Q. And part of those recommendations was to get rid of
35 the sweepers and the graffiti workers from his control,
36 wasn't it?
37 A. That's correct.
38
39 Q. And reduce the number of people under his command?
40 A. Not for that specific reason.
41
42 Q. No. The reason was to allow him more time to plan for
43 the civil works, wasn't it?
44 A. That would have been one of the reasons behind it.
45
46 Q. So as far as the Morrison Low report went and
47 Mr Childs [sic] went, his position had been dealt with in

1 accordance with its recommendation before you came on the
2 scene?

3 A. That's true.

4

5 Q. In fact, your recommendations went beyond what had
6 been envisaged by the report?

7 A. That's correct.

8

9 Q. With very little opportunity to scrutinise how he
10 conducted the business that he was employed to do or not?

11 A. That was a comment that I had made at my interview,
12 that I wanted an opportunity to review the report, and --

13

14 ASSISTANT COMMISSIONER: Q. Mr Ellul, you don't seem to
15 be answering the questions. The question was not about
16 what you said at your interview or anything else. The
17 question was that you had made a decision contrary to the
18 Morrison Low report based on very little opportunity to
19 observe how Mr Childs [sic] did his job?

20 A. Okay.

21

22 Q. Now you can either agree with that or not agree with
23 it?

24 A. Okay.

25

26 MR HANLEY: Q. Well, do you agree or disagree?

27 A. Could you - could you rephrase - could you repeat the
28 question, please?

29

30 Q. You made these recommendations. They went beyond what
31 was required or what had been suggested by the report in
32 respect of Mr Child's position?

33 A. Yes.

34

35 Q. And you made these recommendations with almost little
36 or no time to make proper observations about how he
37 conducted his job, didn't you?

38 A. Yes.

39

40 Q. And, in fact, at your interview, seeing you brought it
41 up, what you told learned counsel assisting the commission
42 was that you asked that - you reserved the right to look at
43 minor changes?

44 A. Yes.

45

46 Q. This was not a minor change, was it?

47 A. It was minor in the extent of actually moving one

1 activity or responsibility in with a - one of the current
2 positions.
3
4 Q. This was a man's job that was going to go, wasn't it?
5 A. That may have been the outcome.
6
7 Q. Did you consider that minor?
8 A. That may have been the outcome.
9
10 Q. You were --
11
12 ASSISTANT COMMISSIONER: Q. Did you consider that minor?
13 You don't seem to be listening to the questions, Mr Ellul.
14 It will go much faster if you actually listen to the
15 question and try to answer it. You were asked did you
16 consider it minor that someone's job might go?
17 A. I did consider it minor in this respect.
18
19 MR HANLEY: Q. Did you consider it minor that the
20 position would increased from a - two - two levels?
21 A. Yes, I didn't consider that as being a big issue.
22
23 Q. And did you consider it minor that the position would
24 now require someone to have tertiary education?
25 A. I didn't see that as - again as a major issue.
26
27 Q. You knew that one of the aims of the Morrison Low
28 report had been directed to was reducing costs?
29 A. Yes.
30
31 Q. Particularly in the depot?
32 A. That's right.
33
34 Q. And yet you're increasing the financial wage that
35 would have to be paid in relation to the new position?
36 A. For that position, yes.
37
38 Q. So all of these things you considered as minor; is
39 that right?
40 A. In that instance, yes.
41
42 Q. In combination?
43 A. In combination with - with the other issues, then the
44 overall was - was - was significant.
45
46 Q. Your view about Mr Child, was it coloured at all by
47 Mr Dandarno's conversation?

1 A. It made me vary of him.
2
3 Q. Was it coloured? Were you prejudiced against him
4 before you ever met him?
5 A. No, I did not have any prejudice against him.
6
7 Q. When the newspaper reports came out in the Sydney
8 Morning Herald or the 4th and 6th of April there was gossip
9 and speculation as to the source of it, wasn't there?
10 A. Yes, there was.
11
12 Q. And you were told, weren't you, that Steve Child was
13 regarded as being one of the people who may have been
14 behind it?
15 A. Those comments had been made, yes.
16
17 Q. At that stage were you told by Mr Macklin or Mr Azer
18 that Joe Saad had raised these matters in early February?
19 A. I can't remember the specifics of those conversations.
20
21 Q. If you had been made aware that council workers were
22 working on council time for senior council management's
23 financial advancement, would you have considered that a
24 major thing that you should have looked at in relation to
25 any recommendations you would have made?
26 A. If - well, it would have been an issue that would have
27 required a thorough investigation, yes, if I was aware of
28 it.
29
30 Q. Well, by the 4th you were aware of it, weren't you?
31 A. Yes, I was.
32
33 Q. What did you do about it then?
34 A. Well, the matter was pretty much being dealt with by
35 senior management.
36
37 Q. Who were subject of some of the allegations?
38 A. Well, when the CFT was set up regarding the depot's
39 reforms, the - the directors were involved with that and
40 they were - and decisions were being made by that group.
41
42 Q. Were you advised that Mr Cummins had started an
43 investigation and had been removed from that by Mr Romano?
44 A. No, I wasn't aware of that.
45
46 Q. As at the 7th, when you go to the cross-functional
47 team meeting and tell those other members what you consider

1 the changes should be made to Mr Child's position, did
2 there appear to be any opposition to your recommendations
3 as that meeting?
4 A. No, there was no opposition to it.
5
6 Q. Did anyone like Mr Azer say "Look, we've already met
7 Mr Child and we've told him his position's changing and
8 we've done everything in accordance with Morrison Low, so
9 there's no need to go ahead with what you're suggesting"?
10 A. The point of - of the position being clarified with
11 Mr Child as not being affected by the change was mentioned,
12 yes.
13
14 Q. And was any concern raised about the fact that he had
15 been told that and that he needed to reapply for the
16 position?
17 A. I think there was some concern about that.
18
19 Q. By whom?
20 A. Would have been members of the CFT, at that stage.
21
22 Q. Yes, well, who?
23 A. I think it may have been Peter Macklin and also Khaled
24 Azer.
25
26 Q. And did you say one of the reasons that you were
27 suggesting this change is because you thought Mr Child had
28 no organisational skills?
29 A. No. The reason why I was proposing the change was
30 irrespective of the individual involved in that job.
31
32 Q. But isn't that why you were suggesting the job be
33 changed, Mr - Mr Child apparently didn't know how to
34 organise people?
35 A. The position as it stood didn't require that level of
36 skill and I saw that there was a need for it, irrespective
37 of who Mr Child was.
38
39 Q. Did either Mr Macklin or Mr Azer say "Look, Mr Child
40 has been working in this position for many years", did they
41 say that to you?
42 A. They would have mentioned that.
43
44 Q. No, well, did they?
45 A. I can't remember the specifics of a conversation like
46 that.
47

1 Q. Were you told that he had managed many large
2 reconstructions, restorations for the council during that
3 time?
4 A. Yes, that had been mentioned.
5
6 Q. And that he had received recommendations from Mr Azer,
7 the general manager, and members of the Burwood - residents
8 of Burwood. Did they tell you that?
9 A. They told me that.
10
11 Q. Did that cause you to reconsider whether you might
12 have been a little bit hasty in your recommendations?
13 A. No, because they also raised concerns about the manner
14 that he conducted himself as well.
15
16 Q. In what way?
17 A. Well, in relation to the cost of what the jobs were
18 becoming. In relation to the fact that he was paid an
19 exorbitant amount of money over a short period of time, so
20 there was concern that these jobs weren't being properly
21 managed.
22
23 Q. And are they reflected in any of your minutes, those
24 concerns?
25 A. I don't recall that they were.
26
27 Q. So did the changes that you suggested in respect to
28 Mr Child's position in any way address the question of
29 planning by the depot staff?
30 A. Could you - could you repeat the question, please?
31
32 Q. These changes you were recommending --
33 A. Yes.
34
35 Q. -- did they go in any way to dealing with the issue of
36 planning as to how the depot staff would do their work?
37 A. Well, that was fundamental to the changes that I was
38 recommending.
39
40 Q. What, the change in position?
41 A. Wanting a person who had more suitable experience and
42 qualifications, both of a technical nature and of a
43 planning nature.
44
45 Q. Did you, prior to going to the CFT meeting, speak to
46 Mr Child about any concerns you had about his lack of
47 planning, whether he might like to answer that in any way?

1 A. We only had one conversation to that effect; that was
2 upon his return from his period of sick leave.
3
4 Q. So that was after the meeting, was it?
5 A. Whichever day he returned, I can't remember exactly
6 which one it was.
7
8 Q. Is that the meeting you talked about in your statement
9 where he accused you of being unprofessional?
10 A. No, that was a subsequent meeting that we - or
11 subsequent discussion that we had.
12
13 Q. So when was this discussion about planning and
14 Mr Child's inability to do it?
15 A. Upon his return from his period of sick leave of about
16 a week or so.
17
18 Q. And what did you say to him?
19 A. Well, I - I said that "Can you show me exactly how you
20 plan your work in advance for your staff", words to that
21 effect, anyway, and he - he tried to explain that, you
22 know, it put - he puts the various works in folders. I
23 said "Well, can you explain to me then why your staff are
24 milling around the office, not knowing what to do, looking
25 like lost sheep?".
26
27 Q. Is this conversation in your statement?
28 A. That may have been touched on, I can't remember the
29 exact detail. I'd have to refer back to the statement.
30
31 Q. I want to suggest you only had very casual
32 conversations with Mr Child and none about work at all?
33 A. That's not correct.
34
35 Q. And the one you've told us about in your statement
36 about where he challenged you and told you you were
37 unprofessional just didn't occur?
38 A. That's not correct.
39
40 Q. Did you ever discuss any personal details with him?
41 A. In relation to what?
42
43 Q. To you, your family?
44 A. We hadn't really dealt with each other long enough to
45 get to that personal level.
46
47 Q. Did you tell him your father worked on the water site?

1 A. I can't recall it.
2
3 Q. Well, did he?
4 A. I don't know.
5
6 Q. Did your father work there?
7 A. Yes, he did.
8
9 Q. Yeah. See, I want to suggest you just had some casual
10 conversations with Mr Child that never addressed any of
11 these matters with him?
12 A. Well, that's not correct.
13
14 Q. Do you say that in any of these conversations he'd
15 pointed out to you his record with council delivering
16 restoration works?
17 A. Yes, he did try - he did have a conversation with him
18 about that. I can't remember specifically the exact day
19 that he did go into the detail of the construction work
20 that they had done on Railway Parade and also I think in
21 Moseley Street at Strathfield.
22
23 Q. And did you look into that to see how he had managed
24 that?
25 A. I didn't get into the specifics of it, all I - what I
26 did follow up on was there was a general concern about the
27 overall cost of those projects.
28
29 Q. So at the meeting on the 7th of April do I take it
30 that there was no opposition to the changes that you were
31 recommending --
32 A. That's correct.
33
34 Q. -- in regards to Mr Child's position?
35 A. That's correct.
36
37 Q. No-one spoke up on his behalf?
38 A. That's correct.
39
40 Q. They adopted your recommendations without any
41 qualification?
42 A. They understood why I was trying to implement the
43 changes.
44 Q. Did they adopt your recommendations without any
45 challenge or qualification by --
46 A. Yes.
47

1 Q. Even though you'd been there a very short period of
2 time?
3 A. That's correct.
4
5 Q. No-one challenged you at that meeting as to your lack
6 of time to make the observations and recommendations you
7 were making, did they?
8 A. Don't believe they did.
9
10 Q. The Morrison Low report was directed to cutting costs
11 in relation to overtime, implementing time sheets, that
12 sort of thing, wasn't it?
13 A. Yes
14 Q. Did you do anything about that?
15 A. Yes.
16
17 Q. And that was in no way a reflection on Mr Child, was
18 it?
19 A. Can I just clarify one point for you? The cutting
20 back of the overtime had already been implemented by John
21 Dardano prior to my commencement as well.
22
23 Q. I understand, yes, but we're talking about you.
24 A. Yes.
25
26 Q. And that was in no way a reflection on Mr Child, was
27 it?
28 A. There were issues regarding his area of responsibility
29 which was encompassed in the 22 recommendations that the
30 Morrison Low report had actually indicated.
31
32 Q. Did anyone tell you about the large number of jobs
33 that the depot had been given just prior to the election by
34 people, for example, the mayor doing a bit of pork
35 barrelling before the election?
36 A. Yeah, there were some discussions over that for over
37 quite a few months after I commenced.
38
39 Q. Did Mr Child ever raise with you in relation to
40 overtime the fact that the Morrison Low had taken into
41 account overtime for projects where the - that wasn't
42 supposed to have occurred in relation to its financial
43 records?
44 A. I don't recall a conversation getting down on that
45 particular issue.
46
47 Q. In any event, you've been taken to by counsel

1 assisting your letter of the 22nd of the 4th '09 where you
2 set out your various recommendations; correct?
3 A. Yes.
4
5 Q. And where you identify that if your recommendations,
6 or the Morrison Low report recommendations, I suggest, to
7 reduce the staff from 26 down to 15 under his control; is
8 that correct?
9 A. Can't remember the exact figure but it would be to
10 that effect.
11
12 Q. So this more expensive position had less people to
13 look after; how many?
14 A. In terms of day labour staff, yes.
15
16 Q. And prior to that, however, on the 20th of April you'd
17 already had a meeting with Mr Child, hadn't you?
18 A. Yes, with Peter Macklin, I think.
19
20 Q. Where you told him about the changes that were going
21 to take place?
22 A. That's right.
23
24 Q. And he - he in effect said that this was payback?
25 A. I think they were his words, yes.
26
27 Q. Did you ask him what for?
28 A. Peter Macklin asked him that question.
29
30 Q. And was he told because of the articles The Sydney
31 Morning Herald?
32 A. Nobody answered that question I think at the time.
33
34 Q. No-one answered it?
35 A. Well, Peter Macklin said "What for?" - Steve Child
36 made the comment that "This is payback" and I believe Peter
37 Macklin said "What for?" --
38
39 Q. Well --
40 A. -- and that's when the conversation ended.
41
42 Q. You and Macklin knew what for, didn't you?
43 A. Well, I - we - we guessed at what was being inferred.
44
45 Q. It was about him disclosing things to The Sydney
46 Morning Herald?
47 A. That was the inference.

1
2 Q. And that had been the gossip?
3 A. The gossip within the yard, yes.
4
5 Q. Was Mr Romano involved in any of these depot
6 reconstructions of staff positions?
7 A. In relation to what I was proposing, no.
8
9 Q. Did you ever become aware that he became aware of the
10 suggested changes to Mr Child's position?
11 A. He would have at some stage.
12
13 Q. No, did you become aware of it?
14 A. Did I become aware that he was --
15
16 Q. Yes.
17 A. -- that he knew of it?
18
19 Q. Yes.
20 A. I couldn't - I couldn't answer that specifically. I -
21 I'd say he would have but I'm not - I can't give you an
22 exact answer on that.
23
24 Q. Well, did you understand that Azer and Macklin were
25 reporting back to Romano about what was happening at the
26 depot?
27 A. Most likely.
28
29 Q. Did they tell you they were doing that?
30 A. I can't recall specifically that.
31
32 Q. You formed the opinion pretty quickly, didn't you,
33 that both Macklin and Azer were pretty much under the
34 control of Romano, though, didn't you?
35 A. Yeah, pretty much everyone was.
36
37 Q. Yeah. And - so did you assume that they would be
38 reporting back to him your recommendations?
39 A. I would have assumed that, yes.
40
41 Q. And he was part of the management team, was he?
42 A. He was part of the senior executive, yes.
43
44 Q. Have you ever heard the term "management team"?
45 A. I've heard that term used, yes.
46
47 Q. Did you become aware, around the 25th of April of

1 2009, that Mr Romano was concerned about whether the
2 executive team had approved your preferred structure for
3 the depot?
4 A. I can't recall that specifically.
5
6 Q. Did you ever hear that he was concerned whether the
7 recruitment process had been commenced around that time,
8 late April 2009?
9 A. I can't recall that.
10
11 Q. Had you given any thought to the advertisement that
12 was going to be placed in relation to Mr Child's former
13 position?
14 A. Yeah, I would have had some input into its drafting.
15
16 Q. Had that been drafted before the 25th of April 2009?
17 A. I can't remember the specific date that it was.
18
19 Q. But certainly fairly quickly?
20 A. Well, it would have been, yes.
21
22 Q. You wanted to get on with things?
23 A. Absolutely.
24
25 Q. And you wanted proper management?
26 A. Yes.
27
28 Q. And as part of that - an interim measure, you've
29 employed someone else to take Mr Child's position on a
30 casual basis; is that right?
31 A. We've elevated one of the existing staff to take on
32 that function.
33
34 Q. And that existing staff, did he come from the depot?
35 A. Yes.
36
37 Q. I think you said you believed he may have had some
38 engineering qualifications?
39 A. Yes.
40
41 Q. What are they?
42 A. In the civil engineering discipline.
43
44 Q. Yes, but what are the qualifications? Have you seen
45 them or has he just told you about them?
46 A. No, I was advised by my boss, Khaled Azer, that the
47 gentleman concerned has a qualification in the engineering

1 field which --
2
3 Q. Yes, which particular one, though?
4 A. I think he mentioned that it was a diploma in
5 engineering.
6
7 Q. From where?
8 A. Well, from his homeland in Central America.
9
10 Q. Have you ever seen any documentation about it?
11 A. No, I haven't.
12
13 Q. As to whether this entitles him or might suggest he
14 has any management skills?
15 A. I haven't seen a document that actually stipulates or
16 clarifies his - his qualifications but the position hasn't
17 been changed yet.
18
19 Q. So is he just doing Steve Child's old job, is he?
20 A. And a bit more on top but not to the extent that I had
21 envisaged in the restructure.
22
23 Q. And the man you employed there was someone who'd
24 worked as a lawn mower for the council for five years; is
25 that right?
26 A. That was his initial job when he commenced there at
27 council.
28
29 Q. And then Mr Child giving him a minor clerical duty in
30 the depot work - office?
31 A. Well, I believe he then went on to the restorations
32 activity under Steve Child's.
33
34 Q. And the position that Steve Child had, were you made
35 aware of his history by Mr Azer and Mr Macklin?
36 A. In relation to what specifically?
37
38 Q. In relation to the fact that this was a job that had
39 been created to give the workers in the depot something to
40 aim for that they could possibly gain in the future if they
41 worked hard?
42 A. Mmm-hmm.
43
44 Q. Did you understand that?
45 A. It wasn't conveyed to me in that fashion.
46
47 Q. And you did become aware, did you, that the job that

1 Mr Child had was someone who went around the various
2 positions as a troubleshooter, he'd roll up his sleeves and
3 helped the workers if necessary?
4 A. I understood that that's how he conducted the job.
5
6 Q. And that's what was expected in the job when he did
7 it, wasn't it?
8 A. I - I couldn't tell you the exact history as to why or
9 how it was created in that fashion.
10
11 Q. The position that you envisaged clearly didn't have
12 that opportunity for members of the depot to aspire to in
13 any way, did it?
14 A. Not in the final structure of the position that I
15 wanted, no.
16
17 Q. And that position, as you wanted it to be, wasn't
18 someone who would go around and be capable of doing the
19 hard work with the workers, if necessary?
20 A. That certainly wasn't an expectation of that job if it
21 was to be done properly.
22
23 Q. Now, in relation to Mr Saad, he complained about
24 Mr Child because he'd been overlooked for a full-time
25 position?
26 A. That's correct.
27
28 Q. And did you inquire of Mr Child as to why he had
29 selected someone else?
30 A. I don't recall that we've actually had that
31 conversation.
32
33 Q. It was - did you ever become aware, from either
34 Mr Saad or anyone else, that Mr Child had recommended to
35 Mr Saad that if he got some particular licences for the
36 heavy machinery at the council he would have a better
37 chance of getting a full-time job?
38 A. I understand that was suggested.
39
40 Q. That's something you actually recommended in your
41 letter of the 22nd of 4th, isn't it, that: "People should
42 have a wide range of skills and competencies, including
43 backhoe, excavator licences, MRHR licences. In short the
44 staff need to be multiskilled".
45 A. That's correct and we've been implementing that.
46
47 Q. And that is something that would affect an assessment

1 of someone over another in relation to permanent position,
2 maybe?
3 A. Yes, that's right.
4
5 Q. You were asked some questions about Mr Child being
6 suspended. You said you may have had something to do with
7 that or did I mishear you?
8 A. I would have probably seen a draft of the letter
9 before it would have been issued from council.
10
11 Q. Are you aware as to the basis for him being suspended?
12 A. The initial basis of the suspension, as I understood
13 it, was in relation to the discrimination claim that was
14 lodged by Joe Saad against Steve Child for being overlooked
15 for that job.
16
17 Q. Well, it was more than that, wasn't it ?
18 A. Well, that was --
19
20 Q. Are you aware - sorry, I withdraw that. Are you aware
21 of the particulars of Mr Saad's anti-discrimination claim
22 about Mr Child?
23 A. Not the fine detail because I haven't seen the - the
24 document that outlines the - the claim.
25
26 Q. Were you told what they were?
27 A. The only issues that I was aware of was in relation to
28 the job that he was overlooked for, that was one issue, and
29 the manner in which Joe Saad was being dealt with in the
30 workplace and in particular one issue or one particular job
31 where staff, on - on those - on the few days that Steve
32 Child was back, I think they were working in a place called
33 Apian Way and other staff were taken off that job and Joe
34 Saad was left to his own devices on that to actually do
35 most of the concreting.
36
37 Q. That was him being discriminated against, was it?
38 A. That's what my understanding was was part of the basis
39 of the claim.
40
41 Q. Did you agree with him being suspended on the basis of
42 those allegations?
43 A. The decision to suspend him wasn't mine but --
44
45 Q. No, did you agree with it?
46 A. On that basis, yes.
47

1 Q. And you're aware that it was settled, the
2 anti-discrimination claim?
3 A. I wasn't aware until I heard it in the commission.
4
5 Q. Were you aware that there are ongoing investigations
6 by the council in relation to Mr Child about those
7 allegations despite the fact that it's been settled in
8 September of last year?
9 A. I wasn't aware that it was settled.
10
11 Q. Were you aware that he was continued to - continued to
12 be investigated by the council about the allegations even
13 up until December of last year?
14 A. I wasn't aware that there was continuing investigation
15 into his involvement in that because I was of the belief
16 that the discrimination claim was still current.
17
18 Q. Were you aware that he'd been followed by private
19 investigators at the behest of council?
20 A. I was aware of one particular incident, yes.
21
22 Q. Was anyone else's position restructured in the depot,
23 other than Mr Child's?
24 A. The coordinator for the waste activity, his position
25 was upgraded to take into account that he was going to then
26 have the responsibility of the street cleaning activity and
27 the parks coordinators were slightly increased as well but
28 nothing of great significance.
29
30 Q. Nothing that meant they had to reapply or get a
31 university degree to do it?
32 A. No.
33
34 Q. Thank you.
35
36 ASSISTANT COMMISSIONER: Yes, does anyone else wish to
37 question Mr Ellul.
38
39 MS RONALDS: Commissioner, before anyone else does I've
40 just changed my mind about something in light of those
41 questions. So if I could just cover my role.
42
43 <FURTHER EXAMINATION BY MS RONALDS:
44
45 MS RONALDS: Q. If I could show you this bundle of
46 documents. These are a series of documents that have been
47 produced under a notice by the council through Ebsworth

1 through their lawyers, so there's a letter on the front,
2 and you'll see the pages are numbered and --
3
4 MS RONALDS: With the witness regime with (indistinct).
5 Commissioner, can I firstly apologise for the handwriting
6 on page 3 and page - whatever it is - page 9. That was not
7 on the document as produced and it will be changed to a
8 clean copy later. That's not formally part of the document
9 as produced.
10
11 MS RONALDS: Q. If I could ask you to look at page 4 on
12 the bottom half of page 4; do you see that? That's an
13 email from you dated the 25th of March 2010 at 4.37pm?
14 A. Yes.
15
16 Q. Do you see that?
17 A. That's - yes, I do.
18
19 Q. And you see that it sets out under "Steve made the
20 following comments", so it reports that Mr Child and
21 Mr Issa were at the site and Carlos Mendoz [sic] arrived,
22 Steve made the following comments to Carlos: "Look after my
23 boys. Make sure you have my car cleaned as" - I assume it
24 means - "I will need it when I return to work in about
25 three weeks and you are pushing my boys too hard". Now,
26 you were not present when any of those statements were made
27 by Mr Child, were you?
28 A. That's correct.
29
30 Q. How is it you're able to report those in an email to
31 your supervisor and various other people?
32 A. Well, it was reported to me by Carlos Mendez, who
33 actually had the conversation directly with Steve Child on
34 site.
35
36 Q. Right. And had you previously directed that if
37 Mr Child approached anyone you were to be advised?
38 A. Yes.
39
40 Q. Why?
41 A. Well, there was concern over what was perceived to be
42 ongoing bullying and intimidation on the part of Steve
43 Child with other current staff.
44
45 Q. Well, who had that concern?
46 A. Many of the depot staff were concerned and they raised
47 it with me on several occasions, by several people.

1
2 Q. Well, as I understand it there were, even on the most
3 extravagant - there was an incident involving John Sherry
4 last year --
5 A. Yes.
6
7 Q. -- and then there's these two more recent incidents.
8 That's all there is, isn't it?
9 A. 25th of the 3rd, 15th of the 4th, the John Sherry
10 incident, yes.
11
12 Q. Which was April last year?
13 A. Yes. I'm just trying to remember what else.
14
15 Q. You see, what I'd suggest to you is this, Mr Ellul:
16 you've had an exaggerated response to this issue, would you
17 agree?
18 A. No, I don't agree.
19
20 Q. So there's one in April last year and one in March and
21 one in April this year?
22 A. That - there were also other unofficial reported
23 sightings which I had no basis to act on and I didn't have
24 dates and times but it was reported that - that he had
25 called in to sites on a couple of occasions, in addition to
26 what's documented there.
27
28 Q. "He", Mr Child?
29 A. Yes.
30
31 Q. Not Mr Issa?
32 A. That's right.
33
34 Q. And then you say - and if I could take you to the top,
35 there is numbered page 5: "These incidents are creating a
36 notable level of stress to staff". Now, are you basing
37 that on your own observation or did someone tell you that?
38 A. Based on the staff coming to me and saying that if he
39 was to walk in the depot tomorrow, there's the possibility
40 of a physical alteration.
41
42 Q. Right.
43 A. Another staff saying that "If he turns up back at work
44 we're resigning".
45
46 Q. Right. And that caused you concern?
47 A. Obviously.

1
2 Q. You say: "I have personally experienced attempted
3 intimidation by Steve Child shortly after commencing my
4 employment in March 2009".
5 A. That's right.
6
7 Q. Now, you've recounted several conversations. You've
8 not described them as "attempted intimidation". Do you say
9 that the exchanges you described this morning were
10 attempted - one of those was an attempted at - at
11 intimidation?
12 A. Yeah, the - one of them was, yes.
13
14 Q. Which one?
15 A. The one where upon his return where I had spoken to
16 all staff at a - at a general staff meeting at the depot,
17 I'd asked them - because I - at that stage I'd heard
18 numerous instances of the alleged bullying and harassment
19 and asked them to come forward with any examples that they
20 felt warranted investigation.
21
22 Q. Mr Ellul, I'm not asking you that, I'm asking you what
23 happened that you would describe the incident as "attempted
24 intimidation", to you?
25 A. When he called me out to the yard, so we had a
26 one-on-one conversation, and he said --
27
28 Q. And what's attempted intimidation about that?
29 A. The manner in which he actually then conducted himself
30 and said "You and I have to work together for a long time
31 yet. It's not a good idea to get off on the wrong foot".
32
33 Q. What's intimidating about that?
34 A. Well, I found it to be a bit intimidating.
35
36 Q. Why?
37 A. Well --
38
39 Q. It's a statement of fact, isn't it? You were going to
40 have to work together and you didn't - and you shouldn't be
41 off on the wrong foot?
42 A. My interpretation of the situation was that he was
43 trying to get me to back down.
44
45 Q. Well, that may have been in your interpretation. Can
46 you tell the commissioner what was intimidating or
47 attempted intimidating about that conversation?

1 A. The manner in which he came close to my face in the
2 discussion to try and, I guess, invade my personal space.
3 I found that to be intimidating.
4
5 Q. Are you sure you weren't having some sort of
6 exaggerated response to Mr Child on the basis of what
7 Mr Dardano had told you about him?
8 A. No.
9
10 Q. And that you've harboured that view ever since?
11 A. No.
12
13 Q. Well, why was it necessary in March 2010 to refer back
14 to what is, with due respect, a minor incident in March
15 2009?
16 A. I'd reported it back then but I saw --
17
18 Q. Who did you report it to?
19 A. I had a conversation with my boss, Khaled Azer, about
20 the situation.
21
22 Q. Had you made a written complaint about Mr Child?
23 A. At that stage I don't --
24
25 Q. Had you made a written complaint about Mr Child?
26 A. No, I don't believe so.
27
28 Q. If you could just listen to the question, Mr Ellul,
29 and try and answer it. The commissioner has already drawn
30 this to your attention.
31 A. Okay.
32
33 Q. Well, you say "staff are visibly distressed". What,
34 were they crying?
35 A. They were offering to resign.
36
37 Q. Well, that's not visibly distressed, is it --
38 A. I --
39
40 Q. -- that's making a statement. Were they crying?
41 A. Obviously not crying, no.
42
43 Q. You see, well, how were they visibly distressed?
44 A. I think if someone's prepared to resign their job over
45 someone else, I think that that's an indication that
46 they've been put under some amount of stress and
47 intimidation.

1
2 Q. That may be so but how does that make them visibly
3 distressed? Please just look at your sentence.
4 A. Yes. Page 5?
5
6 Q. Page 5 second paragraph down. Normally reading that
7 one would think that meant there was some weeping and
8 wailing going on. Are you saying now that that - that if
9 you'd looked at them, indeed hadn't heard what they'd said,
10 you didn't see anything?
11 A. I certainly didn't see any signs of crying and
12 wailing, that's true.
13
14 Q. So there was no sign of visible distress, then?
15 A. In my opinion there was.
16
17 Q. Well, what?
18 A. Well, if someone's threatening to actually have a
19 physical alteration with someone, I think that they've been
20 put under some amount of intimidation and distress.
21
22 Q. That may be correct but that's not visible distress,
23 is it?
24 A. Well, the anger that was displayed when they came and
25 spoke to me about this was quite visible. Staff were quite
26 angry, they were very angry.
27
28 Q. So is that - do you think anger is distress, do you ?
29 A. It's a way of showing it, I believe.
30
31 Q. And stated "They'll deal with the matter in any way
32 they deem necessary". What did you understand that to be?
33 A. That there was the possibility of a physical
34 altercation.
35
36 Q. That they were making a threat against Mr Child?
37 A. That that may be an outcome.
38
39 Q. And did that concern you?
40 A. Of course it did.
41
42 Q. That they would be threatening to perhaps physically
43 assault another worker?
44 A. Well, I was concerned about that, yes.
45
46 Q. You don't name them, do you? Sorry: "And may involve
47 physical retaliation, eg, Mr Nielson".

1 A. Yes.
2
3 Q. "And others have suggested that they may resign, eg
4 Mr Hodgson".
5 A. Yes.
6
7 Q. Now, you say: "This level of concern and distress by
8 staff requires urgent action on the part of council." What
9 did you have in mind that council should do to protect what
10 you say were the concern and distress of staff?
11 A. Well, I - as I've indicated there, that: "We seek
12 urgent legal advice." And I was mindful of the fact that
13 this inquiry was under - was continuing on and that we
14 needed to be extremely careful about any possible action
15 that we may take, so that's why I suggested we seek legal -
16 legal - urgent legal advice.
17
18 Q. You see, what I'd suggest to you is that in - on the
19 basis of the comments that you've reported and the incident
20 that actually happened you've had an exaggerated response
21 to Mr Child's presence and the speaking to others in the -
22 in a public place. Would you agree?
23 A. No, I don't agree.
24
25 Q. There's no report, is there, that Mr Child has been
26 seen actually inside the depot?
27 A. No.
28
29 Q. And if that was reported to others that would be
30 wrong, wouldn't it, as far as you're aware?
31 A. Absolutely.
32
33 Q. During the course of this inquiry you - it's not been
34 reported to you that at the end of each day Mr Child goes
35 to the depot and says "I'm going to be back soon, you
36 better watch out" or words to that effect?
37 A. No, of course not.
38
39 Q. None of that's happened, has it?
40 A. No, he hasn't stepped foot in the depot.
41
42 Q. Thank you. And in relation to Mr Issa, have you heard
43 that people dislike him so much that they want to in fact
44 physically assault him?
45 A. I don't think his name's been specifically singled out
46 in that - in relation to that.
47

1 Q. So you've not reported that to management at any time?
2 A. No, I've had no reason to take that matter up.
3
4 Q. And you've not heard any of these or other people say
5 that Mr Issa is a person who causes them to want to have a
6 violent physical reaction to some - to them?
7 A. The only person was Joe Saad that mentioned anything
8 in relation to Ammar Issa.
9
10 Q. Right, so you have heard Mr Saad say that?
11 A. Yes.
12
13 Q. But no-one else?
14 A. That's right.
15
16 Q. What about Mr Giangrasso; have you heard anybody
17 wanting to physically assault Mr Giangrasso?
18 A. Not specifically, no.
19
20 Q. In relation to the depot, you're aware that the -
21 Mr Child, Mr Giangrasso, Mr Quirk were put under
22 surveillance in late March, early April 2009?
23 A. I know surveillance had been conducted at some stage.
24 I can't recall exactly the time frame.
25
26 Q. What role, if any - if any did you play in making a
27 decision to place them under surveillance?
28 A. I don't make that decision to place them under
29 surveillance.
30
31 Q. So is the answer none?
32 A. None.
33
34 Q. And what role, if any, did you have to discussing with
35 Mr Richard Mailey about that surveillance?
36 A. I've never had any discussion with Richard Mailey.
37
38 Q. So you didn't role at all in relation to the
39 surveillance?
40 A. The only information I provided was in relation to a
41 report that I'd received about a possible secondary
42 employment issue regarding Steve Child.
43
44 Q. And that was in September, wasn't it?
45 A. I think so, yes.
46
47 Q. And someone told you. Who was that?

1 A. A person that had actually seen him at another place
2 of employ.
3
4 Q. Who was that?
5 A. I'm concerned if I mention the guy's name for his
6 ongoing employment at that place if I do say that.
7
8 Q. So he's not a council worker?
9 A. No, no, certainly not.
10
11 Q. Right. So someone outside the council told you that
12 Mr Child was working somewhere?
13 A. They said he was there quite regularly and - and - and
14 driving around with the boss of that organisation on a
15 regular basis.
16
17 Q. And so you then, what, consulted Mr Azer?
18 A. I initially mentioned it to Peter Macklin.
19
20 Q. And you suggested that Mr Child be put under
21 surveillance, did you?
22 A. I just raised the issue about the secondary
23 employment.
24
25 Q. Did you suggest that Mr Child be placed under
26 surveillance?
27 A. I don't recall making that suggestion.
28
29 Q. Your you're aware that it happened?
30 A. Yes.
31
32 Q. Did you ever receive any reports about it?
33 A. I do recall hearing that there was no substantive
34 information that was found from the investigation.
35
36 Q. But that's September 2009. The surveillance I'm
37 talking about is March/April 2009?
38 A. That I'm not aware of.
39
40 Q. In relation to Mr Saad, you've indicated that at an
41 earlier meeting of the cross functional team - there were
42 comments about his, in effect, lack of credibility?
43 A. Mmm.
44
45 Q. Did you ever convey that to those who were managing
46 this Saad discrimination complaint against Mr Child that
47 you had reason to believe that Mr Saad was not someone upon

1 whom you may place great reliance in relation to the
2 honesty of his allegations?
3 A. No, I didn't get involved in that conversation.
4
5 Q. Why not?
6 A. I had no specific examples regarding or questioning
7 Joe Saad's credibility other than the issue where he'd
8 reported to John Dardano about a job and they did some core
9 sampling which proved to be incorrect.
10
11 Q. Well, that was pretty important, wasn't it? He'd said
12 someone has stolen concrete. Mr Dardano went to the effort
13 of having the concrete drilled?
14 A. Mmm-hmm.
15
16 Q. Mr Dardano is no longer working at council, so you are
17 in essence the holder of that information?
18 A. There were many others that were the holders of that
19 information because this occurred prior to my commencement.
20
21 Q. But Mr Dardano had told you and he'd been in the same
22 position as you?
23 A. Yes. He'd also conveyed it to Mr Azer as well.
24
25 Q. Mr Ellul, if you could please listen --
26 A. Sorry.
27
28 Q. -- to the --
29 A. My apologies.
30
31 Q. -- question. Knowing that about Mr Saad, knowing
32 therefore, I'd suggest to you, on at least one substantial
33 issue he was a person of no credit, did you raise that with
34 anyone involved with the discrimination complaint and
35 suggest perhaps that the allegations against Mr Child
36 should be treated with great care because they may lack
37 veracity?
38 A. No, I did not.
39
40 Q. You have no explanation to offer for that?
41 A. Well, I wasn't dragged into the conversation or
42 discussion about the discrimination claim.
43
44 Q. It's not being dragged into anything. You knew there
45 was a discrimination complaint. You knew Mr Saad was a man
46 at least on some occasions of making unreliable
47 allegations. You don't need to be dragged into it, do you?

1 You're a manager. You've got responsibilities. How did
2 you enact those responsibilities and tell those who were
3 doing the discrimination complaint that perhaps they should
4 treat it with caution because Mr Saad had a poor reputation
5 in terms of honesty?
6 A. What I made sure of was that others were aware of it
7 in the more senior position to me that could have conveyed
8 that information.
9
10 Q. And who did you tell --
11 A. I didn't specifically --
12
13 Q. -- and when?
14 A. -- tell anyone but I was aware that my boss was aware
15 of that, so I took that to - as - given that he would most
16 likely be involved in those discussions, that he would
17 convey that information.
18
19 Q. Well, did you raise it with him again and say,
20 "Perhaps we need to look at the discrimination complaint
21 again"?
22 A. No, I did not.
23
24 Q. Well, it was the basis for Mr Child to be suspended
25 for many, many months, wasn't it?
26 A. Yes.
27
28 Q. So therefore it was expensive for council, wasn't it,
29 to suspend Mr Child on pay; that's an expensive operation?
30 A. Yes.
31
32 Q. It comes out of the depot's budget?
33 A. Yes, it does.
34
35 Q. So it affects your bottom line?
36 A. Yes, it does.
37
38 Q. And weren't you concerned about that?
39 A. I was concerned about it, yes.
40
41 Q. And weren't you concerned that it was just going on
42 and on with no apparent resolution?
43 A. I was concerned about the impact on the budget, yes.
44
45 Q. And did you raise that with someone?
46 A. No, I did not.
47

1 Q. Why not?
2 A. Because, as I said, there were others more senior to
3 me that were aware of it.
4
5 Q. But you're the one responsible for the budget, aren't
6 you, for your --
7 A. Yes, I am
8
9 Q. -- area of operations; that's your responsibility?
10 A. Yes.
11
12 Q. So why didn't you say to someone, "What are we doing
13 about getting Child back to work? This is very expensive
14 keeping him off for months on end"?
15 A. Yep, I have raised the issue of the budget in general
16 and the impact it's having, but there were others making
17 that decision.
18
19 Q. What have you done about Mr Child being a drag on the
20 budget because he's suspended?
21 A. I haven't done anything about that.
22
23 Q. And what have you done about Mr Giangrasso being a
24 drain on the budget because he's suspended?
25 A. Well, there's not much I can do about that.
26
27 Q. Why not?
28 A. Because there's an ICAC inquiry going on.
29
30 Q. So you've done nothing?
31 A. It was out of my hands to do anything.
32
33 Q. Mr Giangrasso, are you aware, has been suspended over
34 a particular series of allegations?
35 A. Yes.
36
37 Q. Not anything to do with this inquiry?
38 A. That's true.
39
40 Q. Allegations have been put to him and that's supposedly
41 the basis for his suspension?
42 A. Yes.
43
44 Q. And that's coming off your bottom line for your
45 operational budget for the depot?
46 A. That's correct.
47

1 Q. What have you done about that so that he can return to
2 work and stop draining the budget?
3 A. I raised the matter with HR on that, and they've
4 advised me that in the times they've written to
5 Mr Giangrasso to address the issue of bullying and
6 harassment in relation to Ronita Tompsett that he has not
7 made himself available for that discussion to - to be
8 investigated - the matter to be investigated and the
9 matter resolved.
10
11 Q. And when was the last time you raised that with HR?
12 A. Oh, that would have been several months ago.
13
14 Q. Is that in an email?
15 A. Probably not.
16
17 Q. Well, how would you raise it then?
18 A. I would have just raised it through a conversation
19 with - with HR.
20
21 Q. Well, who's HR?
22 A. Specifically Peter Macklin.
23
24 Q. So you say you and Mr Macklin had a discussion in the
25 last few months about Mr Giangrasso and he told you that he
26 hadn't answered the allegations. Did you say, "This goes
27 back to September. Why aren't we making him answer the
28 allegations?"
29 A. I have asked several times throughout the course of
30 the last 12 months about the issues of the staff not being
31 present, and I - I'm always told that the matters are of a
32 legal matter and that we can't take any action because of
33 the - of the ICAC inquiry going on.
34
35 Q. So that you've been told, have you, that they're not
36 suspended because of the reasons they've been told,
37 Mr Child, the discrimination complaint, Mr Giangrasso, the
38 bullying, et cetera, but because of the ICAC inquiry?
39 A. In relation to Steve Child I was of the belief that it
40 was due to the discrimination claim, and I only found out
41 that that matter had been settled when I was listening to
42 the inquiry. In relation to Giangrasso I understood the
43 bullying matter was still in abeyance and he hadn't made
44 himself available to answer the issues, and that we
45 couldn't move on any of those because both of those people
46 were of interest and involvement [sic] in the ICAC inquiry,
47 and could --

1
2 Q. So that at least part of the reason was because of
3 this inquiry?
4 A. Yes.
5
6 Q. And did Mr Macklin tell you that?
7 A. Yes, I believe so.
8
9 Q. And when do you recall the first conversation you had
10 with Mr Macklin to that effect in relation to
11 Mr Giangrasso?
12 A. I can't recall specifically, sorry.
13
14 Q. And when was the last one?
15 A. I think it would have been - it would have been a
16 couple of months ago, I suppose.
17
18 Q. And in relation to Mr Child, when was the last time
19 you had a conversation with Mr Macklin about keeping
20 Mr Child out of the workplace because of the ICAC inquiry?
21 A. That would have been as a lead-up to the Christmas
22 party.
23
24 Q. Right.
25 A. And, if I'm allowed to explain that, the issues
26 regarding the - the possible attendance of Mr Child Issa
27 and Giangrasso to the depot Christmas party.
28
29 Q. And was it you who requested that they not be
30 permitted to attend?
31 A. I was involved in that discussion where that was
32 discussed and agreed on.
33
34 Q. Was it you who requested that they not be permitted to
35 attend?
36 A. Yes. Yes.
37
38 Q. And you requested Mr Macklin to take some steps to
39 ensure they didn't attend?
40 A. We had discussed it and I think that that was the
41 case, yes.
42
43 Q. And was it - did you tell Mr Macklin that you were
44 worried that someone might beat Mr Issa up?
45 A. I can't remember specifically who made that suggestion
46 but it did come up in the conversation.
47

1 Q. Well, was that something that you'd heard, that there
2 was someone or someone --
3 A. Yes.
4
5 Q. More than one person threatening to hit Mr Issa if he
6 turned up at the Christmas party?
7 A. I think I heard conversations to that effect. I
8 couldn't tell you how many actually it came from.
9
10 Q. Well, did someone come specifically and say, "If he
11 comes, I'll hit him"?
12 A. I think I heard conversations to that effect, yes.
13
14 Q. Did someone come and say that to you specifically?
15 A. Not face to face.
16
17 Q. And so you just overheard it, did you, while you were
18 walking around?
19 A. Feedback that I'd had from others - other staff at the
20 depot.
21
22 Q. Well, who told you about it?
23 A. I - I can't recall specifically who.
24
25 Q. Well, you took it seriously?
26 A. Yes, I did.
27
28 Q. You took it seriously enough to ensure that Mr Issa
29 was banned from the Christmas party; that's correct, isn't
30 it?
31 A. Yes.
32
33 Q. And you're unable to tell the commissioner who you now
34 say were the persons who were saying that if he - or
35 threatening violence towards him if he attended?
36 A. Yes, I could not honestly recall the specific
37 individual or individuals.
38
39 Q. And do you say anyone had threatened violence to
40 Mr Child if he attended the Christmas party?
41 A. I think Mr Issa's name and Child's were mentioned in
42 the same conversations.
43
44 Q. What about Mr Giangrasso; was someone threatening
45 violence to him as well?
46 A. I don't recall Mr Giangrasso's name being mentioned in
47 that light.

1
2 Q. Well, what reason did you have for banning Mr - or
3 seeking that Mr Giangrasso get banned from the Christmas
4 party?
5 A. Because I understood there was still a matter of
6 bullying and harassment in relation to Rita Tompsett -
7 sorry, Ronita Tompsett. That matter had not been resolved.
8
9 Q. And you considered that was sufficient reason on your
10 view to ban him from the Christmas party?
11 A. Yes.
12
13 Q. And you don't recall who was threatening violence
14 towards Mr Child if he attended the Christmas party?
15 A. No, I'm sorry, I don't recall.
16
17 Q. But you're content, are you, to rely on gossip within
18 the depot as the basis to going to the head of human
19 resources and asking him to ban people from attending a
20 social function?
21 A. I was concerned about violence in the workplace and I
22 felt it an obligation on my part to raise these matters
23 with HR.
24
25 Q. So is the answer yes?
26 A. Yes.
27
28 Q. You relied on gossip?
29 A. If you want to put it that way, yes.
30
31 Q. Well, how would you describe it? You've said no-one
32 came directly to you and made a complaint face-to-face.
33 A. The issue is that the --
34
35 Q. Mr Ellul, would you --
36 A. Sorry.
37
38 Q. -- please listen to the question?
39 A. Yes.
40
41 Q. No-one came to you face-to-face and said "If - if Issa
42 comes I'm going to beat him up"?
43 A. I don't specifically recall anyone coming to me with
44 that.
45
46 Q. And all you've got is someone reporting to you, or you
47 might have overheard something or you just don't know?

1 A. It would have come to me unofficially - through other
2 channels, other staff reporting it and - and telling me.
3 Not everyone is prepared to come up to the depot manager
4 and say everything that needs to be said. There is always
5 the fear of retribution because they think they may be seen
6 by others who then conveys the information to others as
7 well. It's - it's - it's an unfortunate environment that -
8 that exists down there.

9

10 Q. So you could be perpetuating lies?

11 A. I think there's sufficient number of people that
12 would - that make those kind of statements to suggest it's
13 not just a personality difference.

14

15 Q. What is it then? Sorry, you've lost me now.

16 A. No, I'm just saying that I've heard sufficient number
17 of people make statements to that effect that would suggest
18 that there is a concern about genuine violence and
19 altercations that may take place, so I've got to take what
20 steps I can to prevent that from occurring.

21

22 MS RONALDS: If I could tender that bundle of emails. It's
23 headed with a letter from HWL Ebsworth dated the 22nd of
24 April 2010 responding to a section 2200.

25

26 ASSISTANT COMMISSIONER: Yes, that will be exhibit 210.

27

28 EXHIBIT #210 LETTER TO THE ICAC DATED 22 APRIL 2010 FROM
29 HWL EBSWORTH WITH EMAIL ATTACHMENTS

30

31 MS RONALDS. Q. What did you understand was the basis of
32 this - the other staff having some sort of negative view of
33 Mr Issa?

34 A. That he was seen as one of the close associates of
35 Steve Child, and that he'd actively participated in the
36 bullying and harassment that had gone on over an extended
37 period of time.

38

39 Q. Thank you. But Mr Giangrosso wasn't seen as being a
40 player in that; is that your understanding?

41 A. He - not to that extent.

42

43 MS RONALDS: Thank you. At the moment nothing else.

44

45 ASSISTANT COMMISSIONER: All right. Now, is anybody
46 seeking to question Mr Ellul?

47

1 MR RODGERS: I have one question now of Mr Ellul.
2
3 ASSISTANT COMMISSIONER: Yes.
4
5 MR RODGERS: I'll be very short.
6
7 ASSISTANT COMMISSIONER: Yes, Mr --
8
9 <EXAMINATION BY MR RODGERS:
10
11 MR RODGERS: Q. Just following on, Mr Ellul, from the
12 question that counsel assisting just asked you - I'm sorry,
13 have you got exhibit 210 in front of you there? That's the
14 document that was just handed to you.
15 A. The emails?
16
17 Q. Yes.
18 A. Yes, I've got that here.
19
20 Q. Can you just go to page 4 of that bundle?
21 A. Yes.
22
23 Q. So there's a first email written there by you on the
24 25th of March?
25 A. Yes.
26
27 Q. And that refers to the incident that, I guess, led to
28 you writing the email?
29 A. Yes.
30
31 Q. I might just get you to read the email, or I expect
32 you probably know its contents?
33 A. Yes.
34
35 Q. You're aware of its contents?
36 A. Yes.
37
38 Q. And then there's another email by you on the 26th of
39 March --
40 A. Yes.
41
42 Q. -- above that one. The second paragraph of that
43 email, you make a suggestion that staff be directed not to
44 converse with a number of people?
45 A. Yes.
46
47 Q. One of them is Mr Giangrasso?

1 A. Yes.
2
3 Q. In the email that you wrote on the 25th of March
4 there's no mention of Mr Giangrasso being involved in the
5 allegations that led to you writing the email, is there?
6 A. Yeah, that's correct.
7
8 Q. And you've never met Mr Giangrasso in person?
9 A. No, I haven't.
10
11 MR RODGERS: Thank you.
12
13 ASSISTANT COMMISSIONER: Yes?
14
15 MR CHALMERS: Yes, thank you, commissioner. I'm acting
16 for Ammar Issa.
17
18 <EXAMINATION BY MR CHALMERS:
19
20 MR CHALMERS: Q. Are you aware that Ammar Issa had a -
21 accident on or about March 2008?
22 A. Yes.
23
24 Q. Okay. And are you aware that he was working in the
25 depot from late 2008 till about - till around March 2009 -
26 sorry, February 2009?
27 A. So I believe.
28
29 Q. Okay. Now in relation to the work - now, I know that
30 you weren't at the council at the time that Mr Issa had his
31 accident in or about March 2008, but were you aware what
32 his specialty was that he was working at at the depot prior
33 to March 2008?
34 A. I understand he was the team leader in the civil
35 maintenance area.
36
37 Q. Okay. Do you know anything about in relation to the
38 type of work he did and what his specialty was in relation
39 to the type of work he did; did anyone tell you?
40 A. Other than a team leader, no.
41
42 Q. And did you ask whether he had any specialties?
43 A. No, I did not.
44
45 Q. And are you aware that his area of expertise within
46 the team was concreting?
47 A. I knew he could concrete because he was a team leader

1 in that area.
2
3 Q. So - so when - so you're aware - are you saying that
4 you're aware that his speciality was that he was a
5 concreter?
6 A. Well, yes, I took it as a given that he was - that he
7 had concreting skills. Sorry, I - I thought you were
8 specifically referring to certain types of concreting
9 activities.
10
11 Q. But he was a work leader generally or just in relation
12 to concreting; what was your understanding?
13 A. I just understood he was a team leader in the
14 concreting area.
15
16 Q. And so you're aware of that?
17 A. Yes.
18
19 Q. Okay. And in relation to the work he did from August
20 2008 to February 2009, he was working at the depot, wasn't
21 he?
22 A. I believe so.
23
24 Q. And did you make inquiries as to what sort of work he
25 did at the depot during that period of time?
26 A. Sorry, could you just state those dates?
27
28 Q. Yes. From - he was working in the depot from August -
29 approximately from August 2008 to --
30 A. Yes.
31
32 Q. -- February 2009?
33 A. Right.
34
35 Q. Were you aware that he was working at the depot during
36 that period of time?
37 A. I was aware that he was at the depot, yes.
38
39 Q. Did you make inquiries as to what sort of work he was
40 doing?
41 A. No, I didn't get into the specifics of it.
42
43 Q. Wouldn't that have been relevant if you were trying to
44 find out what duties he could perform to find out what work
45 he was doing from August 2008 to February 2009 at the
46 depot, because this was after his injury?
47 A. Well, I - I wasn't actually specifically asked to look

1 into finding him any role, so, no, I didn't ask that
2 question.
3
4 Q. You see, weren't - weren't you asked whether there was
5 any work available for him in the depot in late 2009 or -
6 latter half of --
7 A. Sorry, in late - during the course of 2009 he was
8 working at the chambers and I was asked periodically if
9 there was anything for him --
10
11 Q. Right.
12 A. -- but there wasn't.
13
14 Q. Okay. And when he stopped working at the chambers,
15 right --
16 A. Yes.
17
18 Q. -- when did he stop working in the chambers, in around
19 July - July 2009, were you aware of that?
20 A. Yes.
21
22 Q. Were you asked from the period of July 2009 onwards
23 whether there was any work available for Mr Issa?
24 A. At the time of July 2009 I think I was asked at that
25 point but not beyond that again.
26
27 Q. All right. So when do you say it was the last time
28 you made any inquiry as to whether there was any suitable -
29 sorry, when do you say you were last asked whether there
30 was any suitable work at the depot for Mr Issa?
31 A. Around the period of June/July 2009.
32
33 Q. And not afterwards?
34 A. No, I don't believe so. I don't recall that.
35
36 Q. All right. In the period June to July 2009 do you
37 think it would have assisted you if you'd known what he was
38 doing between August 2008 to February 2009 at the depot?
39 A. Possibly.
40
41 Q. But you didn't make those inquiries, did you?
42 A. No, I did not.
43
44 Q. No, you did not. And in relation to concreting in -
45 from July - from the period before and after July 2009, is
46 it correct that you have contractors doing the concreting?
47 A. Yes, we've been engaging contractors.

1
2 Q. Okay. So have you ever looked at the possibility that
3 Mr Issa could have been involved in supervision or other
4 tasks to do with the concreting that the contractors
5 currently do?
6 A. Could you repeat that again, please?
7
8 Q. Yes. Have you considered, given that you have
9 contractors who do concreting, whether there's any role for
10 Mr Issa in relation to supervising those contractors or
11 organising work for them?
12 A. There's a possibility but I didn't inquire.
13
14 Q. Mmm. You weren't very active, were you, in relation
15 to trying to find duties for Mr Issa?
16 A. If I was asked to try and find work for him I would
17 have made the inquiry but I know that there wasn't anything
18 of an administrative nature suitable for him.
19
20 Q. And when you were asked to find work for him at the
21 times that you were asked to find work for him, no-one gave
22 you a background briefing of what he'd done previously?
23 A. Other than he was a team leader in the concreting, no.
24
25 Q. And no-one gave you a briefing of what he was doing
26 between August 2008 and February 2009?
27 A. No formal briefing on that, no.
28
29 Q. And in relation to the times that you tried to find
30 out whether there was work available for Mr Issa, did you
31 make any notes or documentation?
32 A. No, I did not.
33
34 Q. It's an issue, isn't it, with the insurance company
35 that it's part of your - or, sorry, not yours but part of
36 council's responsibility to try and find him work?
37 A. That's correct.
38
39 Q. So if that's the case and you - on your evidence
40 that - that wasn't being able to be facilitated, why
41 weren't notes taken or records kept?
42 A. If I was specifically asked and - I would have
43 responded in - in writing but I was never asked that
44 question.
45
46 Q. Well, I thought you said that there were some times
47 when you were contacted in relation to whether there was

1 any work available for Mr Issa?
2 A. At about the time of June/July 2009 I was asked that
3 question that - the depot is not a big operation, it's not
4 something that requires a detailed analysis.
5
6 Q. Did you take any notes or written records of being
7 asked that information?
8 A. No, I did not.
9
10 Q. Did you make any written records of any response you
11 made to that information?
12 A. No, I did not.
13
14 Q. And wouldn't have been - wouldn't have that been
15 something you ought to have done, given that there were
16 insurance issues?
17 A. In hindsight, perhaps.
18
19 Q. Now - now, as I understand it, the person under you
20 looking after the depot is someone called Carlos Mendez; is
21 that right?
22 A. That's correct.
23
24 Q. And he has no concreting experience, does he?
25 A. In terms of physical labouring, no.
26
27 Q. Or - or even in relation to conceptual work involved
28 with concreting, how to concrete a roundabout. He has no
29 experience in those kind of matter, does he?
30 A. I don't believe so but I haven't asked that question.
31
32 Q. And are you aware of what the conditions are on my
33 client working, what the doctor's report specifies he can
34 and can't do?
35 A. I haven't seen a return to - a recent return-to-work
36 plan, so I couldn't tell you.
37
38 Q. In July 2009 did you have an idea of what he - what
39 the doctor's report said he could and couldn't do?
40 A. At the time I - it - his restrictions would have been
41 conveyed to me but I can't recall the content of it at this
42 stage.
43
44 Q. Right. Because, of course, if you don't know his
45 restrictions you don't know what he's capable of and what
46 he's not capable of in relation to working; is that right?
47 A. True.

1
2 Q. And did you ever get a copy of his doctor's reports
3 that came out monthly?
4 A. The return-to-work plans - I can't recall seeing Ammar
5 Issa's return to work plans in relation to that.
6
7 Q. Is that something you would have expected to have seen
8 if you were trying to organise him back into the workforce
9 at the depot?
10 A. If I was asked to find him work I would need to see
11 that.
12
13 Q. But you weren't shown that?
14 A. I don't recall seeing that.
15
16 Q. Now, you've commented that person or persons have come
17 up and said that my client, Ammar Issa, was likely to be
18 the subject of some assault if he - if he turned up to the
19 Christmas party. Do you remember giving that evidence?
20 A. That was the inference, yes.
21
22 Q. So it was only an inference?
23 A. In terms of the feedback that I'd had.
24
25 Q. Mmm. But, see, feedback suggests that someone's come
26 to you and specifically reported an event. Are you saying
27 that's what happened, are you saying it's feedback or are
28 you saying you just overheard conversations?
29 A. I'm saying that there would have been staff that
30 actually approached me but I've got 40-odd - 40 to 50-odd
31 staff. I couldn't honestly tell you exactly specifically
32 who it was that came forward with that.
33
34 Q. Do you say there was one or more than one?
35 A. There was every likelihood that there was more than
36 one.
37
38 Q. You're just guessing.
39 A. I can't remember specifically the incident.
40
41 Q. Something like that where you ban someone from a
42 social function and, indeed, where you ban them permanently
43 from council social events, surely you'd take down written
44 documents of what was said and who said it and when and
45 where?
46 A. In hindsight, yes, I'd say you're correct.
47

1 Q. And, as I understand it, you're the man who's put in
2 charge of the depot to make sure that everything was
3 formally organised; is that right?

4 A. That's right.

5

6 Q. And yet you never take notes?

7 A. I do take notes.

8

9 Q. But not in relation to Mr Issa's possibility of
10 working, nor notes on - in relation to people who come up
11 to you or talk to you about Mr Issa being liable to be
12 assaulted. None of that was written down?

13 A. No, it wasn't.

14

15 Q. And not only that, but these complaints must have been
16 made towards the end of last year, is that right, in
17 relation to - not complaints, I withdraw that. The issues
18 put to you about Mr Issa being likely to be assaulted, they
19 must have been made late - late last year?

20 A. Yeah, just prior to the Christmas party taking place.

21

22 Q. So we're not talking about that long ago, are we,
23 we're talking about something like five months ago?

24 A. December.

25

26 Q. Yeah. And your evidence to the - to the assistant
27 commissioner and to the commission is that you can't recall
28 who these people were?

29 A. No, I can't.

30

31 Q. Right.

32

33 MR CHALMERS: Nothing further.

34

35 ASSISTANT COMMISSIONER: Thank you. Does anyone else seek
36 to question this witness? Mr Blake, yes.

37

38 <EXAMINATION BY MR BLAKE:

39

40 Q. Mr Ellul, you gave some evidence about the
41 restructuring of Mr Child's position that I think the
42 contract management function was to be added to the role or
43 included within the role; do you recall that?

44 A. That's correct.

45

46 Q. Do I understand you correctly that that role
47 previously had been carried out by someone else at the

1 depot?

2 A. It wasn't a role that's appeared to have been fully
3 delegated or assigned a particular function, from what I
4 could see. It may have been in part handled by the
5 previous depot manager but the only evidence that I could
6 find was that it appeared on the Morrison Low restructuring
7 option 3, where they highlighted contract management as an
8 activity that needed to be accounted for.

9

10 Q. And did you carry out any investigation as to how that
11 particular activity or role had been carried out within
12 council prior to your recommendations for restructuring?

13 A. My understanding of it was that - or my investigation
14 of it, to answer your question, was that contract
15 management for capex-type work had previously been
16 administered from the - the chambers area.

17

18 Q. And "capex", that's your abbreviation or common
19 abbreviation for "capital expenditure"?

20 A. That's right. Large - large, big projects.

21

22 Q. Yes. And you envisaged at least part of that role
23 being devolved from the council area down to the civil
24 coordinator at the depot?

25 A. That's right.

26

27 MR BLAKE: Thank you.

28

29 ASSISTANT COMMISSIONER: Yes, thank you, Mr Blake.

30 Mr Leggat?

31

32 MR LEGGAT: Thank you.

33

34 <EXAMINATION BY MR LEGGAT:

35

36 MR LEGGAT: Q. Mr Ellul, you made a statement to the
37 commission which has become exhibit 134. In paragraph 30
38 of that statement you describe a meeting with Steven Child
39 on his return to work and you say, and I quote: "He also
40 said that it wouldn't be in my interest to start carrying
41 on in this fashion". What did he actually say? Can you
42 give us the - the quote, as best you can?

43 A. I think the words that were used at the time were that
44 it was very unprofessional and - and he was referring to
45 the meeting I had had with the depot staff and then he used
46 words to the effect that I've had in my statement there.
47 That's pretty much it. I mean, there - obviously a few

1 other sentences went with it but that was the gist of it.

2

3 Q. This concept of "it wouldn't be in your interest to
4 start carrying on in this fashion" --

5 A. Mmm.

6

7 Q. -- what did you understand "carrying on in this
8 fashion" to be a reference to?

9 A. In reference to me holding meetings with staff and
10 asking them, or putting to them that I keep hearing that
11 there's issues regarding bullying and harassment that have
12 taken place in the depot; allegations of theft, misuse of
13 equipment and so forth; and that they should come forward
14 with any of this information to allow the matters to be
15 properly investigated and he felt that I - I - the
16 inference that I drew from that was that he thought I was
17 trying to, to use a colloquial term, dig up dirt on him.

18

19 Q. Can you cast any light on the expression "It wouldn't
20 be in your interest to" - to do something? What did that
21 mean to you and why?

22 A. Well, what I took that to mean was that the depot
23 manager prior to John Dardano, a gentleman by the name of
24 Roy Einarson, had only been there for some 10 weeks from
25 around October and he finished - he resigned on the 25th of
26 December, so I guess it appears that - what I concluded
27 from that was that he - he may have just been basically
28 tied up in knots and just found that the position was
29 unworkable and it wasn't a - a good atmosphere to work in
30 and you'd eventually have to leave.

31

32 Q. Was anything said to you by Mr Child to cause you to
33 form that - the link between those two topics?

34 A. Only what I had heard previously from others, such as
35 my immediate supervisor and also discussions I'd had with
36 HR on that matter.

37

38 Q. Paragraph 37 of your statement, you say these words:
39 "I performed a similar role in my previous job, so I knew
40 it could be done", and the context there seems to be
41 relating to Steven Child's contract management role being
42 incorporated into - into a further role?

43 A. That's right.

44

45 Q. Can you describe to us what the similar role was in
46 your previous job and why that led you to believe that you
47 knew it could be done in this job, at Burwood?

1 A. Yes. In my previous role I was the operations manager
2 for a civil construction company, so I had to plan and
3 organise the work for around seven crews over the entire
4 Sydney basin and I had to deal with about 12 councils as -
5 as a client base. So - and I - I was required to plan at
6 least two to three weeks in advance. Now, when I say plan
7 that far in advance, you're refining the program on a daily
8 basis, depending on what had been achieved and not achieved
9 but if I could do that over the Sydney basin with councils
10 as far north as Manly, Waverley and as far out west as
11 Liverpool, then I'm sure one person could handle that same
12 or similar role in 7 square kilometres defined by the
13 Burwood LGA.

14
15 Q. I want to take you to another topic: the Morrison Low
16 report. What's your understanding of its present status
17 within - within council?

18 A. The 22 recommendations that formed the conclusions of
19 the Morrison Low report have been - have been largely
20 implemented, some completely, some in stages of
21 implementation. They recently conducted a 12-month check
22 on the progress of the recommendations and I think they
23 gave a glowing report as to the - the - where the status of
24 the situation was.

25
26 Q. Is it your understanding that there is any
27 relationship between the implementation of - of the
28 entirety of the Morrison Low report and the conduct of this
29 inquiry?

30 A. There are certain matters, I think, that are being
31 possibly stymied, to use the term, from full implementation
32 because of the concern of not wanting to be seen to - to be
33 at odds or conflict with the proceedings that are happening
34 at the moment, so we're treading carefully on those kind of
35 matters and that's probably more so in relation to the
36 further recommendations that I made.

37
38 Q. When you say "certain matters" would you be able to
39 identify those, please?

40 A. I'd have to refer to the recommendations to give you a
41 more comprehensive and specific reply to that.

42
43 Q. Well, let me see if I can help you. One appears to
44 be, from the second part of your answer, the relationship
45 of Mr Child and council in - in the future. Is that
46 something that in your view awaits the - the determinations
47 of this inquiry or --

1 A. Well, yes --
2
3 Q. -- is it not?
4 A. I mean, that position needs to be filled on a
5 permanent basis to enable a lot of the issues to be
6 implemented in their entirety, so that is one of the
7 matters, I guess, that's outstanding and we're just working
8 around that as best we can, given those constraints.
9
10 Q. Are there any other employees in - in that category?
11 A. Only, I guess, in relation to some of the team
12 leaders' roles answering to that coordinator's position, so
13 we can try and see who is available to be pigeonholed, I
14 guess, if you like, or assigned to those other positions.
15
16 Q. The - what I might describe as the - the depot
17 reforms --
18 A. Yes.
19
20 Q. -- insofar as the Morrison Low report makes
21 suggestions about depot reforms, are there any specific
22 depot reforms that are likely to be implemented once the -
23 I might describe as the fetters of the - the ICAC inquiry
24 are removed?
25 A. Only in that we'll be able to finalise the civil
26 coordinator's role and the activities relating to it.
27 Everything else is pretty much in various stages of
28 implementation or completion.
29
30 Q. Has there been any consideration given to council
31 taking steps to implement the Morrison Low reforms of the
32 depot prior to this commission reaching its conclusions
33 about what's happened?
34 A. I think council's quite mindful of not wanting to be
35 seen to be acting contrary to this investigation going on,
36 so I think we need to be careful about how far all the
37 matters are - are finalised in relation to the civil
38 position but everything else I guess is going ahead as best
39 we can.
40
41 Q. Finally, do you think, with the benefit of hindsight,
42 that you've been manipulated by the general manager,
43 Mr Romano, to retaliate against Mr Child or any other depot
44 workers?
45 A. No. In relation to Steve Child, Pat Romano had no
46 input into my suggested change, so I don't believe I've
47 been manipulated in that respect.

1
2 Q. And what about Mr Giangrasso? Do you believe that you
3 may have been used to - to get back at Mr Giangrasso by
4 Mr Romano?
5 A. I can't see how in this particular instance.
6
7 Q. Do you believe that you may have been used to
8 retaliate against Ammar Issa by Mr Romano?
9 A. No, because I was really on the periphery of that
10 matter.
11
12 Q. Are there any other council workers who you're
13 responsible for that you, with the benefit of hindsight,
14 think you might have acted differently towards if you had
15 known what you now know about Mr Romano and his actions and
16 state of mind?
17 A. No, I don't believe so.
18
19 MR LEGGAT: Thank you, Commissioner.
20
21 ASSISTANT COMMISSIONER: Thank you. If that's all --
22
23 MS RONALDS: Just checking that his legal representative
24 doesn't have any matters but I'm failing to communicate him
25 because he's looking in the other direction. No?
26
27 MR SIVA: No.
28
29 MS RONALDS: This witness can be excused.
30
31 ASSISTANT COMMISSIONER: Yes, Mr Ellul, you are now excused
32
33 THE WITNESS: Thank you.
34
35 <THE WITNESS WITHDREW
36
37 MS RONALDS: I call Richard Mailey.
38
39 ASSISTANT COMMISSIONER: Yes, Mr Mailey, you are under
40 oath already and the section 38 declaration continues to
41 apply. Thank you.
42
43 <RICHARD MAILEY, on former oath: [3.52pm]
44
45 MS RONALDS: I'm sorry you've had a longer wait than we
46 anticipated.
47

1 THE WITNESS: That's all right.
2
3 <FURTHER EXAMINATION BY MS RONALDS:
4
5 MS RONALDS: Q. Now, in relation to the surveillance of
6 the depot and the depot workers, that's the matters I want
7 to discuss with you, okay?
8 A. Yes, okay.
9
10 Q. Do you recall that in late February or early March
11 2009 somebody from Burwood Council approached you in
12 relation to starting a job and putting the depot workers
13 and the depot under surveillance?
14 A. Yes, that was Pat Romano.
15
16 Q. Right. And do you call when - do you - do you recall
17 when that was?
18 A. No, I can't, I'm sorry, no. It would be - as - late
19 February/early March.
20
21 Q. And did he ring you or what was the process?
22 A. Yes, he called me, yes.
23
24 Q. Telephoned you? Did you go and meet with him?
25 A. Yes, I did, at the chambers.
26
27 Q. Right. And do you recall what he said to you?
28 A. He said "We have suspicions about activities and
29 thefts within the depot and I'd like to take you into the
30 boardroom where the executive committee or directors are
31 currently" --
32
33 Q. Right.
34 A. -- and so we went into the boardroom.
35
36 Q. So is that the only detail he gave you initially when
37 it was just one on one?
38 A. Yes.
39
40 Q. And so you went into the boardroom, and who was in the
41 boardroom?
42 A. Quite a few of the board members and the executives;
43 there was about eight to 10 people present.
44
45 Q. And did you know them all?
46 A. I knew most of them, yes.
47

1 Q. So was Mr Dencker there?
2 A. Yes.
3
4 Q. Mr Hullick?
5 A. Yes.
6
7 Q. Mr Azer?
8 A. Yes.
9
10 Q. Mr Macklin?
11 A. Yes.
12
13 Q. And Mr Romano and you?
14 A. Mmm, correct.
15
16 Q. We're up to six. Who else was there? Were the
17 councillors present?
18 A. No councillors present, no.
19
20 Q. Mr Faker - sorry, not Mr Faker, rather.
21 A. No.
22
23 Q. So no - the mayor wasn't there?
24 A. No, the mayor was not there, no.
25
26 Q. Anyone else?
27 A. Not that I can recall.
28
29 Q. So it was just the senior - I don't mean "just" but it
30 was the senior executive plus Mr Macklin?
31 A. That's correct, yes.
32
33 Q. And what was discussed then?
34 A. Mr Romano addressed the committee and said that there
35 was - he's received information that there was a lot of
36 thefts and pilferaging going on within the depot and at
37 that time he said to the executive committee, he said
38 "I would like to exit this meeting, I'd like to pass the
39 committee meeting" - "I'd like to pass the inquiry over to
40 the committee".
41
42 Q. Mmm-hmm.
43 A. And with that Mr Romano excused himself from the
44 meeting.
45
46 Q. Right. So he then said - and did they appear to be
47 fully briefed and expecting you?

1 A. They appeared to be fully briefed, yes.
2
3 Q. And did they then tell you certain things?
4 A. Yes, they did.
5
6 Q. And can you recall who said what? I know it's a while
7 ago but --
8 A. It was - it was - it was an open discussion,
9 Commissioner, it's - it was everybody expressing their
10 concerns about the depot - problems with the depot and
11 pilferaging from the depot.
12
13 Q. And you were given a series of names?
14 A. Not at that stage, no.
15
16 Q. And when - and what were you asked, to come up with a
17 plan?
18 A. Exact - yes. What they said was "We need to carry out
19 a surveillance to verify the activities of alleged
20 pilferaging or thieving from the depot" and I said "Well,
21 what evidence do you have at this time that it's been
22 conducting?" and they said "Well, it's hearsay evidence
23 from a lot of people working in the depot" and said "Well,
24 you know, you need a - you need a court order to carry out
25 an electronic surveillance on the workers" --
26
27 Q. Right.
28 A. -- at that time and to which they remarked "Well, what
29 are we going to do now?" and I said "Well, if you wish us
30 to verify, to keep costs down, the fact that there is
31 pilferaging taking place, we can do a - an assessment, a
32 non-electronic assessment using two investigators to carry
33 out, you know, visual surveillance and taking notes of the
34 activities observed. This could save the council a lot of
35 money because if we can't detect any - any relevant
36 pilferaging then, of course, there's no need to proceed".
37 They then instructed me to carry out the non-electronic
38 surveillance, which was done.
39
40 Q. All right. If I could just stop you there. Did they
41 say "Here's a budget, you can spend up to" blah?
42 A. No.
43
44 Q. And did you say "Can I spend up to" whatever?
45 A. No.
46
47 Q. So money was not discussed?

1 A. That's correct.
2
3 Q. And you didn't understand there was any sort of
4 budgetary restriction, then, "If you hit \$50,000 tell us",
5 or "If you hit \$20,000 tell us and we'll review"?
6 A. That's correct.
7
8 Q. There was no - no restrictions like that at all?
9 A. No, the only comments made was that it would be a
10 seven to 14-day surveillance period, over - on work days
11 only.
12
13 Q. Okay. So you didn't have to go off and come up with a
14 plan, you just - once you heard what they wanted, you were
15 able to offer a service, in effect --
16 A. Yes.
17
18 Q. -- pretty quickly?
19 A. Yes.
20
21 Q. And did you have, do you recall, a later meeting with
22 any of them, any members of the executive, including
23 Mr Romano or Mr Macklin?
24 A. Yes, we - we produced a - a report on our visuals -
25 visual sightings and the activities.
26
27 Q. Right.
28 A. And I presented a PowerPoint presentation to the
29 executives.
30
31 Q. All right. If I could stop you there because that's a
32 bit later. I just show you this email. You see, this is
33 an email from - sorry, when you get it. We've got to
34 journey the long way around.
35 A. Thank you.
36
37 Q. You see, this is an email from Mr Macklin dated
38 Monday, 2 March at 10.58: "Re our meeting this morning,
39 Richard". It's addressed to you, do you see that?
40 A. Yes.
41
42 Q. "Further to our meeting this morning please see
43 attached the as requested. I'm also aware that an address"
44 and then there's an address. Do you see that?
45 A. Yes, I do, yes.
46
47 Q. Does that remind you that the first meeting you had at

1 - was on the - Monday the 2nd of March 2009, some time
2 before 11.14am?
3 A. Yes, it does.
4
5 Q. In relation to the depot investigation?
6 A. Yes, yes.
7
8 Q. And there's - and in the copy that's been produced, we
9 don't have the attachments but you see there's a "Steve
10 Child.dat", which is data file, "Steve Child.2" and then
11 "Jo G.dat". So some information was sent to you, see in
12 the attachments --
13 A. Yes.
14
15 Q. -- about Steve Child and Joe Giangrasso, I'm assuming
16 by the "Jo G"?
17 A. Mmm-hmm.
18
19 Q. So that it appears at some stage some names were given
20 to you?
21 A. I think they were - there - we didn't have any
22 personal details on the particular people --
23
24 Q. Mmm-hmm.
25 A. -- and I think I requested their home addresses.
26
27 Q. Right. And then you see the handwriting down the
28 bottom?
29 A. Yes.
30
31 Q. Is that your handwriting?
32 A. That's my handwriting.
33
34 Q. And this is reflecting - because you wouldn't have had
35 this at the meeting - so this is reflecting the summary,
36 perhaps, of what you were told: "Start yard 7am". That's -
37 someone tell you that's when they started work?
38 A. That's correct, yes.
39
40 Q. And did someone tell you to look for a white truck?
41 A. They did because --
42
43 Q. A relatively useless piece of --
44 A. They did because where they could not supply any
45 photographic - photographs of any of the persons on the
46 yard, we had trouble identifying them, so I said "What
47 vehicles do they drive?" and that was supplied to me.

1
2 Q. So "white truck", that would get you a long way?
3 A. Mmm-hmm.
4
5 Q. And then "yellow sign" - sorry, it mightn't be
6 "yellow". See the next word "WRSH" --
7 A. Yeah. WR --
8
9 Q. What's that?
10 A. Where's that, sorry?
11
12 Q. Next to "white truck" and then running along what's
13 the next --
14 A. "Yellow sign"?
15
16 Q. "Yellow sign".
17 A. Yeah, "yellow sign", yeah.
18
19 Q. And then - and then there's a D --
20 A. I'm not - that should have - could have been a name on
21 the side of the truck.
22
23 Q. Right. Or a phone number or something.
24 A. That's --
25
26 Q. No, no.
27 A. No, no, just a - a name.
28
29 Q. And then there's an address and then Steve Child's
30 name with an address?
31 A. That's correct, yes.
32
33 Q. And so that was information you obtained after the
34 meeting and - and you printed off and looked at the email?
35 A. That's correct, yes.
36
37 Q. And so that you were, at least at that point, given
38 those two names?
39 A. That's - that's correct, yes.
40
41 Q. And do you recall being given any other names?
42 A. Not at - not at that time, no.
43
44 EXHIBIT #211 EMAIL FROM PETER MACKLIN TO RICHARD MAILEY
45 DATED 2/3/2009, SUBJECT: "OUR MEETING THIS MORNING"
46
47 Q. All right. I show you this bundle of documents. Now,

1 these have come out of your file and these appear to be
2 some documents produced by Hazlett and I think you've told
3 us last time that Hazlett is an information service you use
4 to get information about people?
5 A. That's correct, yes.
6
7 Q. You recall we discussed it --
8 A. Mmm.
9
10 Q. -- and you - you provide them and - you pay them and
11 they do certain searches?
12 A. Yes, yes, that's right.
13
14 Q. Now, you'll see down the bottom there's - on the first
15 page you see there's "Shellharbour Council" and then an
16 address?
17 A. Yes.
18
19 Q. And then over the page you'll see there's a photo of a
20 house at that address?
21 A. Yes.
22
23 Q. Your understanding was that this was Mr Child's house?
24 A. Yes.
25
26 Q. And then you see the third page in there's a number of
27 things about XXXXX, et cetera. Do you
28 recall what - who told you or why you were looking into
29 something called XXXXX?
30 A. No, I don't. That would have just been - come up
31 through the - the search company, Hazlett, but - but
32 probably because of the Childs name and Child's a very
33 common name.
34
35 Q. Right. You see, XXXXXwas a company that - well,
36 one - a company - XXXXXin various formations had some
37 operation in Burwood. Is it possible that Mr Romano gave
38 you that name and asked you to check up on them?
39 A. No, I - no, no, I'm sorry, no.
40
41 Q. That's not possible?
42 A. No.
43
44 Q. You have no recollection of where that came from?
45 A. The - it probably would have come from Hazlett on a
46 name search on - on Child.
47

1 Q. But if it didn't?
2 A. That's - well, I don't remember that name supplied to
3 me by anybody, no.
4
5 Q. Is it possible you've forgotten it?
6 A. Possibly. No, the name is very - it's very
7 straightforward.
8
9 Q. If you look at fourth page in you will see "Conquest
10 Property Group Pty Limited". There's - there's an
11 information matter for them?
12 A. Yes.
13
14 Q. So it's a very specific thing that Hazlett is
15 responding with, isn't it?
16 A. Yes.
17
18 Q. And they'd only do that, I'd suggest to you, on
19 request, wouldn't they?
20 A. No.
21
22 Q. So they go off on a frolic of their own, do they, if
23 they think there's a link?
24 A. We give them a broad - broad spectrum as a search
25 company, yes.
26
27 Q. I can't see anything in the documents relating to
28 Mr Child that say anything about Concrete Property Group,
29 so we'll leave that as a mystery for this stage. And then
30 you'll see there's a - a document - the next is a Real
31 Property Search for Bruce and then Quirk - Anthony Quirk,
32 so was Mr Quirk a name that was given to you?
33 A. Yes.
34
35 Q. Were you aware that Mr Quirk was an employee of the
36 depot?
37 A. Yes.
38
39 Q. So he must have been - you must have been given that
40 name then; would that be correct?
41 A. That's correct, yes.
42
43 Q. And then over the page there's an address in
44 Kingswood?
45 A. Yes.
46
47 Q. And that's all that was in, at least on your file, the

1 bundle of documents - of searches. Then an investigator
2 commenced on the 3rd of March - on the 3rd of March two
3 thousand - I just want to do these two sets of documents so
4 that people have a chance to look at them overnight if I
5 could continue just for a couple of minutes if that's okay
6 with the transcription people. I'm going as fast as I can.
7 It just might be convenient if people could look at this
8 exhibit overnight, that's all.

9
10 Now these are the investigator's notes from Merridy's
11 from the 3rd of March to the 15th of April, do see that?

12 A. I do.

13

14 Q. Well, sorry, when you get it.

15 A. No, it's on the screen.

16

17 Q. It's on the screen, right. And attached to that are a
18 series of photos, you see attached to that are two - one
19 page of a number of photos, and then one of a single photo
20 of someone I think we can now identify as Mr Child, and
21 then - and then there's an email at the end. See that one?
22 So that's a bundle of - of surveillance material from
23 Merridy?

24 A. Correct.

25

26 Q. And those photos, it appears, were taken - and they
27 were taken at some stage, one assumes, after the workplace
28 surveillance authority was issued?

29 A. After - correct, yes.

30

31 Q. All right. So they're her notes?

32 A. Yes.

33

34 MS RONALDS: If I could - I'm sorry, I didn't tender the
35 previous bundle of Hazlett - oh, I didn't tender the
36 email --

37

38 ASSISTANT COMMISSIONER: Yes.

39

40 MS RONALDS: -- either. I'm sorry, I've got a few behind.
41 I'm trying to hurry, I make it worse.

42

43 ASSISTANT COMMISSIONER: The email from Richard Mailey
44 dated 2nd March is exhibit 211.

45

46 MS RONALDS: Sorry, I think it's to Mr Mailey from
47 Mr Macklin.

1
2 ASSISTANT COMMISSIONER: It's - well, it says from
3 Mr Mailey on the top of the one I've got.
4
5 MS RONALDS: Oh, the substantial one, yeah, okay.
6
7 ASSISTANT COMMISSIONER: The Hazlett searches will be
8 exhibit 212 and the bundle of Merridy field notes will be
9 exhibit 213.
10
11 EXHIBIT #212 HAZLETT LTO TITLE SEARCHES
12
13 EXHIBIT #213 MERRIDY - TOTAL FIELD NOTES
14
15 MS RONALDS: Q. And I'll just show you this document
16 which is headed "Brad Total Field Notes. 12 March to 14
17 April". I'm sorry, we're - we're not going to get any
18 further. I'm sorry, you'll have to come back tomorrow.
19 Now these - these are the notes taken by the second
20 operative, and they note the dates that he worked on the
21 surveillance. Do you see that?
22 A. Yes, I do.
23
24 MS RONALDS: And if I could tender those documents?
25
26 ASSISTANT COMMISSIONER: Yes. The Brad field notes will be
27 exhibit 214.
28
29 EXHIBIT #214 BRADFIELD NOTES
30
31 MS RONALDS: Thank you. And there will be some further
32 documents tomorrow in relation to this matter.
33
34 Q. I'm sorry, Mr Mailey, you'll have to come back
35 tomorrow.
36
37 ASSISTANT COMMISSIONER: I think it's actually the next
38 day, isn't it?
39
40 MR RONALDS: I'm sorry, it's not tomorrow. Sorry, don't
41 come tomorrow. You'll be all on your lonesome. Thursday
42 at 10.
43
44 ASSISTANT COMMISSIONER: All right. Well, we will adjourn
45 at this stage until 10am on Thursday.
46
47 MS RONALDS: If I can note, yes, we adjourn until the 29th

1 of April at 10 and we will be back here, and then we will
2 adjourn due to one counsel's lack of availability until the
3 24th of May, and everyone should have received an email
4 with these dates in it. So it will start the 24th of May
5 again and run through from then, and we'll advise further
6 dates as needed and required. On Thursday we're here.
7

8 AT 4.08PM THE COMMISSION WAS ADJOURNED TO THURSDAY, 29
9 APRIL 2010 AT 10AM

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