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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 31 MARCH, 2010

AT 2.05PM

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<MANUEL ALBERTO BECERRA, on former oath [2.06pm]

MS RONALDS: You and Mr Romano looked into a car specker business or business doing some sort of car parking mechanisms?---We did look at that as part of the development application in order to get cars into that site at Edwin Street that I referred to before, when we were looking at the DA.

10 The first property?---The first property, yes.

It wasn't importing them or anything like that?---Sorry? I beg your pardon?

Importing them or anything like that?---No, no. We were looking at seeing a method of getting the required number of cars that Council needed on the site.

20 And in terms of the 187 Edwin Street, you set up a structure whereby, I'm just trying to do it in short form, if that's not possible, just let me know. Whereby, as I understand it, the wives of the three of you were the legal holders and Mr Fasanella, Mr Romano and you were the beneficial owners. Do you agree?---No, we're not beneficial owners, the company is structured that there's three directors.

Right?---And shareholders, which are, as you referred to it, our wives.

Yes?---And that's the company structure.

30 So do you say you have no legal interest in the property?---Not legally, but I am obviously married to one of the directors of the company and shareholder of the company.

And you are a shareholder are you not of the holding company?---I have an interest in the holding company.

And you're a beneficial owner, would you agree, of the property?---No, I'm not a direct beneficiary of the company.

40 (not transcribable) but he's not a lawyer. We could be here for hours without him. I don't think it's worth it.

ASSISTANT COMMISSIONER: You have an indirect beneficial interest (not transcribable)?---I'm married to one of the directors. Sorry? Pardon?

In the company, would you consider you have an indirect beneficial interest?---Yes, because I'm married to one of the directors and shareholder of the company.

Well, yes, but beyond that, well, anyway, we (not transcribable)

MS RONALDS: Is there a property trust that holds it?---There is a property trust that holds it, yes.

And aren't you in some way part of the property trust?---I have interest in a company that holds shares in that property trust. I'm not a director of Befaro Pty Limited.

10 I know that. What I'm saying to you is that you have a direct personal beneficial interest because of the way it is structured. Would you agree?
---No, I don't agree.

There's a superannuation fund involved. Is that your family superannuation fund?---It's not a family one, it comprises of my superannuation and my wife's superannuation fund. They're separate entities.

Right. And that is involved in some way in the legal structure of Befaro isn't it?---It is part of the Befaro structure.

20 I suggest to you from January, 2008, during the course of 2008, you were aware that on occasion staff employed by Burwood Council were working on the properties at 187 Edwin Street. Do you agree?---Burwood staff from Burwood Council working at Edwin Street.

So you agree?---I do agree with it, but I was informed that they were, they'd be working after hours and not as part - - -

If you could just listen to the question?---I do agree with you, senior
30 counsel.

We'll get there eventually. So you agree that you knew they were staff and you knew that at the time?---Yes, I did know that they were staff from Burwood Council.

And I'd suggest to you that you knew at the time that there were Burwood Council staff working on the property during the time they were employed by the Council to work on their Council duties. Would you agree?---No, I don't agree with that, senior counsel.

40 Now you saw Council staff there on occasion?---Yes, I did.

And we're talking about that same period, so I don't have to keep repeating the period?---Yes. No, I appreciate that.

You know the period I'm referring to. And when do you say you first saw a member of staff present on the property?---Doing work on the property or meeting with them to discuss it?

Well, meeting first of all?---I met Mr Child on the property early in January.

And you did that during the working day?---The working day, yes, in the middle of the day, yes.

And you were aware when you met with Mr Child that he was a Burwood Council employee?--- Yes, I am aware, yes.

10 And you were aware that it was during the normal Burwood Council depot employees working hours. Would you agree?---I don't know what their working hours at the depot, but I've heard through the transcripts that they work from 7.00 til 3.00, so I presume that was in working hours. But they also did, as I was told, night work.

Right?---Or shift work.

20 Now, I don't want to get into your working hours. They're a matter we'll explore at some length tomorrow, but yours were flexible, so it's possible you were not being paid by Burwood Council the time you were there?---I had some degree of flexibility in my arrangement with Burwood Council. So, yes, I would say, yes, that's correct what you asked.

And, so I suggest to you that you firstly met Joe Giangrasso at the property. Would you agree? Sorry, you drove him there one day?---No, senior counsel, I did not drive Mr Joe Grasso there.

Well, you had no reason for your duties at Burwood Council to speak to Mr Giangrasso on the telephone did you?---Not directly, no.

30 And I suggest to you that you spoke to him on five separate occasions in January, 2008. Would you agree?---Yes, I would.

And you did that related entirely to the units. Would you agree?---Yes, I do.

40 And that those conversations came out of you meeting him at the property and discussing what was about to happen at the property?---No, senior counsel. I was given Mr Giangrasso's number to contact him because he had a tradesman that could help complete the works at unit 3 and 6. So I did try and contact him on several occasions to arrange for the name or the person, the tradesman that he had.

All right. We'll (not transcribable) that a moment?---Sure.

You were given his mobile phone number. Who by?---Mr Romano.

And Mr Romano told you he worked with Council did he?---Yes, he did.

So you knew when you first telephoned him that he was a Council employee?---Yes, I did.

If the witness could be shown Exhibit 71. Now just so you understand these, and I'll be showing you over the course of the next few days a number of phone records. You understand that, well, just so you understand, this is a summary from your phone records?---Yes, it is. That's my mobile, my personal mobile number, yes.

10 Yes. And that's the number up the top. That's your personal mobile?
---That's correct.

And you understand that the Commission holds your full phone records?
---Yes.

And that they have been gone through and relevant numbers have been pulled out for relevant points. All right?---Yes.

20 And so this is a document that's been created for the purpose of this inquiry and it just records in January, 2008, the phone calls that you had with Mr Giangrasso?---That's correct.

And you don't deny that these are the phone calls that you made?---No, I don't.

And that you called him, as I've said, on those five occasions. And some of them are quite short and some of them are a bit longer?---That's correct.

30 And some of them are during what would be the normal Council working day?---Yes, it is.

And did that concern you, that you were calling him about matters relating to the unit during time when you knew he was working for the Council?
---I was trying to contact Mr Giangrasso because I was trying to get the name of the tradesmen that he had for the completion of units 3 and 4 and I do make several calls during the day as I said from, where (not transcribable) from 8 o'clock till yeah, 4 o'clock in the afternoon, 4.30 in the afternoon yes, at various times.

40 All right. Now, I'll just ask you to listen to the - - -?---Sure, I beg - - -

Did it concern you at the time that you were making these calls that you were calling him during time you knew he was working for Burwood Council?---Didn't concern me but I was trying to contact him, yes.

Did it cross your mind that you were calling him about a matter unrelated to his Burwood Council work duties during the time he was working for the Council?---No, I didn't concern it an issue.

It didn't cross your mind?---No, 'cause I had reasonable amount of flexible time and, as I said to you, so I'd try to contact him when I could.

But Mr Giangrasso wasn't in your luxurious position, was he? He was a much further down the tree depot employee, without meaning no disrespect to him?---I don't disrespect people's position. You're saying that I disrespected his position, sorry, I'm being - - -

10 No. What I'm saying to you, you might've had flexible time but he didn't?--I'm not aware - - -

(Not transcribable) during his working hours, did it concern you at the time you were making the calls that you were interrupting him doing his Burwood Council work to talk to him about something that was unrelated to Burwood Council?---I didn't consider that at the time.

Thank you. Now, so you say that you didn't drive him there, is that correct?---That's correct, senior counsel.
20

Did you ever meet with him there?---No, I, I didn't meet with him to discuss he first batch of units. I did meet Mr Giangrasso some time alter on the weekend when he was doing some work at the units, yes.

And I think you said that you met with Child there?---Yes, I did meet Mr Child there.

And you were present, weren't you, with Mr Child and Mr Romano when Mr Child drew up a list?---Yes. There was a list made of outstanding issues to complete units 3 and 6.
30

All right. And that's what we call, what's been called sort of stage 1 or tranche 1 of the renovations?---If you want, yes, if you refer tranche 1, yes.

Could the witness be shown Exhibit 75?

Now, this list relates, does it not, to that first tranche?---Yes it does, 'cause it's get a particular reference to something that was done, the self-levelling of the concrete.
40

So you agree the concrete was self-levelled at some stage?---Yes, it was, senior counsel.

What unit do you say self-levelling occurred in?---Definitely unit 6, senior counsel, it's the top unit of that block.

Thank you. And see your phone numbers up there? Well, that's you, isn't it?---Yes, it is, that's my - - -

Albert, that's you?---That's me.

And that accords with the mobile phone number on the top of the list I've just referred you to?---Yes, it does.

And you gave Mr Child you phone number during the course of this meeting?---Yes, I did.

10 Because he had no reason to have had it previously, did he?---No, although it's on Council records. I, I, I gave it to him, yes.

And did you provide Mr Child with a set of keys?---Yes, I did. I'd cut a set of keys for Mr, not, sorry, I organised for a set of keys to be cut and gave it to Mr Child.

Did you do it at that meeting or did you do it later?---No, I did it some time later. I can't recall but some time later.

20 And you did that because you understood he needed access to the property because of the work he was doing on the property?---At, yes, I did.

And do you recall when you gave him that set of keys?---Not exactly, senior counsel, but I did give him a set of keys.

And you saw Mr Giangrasso working there?---I did see Mr Giangrasso working there some time later but it was to do with a second batch of units that you referred to, or the third unit that was refurbished.

30 And you saw him at a weekend?---Yes, I did him at a weekend.

You're aware though that Mr Child used to go on occasion to the property during the working week?---He did call me to tell me that he was on site, yes.

And he was letting in tradesmen and was organising tradesmen?---I believe he was organising tradesmen, yes.

40 And he would call you during the working day?---Yes, he would, Senior Counsel.

And did that concern you that he was - during the working day when he's being paid for Burwood Council he was working on your property?---It did because one of the arrangements was he was going to get people to do the work after hours or he said he had mates that could do the work after hours so I assumed that those mates would come and look at the project after hours.

Were you ever present when Mr Romano said that it was okay or whatever for people to work during the day, during their paid time at Burwood Council to work on the property?---No, I did not, Senior Counsel.

And did you ever have discussions with Mr Romano about the fact that people seemed to be there during the day, during the time?---When I went to the units?

10 Yeah?---When I went to the units? I did see Mr Child there but not too many of the other people that you referred to there doing work during Council hours.

Well, did you ever see anyone else during Council hours working there? ---Not working there, no. I did see them during Council hours when I had meetings with Steve Child.

And who did you see then?---On one occasion I saw Omar. Ammer, sorry.

20 Mr Issa?---Mr Issa, beg your pardon. I did see Mr Joe Saad there on occasion that I can recall, yes.

And did it concern you that you knew they were there while they were being paid by Burwood Council?---I did question Mr Child and asked him what these people are doing there and he did say to me that they were with him. He didn't elaborate on any other, I didn't know they were doing the work.

And did he say to you that Mr Romano had said it was okay?---No, he did not say that.

30 Did you discuss it with Mr Romano?---I raised the issue and I saw Ammer there. I did raise it with Mr Romano, said I saw someone other than Mr Child, Ammer, at the units so I did raise that with him.

And what did Mr Romano say to you?---That he would take it up with Steve Child.

40 And it's correct isn't it that whatever the legal structure of the wives if I can call them that that it is you, Mr Fasanella and Mr Romano who actually did all the work on the units, I mean not physically but you did all the organisational work?---I did do a fair bit of organising on the units, yes.

And your wife, meaning no disrespect to her, but your wife didn't play any active role in the renovations of the units?---Not physically, no, but she did do a lot of work in the background.

Right. Because in the email exchange she doesn't seem except on one occasion to be included in any of the emails between you, Mr Fasanella and

Mr Romano about organising this, that and the other?---A lot of the emails is from our home email.

Yes, one is but that's the only one I think?---There's several, yep. There is emails that we'd track.

But she doesn't seem to be involved in the decision-making about whatever?---No, we do have records which show that there was Befaro meetings - - -

10

And you were, you three were appointed as the agents?---Yes, there was.

And so the three of you were the active organisers of the renovations?---Yes, I would say that, yes.

And do you say that you did any physical work yourself there?---No, I did not.

20

And were you aware whether Mr Romano did any physical labour himself there?---Yes, I was aware that he did.

And he did some cleaning up at some stage?---On a weekend that I did not attend the units he did some cleaning up of the units because we were not satisfied with the cleaning that was done by the leasing agent.

And by mid-2008 how would you describe your relationship with Mr Romano?---It's good.

30

Was it volatile at times?---I had discussions with regard to my other role in the civic precinct project which, I wouldn't say volatile but I wouldn't say that (not transcribable) a lot of things, it's part of the, my design may not have satisfied what he was after so we had, I think it's called robust discussions.

And in terms of the units there were robust discussions between you weren't there about the length of time it took for the first two to be renovated?---There was because it went over the Christmas period which is a very hard to get tradesmen to do any work between that late December early January period.

40

It was correct wasn't it that you were all concerned about the length of time because it meant they were empty and they weren't tenanted?---We were concerned that they weren't tenanted.

Therefore there was no rent coming in?---That's right.

And that was a concern wasn't it because you had a substantial mortgage to meet?---We had a substantial mortgage where we managed to put in funds to make sure that we can meet our mortgage commitments.

I'm aware of that but I'm just asking you isn't it correct that the property cost 1.26 mill?---That's correct.

And you borrowed 1.008 mill. Is that correct?---That's correct.

10 From the St George Bank?---That's correct.

And so there was a substantial mortgage on the property?---That's right.

And you had to meet payments?---Yes.

And the longer that the units were unoccupied then the less rental income coming in?---Yes, Senior Counsel, there was plans that when we undertook the renovation work we had a plan on how much it would cost which we were funded and also we looked at a contingency or how it would go should
20 it not meet our optimistic timeframe that we had to renovate the units. So we did have a contingency to fund.

But it's correct isn't it that you were concerned about the length of time that it took to do the first unit?---Yes, I was because I didn't think it would take that long to go - - -

And part of your concern was the lack of rent coming in to pay the mortgage?---That's part of the overall package, yes.

30 And there was a call wasn't there on funds on various occasions when you had to put in some more funds?---That's correct.

\$10,000 from all three families - - -?---That's correct.

To meet the contingencies that had arisen because of the delay in renovating the units?---Yes, that's correct.

So that speed and getting it done as quickly as possible once you'd reached January 2008 was an important factor for you all wasn't it?---It was because
40 there was concern that Christmas would then delay the project further.

By the time you got to January 2008 Christmas had delayed it hadn't it?
---Yes, it did.

And it would be correct would it not that both you and Mr Romano conveyed to those who were working there you want it done as quickly as possible?---I did not say that to any of the workers that did the work there, no, I'm sorry, Senior Counsel.

You discussed that with Mr Child?---No, I did not discuss the timing issues with Mr Child.

Were you present when Mr Romano had discussions with Mr Child about timing issues?---No, I was not, Senior Counsel.

Were you present during any meetings with Mr Child and Mr Romano?
---Yes, I was.

10

Right. And how many?---A few. I can't recall the exact number, there were quite a few.

Well, doing the best you can are we in the tens, twenties, fifties?---No, not ten or twenties but under ten.

Under ten?---Yeah. We met them initially (not transcribable) to discuss the project and what had to be done to complete the units 3 and 6.

20

And Mr Romano made it clear didn't he that he wanted it done as quickly as possible?---Not in my presence, he said we had to get the work done and we were looking for a tradesman that could complete the work. The units were substantially complete, it was not (not transcribable) but it was fiddly work that had to be carried out and we had to get a tradesman, it was very difficult to get a tradesman come and do some of that fiddly work.

Until the fiddly work was done they couldn't be occupied?---No, that's correct. Although I've got to say that the agent did take photographs of the units prior to being complete for marketing purposes.

30

You were upset about that?---No, I wasn't.

Really?---No, because they had to be leased.

All right. We'll return to some of your emails in a moment that may refresh your memory. Now, the two that were finished were then completed and when do you say the tenants moved in?---Late March, early April, around that time.

40

And then you said about doing one more unit?---There was discussions to wait for a little bit and then do the next unit which is known as unit number 2.

Right. Now, in terms of the first lot you're aware that John Vadala did some work?---Yes, I was.

And you knew at the time that he was a carpenter who worked for the Council?---Yes, I was.

And you paid him some money didn't you?---Yes, I did.

And do you recall how much?---I paid him in the first instance \$800 because the work was not complete.

Right. And did you pay him some further money at another time?---Yes, I did. He said there was additional work that had to be done which is true and I paid him an additional \$200.

10

And did you give him that money direct or did you give it to someone else to give to him?---No, on both occasions I gave the money direct to John Vadala.

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

And you've been here in the last couple of days have you?---Yes, I have. Yeah, last two days, yes.

20 Sorry?---Yes, yesterday and today.

So did you ever give Mr Issa any money for doing work on the property?
---No, I did not.

And you've heard his evidence that he did some work during Council time?
---After I heard the evidence from yesterday, yes, I'm now aware that he did do some work on the units.

30 And is that, do you say that's the first time you became aware of that?---
Yes, because when I did see Mr Issa at the units is with the company of Mr Child and I asked him what he was doing there and he said he was just with Mr Child.

And that's later then?---Yes, it was.

From his evidence, - - -?---Yes, it was.

- - - (not transcribable) his evidence that that was at a later time - - -?---
That's right.

40

- - - when he was injured?---I didn't know, sorry, didn't know he was injured but yes, it was a later time, yes.

So he's given evidence of doing some work in February and March and it would be correct, would it not, that the work he's described, that was work that was done in February and March, 2008?

---Yes, it was work that was done.

And you were present, I mean, you don't want me to repeat it all do you?---
No, no, no. I appreciate what you're saying.

Carpentry things that happened?---Skirtings.

Yes. And those other things that he ran through this morning?---That's correct.

10 That was work that was done at that time wasn't it?---Yes, it was.

And if he said he did it, you wouldn't doubt that?---No, I wouldn't have any doubt what he said.

But you didn't, did you, it's your evidence is it that you didn't know he did it during Council time?---It is my evidence that I didn't know he did it during Council time.

20 And if you'd know that at the time what would you have done?---I would've raised my concern because that wasn't the arrangement I had with Mr Child or that I got the idea that Mr Child was arranging tradesmen to do the work, not Council workers to do the work.

Now Mr Giangrasso, you knew he did some work on the property?---No. But he did some work cleaning up of the property, yes. The tipping and, tipping and cleaning.

And you paid him some cash?---I did not pay Mr Giangrasso cash money.

30 You say you didn't?---No, I did not.

In February, 2008, did you pay him \$400?---No, I did not.

Are you sure about that?---Yes.

And in terms of the self-levelling concrete, are you aware that Mr Giangrasso attended to that duty?---I wasn't aware that he'd attended to that duty. But the work of self-levelling was done.

40 Was done?---Yes, it was done.

And two people have given evidence said, if it was done you wouldn't doubt that they did it?---I don't doubt that they did it.

And it was done and then the carpet was put on over the top of it. Is that right?---Yes, it was put up after the self-levelling concrete set. It was carpet (not transcribable) put on it.

And you agree with their evidence that that was in unit 6?---Yes, it was.

Thank you. And are you aware that Ms Helen Cet cleaned up the units at one stage?---Not until I read the transcript and I didn't know that she cleaned the units, no.

And were you aware that Mr Barry Webb used the Council backhoe to dig up the front, sorry, the strip on the side to create a garden?---No, I didn't know Barry Webb did the work. But the work was done.

10 The work was done. You don't doubt that?---Definitely. But, no, I don't doubt that, but I didn't know that Barry Webb did the work.

And Mr Webb, in a statement that will be tendered in a while said that he did it and he did it during Council working hours and using Council equipment. You would have no reason to doubt that would you?---No, I'm not going to question him about that, I don't doubt what he said.

But, and the work was certainly done?---The work was done.

20 And you wanted it converted from what it was into a garden?---There was a discussion we all had that the units didn't look very attractive and we needed to clean up the grass area and create some landscaped area on it, yes.

And you went there at some stage and bingo, there it was excavated?---Yes, because I didn't instruct that, I didn't, I wasn't involved in that, so - - -

And that was Mr Romano's task was it to do that?---Yes, it was.

30 Now, Mr Child's given some evidence that he described himself as a project manager for the second one?---Ah hmm.

Do you agree with that title?---Project manager, no, he's, my understanding was that he was given a task of finding some tradesmen to carry out the scope of work that I identified with him.

So you worked with him on that?---Yes. We put, the same way, we did a list - - -

40 That's not the list I showed you earlier?---No, it isn't. No, it wasn't.

And the bottom half of the list doesn't relate to the second unit does it? ---No. Well, the only reason I say that is because it's got the reference to self-levelling as part of the scope of work here. And that was specific to unit 6.

Right?---Some of the other things that you said about the two windows, yes, yeah, that's right. But that's all related to the first two units.

That's right. So there's another list somewhere that you and Mr Child met about and, and you met at the property and drew up the second list?---Yes. We did meet at the property and discussed all the scope of work that had to be done, yes.

And I mean you were aware were you not that emails were being exchanged, including Mr Child?---Yes, I was aware.

10 And have you had access to the bundle of emails that were tendered yesterday?---Not all of them. Seen some of them, I've got some of my own, that I copied.

Right. But, there were exchanges of emails between Mr Romano and Mr Child and you were included in some of those?---Yes, I was.

You didn't have any doubt that he was off organising tradesmen?---No. That was what we had an arrangement for him to do, to organise tradesmen.

20 And you never paid Mr Child did you?---No. I offered to pay Mr Child and he - - -

To Mr Child or to Mr Romano?---No. To Mr Child in front of, in the presence of Mr Fasanella.

Right?---I did offer to pay him for all the work that he was doing.

And what did he say?---He said, don't worry about it.

30 Right?---From what I can recall, he said, don't worry about it.

And you've heard the evidence of Mr Saad, that he'd been there to do some work?---Mmm. Yes, I was here when he gave evidence.

And you seem to be somewhat rueful about that? Is, did - - ?---No, no. I didn't know that he was doing the work during Council hours or when he did any work, I did see him one time when I went to the units, unit 2, specifically.

40 Ah hmm?---And I did see him there and I did ask Steve Child what he was doing there. And he said that he was with Steve.

Right. So again you don't doubt that the work he described was work being done wasn't it?---That's correct.

And it was work that was done?---Yes, it was done.

And Mr Child in March, 2008 worked on creating a garden in one part of the property. Is that correct?---I don't know if he did, but the garden, as you said, I wasn't involved with it, but the garden was done.

So just so I understand your evidence. You would go there, things would magically have occurred. Is that right?---Well, I wouldn't go everyday, so over a period of time I might go and visit the site and the job was (not transcribable) described the garden, was done.

10 And did you discuss with Mr Romano and Mr Fasanella who'd done it and how come it happened?---Yes, I did ask who had done the job and Mr Romano said that Steve Child had organised it.

So was it, would it be correct, so I can understand the allocation of duties, that for this work during the course of 2008, that Mr Romano was the principal organiser?---Well, part of it, because (not transcribable) the first two units. Mr Fasanella and I started the project, commissioned all the trades. The Christmas period came about and that was the issue that we discussed before about not getting the tradesmen down.

20

Right?---So Pat Romano said that he could help.

Well, Mr Romano was annoyed wasn't he about the delay?---We were all annoyed about how long it was taking to do. A simple task of renovating a unit, yes.

And, so then he became a more active participant in the organisation did he?---He did. I, as I said to you, trying to get, complete the project and getting the other tradesmen that we needed to complete the project.

30

If the witness could be shown Exhibit 78. Now this is an exchange of emails and don't go through them all one by one. But if you just look through them and you'll see there's some page numbers down the bottom? ---Yes.

You see if you go to page 3?---Yes.

See, there's one from you, 10 June, 9.45am. Now you're using (not transcribable) in your Burwood Council email. Is that correct?---That's correct.

40

And you'd agree with me that the renovation of the unit had nothing to do with Burwood Council?---That's correct.

And you had a private email address at the time?---Yes, I did.

But you weren't using that. Substantially you were using Burwood Council's email?---In this case, yes, I did.

Well, pretty convincingly all the way through - - -?---Yep.

- - - (not transcribable) Mr Becerra, I don't want to mislead you, there's a couple from your private - - -?---Yes.

- - - but basically they come from your work at Burwood Council email address?---Yes, it is.

10 Were you familiar with the Burwood Council email policy?---Not at that time. But I have subsequently been given some information as regard to that with my new contracts.

All right?---And it does permit a certain degree of private use.

Infrequent, I think the word is?---Yes, infrequent, yes.

And I suggest you used it frequently. Would you agree?---And numerous times I responded to emails that came to me, yes, frequently.

20

Now, you see, you sent Mr Romano some information in that one and then he sent it on to Steve. That wouldn't surprise you would it? That was a flow of information you would've understood was happening?---Yes, correct.

And if I could ask you then to turn to page 5. You'll see that you're included on that email up the top, so Mr Romano is sending an email dated 16 June to Steve Child. Your right? On page 5?---Yes. That's correct. Yes.

30

And you're included in the loop?---Yes.

And certain comments are made. Now that would reflect your state of knowledge at the time wouldn't it? That that is that Mr Child was organising certain things in relation to the unit?---Yes, it was.

And you'll see that that's at 2 o'clock in the afternoon at 2 minutes past 2.00 in the afternoon?---That's correct.

40 When you saw these sorts of things happening during ordinary working hours, did you concern yourself that Mr Child was working on the units during Council time?---Sorry, sorry, I was just, I beg your pardon, I was reading the rest of the email, sorry. Can you repeat that question, please, I was reading the rest of the email.

You see this email, go back to page 5?---Sorry./

It's sent from Steve Child on the 16 June at 12.18?---That's correct.

Did it concern you that Mr Child was obviously working on the units during the course of the Council working day?---Yes, because he had told us that he was going to try and do this work after hours.

But any review of these emails shows that consistently Mr Romano is sending him emails and he's answering during the course of the working day. Was that a matter that concerned you?---Yes, it does concern me because I - - -

10

Did it concern you at the time, Mr Becerra?---At the time, no, because I was using the email as well but it does concern me like you say, there's so many emails sent in the middle of the day.

Well, look at page 8. There's one from you. You see at the top?---Yes, it is.

(Not transcribable) 55 and that's in relation (not transcribable) about plumbers and again you recall, even if not the precise details of individual ones, that this was the course of emails that were flowing around about the property?---Yes, there was.

20

And Mr Romano was pretty hands on about it at that stage?---Yes, his name, his name appears on the - - -

And he's making certain requests and requirements?---Yes, he is.

And you're also involved in that?---Yes, I sorted all these emails, yes.

30 And do you know a person called Andrew Martin?---Yes, I do.

And who do you say Mr Martin is?---He's a town planner.

And what was his role in relation to the units, as best you know?---We were looking at subdividing the units because they're unstrataed units so we were looking to strata the units.

So they weren't strataed and you wanted to strata them, is that right?
---That's right, they're not strataed, still not strataed and we were trying to strata the units.

40

All right?---And we sought his advice from a town planning point of view, could it be done.

And he was involved, was he not, in some work for the Council?---Yes, he is involved.

Is that how you met him?---No, I've known Andrew Martin for some time, as a planner, like, in, through work.

All right. And he expressed concern at some stage, didn't he, that he had found out that Mr Romano had an interest in the Edwin Street property? ---He did send an email saying that, yes, that he had concerns that if Mr Romano was going to be involved he, yes, he would not like to be involved in the project.

10 And that was a correct concern to have on his part, wasn't it?---Yes, I believe it is, yes.

And what do you say happened after that?---We didn't, he didn't do any more work on the project.

Are you sure about that?---He did advise us on what could be done but we didn't submit a development application.

20 But he did some more work on the property, didn't he, after that email? ---No, he prepared a, a document as a draft for a town planning proposal and we received it.

All right. Well, just go to page 45 of the bundle you've got there. Can you see there's an email, starting down the bottom of the page, do you see that down the bottom of the page?---Yes, I do.

30 (not transcribable) 15 September, 2008, at 11.45, sent to you and Mr Romano, "Hi, Albert and Pat. Up until now I was not aware Pat was an owner of this property and given I have prepared Council reports and also have a current job reviewing the Council's child care DCP, it's best that I stand aside. I apologise for any inconvenience caused." Now, that was a proper stance, was it not, for Mr Martin to take?---Yes, it is.

Her saw that there was a potential conflict of interest between the work he was doing for Council and the work that he would be doing personally for Mr Romano. That's how you understood the email, wasn't it?---That's correct.

40 And you'll see that he has, Mr Romano has answered, "Martin, I wish to advise that I am not an owner of the property." Now, you'd agree with me that that's not a correct statement, is it?---He's not a shareholder of the company so that's what he's referring to.

But he had an interest in the property, didn't he?---Indirect interest, yes.

And he was actively involved in organising the work?---Yes, he was actively involved in organising the work.

And Mr Martin had correctly, had he not, identified a potential conflict of interest?---Yes, he did.

And he was saying, I can't do it any more?---That's correct.

10 And Mr Romano says, don't, it's okay. See, what I'm going to suggest, what I want to say to you is this. Mr Romano was wrong, wasn't he? There was a clearly identified conflict of interest and he should have accepted Mr Martin's resignation, would you agree?---He did, we accept Mr Martin's resignation. He provided the documents that he had done to date and he ceased to do any more work on the project.

Well, I want to suggest to you that he did some further work after this email exchange, would you agree?---He did send us a document, yes.

He did some further work, didn't he, after this email exchange?---I can't speak for Mr Martin but I did receive a document from Mr Martin after this that had the draft planning report.

20 Mr Romano was appointed as an agent and was actively involved in the development of the property, wasn't he?---He was an agent of the property and actively involved, yes.

And Mr Martin is identifying a conflict of interest because he's doing some work for Burwood Council?---That's correct.

30 And then if you look at his, he then relies on Mr Romano's assurance, doesn't he, and says, "Thanks, Pat, on that basis I'll keep going with the report"?---Yes.

Do you see that?---To complete the report, yes.

Did that concern you?---That he wanted to take, that he didn't want to do any more work for us, yes.

And that Mr Romano had said something to him that was strictly not correct, that is, that he had an interest in - - -

40 MS McDONALD: Objection. The witness hasn't said that it wasn't correct.

ASSISTANT COMMISSIONER: I think the witness has accepted that Mr Romano had an interest in the property.

MS RONALDS: Had an indirect interest.

THE WITNESS: Indirect interest.

MS McDONALD: An indirect interest and not that he was an owner of the property which is what - - -

ASSISTANT COMMISSIONER: Ms Ronalds says it's not strictly correct.

THE WITNESS: He not - - -

10 MS RONALDS: And you knew he had an indirect interest and you knew that he had a very direct interest in organising the renovations and the proposed development application, didn't you?---He was involved in organising the work, yes.

So did you say to Mr Romano, well, that's not really quite right, your answer to Mr Martin?---No, I didn't discuss - - -

Didn't you?---Yeah, that was to Romano.

20 MS McDONALD: There's nothing to establish that that, that that answer isn't quite right. That hasn't been accepted by the witness.

ASSISTANT COMMISSIONER: Well, really, I really understood the witness was accepting it by saying that Mr Romano had an indirect interest in the property so - - -

MR BLAKE: Quite different from the owner.

ASSISTANT COMMISSIONER: It is different. Well - - -

30 MS RONALDS: I'll move on.

ASSISTANT COMMISSIONER: Move on.

MS RONALDS: Did you discuss with Mr Romano what his interest was and that Mr Martin had a proper point of view about a potential conflict of interest?---No, I didn't discuss that with Mr Romano.

It wasn't something that worried you at all?---My concern was that Andrew Martin did not want to carry on doing the project.

40 Because he correctly, I'd suggest to you, identified a conflict of interest, hadn't he?---Sorry?

What I'm suggesting to you is that Mr Martin had correctly identified a potential conflict of interest, would you agree?---No, Mr Martin identified that he was concerned about Pat's involvement in the project he just said. He's not an owner of the property. At this stage he is not the owner of the property.

You were aware, were you, that on occasion Mr Romano sent Mr Child texts in terms of organising work?---I know that now, yes, I do.

And you say you didn't know at the time?---Not at the time, no. I thought he was communicating with, by phone, verbally or, as you said, through the emails.

Now, I want to show you a document. Now, you see the first document?---Yes, I do.

10

That's your, that's a Disclosure of Interest form that you completed in May 2007. Do you agree?---Yes, it is.

And that's your handwriting isn't it?---Yes, it is.

And you'll see on the left-hand side, it's been copied sort of funny but on the left-hand side of the page you disclosed your interest in the units. You agree under the heading Discretionary Disclosures?---Yes.

20

And do you see that on the right-hand side under Real Property you disclosed 187 Edwin Street, North Croydon one-third share in trust?---Yes, I do, I was told that that was incorrectly filled out.

Well, let's just do it one stage at a time?---Yes.

This is the first time you completed one of these forms?---Yes, it has (not transcribable)

30

Your status changed and you became an employee?---That's correct.

And it's got First Return written on it. Did you take advice from anyone before you completed this form?---No, I did not, I just filled it in, I was with - - -

Doing the best you could?---Yes, yes.

And I think you just suggested in evidence that someone had said that was wrong?---Sorry, that - - -

40

You're saying that someone then told you that wasn't right?---Yes, some time later when I discussed with the returning officer, sorry, the governance officer is that was the correct if I wasn't the owner but I, like you said, had an interest in it indirectly should I disclose it and he said, No, not unless you're an owner or a property.

And that was Mr Cummins was it?---No, it wasn't, it was actually Pina Viney it wasn't Mr Cummins.

Sorry?---Pina Viney.

She told you that you didn't have to disclose it?---She wasn't sure but she said, Unless you own the property outright you shouldn't put that down.

Right. And you've listed on the left-hand entry certain things that you thought were relevant at the time?---That's correct.

And again you did that without taking any advice?---That's correct.

10

All right. And if I could ask you just turn two pages over you'll get to the September 2008 one?---Yes.

See that?---Yes.

And it's the same, that's your handwriting?---Yes, I reported the same entry.

I was going to say it's a mirror image, did you copy it from the last one or was it just random chance?---No, I did copy it from the previous one.

20

And so you then got the discretionary disclosure and the real property listed?---Yes, I did put all that, yeah.

Right. Thank you. If I can tender those documents.

ASSISTANT COMMISSIONER: Yes. They will be Exhibit 83.

30 **#EXHIBIT 83- COPIES OF MR BECERRA'S 22/5/07 AND 19/9/08
'DISCLOSURES BY COUNCILLORS AND DESIGNATED PERSON
RETURN ' FORMS**

MS RONALDS: Now, it says here that during the course of the latter part of October 2008 you had occasion to have some fiery email exchanges with Mr Romano. Do you recall that?---Yeah, when you say fiery have you got any, with regard to what because there was a few.

40 Few ones where you were a bit cross weren't you?---Yes, with regard to the project that I was involved with, yes.

And you were cross about the units as well I'd suggest and the progress that was happening?---No. No, I just wanted to stop doing the work on it.

What work do you say you were doing at that stage?---On the units?

Yes?---None, very little.

So during the course of 2008 you did some work on the units?---Not physically, I attended and instructed people on work to be done. I didn't physically carry out any works.

But you did some of the organisational role?---That's correct.

So if we go month by month January was when things kicked off again. Is that correct?---That's correct.

10 That's when you say you had conversations with Mr Child and Mr Romano but not with Mr Giangrasso?---That's right.

Certain things started to happen?---Sorry, I did have a telephone conversation with Mr Joe Grasso 'cause I was trying to get the name of the tradesman.

But not face to face meetings you say?---No.

20 And you know he recalls differently?---I heard his evidence.

And then, so during the first half of the year how many hours a week were you spending on the units?---I'm not going to get, have guesstimates of them but in the morning prior to going to attend either my practice or Council I might drop in, I may go in during the middle of the day if there was tradesmen doing work there, yes, two, three times a week maybe but definitely at least once or twice during the week.

30 And what about weekends?---I would try to go past and have a look on the weekends 'cause I had some time to have a look at the progress or otherwise on the units.

Because the speed was something you were worried about?---I also wanted to keep abreast of what was happening with the units to make sure that we could carry on with the works.

All right. And in the latter half of, in the second half of 2008 did you do more or less?---Much less.

40 Why was that?---Mr Romano had agreed with Mr Child that they would take some of the burden off me and also Mr Fasanella and try to arrange some of the work themselves.

So that would be that some of your work shifted to Mr Child did it?---In organising trades, I presume yes. I'd say yes.

Well, you weren't doing it but it was being done?---Yes, that's correct.

You knew that there was progress being made?---Yes, 'cause I said to you, (not transcribable) things appeared but no, I did attend to have a look if the progress of the work.

And so was he, as far as you knew Mr Child or Mr Romano who were doing that?---That's correct.

10 And you understood it was more likely to be Mr Child wasn't it?---Was more likely to be Mr Child because that was what the arrangement was for him to organise tradesmen to carry out the work.

Right. And so in the latter half of October onwards in 2008 what, if any, were you doing in relation to the units?---Very little.

And when did the second tranche finish?---(not transcribable) October, around that time.

And that apartment was then left?---Yes, it was.

20 And did a third tranche start?---No.

30 So the renovations for the other, so three have been renovated. Is that correct?---Could you allow me a bit of elaboration? Okay. There was the first two units that were done, during the course of those two units being done someone moved out of the unit 5 above, we painted, the agent organised that, we painted and put new carpet in the unit but it wasn't, no work was done by any of the people in Council, very little done by ourselves, it was done by, through the managing agent. Then unit 2 was done, the one below that, which is subject of our discussion and then no more work was done after that.

So that three have been significantly renovated, one's had a touch-up so to speak and the other two haven't had any (not transcribable)?---I might've said better than touch-up, we put new carpet and paint to make the place liveable.

40 And is unit 7 now rented as a unit?---No, I'll explain to you. Unit 7, I, I got documents from Ashfield Council, if you can elaborate (not transcribable). I've got units - - -

Just a short version if you can?---Okay. I've got some documents from Ashfield Council showing the units were submitted in 1962, it had, yeah, it was built in 1962, they had documents to that reference that showed the unit 7 which had "not to be used", storeroom. So they had the same configuration as the units above but it was not designated as a unit. So like I said all walls were in the same place, everything was in the same place. Because of the topography of the site the front is two storey, the back is three storey so yeah, it's referred to as unit 7 but it's basically a storeroom.

Right. So it's not now been changed?---No. Can't be changed because it has to get a DA to do so, do another application to do so.

I can show you this bundle. Now, these are just some emails between you and Mr Romano and Mr Fasanella?---Ah hmm.

10 And you'll see what I'm suggesting to you is that you're expressing a certain frustration about the progress?---Yes, with the word that I used in the email, definitely.

And that's a word you used several times in several different emails?---Yes, I did.

20 But that's expressing, by 30 October, 2008 you were expressing frustration were you not?---I was because I was saying, Why are we going to do more units and take more time, just hold, this took as you can see from the period of time quite a fair bit of time so stop, unless we can organise it a little bit better that was, I know I'm elaborating but that was the gist of my thought. If it was going to take so long just stop and don't do anymore of this, just organise it so it doesn't take as long to have the units vacant.

Because you didn't want them vacant because you wanted them rented?
---That's the aim so the rent would pay the mortgage, yes, Senior Counsel.

And SEE, what does that stand for?---Statement of Environmental Impact.

30 Right?---Effects, I beg your pardon. Sorry, sorry. Statement of Environmental Effects, I beg your pardon.

And the other word in capitals speaks for itself. And you, on 30 October but later that day were still expressing frustration, if you go to page 3?---Yes, I was.

And then if you go to page 4 you'll see there's an issue about the photos, this is 5 November. Just take a moment to look down the bottom. Sorry, it starts actually on page 5, where you say, what is the, see in the middle there?---Yes.

40 And then going up and then Mr Romano sends one to you saying, by the tone of the email below it appears you are upset. Are you okay? And you say, in probably one of the world's shorter emails, no?---That's correct.

You don't elaborate?---No, I did not.

And then he says, what's wrong? And then there's no further emails. So did you then speak on the phone do you recall?---I would say that I didn't

10 speak to Pat on that day after that, no, because I was upset. But some time later I'm pretty sure I discussed this matter with him.

All right. Because I was suggesting to you earlier, if you recall, I suggested to you that there were times when your relationship with Mr Romano was somewhat volatile about the units. Would you agree?---There was issues of concern, yes, volatile, if you want to put it. Yes, because I've used those, that word.

10 And you were upset about a few things that weren't related to the Burwood work but were related to the unit work?---Yeah, to the unit work because the idea of Mr Romano and Mr Child organising this what was going to be expedient. I think it was more of a ego thing, 'cause I undertook the first bunch of units and it took just as long to do two units as it did one.

Right?---So I was expressing, I guess, my concern about that, that it took so long. Yeah, and like you said, in the world's shortest email, no, to, why I was upset or, sorry, I think you said (not transcribable) if something was wrong so I said, no.

20

But that wasn't accurate was it?---No, it's not accurate.

Something was wrong?---Sorry?

Something was wrong?---Yeah, it was wrong, obviously I was upset.

Yes. And you were upset about how long it had taken?---Yes.

30

You weren't upset about the quality of the outcome?---No, not at all.

What had actually happened, it was just the time that it had taken to happen?---Yes.

Thank you. And then if you turn over to page 8, you'll see there's an ongoing argument that appears to be happening between you and Mr Fasanella with Mr Romano involved about photos and that's the photos for the inside of that unit, isn't it?---Yes.

40

And again you'll see down the bottom of page 8, that's, maybe there has to be internal - - -?---Yes, it could (not transcribable).

Just so that it's clear, the Vera being referred to is the Vera who worked for the real estate agent, not the Vera who is Mr Romano's personal assistant? ---That's correct, that's Vera Nicholls is the managing agents for the units.

Well, it might be an unusual name that appears twice so I just wanted to - - - ?---No, I appreciate - - -

It's clear on this, isn't it, that what you, the Vera you're talking about, and then you'll see at the top of 99 it says, "To all, 91 clicks on the rental site" and then you, there's some response about I've been on it and then you say, "I have been on the site". See at the top of page - - -?---Yeah, sorry, yes.

10 "I've been on the site two times, that means you've been on it over 80 times, I don't think so. So having a little bit of a tussle now with Mr Fasanella?
---Yes, senior counsel, because the email suggests that they were getting very good response for the rental property and I didn't see that and that was my sarcastic response to Mr Fasanella.

You thought there wasn't a proper response being generated, there wasn't much interest even though - - -?---Not, not as much as the 91 email hits, no.

Even though - - -?---And I said, yeah, like, I said, I've hit it twice.

20 Even though the November, 2008 rental market was meant to be quite hot for that area, wasn't it?---It was okay but it's an older style set of units. It's not your more modern upmarket units so I did question whether it was 91 hits that were on the site.

But the rental income was an important factor in your business assessment of buying the property?---It was. The idea was that the rental would, yes, eventually cover the mortgage, yes, it was.

And then at page 10 in the middle, you'll see there's an email from Mr Romano trying to pour water on the fire, you see that?---Yes, it is.

30 "There's enough stress in life without us all fighting amongst each other. Let's focus on our investment and enjoying our short lives please." And you say, "Pat, are you stressed because I am way past being stressed. My phone has been ringing off the hook. Let's just wait. Just get the rental", sorry, "the unit rented once and for all". Now, your phone had been ringing off the hook, not in relation to the unit or in relation to the unit?---I would say it was in relation to the unit.

What were you doing then?---Pat was trying to contact me and I thought in order not to add fuel to the fire, it best that I not answer it.

40 Oh, I see.---Yeah.

So you're saying to him, stop ringing me in effect?---Yes, I was.

And then there's a number of others in a similar vein as well, there's one more exchange in a similar vein about the developments were you express some strong views about your position. Do you see that on page 12?---(NO AUDIBLE REPLY)

Some people do not like being treated like shit, et cetera. That's the 3rd of December, that's another day when you're a bit cross about it all?---Oh yeah, and that's also in capital letters, so yes, I was.

Okay. You were pretty cross?---Yes, I was. The units were leased by that time may I say but I was still cross.

10 So they were leased but you were still cross. What were you still cross about?---As I said to you before, perhaps that a single unit took just as long to renovate as two units and I wasn't involved in – sorry – I didn't have as much of an involvement in the second batch or the third unit that was renovated and I think it was more ego telling Mr Romano that- - -

You'd done a better job than him.---You could say that.

Is that your view on that?---Yes, I guess it was, that's why I wrote that email.

20 If I could tender one.

ASSISTANT COMMISSIONER: Yes, that would be Exhibit 84.

#EXHIBIT 84 – COPIES OF NUMEROUS EMAILS BETWEEN MR BECERRA, MR FASANELLA AND PAT ROMANO

30 MS RONALDS: Do you recall that on the 4 April, 2009 there was an article published in the Sydney Morning Herald?---Yes, I do.

Were you in the country at the time?---Yes, I was.

Do you know that, had you been advised by anyone or consulted by anyone that there might be an article going to be forthcoming?---No, I got a call from the journalist - - -

40 Ms McClymont?---Ms McClymont – about a message given to me by one of the Council staff from reception saying that Ms McClymont called. She called my office, she called my home and I did approach Pat Romano about it and said - - -

You did?---I said to him that there's this journalist calling about it, what is it about it. And he said, "Oh she's going to write a story on the Sydney Morning Herald."

Okay. Did he give you any further details than that?---No, he didn't, what he said was that we'll she, because she was calling Mr Romano as well.

And did he tell you what she'd been saying to him?---He didn't – yes, he did tell me later on that day or – I can't recall – I think it was on a Friday was it that he did say to me that she was going to be writing an article in the Sydney Morning Herald.

And did he tell you what it was about?---It was about, it was all about the units and involvement of certain Council staff in the units.

10 And what was your reaction?---I was pretty upset.

And what did you say to him?---I care not to repeat it.

Don't worry, I've probably heard it.---Yeah, well, there was a few obscenities.

Right.---And asked him what it was all about if he had any more information than I did, sorry, than I did.

20 And what did he say to you?---That he had talked to her, she had sent an email. She had also sent an email to me, because she called me at Council and said to me, can I get your email address so I can put some questions to you. And she did.

And did you answer those questions?---No, I did not.

So you ignored her email?---Yes, I did.

30 And did you speak to Mr Romano about the answer he was giving to the emails?---Yeah, I wanted to find out what Pat's response was going to be.

And did he give you a copy of his response?---No, he told me verbally, he said, I'm going to not answer her questions and then, the article was printed with some quotes that Mr Romano made.

And how did you feel about that?---I was pretty upset about the whole article, yeah.

40 Well, you must have been surprised if he was quoted?---Yeah, but, but I don't know what he said to her but yes, he was being quoted.

That was after he told you that he wasn't going to speak to her?---He said he wasn't going to answer the questions but he did have a conversation with her, sorry, I could clarify, yeah.

And do you say that that's the first time you knew some of the allegations about the unit?---Pretty much, yes, because it came very late in that week and I did get a text message earlier that week.

Right. And that text message said that you and your corruption was going to be exposed or- - -?---That's correct, something like - - -

We'll do it tomorrow at length but that's the one you're talking about.
---Yes, yes.

You got one and Mr Romano got one.--- Yes.

10 All right. We'll go into it in detail tomorrow. So there was already that suggestion. Were you worried about that?---I was because I did, I tried to find out who made that telephone conversation but I could not get to that, or that sent that text message but I could not get a response on the number.

What happened between you and Mr Romano after the publication of the article? Did you and Mr Fasanella and Mr Romano have a meeting about the allegations?---Yes, we did.

And when was that?---On the Saturday.

20 So it came out on the Saturday?---Yes, it did.

So that day the three of you met?---Yes.

Where did you meet?---We meet originally at Mr Maddocks' office, sorry originally in Mr Romano's home, I beg your pardon.

Right.---We all - - -

30 Was it with the, was it six of you or three of you?---Three of us.

Were the wives, I don't mean to use such a pejorative term but it's offensive but to save time.---Sure.

Were your three partners there as well?---No, Mrs Romano was at Mr Romano's house - - -

Right.---?- - - as was Mr Becerra and myself.

40 So the four of you.---Yes.

And then you say you went to Maddocks.--- Yes.

And why did you go to Maddocks.---Mr Romano called Mr Baird and asked him what he could do about it and what his response was.

All right. And you understood that this was an article about Mr Romano as a unit owner as opposed to Mr Romano as a general manager, was that your understanding?---No, said that the general manger, I can't remember the

article but the general manager got staff to work on his private units and had a description of the units et cetera.

And before you went to see Mr Baird did you go through the article line by line and did Mr Romano give you a response to it?---No, I went through it line by line in my own home and started reading and questioning certain things, yes.

10 And when you met with Mr Romano did you question him about the validity of the article?---I did ask him – what was it all about – yes we did discuss that.

And what was his response?---That he said that he didn't know where it was coming from, that's what he said that the thing was a smear campaign against him, he did mean.

And then you went into town on the Saturday and met with Mr Baird on the Saturday was it?---Yes, we did.

20 The three of you or did Mrs Romano come as well?---No, Mr Romano Mr Fasanella and myself.

Right.---We all went - - -

Sorry, go on.---We all went together.

And you met with Mr Baird at Maddocks?---Yes.

30 And how long were you there for?---I can't recall but it was a couple of hours.

And that was to develop a strategy to respond to the allegations was it?---Not a strategy but to find out what the allegation was and what had to be done about it.

Well, you didn't need to go and meet Mr Baird to know what the allegation was – it was in the newspaper?---It was.

40 So you were trying to sort out a response weren't you?---There was, not a strategy in our response but what a response we have to give.

And did you ever issue any letter or statement to the Sydney Morning Herald?---No, I did not. I did not, I talked to Ms McClymont.

So you did. When did you speak to her?---It was before she printed the article, probably that Friday afternoon.

So you did speak to her on the Friday afternoon. What about after the article was published on the Saturday?---No, I did not speak to Ms McClymont.

And after the second article was published on the Monday?---I did not speak to Ms McClymont.

10 And did you ever speak to – did you only ever have the one conversation?--- Sorry, with Ms McClymont, that’s correct. I believe it was the Friday before she - - -

Did you get any independent legal advice, that is, not Mr Baird but did you go and consult your own lawyer about the contents of the article?---We talked to some, another lawyer regarding the content of the article.

And who’s we?---Mr Fasanella, Mr Romano and myself.

And who was the other lawyer?---Stephen Gorry.

20 And when did you go and see him?---Later on that afternoon, that Saturday.

You saw him on the same afternoon?---Yes we did.

On the Saturday afternoon?---Yes we did.

So you left Mr Baird at some stage?---No, Mr Gorry came to Mr Baird’s office.

30 Right. And was Mr Baird present when all of you were speaking?---No, he excused himself out of the room and he let us - - -

Why did you understand Mr Baird left?---Because he had, he was the Council legal advice and Mr Gorry was not representing Council, he was just someone that we should discuss the nature of the article with and Mr Baird said he would excuse himself.

40 Right. So you stayed at Maddocks and then spoke to Mr Gorry for what, another hour or two?---About another hour and then we went to Mr Gorry’s office.

You went to Henry Davis York.---Yes, we did.

And there was a statement prepared from you?---No, we just had a discussion, general discussion with Mr Gorry and he took some notes and we left late evening.

And on the Monday when the second article appeared on the Monday – now if you want in front of you just tell me and I can arrange to have Exhibit 62 handed to you.---It's up to you.

You mightn't have looked at them as often as me just recently.---No, I have not, no. Thank you.

You see three pages in, Manager denies free Council work on his home. That was on the 6, that's the Monday.---Yes, I can see that.

10

So after this one was published, did you meet with Mr Gorry again?---Some time later.

Later that week?---Can't recall but it would be later that week, yes, possibly yeah.

And did you ever put any statement or letter to the Sydney Morning Herald about the contents of the article?---Personally, no.

20

And did you meet with Mr Baird about it again?---No, he was, he had left that to Mr Gorry, he said that it was something, it was not a Council, he didn't want to be involved between Council matters and this matter.

And are you aware whether Befaro paid a, any legal accounts to Mr Gorry?---No, we have paid, not as Befaro, I don't believe so, no.

And have you personally paid Mr Gorry for any legal advice?---No, I did send a cheque for a certain amount of money but that wasn't cashed, it was returned.

30

It was returned to you. And what was the basis of the return, did you understand?---That I wasn't, that I didn't have to pay for his services.

And that was because someone else was paying. Is that right?---Yes, that was.

And in terms of there then was other articles. Did you then consult further with Mr Gorry about them?---We had discussions - - -

40

From time to time?---From time to time about what was being printed in the Sydney Morning Herald, yes.

All right. And you'd agree with me that Mr Romano took a robust position in relation to his denial of the allegations?---Yes, he did take a robust position.

And was that position he discussed with you before he took a public position?---No.

So you, did you have any input into developing his position?---No.

And you're aware that he issued a statement to the staff of Burwood Council?---Yes, I was copied in on it.

And was that the first time you'd seen it?---Yes.

10 So that wasn't developed with Mr Gorry or Mr Baird in your presence. Is that correct?---No.

Not that you recall or definitely not?---I don't recall that being prepared with me being present, no.

No.---I did see an email advising staff - - -

20 Of a certain position but I'm just trying to explore whether that was a position arrival at in your presence and whether you're involved in any way with that?---No, I was not involved.

If I could ask you to turn to the front page of Exhibit 62. You'll see that's the 4 April article. And did you see on the far right hand column you are quoted as saying, "I wasn't aware that Council staff were working there, no." Do you see that quote?---Yes, I, yes I see that.

30 And do you recall saying that to Ms McClymont?---I can't recall saying that to Ms McClymont. She did call me, like I said on the Friday and she asked several questions. I was a little bit surprised at the way she was asking questions because other things that I said to her, I'd jotted some of those down.

Do you have that note with you still?---In my diary, yeah, I believe I have it in my diary notes.

Right. You see, if you go back a bit, it says, Mr Romano said it was his partner Mr Becerra who had inadvertently engaged a Council worker via other staff members. Would that be a correct description in your view at what had happened at the units?---No, it was not.

40 So were you surprised when you read that?---I was a little bit surprised, yes.

And did you say to Mr Romano, that's not what happened?---I said that's not, yeah, I did say that's not what happened because that was, I presume that this was referring to the second batch of units, sorry, the second unit that was being renovated and my involvement with that was limited. And he's then quoted as saying, I don't know why it was that Albert wasn't told by the staff that these people were Council staff. I never entered into

that discussion. Now that wasn't a correct representation of the situation as you understood it was it?---No, it isn't.

And you wouldn't have said that, would you?---No, because I did recognise some of those staff members when they turned up to do the work at the units.

You knew they were Council employees?---Yes, I did recognise them.

10 So you wouldn't have said, would you, I wasn't aware that Council staff were working there now?---No.

Because you were aware Council staff were working there?---Yes, I did recognise them as Council workers, yes.

And you knew that in early 2008, didn't you?---I did know that the, Steve Child was the Council worker, yes.

20 And you knew by the email exchanges at the very least that he'd a substantial amount of work on the property?---When you say work that he was involved, I would say I didn't know until this week that he had actually physically done any of the work, no.

Well, organising things - - -?---Yep.

- - - was an important job, wasn't it?---Yes, it is.

30 You just indicated earlier that you were cross with him because they hadn't been as fast and efficient as you?---In my opinion, yes.

So that that was an important task they were doing?---Yes, it was.

Mr Child was doing?---Mr Child, yes.

But you knew at all times that he was Council staff?---Yes, I did know that he was Council staff.

40 So are you able to explain whether you said this to Ms McClymont?---I can't recall saying that to Ms McClymont. I did say a lot of things to Ms McClymont during the conversation. A lot of it to say she should put down in writing and I would respond to those so she did do that, by the way, she did - - -

But you didn't respond to her?---No, I did not.

So you invited her to ask you in writing - - -?---I wanted - - -

She did so but you, having invited her to do that, you then didn't send her a reply, is that correct?---That's correct. I wanted to see what questions she had of me.

And having seen them you decided that they weren't worthy of your reply, is that correct?---I preferred not to be answer the questions, yes.

I have nothing further at this stage, thank you.

10 ASSISTANT COMMISSIONER: Yes.

MR BLAKE: Mr Becerra, you said in response to counsel assisting, I think I recorded your answer correctly, that the arrangement was that Mr Child would work after ours?---That's correct.

20 Can you just tell me when (not transcribable) was made, who was there and what was said, please?---There was Mr Romano, when I met with Steve Child, it was Mr Romano, Mr Child and myself. And it was to complete unit 3 and 6, that's the rear two units. There was some work to be done on that, minor works to be done on that.

And when did that conversation take place. -Late January or around mid to late January, I can't recall, 2008.

And the location of the meeting?---We met at the units.

All right. Thank you. Nothing further, Commissioner.

30 ASSISTANT COMMISSIONER: Mr Leggat?

MR LEGGAT: Thank you, Commissioner.

Mr Becerra, you indicated that you offered to pay Mr Child an amount of money for the work that he did. How much was your offer?---I did not make a monetary offer. I just asked how much would it be for the work that he was doing.

40 Did he indicate to you how many hours he'd put in?---No. The first time I've heard how many hours he claimed to put in was at this hearing.

In early 2008 how many hours did you expect that Mr Child would put in? ---To arrange in the first instance to do the first small slab of work?

Yes?---Not many ours, four, six, tops at the most.

And for the entirety of the project?---It's hard to say because with the renovation it depends on the, I guess the response you get from certain trades, how much work you have to do. So if the tradesmen are not

performing or he has to do extra work or chase certain materials, time takes a little bit longer.

Was it your view in early 2008 that the work that you were asking Mr Child to do could be performed or could not be performed during his work hours?

---The work that he was, that was to be done?

10 Yes?---He didn't, he wasn't going to do that work that we said in early 2008. He was going to arrange for someone who was capable of doing that work which is, as was stated, some plasterboard work, gyprock work, some basic carpentry and some trimmings and fiddly work that had to be done. It wasn't for him to do it. It was for him to find the other tradesmen that could do that work.

Let's call the, the organising role a project management role, all right?--- Okay.

20 Did you have a view as to whether his project management role would be carried out after work hours or partly within work hours?---I was under the understanding that he was going to arrange it after hours with his contacts that he had in different trades.

ASSISTANT COMMISSIONER: Mr Becerra, have you ever tried to get tradesmen to come after hours, do work after hours?---We tried to do, yes, sometimes, not all (not transcribable) I'm trying to get one to fix - - -

30 It's very hard, isn't it?---If you have the contact with certain people as I'm trying to do for myself at the moment, it's easier to contact them after hours because they're working sometimes during the middle of the day and won't take calls.

Mr LEGGAT: Now, during 2008, did you type your own emails or did someone else type emails for you?---No, I type my own emails.

How quick are you as a typist?---Not very quick.

40 What time did you usually break for lunch when you were working for Council during 2008?---Sometimes I don't have lunch. I work right through. Depends on the nature. I don't set my clock for my work based on a lunch time or morning tea, so - - -

I notice that many of the emails you sent are between 1.00 and 2.00pm? ---Yes.

Are you saying that those were sent during Council working hours, you weren't not necessarily at lunch at that time?---My arrangement with Council's a bit more flexible so I don't have a set start or finish time. It was more the performance I had to do and the hours that I had to spend with

Council. That was a time where things to be quiet but I was still there not having lunch. I was still at Council doing work.

The emails that you were sending in 2008 seem to have three email addresses. There's one at Council, at Burwood Council?---Yes.

There's an Ozemail email address?---That's my personal one.

10 And then there's a Becerra Architects, I think - - -?---That's in brackets, yes.

Was it possible for you send an Ozemail email from Council chambers?---It could be if I arranged to have the, the file sent to there to do work, yes.

So if we see an email which has from Becerra@Ozemail, that could have been sent while you were at work, could it?---Yeah, but I could've gone home because I don't live too far away to send that email as well or it could've been done from there, yes.

20 If an email has the Burwood Council address, could that have been sent from your home?---It could if I, if I tapped into the Council Website and I have access to their Website at home and in my practice.

If the email had a Becerra Architects address, could that have been sent from Council?---No. The way that that's formatted it's totally (not transcribable).

Thank you.

30 ASSISTANT COMMISSIONER: Thank you. Yes?

MR LEGGAT: (not transcribable)

MS RONALDS: While that's happening, perhaps just for clarity.

I'll show you this document. You referred to a note you took during the course of the interview. Now, it may be you're about to be taken to it but just, just that page. It's headed I think Poppy called?---Yeah, Poppy called, yes.

40 That's your wife?---That's my wife. She called me to tell me that Ms McClymont had called the office.

It's not that she called Ms McClymont?---No, sorry, no. Poppy called is a reference to my wife calling and telling me that Ms McClymont had called and asked several questions of her.

And that's the note to which you referred before when I was asking you some questions about - - -?---Yes, yes, she was saying you know, that I had

an interest in the property if I could give her my pecuniary interest forms for the property. She asked me if I knew the Council workers arte working on it, that if I, what it says here, if I declared, sorry, my pecuniary interest on the property properly and if she could have a copy of it. As I said here, I gave her my Burwood email address. I also told her to get a form to her FOI if she wanted to get that information.

If I could tender that and we'll provide some copies later because it's in a - - -?---Sure.

10

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 85.

#EXHIBIT 85 - COPY OF HANDWRITTEN NOTE – POPPY CALLED K MCCLYMONT 3.04.09

ASSISTANT COMMISSIONER: Now, Mr Rodgers is it for Mr Giangrasso?

20

MR RODGERS: Thank you. Yes. Mr Becerra?---Becerra.

Becerra. As I said I act for Mr Giangrasso just in fairness to you. Have you got access to Exhibit 71 there or if you could be shown that exhibit. Sorry, Exhibit 71.

30

I'll just ask you some questions about that in one moment. I just want to clarify one piece of evidence. You just answered some questions about the meeting that you had with Mr Child and Mr Romano at the unit block and you said that that was mid to late January?---Ah hmm.

You can see that the first phone call that you made to Mr Giangrasso was on 22 January?---That's correct.

Do you think that the meeting that you had with Mr Child and Mr Romano was prior to 22 January to the best of your recollection?---There or thereabouts, yes.

40

You said the last phone call you had with Mr Giangrasso was 29 January? ---At that time he was, Mr Romano and Mr Child said that Mr Giangrasso knew someone that could actually do the job. It was passed on to Mr Giangrasso to give me the name of a tradesman.

The meeting that you had with Mr Romano and Mr Child was prior at least to 29 January. Is that right?---Yes.

Was there a discussion at that meeting with Mr Child and Mr Romano about the work that needed to be done to the units, the two units?---Yes, there was a discussion.

And was there any questions asked of Mr Child if he knew of any tradespeople or tradesmen who could do the work?---That's right, he said he was going to contact some people to find out if they would be interested in carrying out this work.

10 Mr Child was going to?---Yes, Mr Child and he said that he had different tradesmen that could carry out this work.

And is it the case then that that wasn't done or he could not find any tradespeople considering that you went on and spoke to Mr Giangrasso about that issue? Was it the case - - ?---Yeah. Then we had a conversation with Mr Giangrasso because he said that he knew someone that could actually do the work as well.

20 Who said that, Mr Giangrasso are you saying or Mr Child?---Giangrasso also said that he knew someone who could help.

Okay. But it would suggest that before that that you contact Mr Giangrasso. Is that right?---No, that it was Mr Child. Mr Giangrasso contact me, contacted me 'cause he is, I guess, contracted by Mr Child saying that he knew someone that could actually do the work. My initial contact was with Mr Child.

30 Okay. You just mentioned that Mr Giangrasso contacted you so are you saying the first contact that you had with him was from him first, he contacted you first?---I don't recall whether it was him first or me first but I tried to contact Mr Giangrasso because I was given his mobile as a person who could actually have a tradesman that may do the work.

Okay. Was that information given to you by Mr Child or Mr Romano?
---Mr Child.

40 You mentioned earlier that you obtained Mr Giangrasso's phone number from Mr Romano. Is that right?---I had, Mr Romano also gave me his number as well, yes.

You said that you phoned Mr Giangrasso on two phone numbers?---Yes.

One being his personal number and one being a number that was connected to him through Burwood Council?---Yes, I didn't have his second number 'cause I tried to contact him on one and I was given his second number. I can't recall who gave me that one.

Was it Mr Romano who gave you both those numbers?---No, I think Mr Child gave me one of them, I can't remember which one.

Eventually a tradesperson did come and do some work on the unit?---Yes.

And you're aware of who that is?---Yes.

Mr Vadala?---Mr Vadala.

10 And did you ever have occasion to meet with Mr Vadala personally at the block of units?---Yes, I did because when I got the name, his telephone number, his mobile number I arranged to meet Mr Vadala at the units.

And how did you obtain that phone number?---Can't remember, I think Mr Child gave me the number or Mr Giangrasso, I can't recall who gave me the number but I got the number from either of those two gentlemen to contact Mr Vadala.

20 So is it your evidence that you had a total of five conversations with Mr Giangrasso only in relation to obtaining the name or a contact of a tradesperson?---That's right.

Is that right?---Yes, because he was trying to find out if the person that was available could do the work so he acted as a mediatory between us, between myself and this tradesman that he had.

Okay. And you're saying that took a week from 22 January to 29 January? ---Yes, about that.

30 And this is at a period of course where you were very keen to get the work done in a very short space of time wasn't it?---I was keen to get the work done.

Isn't it the case, Mr Becerra, that you met Mr Giangrasso with Mr Romano at Council Chambers in mid January?---No.

And you drove Mr Giangrasso to Council Chambers and discussed the work that needed to be done with Mr Giangrasso at, sorry, at the block of units? ---No, I did not drive Mr Giangrasso to the units.

40 And isn't it the case that Mr Giangrasso, you then met Mr Giangrasso and Mr Vadala the following day at the block of units and again discussed the work that needed to be done with Mr Vadala?---No, that's incorrect. I did not meet with Mr Giangrasso and Mr Vadala, I made arrangements to meet Mr Vadala at the units.

And is it your evidence that Mr Giangrasso was not present at the block of units on that day?---No, he's not.

I'd suggest to you that that's not the case that Mr Giangrasso was present on that day?---He was not present at that day when I had discussions with Mr Vadala about the units, about his work, this kind of work that I had for him.

Was it your evidence before that the only time that you saw Mr Giangrasso at the block of units personally was when he was doing some cleaning or taking away some rubbish?---That's correct, it was some time later than the time you're referring to.

10

Okay. And that was the only time that you saw him face to face at the block of units?---That's right, he was some time later on the weekend, Saturday, he was doing some cleaning work with another gentleman and I went to the units to see what was being done and he was there.

Okay. And how do you say or who do you say arranged for him to do that? ---I first approached, on the Saturday morning I first approached the gentleman who was out the front of the units doing some cleaning and I asked him what he was doing there and he said he was cleaning unit 2 and I asked, Who send you there? And he said, Steve Child. Then went to show him some additional area, the unit 7 that you referred to storeroom and had also some rubbish in it and Mr Giangrasso was there doing some cleaning work.

20

So what you're saying is you hadn't arranged for Mr Giangrasso to be there?---No, I did not arrange - - -

Do you know if he was paid for that work that he did cleaning the rubbish? ---I didn't pay him but (not transcribable)

30

The question, do you know if he was paid?---I don't know if he was paid.

I want to suggest to you that you paid him \$400 in cash for that work of cleaning up?---No, I did not pay him \$400 for the work of cleaning up.

You describe yourself as being heavily involved with the work that was being done on these two units, this is the first lot of units. The reason I ask that is that you mentioned before that on the second lot that your involvement was limited and that you were more involved with the first lot of renovations?---Yes, I arranged for more tradesmen and staff to do the work beforehand and the first two units that I did on the single unit number 5, number 2.

40

You gave evidence before that you paid Mr Vadala some cash in two different lots. That's right isn't it?---That's correct.

So is it the case that you were the person who was arranging for the payment of the workers that were doing work on these units at that time?

---Strictly speaking, no. I arranged for Mr Vadala to carry out some work, we made an arrangement and I paid him in two instalments as you said for the work that he had carried out.

MR RODGERS: Nothing further.

MR HANLEY: Yes, thank you, Commissioner.

10 You say that you met Mr Child and Mr Romano in February at the units?
---No, not in, in February was the second time when we discussed the scope of work.

When was the first time?---I met with Mr Child and Mr Romano earlier. I can't remember, early January.

Was it February or January?---Early January, mid January.

20 Mid-January?---Mmm, around that time. I can't recall but I did, physically on, at the units I met with Mr Child in February.

All right. But do you say you'd met Mr Child with Mr Romano outside the units somewhere - - -?---Beforehand, yeah, I can't recall but before, yes.

And was it discussed, do you say, that Mr Child would provide contractors to do work on the first block of two units?---It was specifically to get a contract or a tradesmen more specifically to carry out some of the, as (not transcribable) full plasterboard, gyprocking, some trims had to be done, skirtings as they're referred to.

30 And what was Mr Child's role supposed to be there?---He was going to provide us a name of a tradesman.

So he was just giving you names?---Yes, he was going to organise the tradesmen to do the work.

Did you ask him who they were?---No, I didn't. I asked him if he could do the organising the tradesmen, if he knew of any tradesmen that could do that scope of work.

40 So is the situation Mr Romano has introduced you to Mr Child for that purpose?---Yes he did.

You, as an architect, must have had a variety of contacts in respect to various building contractors?---Yes, I do.

Did you ask any questions of Mr Child as to whether your contacts might be cheaper or more suitable than his?---My contacts?

Yes, yours?---Yes. No, I didn't discuss - - -

No inquiries at all about the nature of the people he was going to get and how much they were going to cost in comparison to people you as an architect would have access to?---No, I asked him to get me the name of the tradesman so I can - - -

No talk about whether it was worth his while in comparison to people you could get?---No, that wasn't the discussion, no.

10

Is there any reason why you didn't do that?---Sorry? We had, I had tried to get other tradesmen to come and do the work in the past. The nature of the work was small and fiddly and we could not get them to come out and do the work.

And who did he nominate?---He gave me the name of , he did discuss the name of Mr John Vadala.

And this is in the first meeting?---No, some time afterwards.

20

Okay. Did he give you any names in the first meeting?---No, he didn't. He just wanted to know what the nature of the work was so he can find out if he had a tradesman that could actually do that work.

I want to suggest that the first meeting you had with Mr Romano was at the unit some time in February, with Mr, sorry, with Mr Child and Mr Romano as in, at the units in February?---No, I met with Mr Child before but I'd met at the units to discuss the scope of works in February with Mr Romano and Mr Child.

30

Was that in the morning or an afternoon?---I can't recall but middle of the day.

Were you at the units when he and Romano arrived or not?---I can't recall.

Did you show him around the units?---I showed him the units 2 and 3 that, sorry, 3 and 6 that we were renovating. Showed him the basement level that's referred to as unit 7 because that was the units that there was a majority of work being done to.

40

And you indicated to him a list of jobs that were to be done?---I, no doubt we discussed the scope of work that had to be carried out and as you saw from the note, he took it down as the scope of work that had to be done.

And did you ask him what he wanted to be paid for undertaking this?---No, I didn't discuss that.

Why not?---Mr Romano was going to discuss that with him.

How do you know that?---That's what Mr Romano said that he was going to discuss that with him.

Okay. So before the meeting you knew that, did you?---No, at the meeting we discussed the scope of work and what the involvement of each person was and we said who was going to do the work and he was going to provide us some names for the people to carry out that work and we didn't discuss Mr Child's payment at all at that time. I did raise it with Mr Romano and
10 nothing further was said.

So Mr Child, all he was doing at that stage, as you understood, was providing some names?---That's correct.

And he was going to get paid for that?---No, he didn't, we didn't discuss payment.

But you told me Mr Romano was going to discuss that with him?
---Mr Romano said that do we have, do we have to pay for your services,
20 was one of the discussions that we had for him. I didn't follow that up.

And did you have a budget, your group, at that stage as to these renovations?---We had a budget at the beginning of the project that accounted for each of the stages of the project and we still had some money to do the rest of the renovation. The cost of the work was hard to estimate because it was fiddly work. As, as it was said before that could take three, four days to do. Took a little bit longer.

Well, were you concerned as one of the interested parties as to what
30 Mr Child was going to cost you - - -?---(not transcribable) raise what was the cost to do all this work. I did raise that but I wasn't asking about Mr Child's payment, no, I didn't ask.

Did you ever speak to Mr Romano about how much is this bloke costing us to give us a few names?---No, I didn't discuss that. I just asked, like I said to you, if Mr Child is going to get paid for the work.

I want to suggest there was no discussion about any payment to Mr Child at this meeting at the unit?---At this meeting I, no, I didn't discuss payment
40 with Mr Child at this meeting. I did discuss it with Pat Romano, was there going to be any payment for Mr Child for doing any of this work but no - - -

And did you ever, sorry, go on?---But not with Mr Child.

Did you ever find out how much it cost for Mr Child to provide these names to your group?---No.

Never at all?---No.

Weren't concerned about how that affected your budget?---No.

What you would pay just to get a few names?---No, I sometimes do pass on names of tradesmen and other contacts to different people and don't get paid for it.

10 And don't get paid?---If I pass on a name of a tradesman to do a friend or someone says, have you got a plumber that can do the work, and I pass that on, I don't charge them for that, no.

You know, with that history, were you concerned that somehow Mr Child was going to be paid for this very minor role?---How he was going to pay or what, why - - -

Why, why he was going to be paid?---I didn't question it, no.

20 You, when you saw Mr Child at this meeting at the unit, he was wearing his Burwood uniform, was he?---Yes he was.

Was it, appear to be during the day when he would be working normally at the Council?---I guess it could've been during the working hours, yes.

How much time did you and he and Mr Romano spend looking around the units?---Half hour, forty five minutes at the most.

Were you concerned he was doing this on Council time?---Didn't ask him if he was on Council time, I didn't ask him that.

30 You didn't care, did you?---I didn't ask him if he was on Council time. There's, I didn't know that until today that he wasn't taking lunch breaks or any, had time of his own during the day.

It was during lunch time, was it?---I can't recall if it was.

Well, what's the relevant of that answer?---If he had time of your own, not outside of your working day.

40 You were shown a number of emails in Exhibit 68 between yourself, Mr Romano, Mr Fasanella, regarding work done from about May onwards in respect of the second set of units, the second unit?---The second unit.

The second building project I'll call it?---The second (not transcribable) was just single, yeah.

The single unit. You were kept in the loop in relation to all those, it would appear, and either copied in or emails directly to and from you?---Yes, I was kept in the loop of what was going - - -

And in relation to this particular project, the single unit, was it your understanding that Mr Child was to be the project manager?---You said project manager but he was to organise the trades to do the scope of work that was outlined to him.

And did you have a meeting with him about what his role was to be in respect of managing the project?---Yes.

10 And how long did that meeting take place?---About the same time, about 45 minutes, be half an hour to 45 minutes.

Any fees discussed there as to his payment?---Not his payment, no.

Why not?---I didn't, I discussed what his job was to find out if he can get us the names of the tradesmen to carry out the works and his fees were not discussed.

20 Well, he didn't do a very job of that, did he, because you had to provide all the same people that you used before?---He used us to provide him some of the name of the tradesmen that we had used in units 3 and 6.

And you sent him the list?---Yes, I did. Yes, I sent him a list to Mr Fasanella who then passed it on to Mr Roman passed it on to - - -

You actively participated in submitting names and people to do various things in respect of that unit?---Yes, I did provide him the names of those - - -

30 And who, directing him who he should contact?---Pardon me?

Directing Mr Child as to who he should contact to do various jobs?---I was requested to get some information to Mr Child. I passed it on to Mr Child.

So he wasn't doing a very good job of getting names of people to do it, was he?---I didn't say he wasn't doing a good job of getting names, he was getting – gave the people that we used in units three and six and then he was going to supplement that or get other tradesmen to do the same trade that we had given he names for.

40

You got him a set of keys?---Yes, we did, I got him a set of keys.

Did he have a set of keys for the first group of units?---Yes, once we – a substantial amount of work was done for the units which when he got involved it was – we gave him a set of keys. Originally the units were kept open because there was no – other than walls and structure there was no substantial fittings to the units. But once the units became more complete

we gave Mr Child the keys to units three and six and we also did give him a key to unit two.

Now the purpose for him having a unit, sorry, having a key in respect of the single unit project was so that he could let tradesmen in and out.---So he can have access to the building, yes (not transcribable)

10 You would be aware wouldn't you from your managing the earlier renovations to the two units and as an architects that most tradesmen work between about 7.00 and 3 o'clock during the day, don't they.---They also work on weekends, but they do work at 7.00 to 3.00 is their usual time.

You've seen the emails in Exhibit 78, haven't you?---Yes, I have.

And it would appear that times were being arranged in respect of Mr Child having to organise contractors to attend the units, attend the unit?---Yes, he was organising tradesmen to go to the units.

20 You were aware weren't you that he was given the key so that contractors could contact him or he could contact them, make a time for them to attend and he would attend and let them in – in respect to the single unit project. ---Yes, that's right.

And he would be doing that during Council hours.---If that's what he chose to do, yes.

Would that concern you?---It would concern me that he was using tradesmen in the second unit that were Council tradesmen.

30 My question was, did it concern you that he was letting contractors in to the units and closing up after them during his Council hours?---We didn't ask him to open up and close the units. He had access to the units and he would be opening and closing – yes, as he stated but I didn't instruct him to open and close the units.

40 You didn't instruct him to allow these contractors in to do the work. Is that what you're saying?---No, I didn't say that. I said that I didn't instruct him to open and close the units, I just – a key was given to him for access to the unit.

Who was to do that, let the contractors in and out?---I sometimes opened up as well early morning, quote often the door was left open because, as I said to you before in the case of units three and six as well as in this unit, when the unit was stripped out there was no reason to have the unit locked there was nothing of substantial material to be taken from the unit. So quite often the unit was left unlocked.

So are you saying that you had no idea that he was attending on the unit and allowing contractors in during his working hours?---I wasn't aware of when he was doing it, no.

Did you think he was doing it after hours?---That was my understanding meeting with tradesmen sometimes after hours, yes.

10 Which would be fairly unusual for most tradesmen wouldn't it?---No, some tradesmen who work during the day, as you said, between 7.00 to 3.00 and try to quote on jobs later on in the day.

But doing the actual work is normally between 7.00 and 3.00 isn't it?
---That's when they physically do the work but sometimes they choose to put quotes for work, as you said, when you're trying to get tradesmen to do work after the 3 o'clock so when they finish their normal working day they do, they quote on building jobs. But possible - - -

20 (not transcribable) quotes, doing the actual work is normally between 7.00 and 3.00 isn't it?---Usually between 7.00 and 3.00, yes.

So did you expect that Mr Child would have to let the contractors in to do the work on the single unit between those hours?---No, because as I said to you sometimes the unit was left open for tradesmen to come in and do the work, it wasn't supposed to be open and closed - - -

Did you ever give any of those instructions?---No, I didn't give them any instruction to open and close the unit.

30 So you just don't really know?---I don't know if he was opening and closing the units but I did not give any instruction to open and close the units.

So when you spoke to him later about what he was to be paid what was that for?---Mr Fasanella and I attended a meeting one time with Mr Child and did ask him if he wanted to be paid for his work, how much was it for the work that he had done and his - - -

40 ASSISTANT COMMISSIONER: The question was what was he to be paid for? What work did you think he had done?---Project manager, as he said, project manage - - -

Project managing would include attending to let in tradesmen wouldn't it when they wanted to do work?---(not transcribable) some project managers don't open and close sites but to look - - -

Well, did you (not transcribable) the project manager? Who was going to let the tradesmen in to do work?---Mr Child could do that but I could do that.

Who else was going to do it is what I'm asking you?---As I said to you before sometimes the units were left open and not closed.

When they weren't open who was going to let the tradesmen in to do work?
---I guess as you said Mr, Mr Child was one of them, I could've done it as well because I did it - - -

You did do it?---Yes, I did on quite a few occasions.

10 And are you aware he would've done it?---I believe he would've done it, yes.

Wasn't that the whole point of getting him to organise the tradesmen, you wanted to cut back a bit, you didn't want to have much to do with the second unit did you?---No, but I ended up, as I said, doing some of it, yes, getting involved.

20 The purpose of getting him in was that he would organise, do some of the organisation?---Yes, he would do some of the organisation.

Line up tradesmen, get quotes?---Yes.

Well, the emails show that - - -?---Yes.

- - - that's the sort of work he was doing?---Yes.

30 And you would expect that as part of that he'd attend if necessary and let the tradesmen in to see what they were doing?---Yes, I guess he would do that, yes.

He seems to have been, that seems to have been what he was asked to do. Whether you call it project managing organising the tradesmen - - -?---Sure.

- - - Isn't that the same thing?---Same, in principle, yes.

MR HANLEY: Thank you, Commissioner. Counsel assisting has raised a matter she wants to deal with.

40 MS RONALDS: I'm sorry, I've been remiss and I've left something out and I think I'd better do it now before everyone thinks they're finished with Mr Becerra on this point. Mr Becerra, you'd agree would you not that the only reason that you would be speaking to Steve Child would be about the units?---Yes, that's correct.

You had no Burwood Council related reason to speak to him did you during the course of 2008?---There was another matter where Steve Child approached me to discuss a matter for Burwood Council, yes.

And when was that?---Can't recall. Would've been end of the year some time.

And did that occasion many phone calls?---A few phone calls.

A few?---Yes.

All right. I've - - -?---And it - - -

- 10 Sorry?---It was to do with some of the work he was doing on Railway Parade with regard to one of the utilities Sydney Water. He was having some difficulty with some issues with Sydney Water and asked if we could, if I could assist him in the people I've been discussing the civic precinct project with which was senior management if they could assist in some of the issues that were raised (not transcribable).

Are you able to put a time around that?---I can't recall that but approximately the middle of the year.

- 20 All right. I'll show you this list and you can look at them overnight and we can turn them over?---Sure.

Now, this is extracted from your phone record?---Ah hmm.

- 30 Sorry. This is extracted from Mr Child's phone records and it recalls telephone calls to your home and to your extension at Council made by Mr Child and I'd suggest to you that apart from the issue you've just nominated and you've said that would've been a few phone calls these calls were all in relation to the unit. Now, what I'll ask you to do is just have - we won't do it now but if you can have a look at it overnight?---Sure.

If I could formally tender that?

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 86.

#EXHIBIT 86 - LIST OF CALLS TO MANUAL BECERRA FROM MR CHILD FOR THE PERIOD 01/01/08 TO 31/12/08

- 40 MS RONALDS: That's a single sheet of the diary notes. And now if I could tender another set of documents which relate to the material that occurred last week which has got nothing to do with this witness. If I could run through these and then I'll hand them up if that's appropriate, Commissioner. I'll just read out what they are if I may and then we'll hand them up.

ASSISTANT COMMISSIONER: Are these separate?

MS RONALDS: These are separate, these are from last week. So there's an entry into Mr Romano's Outlook on 26 September, 2007 about a meeting with Mr Mailey.

ASSISTANT COMMISSIONER: That will be 87.

10 **#EXHIBIT 87 - ROMANO OUTLOOK ENTRY DATED 26
SEPTEMBER 2007**

MS RONALDS: And then there are a series of emails from Ms Malouf to Mr Romano in relation in relation to the XXXXmatter.

20 **#EXHIBIT 88 - NUMEROUS EMAILS FROM MR MALOUF TO MR
ROMANO**

MS RONALDS: There's a document entitled VVVV Employee Harassment Allegations.

30 **#EXHIBIT 89 - DOCUMENT TITLED "UUUU EMPLOYEE
HARASSMENT ALLEGATIONS**

MS RONALDS: Statement of YYYY UUUU date 3 March, 2010.

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**#EXHIBIT 90 - STATEMENT OF YYYYY UUUU DATED 3
MARCH 2010**

MS RONALDS: Statement of WWWW XXXX dated 15 March, 2010.

40 **#EXHIBIT 91 - STATEMENT OF WWWWW XXXXX DATED 15
MARCH 2010**

MS RONALDS: Material from the IPP file which is land and property searches regarding properties relating to Strik and Sidoti.

#EXHIBIT 92 - LAND AND PROPERTY SEARCHES REGARDING PROPERTIES RELATING TO STRIK AND SIDOTI CONTAINED IN IPP FILE

MS RONALDS: Outlook printed Richard Mailey containing details of John Sidoti et cetera also from the IPP file.

10 **#EXHIBIT 93 - OUTLOOK PRINTOUT "RICHARD MAILEY" CONTAINING DETAILS OF JOHN SIDOTI INCLUDING NAME, ADDRESS, TELEPHONE NUMBER AND EMAIL. HANDWRITTEN NOTE REGARDING ATTEMPTED CONTACT**

MS RONALDS: Statement of Helen Cet dated 4 February, 2010.

20 **#EXHIBIT 94 - STATEMENT OF HELEN CET DATED 4 FEBRUARY 2010**

MS RONALDS: Compulsory examination of Barry Webb 19 February, 2010.

ASSISTANT COMMISSIONER: That will be 95 and I presume I have to remove the non-publication order on that?

30 MS RONALDS: Sorry. You have to lift, sorry, that's my fault, I was busy thinking of the suppression order. To lift the non-publication order in relation to the compulsory examination of Mr Webb on 19 February, 2010. May it please the Commissioner.

ASSISTANT COMMISSIONER: I remove that suppression order and that will be Exhibit 95.

40 **SUPPRESSION ORDER LIFTED WITH RESPECT TO COMPULSORY EXAMINATION OF MR WEBB ON 19 FEBRUARY 2010**

#EXHIBIT 95 - COMPULSORY EXAMINATION TRANSCRIPT OF EVIDENCE OF BARRY WEBB DATED 19 FEBRUARY 2010

MS RONALDS: And I just remind our friends about the non-publication order in relation to the names of UUUU VVVV, WWWX XXXX and YYYY and to those related matters that we did last week in case anyone's forgotten or anyone's hear who wasn't here then.

ASSISTANT COMMISSIONER: Yes. Well, I think, Ms McDonald, you still want to examine do you?

MS McDONALD: Yes, I do but in view of the time, tomorrow.

10

ASSISTANT COMMISSIONER: Yes. All right. We will adjourn until 10 o'clock tomorrow morning.

THE WITNESS STOOD DOWN [4.01pm]

AT 4.01 THE MATTER WAS ADJOURNED ACCORDINGLY [4.01]

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