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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 29 MARCH, 2010

AT 10.15AM

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

MS RONALDS: I call Mr Giangrasso.

MR BELLING: Assistant Commissioner, my name is Belling, B-E-L-L-I-N-G, initial B. I'm seeking leave to appear in lieu of Mr Leggat who's in the Court of Appeal this morning. I expect, for Burwood Council and the other related parties. I expect that Mr Leggat will be here by lunch time.

ASSISTANT COMMISSIONER: Yes, Mr Belling, you're given leave. Is Mr Giangrasso here?

10

MR BELLING: Yes.

MR CHALMERS: Good morning, Commissioner. Could I seek leave to appear for Ammer Issa? My name is Chalmers, C-H-A-L-M-E-R-S.

ASSISTANT COMMISSIONER: Yes, Mr Chalmers.

MR CHALMERS: Thank you.

20 MR McILWAINE: And Commissioner, I've had leave previously to appear for this witness and I'd ask that that leave continue.

ASSISTANT COMMISSIONER: Yes, Mr McIlwaine.

MR McILWAINE: (Not transcribable)

ASSISTANT COMMISSIONER: And he is seeking a declaration?

MR McILWAINE: I'm seeking a declaration.

30

ASSISTANT COMMISSIONER: Yes. Yes, Mr Giangrasso, sit down for the time being. Yes, Mr Giangrasso, Mr McIlwaine indicated you wish to seek a Section 38 declaration. Pursuant to Section 38 of the Independent Commission Against Corruption Act I declare that all answers given by this witness and all documents and things produced by this witness during the course of today's hearing are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

40

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF TODAY'S HEARING ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO

**MAKE OBJECTION IN RESPECT OF ANY PARTICULAR
ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

ASSISTANT COMMISSIONER: Could the witness be sworn please?

ASSISTANT COMMISSIONER: Yes, Ms Ronalds.

MS RONALDS: Tell the Commission your full name?---Guiseppe
Giangrasso.

10 And you're known as Joe?---That's correct.

And your occupation?---I'm a team leader for the construction gang.

At Burwood Council?---At Burwood Council.

And you work out of the depot?---That's correct.

And what's the address of the depot?---Kingsbury Street, Croydon Park.

20 And are you currently working on a day-to-day basis for Burwood
Council?---No, I'm not.

When was the last time that you actually physically attended work?---I think
it was 4 March, 2009.

And are you on some form of leave at the moment?---I'm suspended on full
pay.

30 And just in summary form, because we'll return to it on another day, what
do you understand you're suspended for?---Some allegation about harassing
and bullying a particular person.

And when were you suspended?---It was early September last year and I
think it was 7 September.

So you've been suspended on full pay since 7 September up to now?
---That's correct.

40 And is it your understanding that things were stopped because of this
investigation?---Yes.

Now, going back to when you were still working, physically working, you
know Mr Pat Romano?---Yes, I do.

And do you recall when you first met him?---I would've met him when he
first started when he would've come down to the depot to introduce himself
to everybody.

And during the course of 2007, how would you describe your relationship with him?---Very good.

Do you say, sorry, I'll withdraw that. So it wouldn't normally be that someone in your position and the General Manager would have any form of relationship, so when do you say that any sort of personal contact between you commenced?---I would say possibly in 2006.

10 And how did that start?---I would see him at either functions or events that I was working at. And he would just come up and chat to me.

All right. And then did it develop over time?---Yes, it did.

And so say mid 2007 how would you describe it?---Very good.

And how often would you talk to him in an average week?---Oh, it's hard to say, but at least once a week.

20 And where would you see him?---He would come to our jobs.

And how would, do you know how he knew where your jobs were?---Well, as a General Manager, I'm sure he'd, he'd know the projects that I was working on. But he would phone me up some mornings and say, Joe, where are you? And I would tell him. And prior to him commencing work he would come via our job sites.

And what did he do when he was on the job site?---We would just discuss the job and various things, yeah.

30 And did he ever give you instructions about the job?---Yes, he did.

What sort of instructions did he give you about the job?---Oh, if he didn't like something or he wanted to make a change, he would ask me to, to implement that.

40 All right. And did you do that?---I was very reluctant. I probably did minor things, but other things that I thought that I shouldn't, that I always said to him that he should go back through the chain of command and it should come through the chain of command.

Ah hmm. And did he talk to you about the work that you were doing?---I don't understand what - - -

Well, when he was there did you chat about what sort of work you were doing?---Yes.

Did you complain to him about your working conditions?---Oh, I suppose sometimes I would, yeah.

What would you say?---It depends on the situation. Just basically if I didn't like something I would mention it to him.

Complain to him you weren't paid enough?---Yes, I did.

And did you complain to him that you didn't think Council appreciated you enough?---Oh, I suppose I said that, yeah.

10 And would you have said those sort of things once or would you say them on more frequent occasions?---Oh, I probably said it on more frequent occasions.

Now, in late March, 2009 or early April, 2009, you spoke to a journalist from the Sydney Morning Herald. Is that correct?---Yes.

Now how was it that you had that conversation? That is what was the background that led up to that conversation?---How I come in contact with her?

20

Yes. How did you come in, well, lets, the journalist was Ms Kate McClymont?---That's correct.

And you spoke to her on more then one occasion?---I'd say about two, possibly three occasions.

And you met with her?---Yes, I do.

On two or three occasions?---Yes.

30

And you provided certain information to her?---Correct.

And it was the basis of that information and other information that then appeared in articles in the Sydney Morning Herald on 4 and 6 April, 2009. Is that correct?---Yes.

Okay. Well, how was it that you've got in contact with Ms McClymont? ---Through two people, Andrew Ho and Mr Lim, a councillor at Strathfield Council.

40

And is that Mr Danny Lim?---Danny Lim, correct.

And was it that you contacted them?---A friend of mine put me in contact with them.

And what was the reason that you went to them, Mr Ho and Mr Lim? ---Really looking back at it, I really don't know. But I felt that I was isolated and didn't know how to approach the situation.

Well, did you have conversations with Mr Child?---Yes, I did.

And you and Mr Child decided that you wanted to tell someone about what you thought was a certain set of circumstances. Is that right?---Yes.

And why did you do that? Go outside the Council?---Because I felt that we couldn't trust anybody inside the Council.

10 And why was that?---Because we felt that Pat ruled the roost and whatever he said went. And I'm sure that none of the others would go against him.

Did you ever try and speak with the then Mayor, Mr Faker prior to going to the Sydney Morning Herald?---No.

And did you ever try and speak to another member of the executive, that is Mr Hullick?---No, I didn't, no.

Mr Macklin?---No.

20

Mr Azir?---No.

Or oh, Mr Cummins?---No.

Or Mr Dencker?---No.

And why didn't you try and speak to any of them?---Because I didn't trust anybody.

30 And had you had occasion where you'd tried to speak to someone before and it had not worked out the way you hoped?---Yeah, we had, year with Mr Azir or Mr Macklin the past.

So you say you'd raised issues with them?---Oh, not, not these sort of issues, no.

Not about Mr Romano?---Not about Mr Romano.

40 Would it be correct to say and I'm trying to, so we understand, you hadn't actually tried internally to raise any issues about Mr Romano, is that correct?---That's correct.

And you didn't go to the Mayor and you didn't go to any Councillors. Is that correct?---That's correct.

You - - -?---Sorry.

Sorry, go on?---We did go to the Mayor first.

Right?---Furneau-Cook.

But that was in, that was some time later, wasn't it?---No, before we went to the media.

Right?---Actually Kate approached the Mayor on our behalf.

10 Right, that's right, sorry, I'm sorry, yes. And you then, did you speak to the then Mayor, Ms Furneau-Cook?---No, Kate spoke to the Mayor on our behalf with, and she teed up a time for Steve Child to phone her the following day - - -

Right?--- - - - and that occurred.

That occurred but you didn't personally - - -?---Not me personally, no.

20 And you didn't personally speak or meet with Ms Furneau-Cook prior to the publication in the - - -?---No.

- - - Sydney Morning Herald of the stories?---No.

But you don't deny, do you, that you contributed to those stories?---Yes, I did.

And when it talks about a Council worker in some parts on some occasions, that's you?---That's right.

30 And, but you didn't, you used Ms McClymont to get, not to get to but to approach the Mayor on your behalf, you didn't do so directly?---That's correct.

And why didn't you just ring up the Mayor directly?---I don't know. I just wasn't, I didn't know what to do.

Well, what is it that you wanted to tell the Mayor?---I wanted to tell the Mayor of what had happened over the last couple of years.

40 And why did you suddenly decide in late March or early April 2009 that you wanted to tell the Mayor or indeed the Sydney Morning Herald about what you saw had happened?---Because I feel that I was being harassed and bullied by management.

And what form did that harassment or bullying take, did you think?---They brought in a consultant by the name of John Dardano and just the way he went about treating me, I just thought it was wrong and I knew that it was probably put up by a higher source than him.

Well, that's what you thought?---(not transcribable).

Did you think that Mr Dada no was trying to force you out of your job?
---Yes, I did.

And how was your relationship with Mr Romano by the, say, middle of March 2009?---Non-existent.

10 So you had been in contact during the course of 2007 and 2008?---Correct.

And in summary, and we'll go into this in detail today and tomorrow, but in summary in September 2007 you worked on his driveway and we'll go into the details in a moment but, excuse me, and in late 2007 and during the course of 2008 you'd worked on the units?---That's right.

20 And in summary, and we'll go into this in detail today and tomorrow, but in summary in September, 2007, you worked on his driveway, and we'll go into the details in a moment, and in late 2007 and during the course of 2008, you'd worked on the units?---That's right.

And then there'd been a disintegration of the relationship with Mr Romano, is that right?---That's correct.

30 And what caused that on your view?---My view of it was that during the elections, the Council elections in 2008, straight after the elections I was at Burwood Westfields having lunch with my wife and Steve Childs, John Inglese and Ammer Issa were working outside Westfields and we were having coffee with my wife just in Gelatissima which is a coffee shop just outside Westfields and I saw them and I invited them in for a cup of coffee.

So you hadn't been working with them on that - - -?---No, I was on night shift at that time so this was during the day so it was my time off.

So you were in an outside café, you saw them and you called them over
---Yes, or, yeah, correct.

40 And then did someone else join you?---Yes. John Sidoti which, he's the Mayor at the present, and Henson, another councillor, I forget his full name now, and Joe Tannous. He's part of the Liberal Party as well and I think he was John Sidoti's organiser.

And had you arranged to meet these people?---No. They were just walking, they just walked in out of chance.

And you knew them through Council?---My wife went to school with John Sidoti.

All right?---And John Sidoti's family owned a reception hall in Five Dock and, which I had many occasions to attend that function centre and I knew him off there as well.

You say you'd been there, what, for social events?---For social events.

In your social - - -?---Yeah, marriages, and birthday parties, christenings, yeah.

10 So was this, the election was September, 13 September, 2008. Are you able to recall how long after the election this event occurred?---I think it happened on the Monday straight after the election was held on Saturday.

So it was quite quickly after?---It was quite quickly.

And so who else was there, anyone else there?---No. The three Liberal Party people that I mentioned and Steve Child, John Inglese and Ammer Issa, my wife and myself.

20 And did Mr Romano ever discuss this coffee event with you?---Yes, he did.

And how many times did he discuss it with you?---Probably two occasions.

And one of the times, how soon after the event did he have the first conversation?---The first conversation that we had was, I don't recall the actual date but it was John Faker's farewell barbecue at the Council chambers.

So it was after the election?---Yes.

30 Was that farewell as Mayor?---Farewell as Mayor, correct.

And where were you and where was Mr Romano when you had the conversation?---The event was held at the Council chambers courtyard but Pat Romano pulled me aside and we walked into the car park.

And what did he say to you?---He expressed his concern that I'd had organised some sort of meeting with the Liberal Party and he was most upset about that.

40 All right. Well, don't worry about, don't try and tell, just say what he said?---Okay.

And what was his manner?---His manner was very aggressive and he basically said that he was disappointed in me, that I went against his trust. Just trying to recall the conversation. That - - -

Did he raise his voice?---Yes.

And it was just the two of you in the conversation?---At that time and then Steve Child walked into the conversation.

And do you recall anything else Mr Romano said to you?---Yes, that I would pay for it.

10 All right. And did you ask him how he knew that you'd been having coffee with the Liberals?---No, I didn't but I knew before that meeting that he was aware of what had occurred.

And how did you become aware of that?---Because Steve Child was pulled into a meeting, either the same day or the day after with himself and John Inglese and he, Pat Romano was quite upset apparently.

And Mr Child had told you about that?---Mr Child had - - -

20 You weren't present at that meeting though?---I wasn't present and John Inglese also told me that.

So anything you know about that is only second hand?---That's correct.

And so you say there were two conversations. So that's the first one at the Faker farewell barbecue and then you say there was a second conversation with Mr Romano - - -?---That's right/

- - - about this incident?---About this incident.

30 And when was that?---Could've been a couple of weeks later and the reason how that come about was that Graham McPherson, the works manager, would come back to me and tell me that my mate, they're the words that he would use, my mate was not talking very well about me in his meetings.

And who did you understand he meant by the term "my mate"?---Pat Romano.

And did you say, he's not my mate, or - - -?---No, I didn't. I just let him tell me what he wanted to tell me.

40 So that's a conversation with Mr McPherson?---Yeah, and that happened on a number of occasions that Graham would come back and tell me that Pat wasn't happy with me.

And did you have a second conversation with Mr Romano then?---Yes, I was upset and I asked on a job site, I asked Steve Childs to get Pat on the phone so I could have a talk to him.

And did that happen?---That happened.

And what happened in that conversation?---He basically went over the same things about me having this meeting with the Liberal Party and I just told him that it was a chance meeting. I was just a victim of circumstance, that they come in, my wife knew him, I knew him, and it was just hello, g'day and we had a cup of, cup of coffee and that was it.

All right?---And I congratulated actually Sidoti because I think he had got over the line by that stage.

10

All right. Being elected you mean?---Elected, yes, and - - -

He wasn't Mayor at that point?---No, he wasn't Mayor at that stage.

And now, how long have you worked for Council?---I'm getting onto 19 years.

And when you started there, what work were you performing?---Labouring type of duties.

20

And you'd been promoted during the course of the years?---Correct.

And you have your own business?---I wouldn't say it's a business. I'm a sole trader that does a little bit of work here and there occasionally.

And what's that work that you do?---I just do handyman type stuff. I do a bit of concrete work, rubbish removal, gardening, painting.

And you have your own truck?---Yes, I do.

30

And it's got certain words down the side?---Yes, it has.

What do they say?---It says, "Rubbish Removal, Concreting, Asphalt, Laying".

And does it, sorry, I didn't mean to interrupt you. And does it have a phone number?---Yes, it does.

And that's, what number's that?---That's my personal mobile number.

40

All right. And how long have you had the truck?---Four years.

And prior to getting the truck were you doing that sort of work, general handyman sort of work?---Very, very occasionally. I mean, the old pensioner down the road might've asked me to do a bit of painting here or there. It was that sort of - - -

But in 1996 or so you started it up a bit more enthusiastically, did you?
---(Not transcribable) yeah.

And so when do you say that you did that extra work, the other non-Council work?---The non-Council work, it would've been in, I don't know, 2004, 2005.

Sorry, I've gone back a decade?---Yeah. I can't remember now but - - -

10 Sorry, I've gone back a decade. About 2005 or so?---Yeah.

And then you bought the truck?---That's correct.

So that was an investment?---Yeah.

So you must've been - - -?---20 year old truck.

20 So you must've been planning to do a bit of work to pay for the truck to make it worthwhile?---Yes, 'cause I've got to feed my family so I'm going to do the best I can to do whatever I got to do, yeah.

So how did you advertise your services?---I don't. It's whatever's advertised on the truck.

And word or mouth?---And word of mouth.

30 And it's been suggested by others that you used to collect rubbish in your other job, your non-Council work and then use the Council depot to dump off that rubbish. Did that ever occur?---Yes, I did.

And did it occur on many occasions?---No, just on a few occasions.

And what were the circumstances of that?---That was Pat Romano's rubbish.

So apart from Mr Romano's rubbish, were there other occasions when you put rubbish from the work that you'd done outside the Council into the Council depot rubbish disposal system?---No.

40 So if others said that about you that would be untrue, would it?---That's correct.

Now, others have also said about you that you and Mr Child had invented a series of lies about Mr Romano and you understand Mr Romano says that about you?---I would only have heard his responses in the newspapers.

But Mr Romano says that you've told lies about him because others were making allegations about you and you thought you were going to lose your job. Now, is that true, have you made up stories about Mr Romano?
---That's incorrect.

And did you think you were going to lose your job and you've made up stories to protect yourself?---No.

10 Now, have you heard of a concept called secondary employment?---Yes, I have.

Did Mr Romano ever discuss that with you personally?---Yeah, I think we touched on that subject, yes.

Do you remember when that was?---No, I couldn't tell you. It was early on the piece.

Late 2006, early 2007?---Yeah, I think it was about the 2006.

20 And what did he say to you?---Because I never hid the fact what I did and everybody was aware that I did have a secondary employment.

Right?---Like a lot of other Council staff have in there.

And did Mr Romano at some stage tell you that you needed to apply, that is, fill out a form in relation to secondary employment?---He didn't say apply but I think he did say to me that, just write me a letter and tell me what you're doing.

30 And you didn't do that?---No, I didn't.

Why not?---Because I didn't think it was any of their business.

Did you ever read a policy about secondary employment?---Only in, yes, I did.

When was that?---Probably 2009.

40 Okay. Well, going back a step, you've got the General Manager telling you that you need to write him a letter so you'd assume the General Manager knew the policies?---I assume that he probably would, yeah.

So he's telling you, he's giving you some advice, you need to do this and you just disregarded his advice, did you?---No, because my work never conflicted with anything - - -

No, just listen to the question, please, Mr Giangrasso?---Okay.

You were given advice by the General Manager that you should write a letter about secondary employment and you remember that happening in you say - - -?---Yes.

- - - late 2006 but you completely disregarded his advice?---Yes.

You didn't do it?---I didn't do it.

10 And didn't you think that if the General Manager was telling you to do that that it would be sensible thing to do?---Possibly.

But he was indicating to you, wasn't he, that your personal position, that is, that it was none of their business was not accurate, wasn't it?---I suppose, yes.

Did you say to him it's none of your business if I do something - - -?---No.

- - - out of hours?---I didn't say that, no.

20 Why not?---That's what I thought in my head.

But you didn't say that to him?---I didn't say that to him.

Why not?---Because he was the General Manager.

I'll just show you this letter. Just bear with us for a moment, Mr Giangrasso, we've had a hiccup. Now, you have in front of you a letter dated 3 March, 2009?---That's correct.

30 And that's a letter headed Council's policy, secondary employment?---Yes.

And it sets out, I'm sorry that was me, I usually manage not to do that, I'll be punished later. Do you recall receiving this letter?---Yes, I do.

And that, you referred a moment ago to a letter and this is it?---This is it.

And it had attached to it, did it not, the secondary employment policy?---Yes.

40 A copy of the policy?---Yes, but it also sets it out here too.

Well, I just want to clarify this with you, did it have, and I'll just show you this document, a copy of the actual policy attached to the letter? Do you remember and that had on it a form?---I recall the form at the back, yes.

Yeah. And it says in the letter, doesn't it, here's the form and you've got to fill it out?---That's right.

Do you remember receiving this?---Yes, I do.

And everyone received it, didn't they?---That's right.

It wasn't just you?---It wasn't just me.

So it wasn't someone picking on you and - - -?---No.

- - - thinking you were up to no good?---No.

10

No. And, and you see at the back of the policy I've given you, on the last two pages, there's a form?---Yes.

And did you fill that form out?---No, I didn't.

Why not?---Because I sought legal advice.

Yes?---I sought legal advice and that legal advice that I got told me that I didn't have to complete the form whatsoever.

20

And who, what legal advice was that from?---From White Barnes, Solicitors.

And they told you that you didn't have to fill out the form?---That's correct.

And did they tell you - - -?---And I received a letter from them as well.

And did they tell you why?---Because I didn't conflict with the Council interests in any way.

30

Okay. So they said that the things that you had to take into account, and they're set out in the letter, aren't they?---Yes.

Will the hours of work conflict in any way with the Council duties?---That's correct.

And they told you that yours didn't and therefore you didn't have to bother?---That's right.

40

So you, and did you pay for that legal advice?---It's a service provided by our union.

So you went to the union first and they sent you to White Barnes?---That's right.

If I could tender that bundle.

ASSISTANT COMMISSIONER: Yes. I must say, Ms Ronalds, that letter does seem to say that you only have to declare secondary employment if it's in conflict which is unusual. Most policies require you to declare it and then your employer will decide if there's a conflict.

MS RONALDS: But that's what it says and so when we return later to this issue it seems that management in Council didn't understand their own policies and from some of the later correspondence and certainly it'll be my suggestion that Mr Romano didn't understand them.

10

ASSISTANT COMMISSIONER: Yes.

MR McILWAINE: Commissioner, could I just raise one matter in regard to the exhibit, I haven't seen what's being tendered but the document that counsel assisting is referring to, I have seen another copy of it which has a certain date on it as having been adopted on a certain date but I don't know if the original's going to include that which is of significance.

MS RONALDS: Well, mine's the first one.

20

MR McILWAINE: Yes, it has the date, it's the policy I was concerned about and it has the date I was concerned about, your Honour, Commissioner.

MS RONALDS: (not transcribable)

ASSISTANT COMMISSIONER: So was this policy sent out with the letter, is that, Ms Ronalds, is that the situation?

30 MS RONALDS: Yes. As I understand it, there was, for some, I'm (not transcribable) tendering it as an exhibit.

MR McILWAINE: Yes, I have no objection to the exhibit.

ASSISTANT COMMISSIONER: Yes.

MS RONALDS: There was a push within Council for reasons best known to them about secondary employment and as I understand it this letter was sent to everybody, not just, it wasn't a letter directed - - -

40

ASSISTANT COMMISSIONER: No.

MS RONALDS: - - - at Mr Giangrasso because someone thought he was doing secondary employment, it was a letter that went out to everybody and you'll see it's from Peter Macklin.

ASSISTANT COMMISSIONER: Yes, yes. Well, that will be Exhibit 56.

#EXHIBIT 56 - LETTER TO MR GIANGRASSO DATED 3 MARCH 2009 FROM PETER MACKLIN, BURWOOD COUNCIL AND A BURWOOD COUNCIL SECONDARY EMPLOYMENT POLICY DOCUMENT

10 MS RONALDS: I want to turn to the issue of the driveway. Now, in short form do you agree that on 15 September, 2007 you worked for a substantial part of the day on the construction of Mr Romano's driveway at his private home?---That's correct.

All right. Well, I want to go to the circumstances firstly of how that came about. Now, how was it you say that you undertook that work? What was the first thing that happened in a chain, a series of events that led you to being there on that day? So if you just take it one step at a time?---Pat Romano approached me on a job about it.

20 And do you remember when that was?---Around about August.

And what did he say to you?---He told me that if I could go to his house and have a look at his driveway and that he had got a quote and he thought it was excessive.

And did he tell you how much that was?---He did and if I recall it was between four and 4,000.

And he thought that was excessive?---Yes.

30 And what did he ask you to have a look at it for?---The way I understood it with the intention of actually doing the job.

And did he say anything else to you?---Yes. He, he asked me to, to come out to have a look at it and to keep it hush, hush.

And did he ask you to fill out any forms about it?---Nothing whatsoever.

40 And did he tell you anything else about any steps that you needed to take to do the work?---Not at that meeting, no.

Right. And did he suggest to you or ask you to involve anyone else in this process?---He did.

What did he say?---Well, I went to his house to have a look at the job.

Right. And do you remember when you did that?---I done it on a Saturday morning or afternoon. I can't remember.

And were you on Council time at that time?---No.

So you were on your own time?---I was on my own time.

And you visited his home?---I visited his home.

And had you been to his home before?---Never.

10 How did you know where to go?---'Cause he gave me the address.

Right. And did he do that in the first conversation or a subsequent conversation?---I can't recall that.

Right. But somewhere along the line he gave you an address?---That's right.

In I think, Russell Lea?---31 Janet Street, Russell Lea.

20 And you went there?---Yes, I did.

Just you?---With my 4 year old son.

Right. Well, he wasn't going to assist in the job assessment was he?---No.

And so was there any other adult with you to assess the job?---No. Just myself.

30 Just yourself. And you have experience in concreting. Is that correct?---
That's correct.

And is driveways part of what you do as, is that what, bear my ignorance, is that part of what concreters do?---It is.

And so you visited his home and you did an assessment?---I did an assessment.

He was there?---He was there with me.

40 And you had a conversation with him?---Yes, we did.

And what was the conversation?---I assessed the driveway and told him how much concrete we needed and how we could tackle the job.

And did you put any costs around it?---No, I didn't.

Why not? Weren't you quoting him for the job?---Not really.

Why not?---Because I wasn't asked for a quote.

And was there any discussion about others, sorry, did you tell him that you'd need other people to work on it?---I did, based on the fact that he told me that he wanted it done all in one day.

And did he tell you why?---Because he didn't want Canada Bay to be aware of it, Canada Bay Council to be aware of it.

So he wanted it done in one day?---Yes.

10

And did he nominate any particular day?---No. He left it for me to go back and organise with the people to come up with a date that suited everybody.

And did you tell him how many people you'd need?---Yes, I did.

And how many was that?---Well, because it had to be done in one day, we needed an excavator.

20

And is that, there was already an existing driveway. Is that correct?---There was but it was in pretty shoddy state.

Right. And so you couldn't concrete, again I'm not, as you can tell, I know nothing about concreting. So you couldn't concrete over the existing one? ---No, you couldn't.

And so what, you had to remove it?---We had to excavate the existing driveway.

30

And to do that you needed certain equipment?---Well, if he wanted it done in one day like he had requested, we needed the excavator, otherwise one day would've gone just manually knocking it out, which would've brought it into a second day.

And so you, you and he discussed that while you were there in August? ---Yes.

And did you tell him therefore that you'd need to find someone with an excavator?---Correct.

40

And did you discuss with him who that might be?---Yes, I did.

And what did you say?---We spoke about Shane O'Brien and he was the Council contractor, that excavated for Council.

Right. And did Mr O'Brien own his own excavator?---Yes, he did.

So that it wasn't a Council excavator it was Mr O'Brien's excavator? ---Correct.

And he worked for Council on a regular basis did he?---Yes.

And he was a de facto member of your team wasn't he?---That's right.

That is he worked with your team on a day to day basis?---Just about.

But he was a contractor not an employee?---That's right.

10 And how many people did you tell Mr Romano you would need to work on the job?---Apart from myself and Shane O'Brien excavating, two other concreter's.

And that was because, to finish it within the allocated time. Is that right?
---That's right.

And if you'd had several days it would've taken less men then it would've taken, he wanted it done in one day?---Correct.

20 And did Mr Romano say he'd ring Mr O'Brien?---No. He left it up to me to organise.

And did Mr Romano say to you, get Mr O'Brien to fill out the paperwork to go to Canada Bay Council?---No, he didn't.

And was there ever any discussion about completing paperwork to go to Canada Bay Council?---None whatsoever.

30 And you've given evidence about he wanted it done in a day so that Canada Bay Council didn't know. Was that the only discussion about Canada Bay Council?---We did touch on fees.

Right. That is fees to the Council?---Fees to the Council.

And what, what was said then?---Oh, basically what they charged and what Burwood Council charged, 'cause every Council is different.

40 Right. And so at the end of that conversation did you understand that you should prepare a quote for Mr Romano for the job?---No.

Did you understand that you were to be paid by Mr Romano?---No money was mentioned whatsoever.

And why were you willing to do a job without any money?---Because he was the General Manager and I was just a labourer down the line. And he was my boss.

But you could've said to him, but this isn't fair, it's my day off?---Well I, at that stage I wasn't sure of he was going to pay me or not.

Right?---But there was no talk of money.

Right. So he didn't ask you to go and prepare a formal quote Ceting out all the costs that would be involved?---We just discussed that I would order the concrete and steel and it would arrive on the day and he would pay for it.

10 Right. And normally if somebody you know asks you to do a driveway, would it be your usual practice to do a quotation for them?---I would do the quotation.

And you'd give them a piece of paper Ceting out how much it would cost?
---Correct.

What the bits and pieces would be. There'd be a cost for concrete, wire, labour. Is that correct?---That's right.

20 And those sorts of things, GST, et cetera?---That's right.

And you'd give them that and then they'd decide whether they wanted you to go ahead and do the job?---That's right.

But none of that happened in relation to this particular job?---No.

Okay. Now at some stage a date was set, that is 15 September, 2007?

---Yes. I went back and spoke to everyone involved.

30 All right. Well let's go step by step. After that Saturday in August, you went back and spoke to, who did you speak to?---Steve Child, Ammer Issa and Shane O'Brien.

Okay. And did you talk to them about doing the job?---Yes. And - - -

And, sorry, go on?---Steve Child was aware before I even went to do, to see his house, because - - -

40 You'd spoken to Steve about it before?---Yeah. Because Pat said, you speak to Steve about it as well, help you co-ordinate the job and I will speak to him in the course of the day. Now, if he did or not, I don't know. I'm not aware of that.

Okay. So - - -?---So Steve was aware of what was going on.

Right. But Steve wasn't with you on the day you assessed the job?---Steve wasn't with me, no, no.

And so you went back and you spoke to Steve about a potential date?---Yes.

And did you or Steve then co-ordinate 15 September?---Well, I had to co-ordinate it with Ammer as well as Shane, and that was a day that everybody had basically off.

So you had to check that they were all free on that day?---Yes.

They didn't have social commitments, family commitments. None of them were doing other work and they were all available?---That's right.

10

And you understood when you were planning it that it was going to be a good days work, I mean - - -?---It was a full days work.

Yes. A full days work. That's what I mean. Yes. A full days work. And did you organise with Mr O'Brien that he had a more limited role then the others?---Oh, his role was just to excavate.

So his role was to dig up the old concrete and assist in its removal?
---Correct.

20

And then he was free?---That's right.

So he wasn't going to do the full day?---No.

But the other three of you were going to do the full day?---That's right.

And so you then spoke to Mr Romano again about carrying out the job and what date?---That's right.

30

And he'd said a Saturday because he wanted to be there didn't he or was that - - -?---Well, that's the only we, we could've really done it any way, was on a Saturday.

All right. And did you have another conversation with him about the material that you needed?---Yes.

And what materials were they?---Apart from the, the men, the concrete, the mesh, the excavator. We needed little bits and pieces.

40

What sort of little bits and pieces?---Timber formwork.

Right. And where did that come from?---Council depot.

And did you explain to Mr Romano prior to 15 September that you'd be using Council formwork?---He directed me to use it.

What did he say?---Well, I explained to him what we required.

Right?---Which was timber formwork, concrete saw, fuel for the concrete saw, expansion joints, barricades and witches hats and pegs to hold the timber formwork in.

Pegs?---Pegs, yeah.

All right?---Timber pegs to hold the formwork in.

10 And what did he say?---Well, I told him that I don't have any of that, I'm not set up that way that I have any of that equipment and he pointed out the fact that we do have it at the depot and I said, yes, and he instructed me to take it from there.

And is that what you did?---And that's what I did.

So would be correct that on either the Friday before or the Saturday you went to the depot and collected - - -?---The Friday before.

20 All right. So at the end of your work day, was it, on the Friday, 14th September, you loaded up certain material from the Council depot, is that correct?---That's correct.

And you put in your truck or a Council truck?---No, my truck.

So you used your truck in this regard?---Yes.

And you took it home over night, is that correct?---That's right.

30 So what happened on the morning of 15 September?---Well, we arrived at Pat Romano's house.

All right. Just going back a step. When you removed the things from the depot, the list we've just run through, formwork et cetera, did you sign it out anywhere?---No, I didn't.

Is that normal if you borrow equipment?---If you borrow you sign out.

40 Is there a policy or a practice about borrowing equipment over the weekend?---There is.

And what's that?---That you sign it out and sign it back in the following, when you, when you return it.

All right. And that was in operation in 2007?---I dare say it was, yes.

And but you didn't do any of that in relation to this material?---No, I didn't.

Why didn't you do that?---Because we were supposed to keep the job quiet.

And that was because Mr Romano had told you that in the first conversation?---Yes.

And he repeated that at any stage?---Yes, he did.

All right. So had he said to you he didn't want others in the depot to know?---He didn't want anybody else to know.

10 All right. And he told you that?---He told me that.

And so because of that you didn't fill out the form. In effect you removed the material without completing the normal paper work, is that correct?
---That's right.

So on the Saturday morning you all arrived at 7.00am?---Yeah, about 7.00am.

20 That's you, Steve Child, Mr Issa and Mr O'Brien?---That's correct.

Mr O'Brien with his excavator?---That's right.

And is it an excavator that sits on the back of a truck?---Yes.

So he drives his truck there?---That's right.

With the excavator and you had all the rest of the stuff in your truck?
---That's right.

30 And what happened then?---Pat greeted us. We had a coffee and we commenced work.

All right. And so the first thing that has to happen, is it not, is that the old one has to be removed?---That's correct.

And that's the work conducted by Mr O'Brien?---That's right.

He uses his excavator to excavate?---Yes.

40 And the rubbish was put in your truck?---My personal truck.

So at that stage you'd removed all the formwork and pegs and everything out?---That's right. We emptied the truck, yeah.

And then it's filled up with the old concrete?---The old spoil, yeah.

And how long did it take to dig up the old driveway and put it in the back of your truck?---Probably about two hours.

All right. And what happened then?---We unloaded the spoil.

All right. Well, when you say you unloaded the spoil - - -?---We (not transcribable).

Who is “we”?---Me and Shane O’Brien.

In your truck?---In my truck.

10

Why did Mr O’Brien have to go with you?---He didn’t but for the fact that I was tipping it at the works depot, he rode shotgun with me to, so we could get in and out pretty quick.

All right. And can you get in and out at weekends pretty easily?---Yes.

Or do you have to unlock the door or - - -?---We have to unlock the door, yeah, one gate.

20 And you have a key to it?---Yes.

As the team leader?---As the team leader. Many people have keys to the depot.

All right. So it’s not that secure?---It’s not that, well, I don’t know about now, but at that stage it was not.

No. And in the depot there’s some big dumpster bins are there?---Bins, yes.

30 That - - -?---Concrete bins.

And are there others for trees and - - -?---Trees, tops oil, general rubbish.

And is it right that the top soil is, is in a recycle position so it’s reused where possible?---No, no, the, the top soil gets brought in.

Okay, so it’s new?---It’s new.

40 All right. So it’s not recycled from other jobs in Council?---No, no.

And the green waste is chopped up and sent off somewhere?---Yeah, they chip it.

Or is it recycled for the parks?---It’s recycled for, and also for residents every second Saturday in the month they can come in and pick up free mulch.

All right, okay. And concrete is sent off somewhere?---Concrete, rubbish, they're all sent off to, to their different tipping grounds.

And this was essentially concrete, wasn't it?---Yes, with dirt, a bit of dirt mixed up in there as well.

So when you put, say "spoil" that's, you mean it's basically old concrete?
---Yes.

10 So you tipped it at the depot?---That's correct.

And why did you do that?---Because I was directed to.

And who directed you?---Pat Romano.

And what did he say to you about the - - -?---Well, I, at the completion of the excavation I asked him what he wanted done with the spoil.

20 And what did he say to you?---He says, "What do you usually do with it?" I said, "Well, we tip it". And he said, "In the course of working with the Council, where do you tip it?" I said, "Well, we tip it in the yard".

And what did he say?---He directed me to tip it in the yard.

All right. And had you taken it to a private, there are places where you can privately tip that sort of waste?---That's, yes.

30 And if you'd taken it to one of those, is there one near to Russell Lea?
---probably the closest one would probably be Silverwater.

So that's what half an hour drive away?---Yeah, thereabouts.

And how far away was the depot?---The depot from there was probably about 15, 20 minutes/

All right. And have you done commercial tipping of waste before, of concrete waste?---Yes, I have.

40 And - - -?---When you say commercial, like - - -
I meant, yeah?---Yeah, little private jobs, yeah.

Private jobs?---Yeah.

And in 2007 are you able to estimate what it would've cost had you taken that amount of spoil, as you call it, to the commercial waste at Silverwater?
---Between 150 and \$200.

To dump it?---To dump it.

But you didn't do that. You took it to the depot?---That's correct.

And then you returned after you'd dumped it there, you returned back to the driveway?---That's correct.

And in your absence had the others commenced doing things?---Yes. The others had commenced forming, forming up the job.

10

So you've got to put wooden - - -?---Timbers and get your levels.

And then you put the mesh in?---And then you put your mesh in.

And had you organised for concrete to arrive at some stage?---Yes, I had.

Now, the concrete's got to be ready to pour at the time it arrives, doesn't it, pretty well?---Yeah, yeah, correct. So we would've had to been, everything would've had to be prepared and ready to go for the concrete.

20

Because it's pretty expensive, isn't it, to keep contract, a concrete truck waiting?---Truck - - -

And they charge you. If you're not ready to go - - -?---That's right.

- - - they have to keep turning it in their - - -?---Barrel.

- - - barrel, thank you, and that's an extra cost that's incurred for the homeowner?---Yeah, they, they, I think they allow 20 minutes and anything over 20 minutes they start charging you per five minutes.

30

All right. So you had booked the truck?---That's right/

And you nominated the time that it should arrive?---That's right.

And what, do you recall what time that was?---It was either 10.00 or 11 o'clock.

All right?---In between that time.

40

So there was a time pressure to get the formwork down and the wire in, et cetera, so it was ready for the pour?---That's right.

And you were back for the pour?---I was back for the pour.

And when you returned from the depot, Mr O'Brien didn't perform any further duties?---He packed up and left.

And did you, were you present at any stage when Mr Romano paid Mr O'Brien?---There was no money exchanged.

In your presence?---In my presence.

And have you - - -?---I'm not aware of any money being exchanged.

All right. And so Mr O'Brien was gone by 9.00, 10.00?---Yeah, I'd say probably by about 9.00, 9.30.

10

All right. And he didn't return again during - - -?---He didn't return again. He had no need to return.

So then there's just the three of you, Steve - - -?---Ammer and myself.

And yourself. And was Mr Child there all day or did he come and go? ---No, he was there all day.

And he worked all day as well?---He worked all day as well.

20

So then the concrete truck arrived?---Yeah. The steel had arrived while I was absent.

So how was the steel paid for?---As far as I'm aware by cheque.

And was Mr, did Mr Romano provide the cheque for someone?---I think he, he left it with Steve.

And about \$100 be right for the cost of the steel?---Thereabouts, yeah.

30

So if there was a cheque for \$100 - - -?---Yeah, it was only sheet so it would've about \$100, yeah.

And then the concrete arrived, is that right?---That's correct.

And I show you this document. Have you seen this document before?---Yes, I have.

All right. And it's made out to Joe Gian. Is that you?---That's me.

40

A short version of you?---A short version because people get confused with my surname so to cut all that out I just, Joe Gian I say.

Okay. And it refers to, and that's for a concrete delivery from Concrete? ---That's right.

And do you say that this relates to Mr Romano's house?---This is what it relates to, yes.

And it has a delivery address there, that's consistent with what you recall is his address?---That's right.

Now, there's some handwriting up the top, it says Attention Kate and then a fax number?---That's right.

Is that your handwriting?---No, it's not.

10 Do you know Mr Child's handwriting?---I do and I don't, I don't recall if that's, I don't know if that's his either to tell you truth so - - -

What I'd suggest to you is that that's the fax, a Fairfax fax number and that's addressed to Kate McClymont?---That's right.

Would that be what you understand it to be?---That's correct.

20 And that at some stage this copy, this copy of the invoice at least was faxed to Ms McClymont?---If I, that's right, yeah.

You kept this, did you?---No, no. If I recall correctly during my investigation with ICAC they, I think they, I think they might have requested me to, if I could obtain a copy of this - - -

Right?--- - - - and while I was being interviewed I probably organised Concrete to send a fax so I haven't got any fax at home so I think it might have got sent to Kate and somehow Kate got it to us.

30 Right. But that's what you recall, but you didn't pay the \$499.93?---No, I did not.

And Mr Child paid for that?---Mr Romano paid for that.

But Mr, was it correct that it was Mr Child who completed the cheque, that Mr Romano wasn't there at that stage?---More than likely, yes.

Was it correct that Mr Romano went off for a while during the course of the day?---That's correct.

40 And he had some domestic duties to attend to?---If I recall his eldest son was sitting for his HSC and he had to, on that day and he had to go and drop him off for his Italian exam.

Right. And so he'd left the cheques with Mr Child to complete?---That's right.

And you didn't do that?---I didn't do that.

But the receipt was issued in your name?---Because that's who ordered it, yeah.

Yeah. Now, do you recall what time you completed the work? So after the concrete's poured you've then go to do other things to it obviously?---Yeah, you've got to work it and you've got to allow for it to go off before you can finalise it.

10 Right. And that takes a while?---That takes a while, that takes hours.

And do you sit and watch it - - -?---We do.

- - - or do you go off and do something else?---We do. We have a interesting time by sitting down and watching it.

And do you watch the grass grow at the same time? And what time do you say you left the house?---(NO AUDIBLE REPLY)

20 Approximately?---2.30, 3 o'clock.

And did you return to the house ever?---Yes, I did.

When was that?---The Monday, the following Monday.

And what did you do?---I had to strip the job - - -

And what did that mean?--- - - - and pick up all the barricades and witches hats that I'd left so no one would walk or drive into it.

30 And so you can't drive on it, what, for a few days after it's poured?---For about two days, yeah.

Right. And did you have a conversation with Mr Romano after you'd left on the Saturday and before you went back on the Monday?---I had a conversation with him before I left on the Saturday.

All right. And what was that conversation?---That we would have to come back on the Monday to strip the job and make it safe.

40 Right?---And I explained to him by removing the formwork we had cut away the grass and that would have to have been filled up with some sort of soil otherwise it'd be a hazard for people, that could trip on it or whatever.

Right. And what did he say about that?---He requested me to bring some topsoil to fill it in.

And were you to go to Bunnings to buy that?---No, I was requested to go to pick it up from the works depot.

So on Monday you were rostered to work - - -?---Yes.

- - - for Council?---Yes.

So while you were supposed to be doing something else you went back to Mr Romano's house?---No, that's not correct.

10 Right?---I went to Pat Romano's house after I'd finished work.

Oh, okay. But you took with you soil from, topsoil from the depot?
---Correct.

Anything else from the depot?---No, that's it.

But some of the formwork and stuff that was still the depots, was still there?---It was still on the job.

20 Yeah. So you went in your truck?---I went in my truck.

So you went after the end of your work day?---Yeah, unloaded, I stripped the job.

Right?---Put all the formwork aside and then unloaded the topsoil and then I loaded my truck up to take.

Okay. And how long do you estimate that would have taken you?---An hour and a half.

30 So you filled in the gap that arises once you remove the formwork?---And I also top-dressed all his lawn as he requested me.

All right. And he'd requested that on the Saturday, had he?---On the Saturday.

So how much topsoil do you estimate you'd taken from the depot?---Around about a tonne.

40 And if you'd bought that at, I'm not sure where one buys topsoil, Bunnings, how much would that have cost?---Oh, \$50, \$60.

And, and did you then return all the equipment to the depot that night?---No, the following day.

So when you turned up to work the next day - - -?---That's right.

- - - you just took it back with you, unloaded it and - - -?---That's right.

You didn't have to sign off on anything - - -?---No.

- - - because you hadn't signed it out?---Exactly.

Is that correct?---Exactly.

And nobody wanted it on the Monday it wasn't there?---No.

10 So did you ever discuss with Mr Romano the driveway again after that?---I probably did, yeah.

Well, did - - -?---As in the sense of driveway's looking good, I probably would have asked him how's the driveway looking.

I'll just show you these photographs, Mr Giangrasso. Do you recognise, sorry, the ones I've given you are very dull, black and white but the ones on the screen are - - -?---Yeah, I can see on my screen perfectly.

20 They're remarkably coloured. Have you seen them before?---I've seen - - -

I mean, sorry, is that, is that the driveway, I mean, is that the house?--- That's the house, yes.

Is that the driveway that you constructed?---That's correct.

And if you look at the second one I've handed you, that's a closer one of, you see there there's, it hits a pathway, so you see there's a, there's a sort of gutter then there's a driveway?---A layback.

30 So starting from the gutter edge, there's a gutter strip then there's the driveway?---Yeah.

And then there's a path?---The footpath, yeah.

Now, was the footpath there, you didn't do that?---Yeah, I didn't, we didn't do that.

So the bit you did is - - -?---Is from the footpath to the road.

40 Road. So you did the gutter bit - - -?---Yeah.

- - - and the bits that turn around the corner if I could call it that on each side?---The layback.

The layback?---Yes.

And then the strip in between?---That's right.

And how wide is it, is it one car width?---It's about three metres, I think.

So that's the portion that you did?---Yes.

And you didn't any on the other side of the path?---No, only on the Council side.

Thank you. If I could tender first of all the Concrete invoice.

10 ASSISTANT COMMISSIONER: That will be Exhibit 57.

#EXHIBIT 57 - CONCRITE INVOICE TO MR JOE GIAN DATED 15 SEPTEMBER 2007

MS RONALDS: And these two photos.

20 ASSISTANT COMMISSIONER: The photos will be Exhibit 58.

#EXHIBIT 58 - TWO PHOTOGRAPHS OF THE JANET STREET RESIDENCE DRIVEWAY

MS RONALDS: Now, you had lunch with Mr Romano and others on 19 October, 2007. Do you remember that?---Yes, I do.

30 And is that the only lunch you've had with Mr Romano?---Probably not.

So you could have had others?---Yes.

This was a social function, wasn't it?---The - - -

Was this a social function?---The 19th of October?

Yes?---This was a thank you for, for his driveway.

40 And where was it?---Il Buco Restaurant at, on Liverpool Road, Enfield.

And I'm not being derogative about this but was there alcohol drunk?---Yes, there was.

And did you return to work that afternoon?---No, I did not.

And were you supposed to be working for the Council that afternoon, that is, were you rostered on to work?---Yes, I was.

And Mr Romano attended that lunch?---Yes, he did.

And who else was there?---Everyone associated with the driveway, Steve Child, Ammer Issa and Shane O'Brien and myself.

And you understood did you that that was a thank you?---He had told us that he was going to take us out for lunch for a thank you.

10 And that was your only payment, if I could call lunch a payment?---Yes, that's correct.

So he didn't pay you for your day and then your extra bit?---No.

So the only payment was the form of a lunch?---Correct.

And how long did you stay at lunch?---Three or four hours.

And did Mr Romano stay all that time?---Yes, I think he did, yeah.

20 And did all five of you there were there for a few hours then?---Yes.

Excuse me for a moment. Did you ever have any conversations after you've done the work with Mr Child about whether he'd been paid or whether you were going to be paid?---Yes.

And what was the result of that conversation?---Well, we didn't receive any money.

30 But did Mr Child say anything to you that suggested that he understood you were not to be paid?---We weren't worried if we were going to get paid or not.

Why not?---He was the General Manager.

And what about Mr Issa, did you speak to him about being paid?---Yes.

Did he ask if he was being paid?---I don't know if he asked, but I said that I didn't know if he would get any money.

40 And Mr O'Brien, did you talk to him before you did the work?---Yes, I did.

About organising to come for the work?---Correct.

Did he ask about being paid?---I said to him that I didn't know if he would be paid or not.

And afterwards, did you talk to him about it again?---Yes, I did.

And was Mr O'Brien unhappy about not being paid?---Not at all.

And did he tell you anything? Did he say to you anything about that?---He was, it made him look good.

He said that to you did he?---Yeah. I don't know in the exact words, but it would be good for him if he done the job for the General Manager because that could mean ongoing work.

10 From the Council?---From the Council.

Right. And were you concerned about borrowing equipment from the Council to use for what was essentially a private job?---Yeah, I was. To a certain extent I was, yes.

Had you done that before?---No, I hadn't. And if I did, I would've filled out the appropriate forms.

20 So you've never borrowed a backhoe and damaged it in any way?---No, none whatsoever.

Had you ever borrowed other equipment and caused it damage and returned it after the - - -?---Not at all.

Just wait for me to finish. Had you ever borrowed other equipment over the weekend and returned it damaged but not told anyone about damaging it? ---No. Incorrect.

30 And in terms of removing property, like such as, sorry, permanently removing property such as the topsoil. Were you concerned about doing that?---Yes, I was.

And why were you concerned about it?---Because I was risking my job for doing it for Pat Romano.

Well, why did you do it then?---Because he's my employer and he's in charge of the whole organisation and I wouldn't go against his wishes.

40 What did you think, what did you think might happen to you if you went against his wishes?---I could lose my job.

Did he say that to you though?---No, he didn't say that.

He never threatened you did he?---No, he didn't threaten me.

He didn't say if you don't do this, you'll lose your job?---No, he did not.

No statements, anything like that were made were they?---No.

So it was just your understanding - - -?---It was my understanding.

- - - that if you didn't do it your job might be at risk?---Correct.

But that was, that was just your understanding not by anything that Mr Romano said to you?---No. He didn't convey any of those words, no.

I have nothing further, Commissioner.

10 ASSISTANT COMMISSIONER: Yes, thank you.

MS RONALDS: I note the time.

ASSISTANT COMMISSIONER: Yes. It might be a convenient time. We'll have our fifteen minute break now.

SHORT ADJOURNMENT

[11.24am]

20

ASSISTANT COMMISSIONER: Mr Giangrasso, can you come back, please.

MS RONALDS: I understand Mr Blake, I'm not sure - - -

ASSISTANT COMMISSIONER: Yes, Mr Blake?

MR BLAKE: Now, Mr Giangrasso, you were asked by counsel assisting about some complaints you made to Mr Romano and you agreed you
30 complained about pay?---Yes.

And throughout the period that you've been employed by Burwood Council, you've been employed on an award rate of pay, that's correct, isn't it?
---That's correct.

And you'd agree with me that you have received substantial amounts of overtime?---That's correct, yes.

40 And you also mentioned that you were interviewed by ICAC. When did that interview take place?---Early April some time.

That's early April last year, was it?---That's right.

Was it after the publication of the articles in the Sydney Morning Herald that counsel assisting referred to?---No, I think it might've been before.

You think it was before then, all right, but around about April - - -?---
Around about, yeah.

- - - is your, your recollection. Now, you also said that Mr Romano spoke to you about the issue of secondary employment in 2006 or 2007?---That's right.

Can you recall where that conversation took place?---Yes, I can.

Where did it take place?---It took place on Burwood Road and I think it was a Chinese festival that I was attending that day, working on that day.

10 So in connection with your duties as the team leader you were working on Burwood Road. Is that just near Burwood Park?---Yeah, well, it's on the same street, yeah.

And what did you say and what did Mr Romano say in that conversation? ---Best of my recollection all he basically stated was, "If you're doing anything just put it on paper and send it to me".

And what did you say to him?---I didn't say anything.

20 And I take it at the time you never made a note of that conversation?---No.

No. And I suggest to you that that conversation in fact never took place at all?---I suggest wrong.

All right. You've given some evidence about the driveway and I'd just like to ask you some questions about that. At the completion of the job on the Monday, you said you placed topsoil on the front area, the grass on the front area?---That's right.

30 Now, can Mr Giangrasso be shown Exhibit 58 please and I would just like to be shown the colour version before he sees them if I may. Now, Mr Giangrasso, I'd like you to look at the first of the photographs that has the, where you can see the whole of the front of the house and do you want to look at the screen or do you want to look at the photographs? Can you see it adequately on the screen?---Yeah, I can, yep.

Now, are you suggesting that as you look to the right of the driveway that the whole of the grass area was, had topsoil placed on it by you?---Just about.

40

Well, I suggest to you that evidence is wrong and the only area where topsoil was placed was in the area immediately to the, adjacent to the boundary of the driveway running from the gutter area to the footpath, just a metre or two. That was the only area that was topsoil and not the whole of the front of the grass?---That's incorrect.

Thank you. I'll return. Now, what happened at lunch on the day of 15 September when the driveway was constructed, Mr Giangrasso?---What do you mean lunch on the - - -

Well, where did you have lunch?---We had it on, on the premises, Pat Romano's premises.

And do you recall what you had for lunch?---Yes, I do. He cooked some steak and put it on some rolls for us.

10

And you had a beer as well?---I don't recall, maybe one of the other boys might've had one but I don't recall if I did have one or not.

And present were Mr Romano, who did the cooking?---No, if I recall properly, he cooked it and then he brought it out to us on the actual driveway.

And, and that was in Mr Romano's garage area, just adjacent to the garage area where the barbeque was?---Yeah.

20

And present were Mr Romano, who did the cooking?---No, if I recall properly, he cooked it and then he brought it out to us on the actual driveway.

And there was you, Mr Issa, Mr Child and Mr O'Brien, all had lunch together didn't you?---O'Brien wasn't there.

Well, I suggest to you that evidence is false. Do you agree with that?---As far as I'm aware Shane O'Brien wasn't there.

30

All right. And you can't be sure now can you whether Mr O'Brien was there or not can you?---I'm pretty positive that he wasn't there.

Now you mentioned you had a number of conversations with Mr Romano before 15 September. I want to ask you about the first of those conversations. Where did it take place?---I think it was Railway Parade, Burwood.

40

And where in Railway Parade?---On the capital works project that we were working on adjacent to the railway.

Right. Was that as you were travelling on Railway Parade from the city, you would cross Burwood Road and the capital works area was between sort of the Burwood side and going on to Strathfield. Is that right?---That's right.

Yes. And just tell me what conversation you had with Mr Romano again?

Tell me what you said and what Mr Romano said?---Well, he basically approached me.

Yes. And what was the conversation?---And we went for a walk. And he asked me to have a look at his driveway.

Yes?---He had got a quote and he thought it was excessive and he wanted if I could go around to his place and have a look and give him some sort of an idea.

10

Right. And that's your recollection of the conversation?---That's my recollection of the conversation.

And I take it you didn't make a note of that conversation?---No.

And in fact, none of the conversations that you refer to, did you make any note of did you?---I don't make notes on anything.

20

Yes. And that conversation never took place did it Mr Giangrasso?---Of course it did.

You know that it was Mr Child who organised the work on the driveway wasn't it?---No it wasn't. Mr Child might've helped organise the work on the driveway, but he approached me first and he asked me to speak to Mr Child and in the course of the day he was going to contact Mr Child.

All right. Mr Romano never spoke to you at all about organising the work for the driveway did he?---Yes, he did.

30

And you said on a number of occasions, Mr Giangrasso, that you did this work because the General Manager asked you?---That's right.

When he asked you to sign a secondary employment form, you had no difficulty ignoring what the General Manager said did you?---I think - - -

MR MCILWAIN: I object. My learned friend is pushing the witness, the conversation did take place. Now he's seeking to rely on a conversation that says it didn't take place.

40

MR BLAKE: Well, I'm going to something entirely different. An entirely different topic.

ASSISTANT COMMISSIONER: Yes, no, look I think he's entitled to put - - -

MR MCILWAIN: That conversation, 2006, 2007, 2008.

MR BLAKE: Well, look if I've confused the witness, I apologise. I withdraw the question.

ASSISTANT COMMISSIONER: No. I understood you were moving to his more general evidence. On several occasions he said he did certain things because Mr Romano was the General Manager. I think it's quite permissible to say, you know, to go on to say that you didn't put in the secondary employment form. But if you'd like to put the question again (not transcribable)

10

MR BLAKE: If there's any suggestion the question was unfair I will withdraw it and put it again so there can be no hesitation. I think it's Exhibit 56. I think you've told the Commission you received that letter from the Council from Mr Macklin?---That's right.

Yes, and you were aware that the Council was wanting you to complete a secondary employment form?---I was aware they were asking me questions in relation to secondary employment and if I had an obligation I would've filled out the form but I saw that I had no obligation so I didn't fill - - -

20

And you understood it came from Mr Macklin?---That's right.

And you assumed that if it came from Mr Macklin it would be with the approval of the General Manager?---Of course.

And when do you say you obtained the legal advice, Mr Giangrasso?
---Straight after I received this document.

Is it in writing?---It's in writing.

30

Do you have it?---I have it in my bag. I'd have to look for it but I have it.

You're in a position to produce that here today?---I'm in a position to produce that.

Yes, and have you provided that to the Commission?---I'm unaware if I have or haven't.

I would like to see that legal advice if I may.

40

ASSISTANT COMMISSIONER: Well, I mean, he's entitled to the privilege in it unless he's required to produce it by the Commission.

MR BLAKE: Well, that's why I - - -

ASSISTANT COMMISSIONER: It seems to be a fairly peripheral issue to me. What do you say, Ms Ronalds?

MS RONALDS: (Not transcribable) I don't see that it (not transcribable)

MR BLAKE: Well, I'd like to see it before I know whether it does go to anything. It's hard to say but he's saying he was relying on legal advice and I'm, in my submission, should be permitted to see it and if appropriate test that.

MR RONALDS: I'm not sure what issue this goes to that is in any way in contention.

10

ASSISTANT COMMISSIONER: No, well, I mean, he hasn't been required to produce it and I am not willing to require him to produce it unless I'm given some information about what issue it might be relevant to.

MR BLAKE: Well, it potentially, and I can't put it any higher than that, goes to his evidence that he complied with, and certainly directions of the General Manager and this would appear to be one instance where he may not have.

20

ASSISTANT COMMISSIONER: Yes, and he said he's done that on advice from the union and some legal advice but it is a secondary issue and a peripheral issue and - - -

MR BLAKE: Well, I don't know what's in the advice, whether it says that or it says something entirely different. It's impossible to test this without seeing the advice.

ASSISTANT COMMISSIONER: Yes, but to what end test? Say the advice doesn't really support the stance he took. Where does that get us?

30

MR BLAKE: Well, it would certainly go to his credit if nothing else.

ASSISTANT COMMISSIONER: Yes. Well, I mean, I think the main issues for his credit will be the evidence he gives here and the views formed about his evidence.

MR BLAKE: But, it would assist the, Commissioner, I mean, you just can't seek (not transcribable) credit that it's confined to this one area. If he's, if he is not telling the truth in other areas it, at least in my submission, it may bear upon his credit in other areas.

40

ASSISTANT COMMISSIONER: Yes, but if we were going to actually go into evidence on every peripheral issue where it might be said that you don't agree with that the witness is saying, we'll be here until Christmas.

MR BLAKE: Well, I didn't adduce the evidence, Commissioner. He gave it. He says he relied on some legal advice. I've got no idea whether that's

true or not. If it were not true, in my submission, it would bear upon his credit more generally and I just can not test that.

ASSISTANT COMMISSIONER: It might bear upon his understanding of the legal advice that he got.

MR BLAKE: Well, one can't even ask a question without knowing what it is.

10 ASSISTANT COMMISSIONER: Well, Mr McIlwaine, what have you got to say about this?

MR McILWAIN: Well, I'd have to seek specific instructions from my client but my client doesn't waive privilege. I don't have any instructions from my client that he waives privilege therefore he can only be required to produce the document by order of the Commission. And in my submission, subject, I'd have to speak to what Mr Giangrasso's attitude is. He might be happy to produce it but given there are proceedings pending between my client and his employer for which he's taken, and this issue bears great
20 relevance to that, he may well be prejudiced in those proceedings by his legal advice being disclosed in these proceedings. And given, in my submission, that it's of no relevance to the, what you have to determine, Commissioner, is namely whether or not Mr Giangrasso and these other persons attended and constructed the driveway or not or it was done in some other way and if, it's, it's totally irrelevant to the, to the proceedings. And in those circumstances, unless I have instructions to the contrary, I'd be urging the Commissioner to decline to issue any order to, for him to produce the document.

30 ASSISTANT COMMISSIONER: Yes, Mr Blake, I'm not willing to order the production of that document.

MR BLAKE: If the Commissioner pleases.

You said, Mr Giangrasso, on several occasions that you did the work on the driveway or you complied with particular instructions because the General Manager said so. Do you recall that evidence?---Yes.

40 What did you think the General Manager would do to you if you didn't comply?---Well, I'm not sure what he would do to me but I wasn't going to test the waters.

Well, the true position is, Mr Giangrasso, that you never received any such instructions from the General Manager about the driveway, did you?---Yes, I did.

The lunch at il Buco, that started at about 2 o'clock, is that correct?---No, it was between 12.30 and 1 o'clock.

Well, I suggest to you that Mr Romano arrived around about 2.00 or later that day?---I can't be sure on that but we were there about 1 o'clock, no later than 1 o'clock.

And you, I suggest, had completed your work for the day and signed off and then went to the restaurant?---No, our work never gets completed. It's an ongoing thing, especially on major projects that we take care of so I would've left my team on the job working and I went to the restaurant as requested by Pat Romano and I think we got a email, Steve got an email
10 sent to him by Vera, his secretary, to confirm that meeting.

Just pardon me, Commissioner. Would you just pardon me to, just to seek some instructions? I don't understand - - -

Mr Giangrasso, I want to ask you about the evidence you gave about the two conversations with Mr Romano following the election that you spoke about. Do you recall that evidence?---Yes.

20 The first conversation I think you placed in a Council car park near a courtyard?---That's right.

And when that conversation started Mr Romano and Mr Child were together, weren't they?---I think that Mr Child come a couple of minutes later into the conversation. He wasn't there initially with him.

Yes?---I think we started the conversation without Mr Child.

Well, I want to suggest to you that in fact Mr Child was there at the
30 beginning speaking to Mr Romano and you came along?---No, that's wrong.

And I want to suggest that during the period that Mr Child was there you didn't speak at all?---That's incorrect.

And the conversation, I suggest there was a conversation while three of you were there where Mr Child said Pat, I just wanted to let you know that we're backing you at Westpac lunch, sorry, Westfield lunch, we were backing you at the Westfield lunch?---Yes.

40 And Mr Romano said that he wasn't happy because he, that you, that's you and Mr Childs, knew about the Council's policy about talking to politicians? ---I don't recall that but I do recall that, me saying to him that we weren't there to talk against him because he had it in his mind that we were talking bad about him to this Liberal Party people which was incorrect.

And you knew at the time that there was a policy that staff shouldn't talk to politicians, didn't you?---I was aware of something like that but this

meeting happened by chance and they approached me and he wasn't a politician at that stage because he wasn't elected.

And I suggest that Mr Child said Pat, it just happened, we didn't organise the meeting?---Can you repeat that please?

Mr Child said, Pat, it just happened. We didn't organise the meeting?
---That's correct.

10 And Mr Romano said, Let's just move on, just let Joe know that we'll chalk this up to experience?---Hang on, I thought I was present at this meeting. How could he say let Joe know?

You disagree with that, do you?---Yes, yes, I do. If I was present why would he say let Joe know?

Thank you. And I suggest that you had no discussion yourself with Mr Romano on that occasion?---No, that's completely incorrect.

20 And you gave some evidence about the phone call subsequently about this topic?---Yes.

Do you recall that evidence?---Yes.

Mr Child made the phone call to Mr Romano?---Yes, on my behalf.

Yes. And he put you on the phone. Is that correct?---That's right.

30 And you said to Mr Romano Pat, I'm pissed off with you, I'm not to blame for that meeting, they just joined us?---That's right.

And Mr Romano said to you Joe, you know I was upset about this, you know what Council's policy is about talking to politicians?---I don't recall that about politicians plus they weren't politicians at the time because they weren't elected.

And you said, Yes, but. Do you recall saying something like that?---Yes, but?

40 Yes?---Not really, no.

And Mr Romano finished the conversation by interrupting you and saying, Look, let's just let this go. I said what I need to, let's move on?---He said that I showed him disrespect and he would never trust me again - - -

Yes?--- - - - and I would pay for it.

That evidence is false, Mr Giangrasso, isn't it?---That's incorrect.

Yes, nothing further at this stage, Commissioner.

ASSISTANT COMMISSIONER: Thank you.

MR BLAKE: I understand he's coming back, yes.

ASSISTANT COMMISSIONER: Yes, he will be back in another segment.
Thank you, Mr Blake. Mr McIlwaine?

10

MR McILWAINE: Just one short matter, Commissioner.

Mr Giangrasso, talking about the lunch at the Il Buco Restaurant, on that day what were your normal hours of duty?---Our normal hours were from 7.00 to 3 o'clock in the afternoon.

And you were required to attend to your duties during those, those hours - -
-?---That's right.

20 - - - unless you were on leave or something of that nature. Correct?---That's right.

But on this occasion you were made aware that there'd been a request by the General Manager that you attend the Il Buco Restaurant?---That's correct.

And you certainly, you say you arrived about 12.30. Is that correct?
---Between 12.30 and 1 o'clock.

30 And you didn't return to your employment for the rest of the afternoon?---I did not.

And Mr Romano was, was present during the lunch - - -?---That's right.

- - - and he knew that you weren't returning to your employment?---That's right.

And he knew Mr Child wasn't returning to his employment?---We had actually got, gone home and got changed. Well, I had anyway.

40 And in regard to the reasons as to why you went along with what Mr Romano you say asked you to do, Counsel assisting asked you some questions about that and you've said that there was no threat made to you at all?---No.

But the position was that Mr Romano was the General Manager of the organisation and you were, without any disrespect, a fairly low level employee. Is that correct?---That's correct.

And had you observed prior to the time that the driveway situation arose, what, anything occur to people who fell out of favour with Mr Romano?---I, yes, I had, yes.

What had you observed?---I had seen Pat dress down managers and directors in front of me before.

And these are, those are senior to you?---Much senior.

10 What level?---Works manager and director.

And did he use what might be described as colourful language to dress them down in front of you?---Very much so.

And was he, in that situation was he aggressive towards them?---Yes.

And did you have a view that if you fell out of favour with Mr Romano you would receive similar treatment?---That's correct.

20 And I think you've, you've been at Burwood Council, you've been there 19 years now, is that correct?---That's right.

And that's employment you highly value?---Absolutely.

Nothing further.

30 ASSISTANT COMMISSIONER: Yes, thank you, Mr McIlwaine. Yes, well, if there's no further applications to cross-examine you can step down, Mr Giangrasso. You will be required to return at a later time. Thank you.

THE WITNESS STOOD DOWN

[12.17pm]

MS RONALDS: I call Mr Steve Child.

MR HANLEY: Commissioner, Hanley again. May I be given leave to appear on behalf of Mr Child?

40 ASSISTANT COMMISSIONER: Yes, Mr Hanley.

MR HANLEY: He's giving his evidence under the section and he seeks a declaration.

ASSISTANT COMMISSIONER: Yes, thank you.

MR McILWAINE: Before Mr Child, sorry, before Mr Child commences, Commissioner, counsel assisting raised the matter with me about the advice.

I have instructions that my client does not, if you, Commissioner, wish to make an order that he produce it he's happy to produce it, the reason for that he doesn't wish to waive privilege generally in regard to it but he's, he's certainly got no, I wouldn't wish to be heard if, if the Commissioner wanted, ordered him to produce (not transcribable).

MS RONALDS: I'm happy to look at it over the lunch break and form a view.

10 ASSISTANT COMMISSIONER: All right. So you want me to order it produced?

MS RONALDS: Not yet, no.

ASSISTANT COMMISSIONER: All right, we'll leave it.

Mr Child, yes, it's been indicated that you wish to seek a section 38 declaration. You understand the effect of that?

20 MR CHILD: (NO AUDIBLE REPLY)

ASSISTANT COMMISSIONER: Could you speak up a bit please - - -

MR CHILD: Yes.

ASSISTANT COMMISSIONER: - - - but don't lean into the microphone, sorry to give you all these directions but if you just speak in a normal tone the microphone will pick it up. Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by this
30 witness and all documents and things produced by him during the course of today's hearing are to be regarding as having been given or produced on objection. There is no need for the witness to make objection in respect of any particular given or document or thing produced.

40 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF TODAY'S HEARING ARE TO BE REGARDING AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION. THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR GIVEN OR DOCUMENT OR THING PRODUCED.**

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

MR CHILD: The bible, please.

ASSISTANT COMMISSIONER: Thank you.

ASSISTANT COMMISSIONER: Yes, Ms Ronalds.

MS RONALDS: Mr Child, can you tell the Commission your full name?---
Stephen Gregory Child.

10 And your occupation?---Civic maintenance co-ordinator.

At?---Burwood Council.

And is it correct that you are currently not attending work on a day to day
basis?---That's correct.

And in short, and we'll return to it later, but in short why is that?---I'm
suspended from duty.

20 And you're suspended on full pay?---Yes.

And do you recall when that occurred?---17 August.

2009?---Yes.

And does that relate to a discrimination claim that was made against you?
---That's correct.

30 And prior to that did you have a period of worker's compensation leave?--
--Prior to that I was on a, I was, I was on sick leave without pay.

Sick leave without pay?---For about two and a half months. And prior to
that I was on sick leave.

Now how long have you worked at Burwood Council?---It's coming on to
seven years.

So you joined in 2003?---Yes. That's correct.

40 And what was your position when you started?---I was the team leader for
concrete.

And what's your technical training? Do you have any?---I have no
technical training.

All right. And so you had a team of concreters. Is that correct?---That's
correct.

And at some stage you were promoted?---That's correct.

And who made the decision to promote you?---There was a panel of people. I applied for the position and I won the position.

Right. Was that an external recruiter or was that an internal decision?---It was internal.

And do you remember who was on the panel?---Graham Macpherson, Peter Bryan and Chris Rudd.

10

And do you remember when that happened? When you were promoted roughly?---About 2007.

And?---Early 2007.

It's correct is it not that there had been a review by a company called Morrison Low about the depot?---That's correct.

20

And you'd contributed to that review? You were interviewed during that process?---For about five minutes.

And you'd seen the report?---That's correct.

And you knew there were a series of recommendations in that report? ---That's correct.

And you knew some of those recommendations at least affected your job? ---Minor.

30

And they made some changes to your position?---Minor changes.

And some changes were made weren't they in February, 2009?---That's correct.

And there was a change of street sweeping was removed from your jurisdiction?---Well, it wasn't actually removed at the time.

Right?---I was asked to comment about it.

40

Right?---Which I gave that comment. And at that time they weren't moved from me. But they were going to be removed as far as I was aware.

During the period February, March, April, 2009, were you concerned that your position was going to be made redundant?---Definitely not.

And did you have any concerns that your job was to change substantially and your position was to be downgraded?---Can you repeat that?

Were you concerned that there were to be substantial changes to your position and your position was going to be downgraded?---Definitely not.

Now you've made a certain range of allegations against Mr Romano?
---That's correct.

And it's been suggested that you have told lies about Mr Romano to protect your job. Now is that correct? Is that what you've done?---Definitely not.

10 So breaking it down, have you told any lies about Mr Romano?---Definitely not.

And have you told any lies in order to protect your job so that you could become in fact untouchable?---Definitely not.

And that you were concerned in early 2009 that your job was to be redundant, to be made redundant and so you were going to lose it and so you invented stories about him?---Definitely not.

20 Now how would you describe in, by mid 2007, I know it's a bit hard going back, but what your relationship with Mr Romano was?---I had a good relationship with Mr Romano.

And was it just a working relationship?---Yes.

And what did it entail?---Mr Romano would come on to our work sites, generally and direct us what to do. About going through the right protocol and we would have to do it.

30 And did that cause any problems?---Oh, definitely.

So sometimes you had plans about how to do a project and he would come and in effect countermand those and want you to do something different. Is that correct?---We never received actual plans of work, but we, we, we had directions on what we were to do. And, yes, by my director, by my works manager (not transcribable)

And who was your director?---Khaled Azir.

40 Right. So he'd tell you what he wanted done?---Yes.

And Mr Macpherson would tell you what he wanted done?---That's correct.

And who else gave you direction?---John Inglese.

Right?---The assets manager.

Right. So they'd tell you to do this particular thing this way and then you were responsible for sorting out how to do it. Is that correct?---That's basically correct.

And were you given a set budget for an undertaking of say a large project?
---Possibly.

Well, say the Railway Parade project, that was a big project during the course of 2008 wasn't it?---That's correct.

10

And what role if any did you have in designing the work schedule?---I never, I never had any role in it.

So you were just told what to do and when?---I was just told what to do.

And you were expected to achieve deadlines that others set?---There wasn't actually deadlines, but yeah, we would put in a fair days work.

20

But you understood didn't you that the Railway Parade project was meant to be finished before the election in 2008?---Definitely.

And that was conveyed to you?---Definitely.

And that was the clear date deadline?---That's correct.

And you, did you not, did a lot of overtime during the course of 2008?
---That's correct.

30

So that you could achieve that deadline?---That's correct.

And you were criticised for the amount of overtime you were doing?
---That's correct.

By Mr Macklin and others?---That's correct.

And they said on the grounds of Occupational Health & Safety, you shouldn't be working consistently those long hours?---That's correct.

40

And that was 15, 16 hours a day?---I worked 18 hours a day.

And is it not correct that you were, during the course of 2008, regularly not travelling back to your home, but staying on Council property overnight?
---That's correct.

Or you were staying in a motel?---That's correct.

And the criticisms were that you were not, that you were working too long a day?---That's correct.

And, and your overtime claims reflected the hours you were working?---To a point.

And then did you adjust that practice so that you claimed less overtime?
---That's correct.

But did you work less hours?---No.

10 So you kept working longer hours but you didn't claim some of that in overtime?---That's correct.

Sorry, just wait for me to finish the question otherwise the transcript gets muddled up. And so would you ever have claimed that you had a personal friendship with Mr Romano?---I would say it was personal.

And when do you say it became a personal friendship?---Probably after the driveway or leading up to the driveway.

20 And what was, what were the factors that you say was, made it a personal friendship?---Mr Romano would contact me directly, many times a day.

And would he come and visit you many times a day or would he telephone you?---He would telephone me, he would visit me, he would take me out for, to café's for lunch and for coffee. He'd call me into his office for coffee, into the boardroom for coffee.

30 But you were meant to be out, and I'm not being rude, but working, you were essentially an outdoor worker?---I was a working supervisor. I wore the same clothes, the same clothes as my workers. And I was expected to do work.

And that was a uniform?---That was a high visibility uniform.

With Burwood Council written on it?---That's correct.

But you had occasion did you not to go to the Council headquarters?---Quite often.

40 So there's the depot and the Council headquarters, they're separate - - -?
---They're separate, yes.

And they're some distance from each other?---Yes.

And Mr Romano's office was not at the depot was it?---No, it was at the Council Chambers.

So that if you saw, wanted to see him in his office you'd have to go to the Council Chambers?---That's correct.

And you're saying you did that from time to time?---Many occasions.

And was that on his invitation?---On both. Myself and, and his invitation.

But sometimes you'd invite yourself?---That's correct.

10 And you'd tell him you were coming?---That's correct.

You didn't just drop in unannounced?---Sometimes I did.

If you happened to be there for some other purpose?---(Not transcribable)

And what would be the purpose of popping in?---We discussed matters at hand.

20 And did that include the units and we'll get to them tomorrow but in short version?---Definitely.

And by November, on 18 November, 2008, Mr Romano described his relationship with you as being a personal friendship. Would you agree with that statement in November, 2008?---I don't think so.

So had it cooled by then?---Definitely.

30 So are you able, so I'm just quoting from him at this stage, that's what he, that's how he describes it on 18 November, 2008. And when do you, so there was a shift in the relationship, was there?---Definitely.

And when did that happen?---I can't tell you exactly but it was just before the election.

Before the election?---Yeah.

That is the September, 2008 election?---That's correct.

40 And what happened?---There was a case where one of his friends who worked underneath me made accusations about me.

All right, and who was that?---Robert Risteski.

And you say he was a friend of Mr Romano's?---- - -Definitely.

And he'd been working in the depot?---Definitely.

And he made allegations of bullying against you?---Bullying and harassment.

And you were upset about those allegations?---Very upset.

And Mr Risteski put in a workers compensation claim, didn't he?---That's correct.

10 Saying that he couldn't work because he was too stressed because you'd bullied and harassed him?---That's correct.

Is that the short version of it?---That's the short version.

I know there's certain allegations but that's the short version, isn't it? ---That's correct.

And why were you upset about that?---Well, I thought that Mr Risteski was lodging a fraudulent claim.

20 So you - - -?--- - - - and that Mr Romano was backing him.

So you didn't think he had any basis to complain about the way you treated him?---Definitely not.

So you deny that you bullied and harassed him?---Definitely.

And you think he put in a workers comp claim as a rort?---Definitely.

30 And you discussed that with Mr Romano?---Yes.

And you told him you thought there was no factual basis to Mr Risteski's claim?---Yes.

And would it be correct to say that you thought Mr Romano would support you?---Definitely.

And he didn't?---He didn't.

40 He supported Mr Risteski?---In my opinion, yes.

And did he say to you anything like, look, Steve, you're known to be a bully?---Definitely not.

There'd been complaint before about you being a bully?---There'd been complaints.

And did Mr Romano say that to you, you're a known bully and so this is just someone else complaining about you?---Definitely not, definitely not.

And had there been a number of complaints over a number of years about you being a bully?---I wouldn't say there was a number of complaints.

There was one earlier - - -?---There was no, there was never any substantiated claims.

And on reflection do you consider yourself to have been on occasion a bully in the workplace?---Definitely not.

10

Do you say that sometimes you exercised your power as a, or your authority as a supervisor and asked people to do jobs they didn't want to do?
---Definitely.

And you'd agree that you're a hard worker?---Very hard.

And you're known within the depot as being a hard worker, aren't you?---I think so.

20

And you won't tolerate people who don't work to your level, is that correct?---That's not correct.

So you do tolerate people who aren't as productive as yourself?---For sure.

But if people are consistently lazy and non-productive, you get cross with them?---I don't know if I get cross with them. I just try to help them along to do what they're paid to do.

30

Well, do you tell them that you have expectations that they'll work to a certain level?---Definitely.

And you may not say it in just quite the way I just said it then. You might say it in a slightly more robust form, is that correct?---I tell them what's black is black and what's white is white.

Is there much swearing used in the workplace in the depot?---No.

40

So it's not a workplace where the F work is thrown around regularly?---It's thrown around now and again but not regularly.

But you don't use it when you're speaking to your team?---I've used it before.

But if you're - - -?---Not as a dressing down.

No. As a way of telling someone off that they're not working as hard as you'd want them to do?---No, definitely not, definitely not.

But you do tell people on occasion that you weren't happy about their level of productivity?---I would say so. I wouldn't say it's productivity but I - - -

What would you say it was?---I'd just say it's, you know, it's just level of working, you know. It's ethical working. You're getting paid to work, you know, that's what we're there for.

And that's what you expect people to do?---For sure.

10 And you understood that was part of your job as a supervisor?---Definitely.

To make sure that people were working hard?---Make sure people were working not hard all the time but at a reasonable pace.

Pace. An appropriate level consistently?---Definitely.

And there's some days it rains or whatever and so you can't do what you planned so things can go array but otherwise you expect people to work as was properly anticipated?---Definitely.

20

Now, it's been, you've been subjected to criticism, have you not, that you weren't properly organised and you didn't organise your team very well? ---Yeah, I've heard that before.

You've heard that before. You're aware that in early 2009 that was one of the criticisms of you, wasn't it?---Yes.

That is, if you weren't there, no one knew what to do, no one in team knew what to do?---That's not correct.

30

Well, that's the criticism, isn't it?---Well - - -

And would you, was that - - -?---The criticism did start after, in the New Year of 2009.

Yes. And was that a fair criticism of you?---Definitely not.

That is, if you weren't there to tell them all what to do, they didn't know what to do?---Definitely not.

40

You had an experienced team, didn't you?---Yes.

They knew what to do?---Yes.

And there are certain jobs that have a certain approach you've got to do. If you're going to make a drive, you've got to do certain things to do it? ---That's right.

And they were experienced concreters, et cetera, and they knew what to do?---They knew what to do but were (not transcribable) the team that was with us had been with us for some years. They were capable.

Sorry?---they were capable.

Now, in the circumstances where, sorry, you're aware some articles were published in the Sydney Morning Herald on 4 April and following that?---That's correct.

10

And you were one of the persons who spoke to Ms Kate McClymont, the journalist?---That's correct.

And can you explain the circumstances in which that came about? How did you get onto her?---I, I'd been talking to some what I call anti-corruption people. They introduced me to Kate McClymont. They also told me that if you were going to make a disclosure to the ICAC you would need to take the paper along as it could possibly be swept under the table and I believe that's so.

20

And, sorry?---And I would believe that's so to a certain extent.

Are you suggesting this Commission would sweep it under the table?---No, definitely not, definitely not. These people were politically connected.

Well, this was Mr Lim and Mr Howe, wasn't it?---No, no, this was about Mr Romano who was politically connected.

30 Sorry, I misunderstood you. What you call the anti-corruption people, that was Danny Lim and Andrew Howe, wasn't it?---Yes, yes, that's correct.

There wasn't anyone else?---No.

And they set up the connection between you and Ms McClymont?---That's correct.

40 They contacted her on your behalf, told her some of the story and then you spoke to her?---I don't know if it was on my behalf but they, they introduced her to me, okay, and there was the suggestion made that this could be possibly swept under the table.

So Burwood Council might sweep it under the carpet?---That's correct.

But if it was in the Sydney Morning Herald then that would be more difficult to do?---Most definitely.

Was that essentially - - ?---That's the (not transcribable)

That was the advice given to you. Now, you met with Ms McClymont - - -
?---That's correct.

- - - on several occasions?---On several occasions.

And you gave her some documents?---That's correct.

And you told her certain things?---That's correct.

10 And they were then published essentially in the Sydney Morning Herald?
---That's correct.

And before you did that, did you approach any member of the Executive
about your concerns about Mr Romano?---Not the Executive, no.

Before going first to Ms McClymont, I know she contacted the Mayor but
before that had you made any attempt to contact the Mayor?---Definitely
not.

20 All right. Well, just going back a step. You said that your relationship with
Mr Romano started to disintegrate over the Risteski complaint about you?
---Yes.

And that was before the elections?---Yes.

And he didn't support you or act in the way you thought he should?---That's
correct.

And did you tell him that?---Yes.

30 You told him you were disappointed with him?---Very disappointed.

And you told him that?---Yes, we had several meetings.

All right, and was there any further matters that caused your relationship to
deteriorate?---Was the, after the elections, a couple of days after the
elections as Joe suggested that we, we were having a cup of coffee with a
few work colleagues and Joe and his wife and, and some of the, and Joe
Tannous and Mr Sidoti had walked into the café gloating that they'd won
40 their seat in Council and, yeah, and then they just decided to sit down.

So it wasn't prearranged?---No, definitely not.

It was just an accidental meeting?---It was just by chance. I didn't, I'd only
seen John Sidoti handing out leaflets otherwise I wouldn't have know who
he was.

And were you aware there was a policy about contact between Councillors and staff?---Yes.

And did you consider at the time, during the course of the meeting, whether you might be in breach of that policy?---Well, I wasn't sure that I was in breach of the policy anyway because I'm not sure if they were actually, because it was only a couple of days after they were, the election and I'm not sure if it was, they are actually elected Councillors already.

10 Right. But did you think about that during the course of the coffee or was that only later?---No, that's later.

And did you ever discuss that meeting with Mr Romano?---Yes, I did.

And what was that discussion about?---I copped a dressing down.

Well, that's your conclusion, that doesn't assist us. If you could just tell us what the conversation was?---I was called into Mr Romano's office just after we had a meeting with Mr Sidoti and his colleagues and I was asked
20 what are we doing there talking to the enemy. He was, he was most concerned.

Was that the words, yes, just, if I could ask you not to layer on it an editorial, just tell us what Mr Romano said, tell the Commissioner what Mr Romano said and just hold back your views about it. Do you understand what I mean? Just give us the conversation?---Mr Romano was concerned that we were disloyal to him.

And is that the words he used?---Yes.
30

And you've used a moment ago the enemy. Was that the word he used?
---Possibly not.

All right. What were the words he used then?---That we were disloyal to him by talking to the Liberal Party.

And what did you understand he meant when he said that?---Well, they, that they were the new elected people in the, as the Councillors and that they would possibly give him a hard time or get rid of him.
40

Right. And he conveyed all that to you, did he?---Yes.

And is that the only conversation, did he tell you, sorry, I'll go back. Did he tell you you were in breach of a policy?---No.

He didn't mention that to you at that first occasion?---Didn't mention it to me at all.

And did you have any further conversations about that incident?---Several conversations.

All right. And what, where was the next one? Do you remember when it was?---The next one was in his office with John Inglese, the assets manager who was also with me.

So he'd been with you at the coffee - - -?---He'd been, he was with us at the coffee shop.

10

Yeah?---Mr Romano actually wanted us to contact the Commission.

This Commission?---No, not this Commission, the Electoral Commission about what was said about him and we said we're not getting involving politically and he was quite upset.

So was it correct that in the meeting with Mr Sidoti certain things had been said about the General Manager?---Yes.

20

And they were what, derogatory of the General Manager?---Yes.

And you told him that?---Yes.

Or had someone else told him that?---No, I told him that.

So you told him what they'd said, what Sidoti had said about him?---I told him that I had quite a heated argument with Mr Tannous.

30

Right?---And I stood up him.

So you'd stood up for Mr Romano?---Yes.

And you told him all that?---Yes.

And he was upset about that?---Very upset.

And he wanted you to go to the Electoral Commission?---Yes.

40

Did he tell you why he wanted you to do that?---Because I was told that from Councillor Sidoti, Henson and Tannous that they were going to get rid of him.

Right?---And he didn't like that.

So he wanted you to report that to the Electoral - - -?---He wanted me to report that to the Electoral Commission.

But you didn't?---But we didn't.

And so did you have other conversations with Mr Romano about that conversation?---Several.

And he continued to be unhappy about it, did he?---Very unhappy.

10 Well, did you understand he wasn't happy because you'd been speaking to new Councillors or he was unhappy about what the new Councillors had said to him, said about him, sorry?---It was probably both. We'd, it was a by chance meeting. We didn't ask them to sit down, they just come and sat down and made themselves at home. You know, it was just, and they, they rattled on.

So is it correct to say that, that as at September 2008 you thought that Mr Romano was having an exaggerated response to the conversation? ---Most definitely.

20 And an exaggerated response to the fact that you'd had, you and several workers had had a coffee with recently elected or about to be elected Councillors?---That's correct.

Did you think he was blowing it all up?---Definitely.

And this caused, did it, a further deterioration in your relationship with Mr Romano?---Definitely.

Why?---Well, Mr Romano checked the security cameras on us and we found that to be an invasion of privacy.

30 How do you know that happened?---Mr Inglese told us that.

So what did he tell you?---He told us that Mr Romano had spent at least an hour and a half in the camera room looking at the cameras checking up how long we were talking to these people, these elected people.

And you accepted what Mr Inglese said?---Most definitely.

And did Mr Romano ever tell you he'd looked at the CCTV camera?---No.

40 So he didn't ever say anything to indicate that he'd seen any footage?---No.

He relied, did he not, on your understanding, on the reports from you and Mr Inglese about what had happened?---That's correct.

And did you ever speak to Mr Sidoti about it afterwards, that is, during the course of September, October 2008?---No.

And did you have other conversations with Mr Romano about that incident?

---This went on for several weeks and because Mr Inglese was the acting, the acting director because our director was on holidays and when the director came back we copped it again.

And who was the director?---Mr Khaled Azir.

And did Mr Romano report to you, report to him about your meeting with Mr Sidoti and others?---I presume so.

10 Did Mr Azir then raise it with you?---Yes.

What did he tell you?---He, he said that we weren't supporting Mr Romano and that we were being disloyal to him and we couldn't understand, you know, it was a by chance meeting.

And you, on your account, had defended Mr Romano?---Definitely.

So you didn't think you'd been disloyal?---I definitely wasn't disloyal.

20 And you thought that this was an unfair allegation?---Definitely.

And that there was no substance to it?---Definitely.

But it caused a further deterioration in your relationship with Mr Romano?
---For sure.

And by the end of 2008 would it be correct to say that the relationship had fallen over or broken down, perhaps I should say?---Well, I'd say it had broken down completely - - -

30 Right?--- - - - but, yeah, we, it was nowhere near what it used to be.

Well, by late March, early April you're speaking to a journalist from the Sydney Morning Herald. What happened after the Sidoti conversation and the subsequent events to lead you in late March, early April to go to the Sydney Morning Herald?---(NO AUDIBLE REPLY)

Were there further steps along the way?---Definitely.

40 What were they?---We'd just, we, I'd been given my position in January.

That was the position of supervisor?---Yes.

When - - -?---I, I already had that position - - -

Yeah?--- - - - but I just, it was basically a name change.

Right?---That was on, I think on the 20th or 21st.

Of January 2009?---Of January 2009.

Yeah?---We'd, we'd delivered what we promised, which was a \$250,000 restoration at the end of January.

10 And you were proud of that achievement?---Definitely. It was really \$350,000 worth but it was, because we'd already been prepaid 100,000 or close to 100,000 of it, I think it was about \$97,000 worth and we'd already put that in, into the time before but we actually completed that job as a two-part job.

Right?---And I was very proud of it because it was over a Christmas period and you've got less staff and - - -

20 It's hot?---It was very hot and my boys, my team stood up in 40-odd degree heat where they were told that they didn't have to work and we'd already ordered a large amount of road mix or hot mix as we would call it, to do a deep lift and it was quite a substantial amount of money, probably \$5,000 worth if not more and my boys chose to keep doing the work.

So they had to keep going on a very hot day because you'd already pre-ordered the material?---Well, they didn't have to. They had the choice.

Right. But they - - -?---And HR rang me, they had the choice, but I'd already ordered the mix. And the mix was on its way and I gave them the option and they were more than willing to do what was required.

30 Right. So you thought that you'd made a significant contribution to the Council's development programme?---Definitely.

And so how did that cause a further rift with Mr Romano?---Well, that was fine. I received a, an email from Mr Azir on 2 February, saying what a wonderful, well what a wonderful team we had and this is due to your dedication. And then a couple of days later it changed.

And it changed didn't it about overtime payment? Is that correct?---Not at all.

40 No. How did it change?---It changed because Mr Saad made an accusation or a statement to certain people of the Council.

And he accused you of bullying?---No.

What did he accuse you of?---He accused myself and Joe Giangrosso, we were working on a property that belonged to possibly the General Manager or the architect.

Right. And that's the work on the Edwin Street properties?---That's correct.

And you had been doing some work on them?---That's correct.

And you'd been doing it during working hours?---That's correct.

10 And we'll return in detail to that tomorrow. I'm just trying to get the chronology right. So Mr Saad made a complaint that he'd gone and worked on the properties as well. Is that right?---Mr Saad, I'm not sure what his complaint was. But Mr Saad never worked on the properties during Council time.

Right. So he made a complaint and you became aware of that?---That's correct.

20 And how did that cause a further deterioration in your relationship with Mr Romano?---Mr Romano rang me late at night. I was in bed. Well, I call it late at night because I was in bed early. Well, I was going to bed early, possibly 9.30, 10 o'clock.

So he rang you on your mobile?---My, my work mobile.

Did he tell you where he was at the time?---No. But he did tell me that he'd just got off the phone from the Director, Khaled Azir, he had a heated, heated moment with Khaled Azir and he was very disturbed that we possibly could be involved with Joe Saad, the person who made the accusation.

30 All right. And what, what was the purpose of his call as you understood it? Did he ask you to do something?---Oh, he, he asked me, well he told me that Joe Saad had made a statement to certain people (not transcribable) Council and that, that we possibly could be involved in it and, yeah, he was very upset and just attacking me. He accused me of having something to do with that.

And what, what was his language like?---Oh, he was swearing and carrying on. He was shouting, screaming, yelling. It was that bad my wife had to get up and leave, and leave the bedroom and go downstairs.

40 And what was the purpose of his conversation? Did he want you to do something?---Oh, he wanted me to work out a way to get rid of Mr Saad.

And that's what he understood you were telling him to do, he was telling you to do, sorry?---Yeah, definitely.

So he wanted Mr Saad removed from the workplace?---Yes. He was only a casual worker.

Right. And was that because Mr Saad had made a complaint about the units?---He made a complaint against, yeah, certain people.

Right. And you were one of the people?---Yes, that I've worked on (not transcribable)

That you'd worked on - - -?---That I'd worked on their units.

10 Right. And what did you do after this phone call?---I spoke to my wife.

Right?---Told her what was happening.

So you told her it was Mr Romano on the phone?---Oh, I would say that she knew it was Mr Romano because I addressed him as Pat.

And you gave as good as you go didn't you?---Oh, definitely.

You swore back at him?---Definitely.

20 And you told him a few - - -?---A few known truths, yeah.

That you had and, sorry - - -?---I'd been trying to contact Mr Romano (not transcribable) he hadn't been in contact with me and when he rang me he screamed and yelled and I just let him have it.

So you'd been trying to contact him for some weeks and he hadn't been returning your calls?---Yes.

30 And you also used to send him texts, is that correct?---I used to send him text?

Text messages?---No, not really. I was mainly, it was, would've been a call and I - - -

And emails, did you send him emails?---Definitely.

And so you'd been trying to contact him through those ways?---Yep.

Had you been to see him?---Mr Romano?

40 Mmm?---I tried to see him.

But you hadn't been able to see him?---Hadn't been able to see him.

And he hadn't returned your calls - - -?---No.

- - - for several weeks?---Yes.

And then suddenly he rings you when he's got something to say to you?
---Yep.

And you expressed a negative view about this sequence of events, is that correct?---Yes. I told Mr Romano that, because somebody had made a statement about you then I all of a sudden you want me to help you, and I was, you know, you wouldn't, you want me to take care, care of it and you didn't, you wouldn't even accept any calls from me.

10 And did he tell you why he hadn't been taking your calls?---At the time I, I'm unsure about that.

Say you had a fairly robust exchange?---Yes.

And then what happened the next day?---I was to catch up with him the next day.

All right?---And we had a, I had happened to be in the Council chambers and we caught up.

20

And did you have a further robust exchange or had things calmed down by then?---Yeah. He, he directed me into a stairwell. It was, I thought we were going into the lunch room but it was in, yeah, the kitchen at the chambers but he directed me into a stairwell and we, yeah, we had a few more words exchanged, yeah.

30 What did you say? What did he say to you?---He, he was trying to work out a, a way on how to get rid of Mr Saad. Yeah, we talked about what had happened. I told him that Mr Saad had not worked on the property during Council time. He, he then proceeded to tell me that everything was going to be all right and Mr Ian Dencker or the Director Ian Dencker was going to take care of it.

And you understood that to mean what?---That basically I'd never hear about it again.

And is that what happened?---No.

40 No. Sorry, that was a stupid question since we're here. And was Mr Saad removed from the workplace?---Not while I was there.

And what was the last day you were at work?---I'd say on 20 April or 21 April, around then.

So you went, you were off for a period before the Sydney Morning Herald articles, is that correct?---I, I'd taken some sick leave. A couple of days here and there.

And then you returned to work?---I returned to work.

And then you went off on 20 April?---Yes.

So why did you go to the Sydney Morning Herald?---Well, in my talks with the - - -

I mean you've told us you were concerned about it being swept under the carpet at Burwood Council?---Yes.

10

Was there any other reason why you went - - -?---Oh, that we couldn't trust, there was no way we could trust anybody from Council, 'cause they'd go running to him. And that was proven.

So you thought that if you spoke to anyone, what a member of the executive - - -?---Oh, definitely.

- - - or Mr Macklin, he's not a member of the executive, but someone else? ---He's not? Well, I don't believe it.

20

Right. Okay. But you thought if you spoke to a member of the executive or Mr Macklin or someone, they'd just go and tell Mr Romano?---Definitely.

And was that view reinforced by the fact of what had happened about Mr Saad?---Definitely.

So you thought you had no choice. Is that correct?---Definitely.

30

Now, the journalist at the Sydney Morning Herald endeavoured to set up a position for you to speak with the Mayor, Ms Furneaux-Cook. Is that correct?---That's correct.

And why didn't you just pick up the phone and call the Mayor yourself? ---Because I knew I wasn't allowed to speak to the Mayor.

Well, who told, how do you know that?---I'd been previously warned and said that I would be disciplined if I made contact with the Mayor.

40

Right. And that was an email from Mr Macklin wasn't it?---Yes.

And he told you that you are not allowed to go to the Mayor?---He told me that if I went to the Mayor or any councillors, that I would be disciplined. And I received an email.

You've got it, and there's an email to that effect?---Yep.

And I note the time, Commission. Perhaps we could return to the email after lunch.

ASSISTANT COMMISSIONER: Yes. Yes, we'll adjourn until 2 o'clock.
Thank you.

LUNCHEON ADJOURNMENT

[1.00PM]