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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION SIREN

Reference: Operation E09/1228

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 6 SEPTEMBER 2010

AT 10.00AM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

MR PAYNE: Mr Commissioner, I seek leave to appear as counsel assisting.

THE COMMISSIONER: Yes, Mr Payne.

MR PAYNE: Commissioner, this inquiry concerns allegations of corrupt conduct within the Sydney Water Corporation. Sydney Water Corporation is a statutory state-owned corporation constituted under the State Owned Corporations Act 1989. It operates under the Sydney Water Act 1994.
10 Sydney Water Corporation is Australia's largest water utility. It supplies drinking water, recycled water, waste water services and some stormwater services to over four million people in Sydney, the Illawarra, the Blue Mountains, an area covering approximately 12,700 square kilometres.

To do this Sydney Water collects income of \$1.7 billion for its water and waste water services. It manages assets with a replacement value of \$39 billion and has a total operating expenditure of \$1 billion and employs over 3,150 staff.

20 This inquiry in Sydney Water essentially falls into three parts. The first area the inquiry will consider is what appears to be evidence of a culture of corruption within Sydney Water development inspection and plumbing inspection services. The inquiry will hear evidence that inspectors employed by Sydney Water in its civil delivery section, which is part of Sydney Water maintenance department, who were tasked with inspecting housing and commercial developments so far as they fell within Sydney Water's field of responsibility were involved in demanding and receiving cash payments from authorised constructors and plumbers. So far as major developments such as subdivisions are concerned, the inquiry will focus
30 upon allegations of conduct concerning a Mr Buckley, a Mr Funovski and Mr Kane.

The relevant legal framework in which they each operate is established by part 6 division 9 of the Sydney Water Act entitled Development. While a detailed examination of that legal framework will not be necessary for the purposes of this inquiry, it is relevant to know that under section 73 of the Sydney Water Act, Sydney Water has power to grant a developer a compliance certificate. Essentially a development as defined is a major project such a new residential subdivision. Sydney Water has
40 responsibilities under section 78 of the Sydney Water Act for identifying with consent authorities such a local councils within its area of operations, developments which must be notified to Sydney Water.

It is Sydney Water's practice to insist in a case where an application is made to it for a certificate of compliance under section 73 for the applicant to engage an authorised water servicing coordinator to manage and design the construction of works. There are specified individuals and corporations which are authorised water servicing coordinators, the authorisation being

given by Sydney Water. Sydney Water enters into an agreement with each authorised water servicing coordinator. If any sewerage work involving connection to the Sydney Water network is to be done in compliance with works designed by a water servicing coordinator, Sydney Water insists that it must be conducted by an accredited constructor. Again, Sydney Water is the body which accredits constructors.

10 Although Sydney Water by these means in effect outsources performance of certain responsibilities to water service coordinators and constructors, Sydney Water maintains responsibility for inspecting the quality of their work. That inspection function is the responsibility of the civil delivery section of Sydney Water which, as I've said, is part of Sydney Water's maintenance department. The production employees in that department such as Mr Buckley are required to complete three inspections on the sewer main connection report which is then forwarded to the water services coordinator who in turn submits all completed documents to the urban growth department of Sydney Water who in turn issue the section 73 certificate that I've mentioned.

20 At all relevant times Mr Buckley, Mr Funovski and Mr Kane were each employed in the civil delivery section of the Sydney Water maintenance department. As will be readily apparent from the split of functions, none are supervised by the separate urban growth department of Sydney Water which has ultimate responsibility for issuing the section 73 certificate. Each of Messrs Buckley, Funovski and Kane developed over years an expertise and spent a considerable percentage of their time inspecting the work of constructors and water service coordinators. Mr Buckley has essentially been responsible for the Inner West and South Western suburbs of Sydney, Mr Funovski for the Eastern Suburbs and Mr Kane for the Hills District.

30 In performing these duties each had the ability to issue a corrective action request relating to the work performed by an authorised constructor. If such a request was issued by a Sydney Water employee the result could be delays to completion of the project of some days, weeks or even months with obvious unfavourable financial consequences for the constructor and the developer the subject of the notice. The inquiry will examine evidence in relation to Mr Buckley that for many years he has received regular cash payments ranging from \$50 to several hundred dollars from accredited constructors which payments were designed to ensure that Mr Buckley did not issue corrective action requests or otherwise delay the project.

40 The inquiry will hear evidence from constructors and water services coordinators that Mr Buckley regularly raised potential problems with the work of constructors but that on a number of occasions upon payment being made by the constructor, Mr Buckley approved the work and allowed the development to proceed without any further delay. In effect, Mr Buckley used the authority entrusted to him by Sydney Water to hold up jobs and demand payment.

The inquiry will hear evidence that after Mr Buckley had groomed the constructors by making threats of delay to a particular project the constructors would continue to pay him on subsequent developments as a matter of course.

The inquiry will hear evidence that Sydney Water at all relevant times had policies forbidding the acceptance of any cash payment by an employee acting in the role or performed by Messrs Buckley, Funovski or Kane.

10

The inquiry will hear evidence from a number of authorised constructors that nonetheless cash payments were regularly made to Mr Buckley by constructors.

In the case of Mr Funovski, the inquiry will consider evidence that in November, 2008 Mr Funovski solicited and ultimately received a cash payment of \$3,000 from a Sydney Water accredited constructor Planet Plumbing.

20

The inquiry will also consider evidence of cash payments allegedly made to Mr Funovski prior to that time by a former director of Planet Plumbing, a Mr Malusso.

In the case of Mr Kane, the inquiry will hear evidence that he was in receipt of cash payments from constructors on a regular basis for the last four years.

30 The inquiry will consider evidence that in the conduct of these activities, Messrs Buckley, Funovski and Kane were essentially unsupervised by Sydney Water and that when complaints were initially made about Mr Buckley to Sydney Water no relevant action was taken by Sydney Water.

40 This first part of the inquiry will also consider evidence of conduct of three Sydney Water employees employed as part of the Sydney Water Plumbing Inspection and Assurance Service, known as PIAS. Again, a detailed understanding of the legal framework is unnecessary for the purposes of the inquiry, but the key part of the legal framework for these purposes is the New South Wales Code of Practice for Plumbing and Drainage, 2006, known as the New South Wales Plumbing Code. This code sets out the relevant regulatory requirements for plumbing and drainage works in New South Wales. Shortly put, plumbers need to be licensed and at the relevant time plumbing work falling within the code conducted in the greater Sydney area needed to be submitted to Sydney Water for inspection and approval. PIAS employees conducted inspections of that work to ensure compliance with the New South Wales Plumbing Code of Practice.

The inquiry will hear evidence that PIAS inspectors and their functions are in the process of moving from Sydney Water to the Department of Fair Trading which process is not yet complete.

The inquiry will consider evidence that three of those PIAS inspectors, Messrs Fayers, Vecchio and Rogers, in the course of performing their inspection duties, each accepted cash payments from plumbers whose work they were inspecting, where each inspector knew that Sydney Water's written policy forbade the acceptance of any cash payments.

10 The second area of the inquiry will examine, is the allegations of corrupt conduct involving a former Sydney Water employee, Edward Harvey. The inquiry will hear evidence that Mr Harvey arranged payments by Sydney Water totalling over \$200,000 to entities associated with a Mr Paul Makucha, which Mr Harvey had no authority to authorise.

The inquiry will hear evidence that Mr Harvey believed that no goods or services warranting such a payment had been provided to Sydney Water by Mr Makucha.

20 The inquiry will hear evidence that the relationship between Mr Harvey and Mr Makucha commenced in 2007, when Mr Harvey was tasked by Sydney Water with evicting Mr Makucha from land he was occupying owned by Sydney Water, adjacent to Sydney Airport.

30 The inquiry will hear evidence that although a writ of possession over the land obtained by Sydney Water from the Supreme Court of New South Wales, Mr Harvey, rather than enforcing the eviction of Mr Makucha from the land, took it upon himself to enter into a series of commercial arrangements with Mr Makucha, which involved Mr Harvey arranging payment of invoices totalling \$214,000 to Mr Makucha or entities related to him and \$59,741 to Hall Chadwick, who were accountants retained to advise about the joint venture Mr Harvey was planning to embark upon with Mr Makucha.

40 Mr Harvey did so despite a belief that Mr Makucha or his related companies had no entitlement to be paid. The inquiry will also consider evidence about why Mr Harvey, without Sydney Water's authority, negotiated a proposed joint venture and entered into an agreement whereby on the face of it, considerable valuable intellectual property belonging to Sydney Water was assigned to entities associated with Mr Makucha. This agreement also contains confidentiality obligations and the inquiry will hear that prior to entering into the agreement, Mr Harvey asserted in writing that he had authority from Sydney Water to enter into the agreement. The inquiry will also consider evidence that Mr Harvey stated verbally, until the board of Sydney Water approved the proposal, he had no authority to bind Sydney Water. An important question for the inquiry is how Mr Harvey was able to operate for so long undetected within Sydney Water. The inquiry will also need to consider the extent to which Mr Makucha knew that Mr Harvey was acting without authority and whether work identified by Mr Makucha in invoices submitted to Mr Harvey was actually done. In this regard, Mr Makucha apparently points to certain handwritten documents prepared

concerning potential outdoor advertising ideas he said he conveyed to Mr Harvey. There will be an issue in the inquiry about the value to Sydney Water, if any, of these documents and the services allegedly provided by Mr Makucha. The inquiry will examine Mr Harvey's authority to enter into the agreement and evidence of his motivation to do so, in particular, whether any financial inducement or reward was offered or paid to Mr Harvey by Mr Makucha. The third area the inquiry will consider is the question of how did this conduct go undetected for such a long period of time within Sydney Water. The inquiry will examine the adequacy of Sydney Water's response when complaints were made, particularly about the conduct of Mr Buckley, and the adequacy of the corruption prevention measures available within Sydney Water at the time. The inquiry will hear evidence about serious flaws in the internal audit mechanism within Sydney Water and problems about the levels and methods of supervision within the corporation. A particular focus of the inquiry will be the completely inadequate response from Sydney Water Internal Audit to a detailed complaint made in writing by the wife of the principal of one of Sydney Water's authorised constructors, Aoun Constructions Pty Limited, about Mr Buckley demanding bribes from her husband. The inquiry will consider whether the evidence discloses that the inspectors, the subject of this inquiry, have taken money from constructors and plumbers over a number of years, safe in the knowledge that if anyone complained, nothing would be done about it by Sydney Water. The inquiry will consider what steps could and should have been taken with what appears to be a culture of systemic corruption within these parts of Sydney Water and will examine Sydney Water's plans to introduce new measures to deal with corrupt conduct of the kind dealt with in this inquiry. In this regard, a number of employees of Sydney Water will be called to give evidence and the following matters will be examined. First, the supervision of the Sydney Water employees, Mr Buckley, Mr Funovski, the PIAS inspectors and Mr Harvey. Second, the safeguards or lack thereof exposed by Mr Harvey's conduct in relation to Mr Makucha and entities associated with him, and third, the management by the Internal Audit department of Sydney Water of the corruption allegations which were made particularly against Mr Buckley. Taken in combination, these issues suggest a broad issue concerning risk control within Sydney Water. Finally, Commissioner, you will recall that I mentioned that a detailed complaint was made in writing about Mr Buckley by the wife of the principal of Aoun Constructions Pty Limited, an authorised or accredited constructor. So far as Sydney Water's response to these allegations the subject of the inquiry is concerned, the inquiry will examine steps apparently commenced to remove Aoun Constructions from Sydney Water's list of accredited constructors. This obviously would have a devastating effect on Mr Aoun and his business. The inquiry will consider if there is any link between this action against Aoun Constructions and the complaints made by his wife about Mr Buckley. Commissioner, that completes the remarks I wish to make in opening.

THE COMMISSIONER: Thank you, Mr Payne. I need to state formally that the Commission is investigating allegations that Sydney Water Corporation employees, John Buckley, Robert Funovski, Richard Fayers, Tony Vecchio, Brian Kane and Robert Rogers have sought or accepted corrupt payments or rewards from Sydney Water constructors and plumbers in relation to the performance of their duties. The Commission is also investigating an allegation that Edward Harvey, a Sydney Water property asset manager, has engaged in corrupt conduct in his dealings with Paul Makucha and associated companies. The general scope and purpose of this public inquiry is to gather evidence relevant to the allegations for the purpose of determining the matters referred to in Section 13(2) of the ICAC Act. The Commission will now adjourn for five minutes.

SHORT ADJOURNMENT

[10.15am]

MR STEVENSON: (not transcribable) the object of this inquiry - - -

20 THE COMMISSIONER: One of the objects.

MR STEVENSON: One of the objects of this inquiry, I'd seek an opportunity before Mr Payne calls evidence to very briefly and for the record outline to you what Sydney Water's attitude to and position is in relation to this inquiry.

THE COMMISSIONER: Mr Stephenson, that application is not accepted. There are many people who are interested in the outcome of this inquiry, there are many people who are affected persons in this inquiry. It is not the practice of this Commission to allow statements of that kind. This is an investigation not a trial. We attempt to dispose of these inquiries as soon as possible giving everyone a fair chance to be represented and asked questions if they're relevant and fair and you will have that right it is not appropriate to make a statement at the moment. In fact, you have no idea of the evidence that's going to be led. You will have an opportunity to make written closing submissions, it's not the practice of the Commission to allow oral submissions in closing but you will have an opportunity to make written submissions after you've heard all the evidence and they will be carefully considered but it is no, it's not appropriate at this time for any opening statement to be made by anyone else other than counsel assisting the Commission.

MR STEVENSON: Thank you, Commissioner.

THE COMMISSIONER: Yes. Who the next person appearing, seeking leave?

MR LEE: Yes, my name is Lee, Commissioner.

THE COMMISSIONER: Mr Lee.

MR LEE: Yes.

THE COMMISSIONER: And who do you appear for?

MR LEE: I seek leave to appear on behalf of Mr Buckley.

10 THE COMMISSIONER: Yes. You have that leave. Yes, who else, who else seeks leave to appear, please, next in order?

MS DI GREGORIO: I seek leave to appear, Commissioner, for Mr Tony Vecchio.

THE COMMISSIONER: And what is your name please?

MS DI GREGORIO: Di Gregorio, D-I G-R-E-G-O-R-I-O.

20 THE COMMISSIONER: Sorry, I got lost there, do you mind repeating that.

MS DI GREGORIO: It's Di Gregorio, D-I - - -

THE COMMISSIONER: Yes, I've got it. Yes, for Mr Vecchio.

MS DI GREGORIO: For Mr Vecchio.

THE COMMISSIONER: Vecchio. Yes. Anyone else representing any person? Yes.

30

MS HUGHES: Commissioner, I seek leave to appear on behalf of Mr Fayers. My name is Hughes.

THE COMMISSIONER: Yes, Ms Hughes, you have leave. No other appearances?

MR EURELL: Commissioner, I seek leave to appear for Mr John Tanous. My name is Eurell, E-U-R-E-L-L.

40 THE COMMISSIONER: Mr John - - -

MR EURELL: Tanous, T-A-N-O-U-S.

THE COMMISSIONER: He's not a person mentioned as an affected person yet is he?

MR EURELL: No.

THE COMMISSIONER: On what basis do you seek leave?

MR EURELL: I understand he will be called to give some evidence to the Commission (not transcribable).

THE COMMISSIONER: You have leave, Mr Eurell, but I will listen very carefully to any question you may ask to make sure that it's relevant.

MR EURELL: Thank you, Commissioner.

10

THE COMMISSIONER: Relevant to your client's interests that is.

MR EURELL: Yes.

THE COMMISSIONER: Yes. Anyone else who appears? Yes, Ms McGlinchey.

MS McGLINCHEY: McGlinchey, Commissioner, I seek leave to appear for Mr Robert Rogers.

20

THE COMMISSIONER: Yes, you have leave. Now, this is like drawing teeth. Is there anyone else? No. Mr Payne.

MR PAYNE: I call Kenneth John Buckley.

THE COMMISSIONER: Mr Buckley, can you come to the witness box, please. Yes, you may be seated, Mr Buckley. Mr Buckley, do you have any, you have no legal representation?

30 MR BUCKLEY: Yes.

THE COMMISSIONER: I'm sorry, Mr Lee. So you want the section 38 order, Mr Lee?

MR LEE: Yes, Commissioner.

40 THE COMMISSIONER: Yes. Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Mr Lee and all documents and things produced by him during the course of his evidence at this compulsory examination are to be regarded as having been given or produced on objection and accordingly there is no need for Mr Buckley to make objection in respect of any particular answer given or thing produced.

**PURSUANT TO SECTION 38 OF THE INDEPENDENT
COMMISSION AGAINST CORRUPTION ACT I DECLARE THAT
ALL ANSWERS GIVEN BY MR LEE AND ALL DOCUMENTS AND**

THINGS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS COMPULSORY EXAMINATION ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR MR BUCKLEY TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR THING PRODUCED.

10 THE COMMISSIONER: Mr Buckley, I need to explain to you that in this public inquiry, you are obliged to answer all questions asked of you and it is a serious criminal offence either to refuse to answer or to give false answers. Do you understand that?---Yes, I do.

I emphasise that because the penalty for giving false evidence in a public inquiry is a gaol term of up to five years. Do you understand it is a serious matter?---Yes, I do.

Yes, Mr Payne.

20 MR PAYNE: Mr Buckley- - -

THE COMMISSIONER: Sorry, Mr Buckley. Do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence? ---Under oath.

Yes. Would you swear Mr Buckley.

THE COMMISSIONER: Mr Payne, I have made an order varying previous suppression order- -?---Yes.

- - -and I think it would be helpful to all involved if that can be circulated to the persons who are interested so they understand to what extent that suppression order has been varied.

10

ORDERS VARYING PREVIOUS SUPPRESSION ORDER

MR PAYNE: Yes, I'll have steps to make sure that that occurs, Commissioner.

THE COMMISSIONER: Yes, thank you.

20 MR PAYNE: Mr Buckley, can you tell us your full name?---Kenneth John Buckley.

Typically you're known as John Buckley. Correct?---That's correct.

And you work for the Sydney Water Corporation?---Yes.

For how long have you been employed by Sydney Water or its predecessor corporations?---Forty-five years.

30 And what is your current role at Sydney Water?---Production employee in maintenance.

I'll show you a document. One for the Commissioner. Is that the position description for your position, namely production employee, civil maintenance?---That's correct.

And you report to a civil maintenance field supervisor?---Yes.

40 And the position described as production employee, role is to provide civil asset maintenance services and operational support to the Sydney Water water, waste water, recycled water distribution systems and stormwater systems?---Yes.

And, Commissioner, I tender that document.

THE COMMISSIONER: Yes. So what number is that? Is that, that will be exhibit B1.

#EXHIBIT P1 COPY OF POSITION DESCRIPTION OF KENNETH JOHN BUCKLEY

MR PAYNE: And, Mr Buckley, for how long have you occupied the position of production employee civil maintenance?---I'm not too sure. '89 ah, maybe ten years or more.

10 And in that role, can I ask you, is a principal part of your role to conduct inspections of connections by accredited constructors to the Sydney Water sewerage system?---It was.

When did that change?---A few months ago.

During the ten years or so that you occupied that role until a few months or so, where were you based?--- Birrong and Potts Hill.

20 And for what areas of Sydney did you have the inspection function that you've described to me of inspecting the work of accredited constructors?--- inner west.

By which you mean what?---It's an area covered by Granville to Drummoyne across to Padstow, along Fairfield and back over towards Granville.

30 And was that inner west area that you have described stable throughout the ten years, namely was that your area for that ten-year period?---Yes. I worked in there as maintenance as well as doing audits on constructors, yes.

You've called the audits on instructors. That's the same thing as the inspections I've described of accredited constructors' work?---Yes.

Can I show you another document and you'll see when you receive this that this is a list of accredited suppliers and constructors of Sydney Water as at 31 July, 2009?---Yes.

40 And the system was, wasn't it, that when there was a significant development in your area the developer would apply for a Section 73 Certificate to Sydney Water?---I'm not fully sure of the process.

Well you came into the process at the point at which an accredited constructor was appointed to connect to the Sydney Water sewerage system. Correct?---No. It was when they were beginning their construction work.

Yes. And at the commencement of that construction work you would be involved in conducting inspections of that work - - -?---Yeah.

- - - first at the outset of the work?---Yes.

Second, whilst construction was going on?---Mmm.

And finally there would be a final inspection where you would in effect certify that the development was, was fine to go ahead and that a certificate could be issued by Sydney Water in respect of that development?---I think so. That's handled down in another section.

10 What section handled that?---Development Services, I think.

As part of urban growth?---Yes.

And that was completely separate to your section which was civil maintenance delivery, part of the maintenance department?---That's correct.

In relation to this list of accredited suppliers, were you familiar with that list as it developed during your time at Sydney Water?---I knew it existed, but I didn't have a look through it.

20

Did you have any role in the accreditation of constructors?---No.

Have you ever had any role in the removal of an accredited constructor from the accredited constructor list?---No.

Commissioner, I tender that document.

THE COMMISSIONER: Yes. The list of accredited suppliers as at 31 July, 2009 is Exhibit B2.

30

**#EXHIBIT P2 - LIST OF ACCREDITED SUPPLIERS –
CONSTRUCTORS, CURRENT AS AT 31 JULY 2009**

MR PAYNE: Mr Buckley, in relation to your inspection role, how were you allocated work?---The water servicing coordinator used to send through the E-Developer system a commencement notice.

40 You've mentioned a few things there. A water services coordinator, what is that role and who was, was it performed by?---They're independent, they're, I think the developer or builder, they employ a water servicing coordinator to do a design and, then a constructor is engaged and they handle all the paperwork from that side.

And the water service coordinator is accredited by Sydney Water?---I think so.

And there's an agreement entered into between water service coordinators and Sydney Water?---I think so. I'm not sure.

You mentioned to E-Developer System, what did you mean by that?---It's a computer system that all the, everything comes through and goes back out, out, it comes from either from development service through the E-Developer system or the water servicing coordinator sends stuff in through the E-Developer system, we send it back out the same way.

10 In respect of developments within the inner west area that you have described during the 10 year period that you were responsible for those inspections - - -?---I'm not sure if it was all the 10 years, a few years, yes.

Well, for how long were you responsible for those inspections during that 10 year period?---I can't recall. Five, six, seven years, I'm not sure.

During that period and concentrating on the inner west area, were you the person within civil maintenance that conducted all or most of the inspections in that inner west area of Sydney of sewerage connections?
20 ---Yes.

Were there other people at your level within the civil maintenance division that were capable of conducting such inspections in the inner west area?
---I'm not sure. I think there could've been.

But nevertheless, the practice was during that six or seven year period that you conducted inspections that all of the inspections in the inner west that needed to be conducted by Sydney Water were conducted by you?---Yes, that's right.
30

Is there any reason for that?---That was the, part of the job they gave me to do there other than maintenance.

Who were you supervised by during that 10 year period that we've discussed?---My first supervisor was Sasho Valeski, I think.

For the whole of that period?---No.

Who else supervised you?---Kevin Medeski. We had other field supervisors before we moved to (not transcribable) I can't recall them all.
40

You've said field supervisor, was it the practice of the field supervisor to attend with you on any of the inspections that you conducted of sewerage connections?---No.

Did it ever happen?---No.

So you were the only person on behalf of Sydney Water in the inner west area during that period who had the role and responsibility of inspecting the connections?---That's correct. There was the water servicing coordinator.

And a water servicing coordinator we've discussed is not an employee of Sydney Water - - -?---No.

- - - but somebody who has a contract with Sydney Water - - -?---Yeah.

10 - - - to design water services to connect with Sydney Water sewerage systems?---That's correct. Yes.

Beyond your field supervisor, did you at any time have contact with anybody else within Sydney Water about how you should go about conducting your inspection activities in the inner west?---No.

20 During the time you were employed conducting these inspections, did you ever undergo any training of any kind about Sydney Water's policies concerning the acceptance of cash payments by developers, constructors or water services coordinators?---Not as such, I don't think.

Mr Buckley, I want to take you to a number of specific examples of your interactions with accredited constructors of Sydney Water during the period that we've discussed. The first is a Mr Yousef Nasrallah. Can you tell us about Mr Yousef Nasrallah?---I think that's Joseph Plumbing known as.

Known as Joseph Plumbing, an accredited constructor of Sydney Water? ---That's correct.

30 And you were the inspector in relation to a number of projects concerning Mr Nasrallah?---Yes, I believe so.

And is it the case that you accepted cash payments from Mr Nasrallah in relation to your inspection activities?---From time to time he offered me monies as a gift, I think.

And from time to time you accepted cash payments from Mr Nasrallah in the course of your duties?---I accepted cash payments, yes.

40 We'll deal with a few of those. When did you first meet Mr Yousef Nasrallah?---I can't recall. A few years ago, I think.

I suggest to you that Mr Nasrallah commenced working as an accredited constructor for Sydney Water in about 1997 or 1998. Do you agree?---I'm not sure.

I suggest to you that Mr Nasrallah first met you in about 1999. Do you agree?---I'm not sure.

When you first met Mr Nasrallah it was the case wasn't it that you found a number of minor issues, such as benching a manhole with his work?---I can't recall.

Do you agree that in about 1999, Mr Nasrallah gave you a cash payment of \$100, which he placed in an envelope in a work folder when you had turned up at a site where he was working?---I don't recall.

10 Meaning that it is likely that he gave you such money or, or you're not sure?---I can't recall.

You said he made you cash payments which you characterised as gifts on a number of occasions, on how many such occasions did you accept cash payments from Mr Nasrallah?---I can't remember. It wasn't every time.

More than 100?---No. I can't, no, it wouldn't be.

More than 50?---I don't know. I don't think so.

20

Between 10 and 50?---It could be. I don't know.

When you were working with Mr Nasrallah from 1999, I suggest to you that almost every occasion that you visited a site where Mr Nasrallah was the authorised constructor, he would pay you cash of between 50 to \$100. Do you agree?---No.

30 On the occasions that he paid you, made a cash payment to you, on each occasion that was done out of sight of either workers and witnesses wasn't it?---Yes.

Over time I suggest to you that Mr Nasrallah started wrapping money in A4 paper and handing it to you so that nobody else would see. Do you agree?---I can't recall.

THE COMMISSIONER: Why, why is it difficult for you to recall that?---I don't know how far back it is, he gave me money now and again, sometimes in envelopes, sometimes in a piece of paper. It wasn't all the time.

40 And was it wrapped up in a, when he gave it to you in a piece of paper, was it wrapped up so as to conceal it?---I think so.

Why was it necessary to conceal it?---I don't know.

What made him think, did you tell him to conceal it?---No.

What, what do you think made him think that he should conceal it?---I'm

not sure, just maybe he didn't want anybody seeing him giving money to somebody.

Why do you think that would, he would think that?---I'm not sure.

Is it perhaps because he would think that that's the wrong thing to do?
---Possibly.

And did you think it was the wrong to do?---I do now.

10

MR PAYNE: Mr Buckley you knew when you received these cash payments that Sydney Water's policy was clear that you were not to accept cash from accredited constructors. Correct?---Yes.

You knew that was the policy at the time?---Back then I think so, yes.

And so you knew it was the wrong thing to do to accept these cash payments. Correct?---Yes.

20

You never told anyone you'd received a single one of these cash payments from Mr Nasrallah or anybody else did you?---No.

You never told your supervisor, whether field supervisor or otherwise that you'd received any such payment. Correct?---That's correct.

And you received regular payments, I suggest to you, over many years from many constructors, we'll come to that, but I suggest to you that that's the fact?---No, I didn't, regular payments, no.

30

THE COMMISSIONER: What kind of payments did you receive if you didn't receive regular payments?---Occasionally on a construction site, a constructor might say, here go and buy yourself a beer or something like that and he'd give you \$50, \$20, or \$100. But not all the time.

Well, you said it didn't happen every time you saw Mr Nasrallah, did it happen every second time you saw him?---I can't recall.

Is that possible?---It could be, yes.

40

MR PAYNE: Mr Buckley, I suggest to you that you were paid cash by Mr Yousef Nasrallah on approximately 40 occasions between 1999 and 2009. Do you agree?---It could be right.

It's likely that it's correct. Do you agree?---Yes.

Do you agree with me that Mr Nasrallah paid you, made cash payments to you on every job he did in your area during that period?---No.

Well, which jobs didn't he make a cash payment to you?---I don't know, I didn't keep a record of everything. He just sometimes would give me some money, sometimes he wouldn't.

Well, do you have the faintest idea one way or the other whether he made payments to you on every second job, every third job or every job?---It could've been every second or third. I'm not sure.

10 How do you know he didn't make payments on every job if you didn't keep a record?---I'd remember if he did it every time.

It was noteworthy if he didn't, was it?---No.

What was the thing that stuck in your memory about the occasion or occasions on which Mr Yousef Nasrallah did not make a cash payment to you?---Nothing, I didn't really expect it all the time.

20 Are you able to identify a single occasion where you were the inspector of Mr Yousef Nasrallah's accredited construction work for Sydney Water where no cash payment was made?---No.

THE COMMISSIONER: Why do you think he made you those cash payments?---I just thought it was an industry thing.

What do you mean by that?---In some industries they say go and buy yourself a beer or they might give you a bottle of scotch or something now and again. It's just a - - -

30 So when you say industry do you mean Sydney Water?---Just the construction industry, just like a thank you.

You mean this is a construction industry thing?---Yes.

Who would, in the construction industry who would be paid money?---I'm not sure.

Inspectors?---I think so, yes.

40 And was it an industry thing amongst Sydney Water?---I don't know.

MR PAYNE: Have you heard of other Sydney Water inspectors in your position in different areas of Sydney accepting cash payments?---No.

It comes as a complete shock to you that somebody would say that, does it? ---No, but I have never heard it.

Well, I want to examine with you, Mr Buckley, you've told the Commissioner you think it's an industry thing that payments of this kind are

made. Was the industry thing limited to your area of Sydney, was it?---I just thought construction in general.

So you assumed that with construction in general that everyone performing your inspection services within Sydney Water would be offered the same inducements, did you?---I wasn't sure. I never thought about it.

10 THE COMMISSIONER: What made you think that it was an industry thing?---Because some constructors would come and say here's something, go and buy yourself a drink or give you a bottle of scotch, some would, some wouldn't. I didn't do anything to sort of pass off work or anything like that.

MR PAYNE: Well, let's examine that for a moment, Mr Buckley with, with Mr Yousef Nasrallah. I suggest to you about four or five years ago he was working at a job in Revesby and you were the Sydney Water inspector on that site, it being a two-day job. Do you remember such an occasion? ---Four or five years ago?

20 Yes?---No.

I suggest to you that Mr Nasrallah paid you \$100 at the commencement of work on, on that site. Do you agree?---I can't remember.

It's likely that it happened given your relationship with Mr Nasrallah over the years isn't it?---I don't know, I don't remember the job.

30 Well, I'll try and assist your memory. This was a job where concrete had been ordered for 12 o'clock and you arrived on site just before 12 o'clock but the concrete truck had not arrived because it was late and at about 10 past 12.00 on that day, the truck still having not arrived you said to Mr Nasrallah, I have to leave to go to another job, I can't wait so cancel the concrete. Do you remember that?---I can't recall, no.

Do you remember that he said to you, Concrete is on the way, I can't cancel it, the concrete is on the way, you have to stay here so we can pour. Do you remember him saying that to you?---No.

40 You said to him I suggest to you, It's going to cost you if I'm going to stay? ---No.

No, you don't remember or no, it didn't happen?---I don't remember if it happened, I don't remember it.

It could have happened, couldn't it?---I don't know.

Wasn't it your practice in dealing with Mr Nasrallah to ask him for cash payments?---No.

Are you saying that never happened?---Yes.

You never asked Mr Yousef Nasrallah for a cash payment. Is that what you're saying?---No, no, not like that, no.

THE COMMISSIONER: I beg your pardon?---No, I have not.

You have never asked him for a cash payment?---Not that I can recall.

10

MR PAYNE: Mr Buckley, I want to give you every opportunity and I want you to carefully reflect about the evidence you're giving today. You agree, don't you, that you have accepted cash payments for some years from Mr Yousef Nasrallah, correct?---Yes.

I've suggested to you that that happened on at least 30 occasions. Do you remember me making that suggestion to you?---Yes.

And you said you didn't know but it could have been?---Yeah.

20

I'm suggesting to you and I want you to reflect carefully on your answer, I'm suggesting to you that there were occasions where you sought cash payments from Mr Nasrallah?---The time I can remember him mentioning money was when Joseph offered me \$400 to pass a job and jokingly I said no, 500 and then at the end of it I said Joseph, it's not about money, it's about the process of doing the job properly.

You jokingly said what about 500?---Yes.

30 That's the only occasion you mentioned money with Mr Nasrallah you say? ---That I can recall, yes.

So you had a relationship with Mr Nasrallah going for some years where he was making cash payments to you. Correct?---Yes.

And he says I can pay you, what, \$400 you say?---I was knocking the job back and he said he was going to give me \$200, then \$200 at the finish. I said no.

40 THE COMMISSIONER: I thought you said \$400?---Yeah, 200 and 200, 400.

MR PAYNE: And you said to him 500, correct?---Yes.

And you tell the Commission that was a joke?---I was just seeing what he'd do.

Well, you'd been paid money by him for some years prior to this hadn't you?---He had given me money, yes.

Had you ever joked with him in the past - - -?---No.

- - - about the, the sum?---No.

Why did you do it on this occasion, Mr Buckley?---I can't recall. I was, I can't recall, I was stressed out, I can't remember.

10

Mr Buckley, is it the case that somebody has told you there is a recording of you demanding money from Mr Nasrallah?---No.

It comes as a complete shock to you, does it?---Yes.

Let's return to this four or five years ago at Revesby. I suggest to you that after you said to Mr Nasrallah it was going to cost you if I'm going to stay that you didn't discuss it any further, however, Mr Nasrallah went to his car, got \$100, put it in an A4 sheet of paper and handed it to you whereupon you stayed until the concrete truck arrived at about 20 past 12.00. Do you remember that?---No.

20

Do you say that it couldn't have happened?---Yes.

Could not have happened?---Yes.

So you, you weren't there?---I don't recall, I can't recall the job five years ago.

30

But you can recall, can you, that you were not paid \$100 on the occasion that I've described to you?---I've never done that, no.

You've never received \$100 in A4 paper from Mr Nasrallah?---No, I didn't say that. I said I haven't received money like that, asked for it like that at a job.

Can I take you then to 2009. Do you remember being the inspector on a job at 36 Victor Avenue, Panania where Mr Nasrallah was the accredited constructor?---I think so.

40

If I can assist your recollection with a sewer main connection report dated 12 December, 2008. I'll hand that up to you, one for the Commissioner. Now, just going through that document, Mr Buckley, that's a sewer main connection report. Do you agree?---Yes, that's correct.

And that's your signature that appears in three places on that document under Part 1, Pre-connection, Part 2, Connection and Part 3, Post Connection?---That's correct.

And it's dated 12 December, 2008?---Yes, that's correct.

You agree with me that you were the inspector on this job?---Yes.

And it's the case, isn't it, that in the course of your inspection duties you received a cash payment from Mr Yousef Nasrallah on each of the occasions you inspected the work, being between fifty and one hundred dollars. Correct?---No. I don't recall. No.

10

I suggest to you you were paid approximately \$400 in cash by Mr Yousef Nasrallah in relation to this job. Do you agree?---No, that's not true.

Well, how can you be in a position to deny it? You accept that you had regular cash payments from Mr Nasrallah. Correct?---I have on different occasions, yes.

Do you remember this job?---I think so, yes.

20 You went there at least three times. Correct?---Four, four I think.

You went there on four occasions?---Yes.

And I suggest to you that you were paid cash by Mr Yousef Nasrallah on each of the occasions you attended. Do you agree?---No.

What is it that you remember about this job that permits you to deny that you received cash on each occasion you attended?---The job was knocked back three or four times, this job.

30

Yes. So you've got a clear recollection, do you, of each time you attended? ---Not each time. I can remember going there though, yes.

And you remember being paid cash by Mr Nasrallah when you went, don't you?---No, not, not on this job, no.

You say you were never paid cash on this job by Mr Nasrallah?---That's correct. I can't recall. No.

40 Well, Mr Buckley, there's a significant difference between denying on your oath you were paid and saying that you don't recall. Do you understand that distinction?---Roughly.

Well, let's take a moment to consider it. If you remember what happened and no cash was paid, you could deny it?---I don't remember receiving any, any on this job.

So you can't deny it, you just don't remember it?---I don't remember receiving any money on this job.

You may well have though?---I can't, I don't remember.

Well, given that you've been receiving regular payments from Mr Nasrallah over time, which you agreed with me could amount to as many as thirty. You'd agree with me, wouldn't you, that it's at least likely that you received a cash payment in relation to this job, wouldn't you?---I'm sure I didn't.

10

You're sure you didn't because you remember each time that you went there and you have a memory of not receiving cash. Is that what you say?---Each time I went there I'm fairly sure the water servicing coordinator was there and I didn't receive any money on that job, no.

Well, you just mentioned the water servicing coordinator. Is it less likely you would accept a cash payment if there was somebody else there, is it? ---No, not necessarily, only some people (not transcribable) I don't recall. I'm pretty sure, no, I didn't receive nothing here.

20

I suggest to you that you were paid approximately \$400?---I deny it.

I want to take you to a job at 42 Sherwood Street, Revesby. Do you remember that job?---Yes.

Is that the job that you were telling me about before where you made the joke?---(NO AUDIBLE REPLY)

30

Who was the water services coordinator for that job?---I think it was Sydney Wide Coordinators.

Mr Bob Pascoe?---I think so, yes.

And work commenced on that job at 42 Sherwood Street, Revesby on 10 June, 2009?---I'm not sure.

I suggest to you that at about 9 o'clock on that day you attended the site. Do you agree?---I'm not sure of the date. I remember going there but I'm not sure of the date or the time.

40

Well, perhaps I can show you some documents to assist your memory. We'll start with a Sewer Main Construction Audit Report. Just whilst we're looking for that document, Commissioner, I tender the Sewer Main Audit Construction Report in relation to 36 Victor Avenue, Panania.

THE COMMISSIONER: The Sewer Main Connection Report relating to 36 Victor Avenue is Exhibit P3.

**#EXHIBIT P3 - COPY OF SEWER MAIN CONNECTION REPORT
RELATING TO 36 VICTOR AVENUE DATED 12 DECEMBER 2008**

MR PAYNE: I'll hand you that document. Now, does that help orient you, Mr Buckley, with this job and what time you were performing your inspection function in relation to it?---Just the date, not the time.

10 And the document that I've shown you indicates that that's not the first occasion that you'd been to the site. Correct?---According to this, it's the first time I'd been there.

And what date is that?---10/7/09.

So 10 July is the first time that you attended the site?---That's correct.

Yes, I tender that document, Commissioner.

20 THE COMMISSIONER: The Sewer Main Construction Audit Report dated 10 July, 2009, is Exhibit P4.

**#EXHIBIT P4 - COPY OF SEWER MAIN CONSTRUCTION AUDIT
REPORT DATED 10 JULY 2009**

MR PAYNE: Mr Buckley, I suggest to you that about 9 o'clock on that day you attended the site and that Mr Yousef Nasrallah was present. Do you
30 agree?---I think so, yes.

And I suggest to you that as you arrived you were greeted by Mr Nasrallah who handed you \$100 wrapped in a sheet of A4 paper. Do you agree?
---I can't recall.

I suggest you took the money and put it in your pocket without opening it?
---Don't recall.

40 Did you have a practice when you received cash payments from constructors of discreetly putting the money away as quickly as possible?
---I would have put it in my pocket, yes.

Because you didn't want anyone else to see that you were receiving a cash payment from a constructor, would you?---Yes, that's correct.

So it may well be that what I put to you is correct, namely that Mr Nasrallah gave you \$100 on that day?---I don't recall on that job. I don't think so.

What is it about 10 July, 2009 and this job which assists your memory such that you can say that it is unlikely you received money from Mr Nasrallah on that day?---I can't, I can't recall.

So you don't know one way or the other?---No.

It's just as likely he paid you money as not. Is that your evidence?---I don't, I can't recall.

10 But you agree with me, it's just as likely he paid you money as not?
---I can't recall.

The next day, I withdraw that. Can I take you to 27 July, 2009. I suggest to you on that day at about 11 o'clock you called Mr Yousef Nasrallah and said words to the effect that, I'm not working today but I will attend the site anyway. Do you remember saying that?---I can't recall.

Possible that it happened?---It could have. I can't recall.

20 Likely that it happened?---I can't recall.

Mr Nasrallah said to you, "Come in the afternoon and I will have something for you to look at." Correct?---I don't remember.

I suggest to you that about 1.30 on that day, 27 July, you arrived onsite wearing your Sydney Water uniform and driving your Sydney Water vehicle. Do you agree?---I can't recall.

30 If you had attended you would be wearing your uniform and driving your Sydney Water car. Correct?---Yes.

I suggest to you you said to Mr Nasrallah, "What are you doing?" And he said, "Starting work." Do you remember that?---No.

Could it have happened?---You said he started on the 10th, I think.

On the 10th, that's correct?---Yeah. And what date's this?

40 This is the 27th?---I can't recall.

I suggest to you that you said to Mr Nasrallah, "How come you started pulling out the pipe without me being here?" And that he said to you, "I'm starting today and Bob Pasco told me to start. Do I do that section as well?" Do you remember that?---Vaguely, yes.

So it's likely isn't it that you did attend?---I'm not sure which date, but I remember saying something like that to him, yes.

And I suggest to you on that day you said, "Don't do it." And Mr Nasrallah said, "Don't worry, I won't do it."---It could be correct.

I suggest to you that you were upset about the amount of work that Mr Nasrallah has done and you said as you were leaving the site to him, "It is going to cost you." Do you remember that?---No.

You don't remember it?---No.

10 Mr Nasrallah said to you, "How much is it going to cost me, John?" And you said, "500 plus." Remember that?---No.

You don't remember it, but it's likely you said it isn't it?---I can't recall, no.

Well, isn't it likely Mr Buckley, that if you've solicited a payment of \$500 from an authorised constructor in the course of your work that you would remember it?---Yes, I would.

20 And I suggest to you that that's what you said to Mr Nasrallah?---The only time I can remember saying is when Joseph offered me \$400 to pass off some shoddy work and I said to him, "500". And then I said, "No. You've got to follow the process and do the construction to standards.

Well, let's be clear Mr Buckley, this is the day before that conversation we're talking about. I'm suggesting to you, I'm putting it to you squarely so you can deal with it, that you attended the site, you told Mr Nasrallah it was going to cost him 500 plus?---I can't recall.

30 THE COMMISSIONER: Do you deny it?---I can't recall saying it. I remember saying that - - -

So you don't deny it?---I don't deny saying \$500.

You just can't remember?---Which order I put it, no.

40 MR PAYNE: So is the Commissioner to take it from that answer that you may well have said on the day before, we're talking about 27 July, 2008 that it's going to cost you 500 plus?---Well, all I can remember is Joseph offering me the 400 and I mentioned the 500. That's all I can recall.

Well, this is the day before and I'm putting it to you squarely that you solicited from him on that day 500 plus. Do you agree?---No. (not transcribable) is Joseph offered me the 400 first. I think he, I'm sure he said 200 and 200 and I said 500.

THE COMMISSIONER: Why do you remember that?---It's just because it's something that I'd never done before and no one's offered me a bribe like that before.

MR PAYNE: Mr Buckley, you'd been receiving cash payments from authorised constructors for years before this hadn't you?---They've given me gifts, yes.

Well, it could've been on 30 occasions from this very man, this very man, this Mr Nasrallah. Do you agree?---Possibly.

10 And you'd received cash on 30 occasions which, let's go through them, you knew you weren't permitted by Sydney Water to accept. Correct?---Yes.

You never told anyone about it. Correct?---Correct.

You kept it secret from everybody at the site and everyone at Sydney Water. Correct?---Correct.

And your evidence to the Commission is it, that this one stuck out in your mind - - -?---Yes.

20 - - - as the only occasion that you've ever asked for money?---When I was offered a bribe, yes. I didn't, he offered me the money, \$400 and I said \$500.

In your mind the distinction you're drawing is, is being offered a bribe is to do or not do something that you otherwise wouldn't do is it?---That's correct. Pass off shonky work or not being done to standard.

30 Well what about those occasions where you have issued what's called a Corrective Action Request. We'll talk about that for a moment. That was one of your powers. Correct?---It was part of the process, yes.

And if you issued a Corrective Action Request that would involve delays for a developer and an authorised constructor of some days, weeks or even months. Correct?---No, not necessarily.

It could involve those delays?---It could, but it shouldn't.

40 Okay. We'll come to this, this very project in a moment and the delays that were occasioned here and your role in it. But is it your evidence to the Commission that a CAR should not involve any delay?---It should not, it could, it could make a short delay, but it shouldn't make any major delay if the work's rectified, it just carries on.

You see Mr Buckley, you knew that you were in a position of some power over these constructors didn't you?---No.

It never occurred to you that if you issued a CAR and picked faults in their work that they might suffer some sort of financial detriment. It never

occurred to you?---No. Well, as I said they could take it to the water servicing coordinator or they can take it up with the supply management group. Well, on what occasions did you have, did you say that to the constructors? Were they, were they complaining to you?---Only on a couple of occasions.

Were they people who'd paid you money?---I can't recall.

10 Let's move to 28 July. And I'll show you a document being a sewer main construction audit report dated that day. So that I don't forget Commission, I might tender that document at this stage.

THE COMMISSIONER: Yes. The sewer main construction audit report of 28 July, 2009 is Exhibit P5.

#EXHIBIT P5 - COPY OF SEWER MAIN CONSTRUCTION AUDIT REPORT DATED 28 JULY 2009

20

MR PAYNE: Let's go through this document, Mr Buckley. It relates to 40-42 Sherwood Street, Revesby. The property I've been asking you questions about. Correct?---Yes.

It's signed by you at the bottom?---Correct.

You've put a cross in the box underneath the table issue audit report to DSR to raise CAR. Do you see that?---That's correct.

30 That means that in relation to this job on this day, you raised a Corrective Action Request?---That's correct.

Can you tell the Commissioner when that Corrective Action Request that you raised on this day was finally resolved?---No, I can't.

Can you tell the Commissioner on what day it was that a Section 73 Certificate was finally issued in relation to this project?---No, I can't.

40 Would it surprise you that it was April, 2010?---Well, I have no idea.

Would it surprise you that you wrote emails to senior officers within Sydney Water recommending that the CAR not be resolved as late as March this year?---I can't recall.

THE COMMISSIONER: You can't recall writing, sending an email in March this year?---That's correct. I'm not too sure.

MR PAYNE: Mr Buckley, I'm going to give you every opportunity - - -?

---But if I could say, if there's an outstanding non-conformance it should not hold up the Section 73 certificate.

It never occurred to you. Is that your evidence to the Commission? It never occurred to you that your actions in relation to Mr Joseph Nasrallah in relation to 40-42 Sherwood Street, Revesby might have a disadvantageous economic affect on Mr Nasrallah?---No.

It never occurred to you?---(NO AUDIBLE REPLY)

10

Mr Buckley, just look at the sewer main construction audit report that's been tendered of 28/7/09. And I want to give you every opportunity to deal with it. But the conversation I was suggesting to you a moment ago that took place is the day before. So you've arrived in the afternoon and you've said to Mr Nasrallah, "It's going to cost you more then 500." Do you remember me putting that to you?---I remember you putting it, yeah.

I want you to reflect very carefully. Is it your evidence to this Commission that that did or did not take place?---I do not recall that taking place.

20

But it may well have?---I do not recall it, like I've said, that he offered me 400, I said 500 but then I said no.

I'd like you to listen to this tape and I have a transcript which I'll make available to you once you've, once you've listened to it.

#TELEPHONE INTERCEPT PLAYED

[11.31am]

30

MR PAYNE: Mr Buckley, that's your voice and Mr Joseph Nasrallah's voice on that recording, isn't it?---I think so.

Well, you know it is, don't you?---Yes.

I tender that recording if the Commission please.

THE COMMISSIONER: Yes. Can I have the transcript please. Mr Payne, what is the date of this please?

40

MR PAYNE: 28 July, 2009, Commissioner.

THE COMMISSIONER: The transcript of the conversation recorded Mr Nasrallah's mobile telephone on 28 July, 2009 is Exhibit P6. And I take it you're tendering the audio recording as well?

MR PAYNE: Together with the transcript if the Commission pleases.

THE COMMISSIONER: So the transcript and audio recording of the conversation between Mr Buckley and Mr Nasrallah will together be Exhibit P6.

#EXHIBIT P6 - COPY OF TRANSCRIPT AND AUDIO RECORDING OF TELEPHONE CONVERSATION DATED 28 JULY 2009

10 MR PAYNE: Mr Buckley, can I hand you a copy of the transcript part of Exhibit P6 and I'd like to go through the transcript with you and examine a number of things that you have said to Mr Nasrallah on this day. I suggest to you that you had been to the site on the day before. Do you agree?
---Could have, I'm not, not a hundred per cent sure, I could have.

If you can drop down on the first page of Exhibit P6. Mr Nasrallah says to you, "What's it up to now?" You see that?---Yes.

20 He was asking you, wasn't he, having regard to the conversation you'd had the day before how much money was it going to cost him to get you off his back in relation to this construction?---I don't know.

You understood that's what he was saying, didn't you?---No, I don't recall it.

THE COMMISSIONER: You've seen him, you've spoken to him the day before because you say so on page - - -?---Yeah.

- - - 2 or 3 at line 14.

30 MR PAYNE: And you understood when he said to you what's it up to now, he was continuing on the conversation about how much it was going to cost him to get you off his back in relation to this construction, you understood that, didn't you?---Yeah, I think that's what I said before and he'd offered me 200 and 200, the 400 and 500, that's why I said 500.

THE COMMISSIONER: So that, he'd offered you the 200 and 200 the day before?---Yes.

40 MR PAYNE: And you had said no, 500 then, correct?---I think so, yes.

Do you tell the Commission that when you said that the day before that that was a joke?---Yes, because I didn't think he'd do it, I just wanted him to fix the job up.

So on the 27th then you say to Mr Nasrallah, "It will cost you \$500 ah, ah, for ah, me to ah, not raise a corrective action request in relation to this job." Is that what you said?---No, I can't recall what I said.

Well, you solicited \$500 from him the day before. You just agreed with that a moment ago, didn't you?---I said he offered me 400 and I said 500 so - - -

You see, Mr Buckley, nothing could be plainer, this conversation we've got here, there's nothing joking or funny about it at all, is there?---No.

Mr Nasrallah is coming to you and he's say what's it up to now, referring to what you had discussed the day before, namely how much for you to lay off.
10 You agree?---I agree. The next time I went there I, I said no, no money, Joseph.

Well, you told the Commissioner less than an hour ago that you had this, you had a conversation with Mr Nasrallah and you raised \$500 as a joke. Now, that turns out to be untrue, doesn't it?---Well - - -

It wasn't a joke, was it, Mr Buckley?---I wasn't going to accept it, no.

Well, you weren't making a joke, were you?---I was just trying to stress on
20 Joseph to do the job properly.

When you told his, the Commissioner in answer to a question from me this morning that you raised \$500 once as a joke, that was not true, was it?
---Yes.

You're agreeing with me?---No, I'm confused.

THE COMMISSIONER: I beg your pardon?---I'm a bit confused, that's
30 all.

Well, just read it and then remove the confusion because it won't take you long to do that because you just have to read the transcript. Do you say that this transcript is the transcript of a joke?---Not, it's not.

But you did say that it was the only time that you asked for money was in a joke?---That's what I said, yes.

So you weren't telling the truth then, were you?---I wasn't, no.

40 And you knew you weren't telling the truth, didn't you?---Yes, sir.

And you're telling the truth now because you've heard the transcript, aren't you?---Yes. And I did tell him the next time I seen him that I didn't want any money, it was about fixing the job up.

MR PAYNE: Well, let's just examine that for a moment, Mr Buckley, because he asks you, "What's it up to now, how much, how much?" And you say, "500." You meant \$500. Correct?---Yes.

“Yeah. All right.” His response is, “I can only give you 200.” And you say, “No.” Correct?---That’s what it says.

Well, what you meant was, if you won’t give me \$500, the deal’s off. Correct?---(NO AUDIBLE REPLY)

Nothing could be plainer, could it, Mr Buckley?---No.

10 Do you agree with me?---What’s that, sorry?

Do you agree with me that nothing could be plainer than that you are saying, if you don’t give me \$500, the deal I’ve offered you is off?---No. What do you mean by, the deal’s off?

Well, “What’s it up to now?” What was Mr Nasrallah asking you about? What’s it going to cost me so that you don’t issue a Corrective Action Request?---I don’t know. I don’t know.

20 You don’t know what he meant?---I don’t know what that means there, no.

THE COMMISSIONER: So what were you asking 500 for?---(NO AUDIBLE REPLY)

I don’t think you’re going to find the answer in the transcript?---Sorry?

You won’t find the answer by looking at the transcript?---Yousef had offered me money before and I just said 500. I think I was just trying to shock him.

30 What did you ask him 500 for, was my question, Mr Buckley?---To pass the job I think.

That’s correct. In other words, not to issue a CARs notice, because if you issued a CARs notice you wouldn’t be passing the job, would you?---That’s correct.

So you offered him \$500, you asked for \$500?---Yes.

40 And if he paid you, you agreed not to issue the CARs notice. That’s what that means, doesn’t it?---I think so. I’m not sure.

Yes.

MR PAYNE: And, Mr Buckley- - -

THE COMMISSIONER: Sorry, Mr Payne. This is not the first time you’ve done that, is it, Mr Buckley?---Pardon?

It's not the first time you had done that sort of thing, is it?---No, I've never done that before.

You've done it again?---No.

This is the only time in your whole life that you've asked for money- - -?---That I can recall.

10 - - -in consideration for not passing, for not issuing a CARs notice?---That I can recall, yes.

That you can recall?---That I can recall, yes.

It's possible that you've done it on other times but you can't recall?
---I don't think so.

MR PAYNE: Mr Buckley, you told the Commissioner not more than fifteen minutes ago that you'd done the very same thing the day before,
20 you'd asked for \$500- - -?---Yeah.

- - -from this man not to issue a CAR notice. You agree, don't you?---I don't know whether I mentioned the CAR notice, it was just for the job to go (not transcribable)

But that's what you, that's what you meant, wasn't it?---I can't recall.

Well, on the day before you'd asked this man for \$500 one way or the other so that you would get off his back. Correct?---Yes.
30

And we come to the 28th and we have it on tape. So the answer you gave the Commissioner a moment ago is simply untrue. On your own admission you've done it twice on two days to this man. Correct?---\$500.

I see?---Sorry.

The answer to the Commissioner a moment ago was that you'd never solicited \$500 before, you'd solicited other amounts?---No. To the Commissioner I said it was \$500 Yousef.
40

Turning over the page, just bear with me one moment, Mr Nasrallah said that he can't afford it and he would lose on the job, at which point I suggest to you that you raise your voice and say, "All right. You've got to stop the job now, you've got to put a bypass in." Do you remember that?
---I remember telling him he had to put a bypass in, yes.

And the reason was, he told you he couldn't pay the \$500 that you'd sought from him. Correct?---I don't recall. The reason I asked him to put the bypass in was so all the new work would be left till the end.

If he paid you \$500, you wouldn't have taken this action, would you?

---I think I still would have, yes.

10 THE COMMISSIONER: He would have paid you \$500 and you would have still told him to put in a bypass. Is that what you're saying, is that your evidence?---I think so, yes. It was a simple job he had to do, it wasn't hard.

MR PAYNE: See, on the very same day after this conversation, you did put in a CAR, didn't you?---I can't recall.

Well, I showed it to you a moment ago, didn't I. After Mr Nasrallah refused to pay you \$500, can you tell the Commissioner what steps you took in relation to further inspections of the property?---I issued Corrective Actions I believe. I can't remember after that.

20 Well- - -?---If I went back again, I can't remember.

Mr Buckley, this is the end of last year- - -?---Yes.

- - -and the beginning of this year. You tell the Commissioner you've got absolutely no memory about this job?---I can remember when I see the papers but the audit reports- - -

30 Well, perhaps I can assist you with another document. This is an email, if I can show it to you. Do you remember this email?---Yes.

Now, this is Christmas Eve. I'm terribly sorry, I've handed you the wrong email. Hand that one back and I'll hand you this email, which makes clear, it's got an incorrect date on it. Do you remember this email?---Yes.

Was that about this job?---I'm not sure. It goes on the case number.

THE COMMISSIONER: The case number is the same as that on the Sewer Main Connection Report?---Yes, well, it would be the same job, yes.

40 MR PAYNE: Yes, I tender that document.

THE COMMISSIONER: Well, that's the document containing two emails, Mr Payne?

MR PAYNE: Yes.

THE COMMISSIONER: The document containing emails of 24 December, 2008 and 14 January, 2009, is exhibit P7.

**#EXHIBIT P7 - DOCUMENT CONTAINING COPIES OF EMAIL
DATED 24 DECEMBER & 1 JANUARY 2009**

MR PAYNE: I'll show you another email. This one is about case- - -

10 THE COMMISSIONER: Are these emails available to be put on the
screen? They should be put on the screen, both of them.

MR PAYNE: Yes, we can do that. The next email I want to show you is
one of 8 March, 2010, about case 1-1-2-7-6-6 at Revesby, which is the
Revesby job I've been asking you about. If you can look at that.

Do you remember this email?---Yes.

Now, that's dated 8 March, 2010 from you?---Yes.

20 And just to be clear we're talking about the same Revesby job, the one
where you'd raised the CAR in 2009?---Yes. Ah, yeah, what street was that
one, sorry?

Well, in 2009 you've raised the one I was asking you about, Mr Nasrallah?
---Yeah.

30 That's still current in March 2010, that's what you're being asked about,
isn't it?---Yes. I just wondered what street it was, that's all. Is that the, the
Sherwood Street?

Yes. I tender that email.

THE COMMISSIONER: Well, the two emails, there are two emails on
8 March?

MR PAYNE: Yes. I tender both.

40 THE COMMISSIONER: The document containing two emails of 8 March,
2010 is Exhibit P8.

**#EXHIBIT P8 - DOCUMENT CONTAINING COPIES OF EMAILS
DATED 8 MARCH 2010**

MR PAYNE: I asked you some questions earlier this morning about this
and you said that the CAR process shouldn't result in any delays?---Correct.

This, this is in relation to Mr Nasrallah's work you're still saying as in March 2010 that the CAR should remain open. Correct?---Yes.

You knew that that was a hold up in finalising Sydney Water's involvement in inspection of the property, didn't you?---No. I, I, I was under the belief that the section 73 certificate could still be issued, that the CAR could be dealt with later.

10 Well, who's Mike Titus?---He's a development service officer.

In the urban growth department?---I think so, yes.

And he's written to you saying, "Please check on the progress of this case. It appears to be in the civil maintenance queue since December 2009. Can you please release it"?---Yes.

Correct?---Yes.

20 So your urban growth department is asking you to release it?---Yes.

You understood that was because it was a hold up in the, in the issue of a certificate, didn't you?---Yeah, I think so, yeah.

So you knew that the CAR that you had issued in relation to this job with Mr Nasrallah, because he wouldn't pay you \$500, was holding up the section 73 certificate, you knew that in - - -?---No.

30 - - - March 2010, didn't you?---No, I did not because the CAR should not hold up as far as I know the section 73 certificate. He said it was held up in the maintenance queue, I don't know why. I don't know whether I was on leave or, or what at that time.

Well, what you said back, as requested you've released it in March. I don't know, I was on leave and received no calls. I don't know who closed out the CAR but I've read the response and found them untrue and unacceptable?---That's correct.

40 So so far as you were concerned the CAR should have stayed?---That's correct.

And that's what you were conveying to urban growth?---That's correct.

This in circumstances where had Mr Nasrallah paid you \$500 back in July, 2009 you wouldn't have issued the CAR, correct?---Possibly.

Well - - -?---You'd have to see the corrective action to see why I put it unacceptable.

Nothing could be clearer, could it, if he'd paid you \$500 you wouldn't have issued the CAR, would you?---Possibly not.

THE COMMISSIONER: I just want to, are you going to ask Mr Buckley about P7, Mr Payne, because if you are not I would like to.

MR PAYNE: Commissioner, if you would, yes.

10 THE COMMISSIONER: Yes. Please put P7 up on the screen please. Do you have the emails in front of you of 24 December and 14 January?---Just the 14th of the 1st.

Have you got the one of 24 December?---No, I've just got the 14th of the 1st. Right down the bottom, sorry.

Do we have it? In the first paragraph, who's WSC? What is WSC?---The water servicing coordinator.

20 Is that an employee of Sydney Water?---No, that's a private (not transcribable).

That's the private person?---They're the private.

And in this letter you're complaining that WSC refuses to issue a non-conformance. When does the WSC issue a non-conformance?---If the constructor doesn't follow the process or his work isn't, is not - - -

So is that the same, how does that differ from the CAR?---The same.

30 The same. You issue one and the - - -?---Yeah, sometimes, yes.

What happens if you do but the WSC refuses?---It'd still be issued by Sydney Water.

So you have complete power?---Not power, it goes via the development services, they can veto it if they wish or the supply management group can.

40 On 24 December, 2008, now, Mr Payne, when was the date of the transcript is - - -

MR PAYNE: It's 2009.

THE COMMISSIONER: 2009, this is before the - - -

MR PAYNE: Yes.

THE COMMISSIONER: This is before the incident.

MR PAYNE: Yes.

THE COMMISSIONER: I see. And here, these two emails show a difference between you and the WSC coordinator?---Yes.

And the letter, and from your operations manager says the developer is desperate to complete. You see that, the one of - - -?---Up the top.

- - - 14 January, yes?---Yes.

10

They're desperate because there's been a delay?---Yes.

And you have refused to issue a, you've refused to withdraw your CAR notice I take it?---It wasn't just delayed because of this. The, the, to redesign it, to be drawn up for the job, if I remember that job.

But the WSC person, well, your operations manager believed that the CAR was satisfactory?---Well, yes, they, they, yes, that's correct.

20

And it's quite plain from this exchange that your actions in issuing the CAR had caused a delay which had made the developer desperate?---The CAR was meant to, to delay the job.

Well, do you accept that?---No, I don't accept it.

So what is said in the email isn't correct?---I don't agree with it, no. The original hold up with the job was that the, they had to put a new design in for it.

30

Do you, do you accept or do you not accept that by issuing a CAR you can cause delay on a job?---I accept it could but it shouldn't. I've been told that the CARs won't hold up jobs.

Who told you that?---Supply management have told me before.

Who?---I think Jim Price and some of the water services, the DSRs have, that they can let it go through and they fix the corrective actions up after.

40

So when you issue a CAR you, you don't believe that you're causing a delay?---No.

What, what is the contractor to do then if he can't finish the job because of your CAR?---He's, if he's, if he rectifies the work straightaway the work, the flow just keeps going on.

For him to rectify the work means that he's got to do it to an extent that you approve?---To a Sydney Water standard, yes.

And if you refuse, if he refuses to pay you will you approve?---I don't usually do that, no.

Well, sometimes you do, do you?---No, that's the only - - -

Well, why did you say usually?---I always usually make sure that everybody follows the, the process in construction to Sydney Water standards.

With the \$500 bribe - - -?---Yes.

10

- - - you made sure that there was a delay, didn't you?---That was not my intention, no.

What was your intention?---Of issuing, issuing a CAR on the job was just to get the job fixed up.

20

Why would, why would you not have issued the CAR if you were paid \$500? Didn't the job mean anything to you then? The job means \$500 to you then does it Mr Buckley?---Sometimes they could, (not transcribable) you a shortcut, but no, I'd still want the job done to Water Board standards. But the main delay on that job I believe was the, they had to resubmit a, a new design.

Yes, thank you.

MR PAYNE: You see Mr Buckley, just taking up the Commissioners questions, you cultivated a reputation didn't you, amongst the constructors of being fernickety, picky, hard to please?---Possibly, yes.

30

You cultivated that because you hoped that that reputation would spread amongst the constructors and would lead to them making cash payments to you. Correct?---That was not my intention, no.

Well, would you agree with me that it is likely that your reputation for being picky, fernickety, et cetera, spread amongst the constructors?---Possibly.

And do you agree with me that that was useful to you in the sense that it made them more likely to offer you cash payments. Correct?---I didn't do that for that reason.

40

That was just an unhappy by-product of that reputation was it?---Possibly. I didn't do it for that reason.

You never set out to cultivate that reputation in order to have money, cash money paid to you by constructors. Is that what you say?---That's what I'm saying, yes.

And this example that the Commissioner was taking up with you of delay, you say it never happened before in your time at Sydney Water?---Not that I recall, no.

Well, can I take you just to finish the story of 40-42 Sherwood Street, Revesby, to another sewer main construction audit report. This one dated 4 August, 2009. I tender that document, Commissioner, please.

10 THE COMMISSIONER: Yes. The sewer main construction audit report of 4 August, 2009 is Exhibit P9.

#EXHIBIT P9 - COPY OF SEWER MAIN CONSTRUCTION AUDIT REPORT DATED 4 AUGUST 2009

MR PAYNE: All right. Now, Mr Buckley, you attended the site again on 4 August, 2009. Correct?---Yes.

20 And you can see that because is in the, in the far right hand comments box, I'll just invite Mr Fox to make that legible, if you can make it bigger on the screen. It says, I'm sorry, it says encasements to be set up as per standard/code. That's the Australian Standard, being the Australian Sewerage Code you're talking about?---Yes.

Explained to constructor on site?---Yes.

30 So you'd agree with me that after the refusal to pay the bribe back in July, 2009, you've now found another problem with Mr Joseph Nasrallah's work. Correct?---Yes.

And your purpose in doing that was to cause him as much commercial harm and delay as possible to make an example of him of what happened if you refused to pay a bribe. Correct?---No, that's incorrect.

You say it's a matter of accident is it that you found so many problems with this job after the refusal to pay the bribe?---No, the job was a mess when I went back there and I just asked them to fix it up.

40 I'd ask you to listen to the following recording from 4 August, 2009, an excerpt of that recording.

VIDEO RECORDING PLAYED

[12.04pm]

MR PAYNE: Mr Buckley, that's a video recording of you talking to Mr Yousef Nasrallah on 4 August, 2009?---Correct.

And the audio recording you heard was your voice and Mr Nasrallah's voice in a conversation you had on that day?---I think so. Yes.

Yes, Commissioner, I tender that recording and the transcript. I've played on only a excerpt of it, but I've sufficiently identified it.

THE COMMISSIONER: And the date again, 4 August, 2009.

MR PAYNE: 4 August, 2009. The same date as the last - - -

10

THE COMMISSIONER: The audio recording of 4 August, 2009 and the transcript will be Exhibit P10.

**#EXHIBIT P10 - TRANSCRIPT OF TELEPHONE CONVERSATION
& AUDIO RECORDING DATED 4 AUGUST 2009**

MR PAYNE: You have the transcript there. If you can turn to page 10 of 20 10 is what I want to ask you about in particular.

THE COMMISSIONER: It's on the bottom, you'll see, the numbers are on the bottom, Mr Buckley.

MR PAYNE: The bottom right hand corner, Mr Buckley. Do you have it?

THE COMMISSIONER: The last page.

MR PAYNE: Do you have that Mr Buckley?---Sorry, the last page, yes.

30

Yes. Do you have it?---Yes.

I'm drawing your attention to what you say, you say to Mr Nasrallah, "Well make it up on another job, mate". Do you see that?---Yes.

By that you meant that you knew that a complaint had been made about your conduct by this time. Correct?---That's exactly right. Yes.

40 You knew that a complaint had been made about your conduct and you were going to make it up in the sense if you were going to extract further money from Mr Nasrallah in relation to another job. Correct?---I can't recall.

Well, it's only last year, Mr Buckley. They're your words. What did you mean?---I don't know.

I suggest to you that it is clear that, we'll make it up on another job, mate, means that you were telling Mr Nasrallah that you'd get some other money from him in relation to another job. Correct?---I'm not sure.

You see you knew at this time that a complaint had been made about you soliciting a bribe from Mr Nasrallah didn't you?---Sorry?

You knew when you had this conversation on 4 August, 2009 that a complaint had been made to Sydney Water about you soliciting a bribe from Mr Nasrallah didn't you?---I didn't know about soliciting a bribe. All I knew some, someone had put a complaint in. That's all I knew.

10 A complaint in about you?---I think so, yes.

Well, you knew that some weeks prior to this you had solicited a bribe of \$500 from Mr Nasrallah didn't you?---Yes.

It didn't occur to you that the complaint might be about that?---No.

And you say to him, "And I don't know what's right. It's gone higher up the Water Board". What did you mean by that?---I don't know.

20 And you said, "I've gotta, been told follow the process. Follow the standards." Who told you that?---I can't recall.

Well, when do you say you were told that a complaint had been made about you to someone higher up in the Water Board?---Sorry?

When were you told that a complaint had been made about you to somebody higher up in the Water Board?---I don't know. It'd be previous to this.

In the days immediately preceding it?---I can't recall.

30 Who was it that told you a complaint had been made about you?---I can't recall.

Was it a matter of some importance to you that a complaint had been made about you, Mr Buckley?---Yes.

And you knew, as you've told His Honour, less than a month prior to this you'd solicited a bribe from this very man, Mr Nasrallah, of \$500.

Correct?---Yes.

40 Did it occur to you that there might be a link between the two?---No, it didn't.

What, you thought you were untouchable, you could solicit bribes from constructors and nothing would happen?---No, I didn't think that at all, because when I said to Yousef that's it, we're going to do it the right way, I just thought it would be forgotten about.

THE COMMISSIONER: What did you mean when you said, "We'll make it up on another job?"---I'm not sure. I don't know.

What could it possibly mean?---Maybe I'd let him take a shortcut on another job or something. I don't know. I'm not sure.

MR PAYNE: See, because this is a man who had paid you cash payments in relation to jobs on about thirty occasions in the preceding years. Correct?
---Correct.

10

And what you were telling him plainly enough was, there's been a complaint made so I'll have to lie low for a little while, but we'll make it up on, we'll make it up later when you can resume making cash payments to me as before. Correct?---I didn't mean that, no.

Have you got any other explanation to offer the Commission about what you meant by, "We'll make it up on another job, mate?"---No, I don't.

20

Do you tell the Commission that you were not tipped off in 2009 that a complaint about bribery had been made about you?---I hadn't heard that, no. I heard water servicing coordinators, I can't recall who said that there was some investigation, but that was all they said.

Well, Mr Pascoe was the water service coordinator on this very job, wasn't he?---Yes.

Nobody told you that he was involved in the complaint?---No.

30

When did you first hear that a complaint about you soliciting a bribe had been made?---Late, late last year sometime. I can't recall.

And did you put two and two together that it might be this complaint that you were telling Mr Nasrallah that you knew all about on 4 August, 2009?
---I thought, I thought, yes, because we had an argument on the job, yes.

So when did you work that out, do you say?---Sorry?

40

When did you work out that it was likely this soliciting of a bribe that was the subject of the complaint?---Because we had that argument on the job after all this- - -

THE COMMISSIONER: I thought you said- - -?---Sorry?

Correct me if I'm wrong, but I thought you said that you realised this sometime last year?---Yeah, late last year.

MR PAYNE: So this is August last year. When in relation to 4 August last year do you say that you first learned that the complaint related to you

soliciting a bribe?---I didn't know nothing about a bribe. All I know is someone, I can't recall who, mentioned that there was some investigation or some complaint had been lodged, but there was nothing mentioned about a bribe.

So you know that on 4 August, that there was an investigation into your conduct?---I think so. I'm not sure.

10 And knowing that there was an investigation into your conduct on that day, you were saying to man who had paid you cash on thirty occasions approximately in the past that you'll "Make it up on another job, mate." I suggest to you, Mr Buckley, it couldn't be plainer than that you were telling him the cash tap can be turned on again on the next job?---I don't think I meant that. I can't recall.

In relation to this job, if we can then complete the sequence, on the 25th there's yet another Sewer Main Connection Report that goes in from you. I can show you that. It's 25 August, 2009. So I tender that document, Commissioner, please.

20

THE COMMISSIONER: Yes. So 25 August, 2009?

MR PAYNE: Yes, next to the signature on the middle of the page.

THE COMMISSIONER: Yes. The Sewer Main Connection Report of the 25 August, 2009, is exhibit P 11.

30 **#EXHIBIT P11 - COPY OF SEWER MAIN CONNECTION REPORT DATED 25 AUGUST 2009**

MR PAYNE: Mr Buckley, do you remember this document?---Yes, yes.

You'll see here that Part 2 connection and Part 3 post-connection are struck out.---Yes.

That was struck out by you?---Yes.

40 Why did you do that?---Because I wasn't there for the connection or the post-connection.

Did you do it to stall this project in Sydney Water's computer systems?
---No.

You say that was no part of your intention in relation to Mr Nasrallah and 40-42 Sherwood Street, Revesby in August 2009?---Not in stalling any job.

I've done that on other jobs too. If I haven't seen the connection I strike it out.

And the handwriting at the top, is that yours?---Yes.

That's placed there subsequently, is it, in March 2010?---Yes, that's right.

And that relates back to that email that I showed you earlier where- -?
---Yes.

10

- - -you were asked by Urban Growth to release it?---Yes.

Do you agree with me that whether you, do you agree with me that the effect of these CARs that you had caused to be issued was that 40-42 Sherwood Street, Revesby could not be signed off by Sydney Water under Section 72 until these problems you had raised had been dealt with?
---To my knowledge, they, they, the Section 73 could be issued before they were closed off.

20

And when you put in these reports, you thought, did you, that Mr Nasrallah and the developer of 40-42 Sherwood Street could obtain Section 73 reports even if the matters you had raised hadn't been dealt with?---That's correct.

Who was going to inspect parts 2 and 3 in order to certify that they had been done to Sydney Water standard if you wouldn't do it?---I don't know. If I didn't see the connection I couldn't sign it off. I wasn't there for the post-connection, I couldn't sign that off neither. I believe somebody else went and done the takeover on it after me.

30

And when was that?---I don't know. When I was, when I was on leave.

When was your leave?---I can't recall.

You can't remember what month you went on leave last year?---No.

THE COMMISSIONER: Is there something wrong with your memory, Mr Buckley?---I don't, me short-term memory's not real good sometimes. It would be on file.

40

MR PAYNE: How long was this holiday?---I know I got a gastric bug and I was off for a few weeks and I had, I think I had a bit of leave. I can't recall though.

So up to a month, was it?---It could have been.

And you don't remember what month it was?---No. There would be a record on, the board would have- - -

I see. In relation to when it was that you learned of the complaint against you, I suggest to you that you did attend the site at 42 Sherwood Street, Revesby on 24 August, 2009, for a final inspection. Do you agree with me?---I can't recall.

I suggest to you that at that time you took Mr Nasrallah aside and you said to him these words, "Keep away from me. You've accused me of taking bribes. I know it was you that complained about me to Sydney Water." Now, you said that, didn't you?---I could have. I can't recall.

10

You could have. You did, Mr Buckley, didn't you?---I possibly did. I can't recall.

So on 24 August, 2009, you knew that Mr Nasrallah had complained to Sydney Water about you. Correct?---That could be correct. Have you got an audit report for that date or what's the date?

There is material from you after that day that I've shown you. There was on of the 25 August, 2009, signed by you?---Mmm.

20

I'll just take a moment.

Yeah, I'm sorry, it's the document I've just shown you with what you've struck through on the 25th. You see you've signed that on the 25th?---Yes.

And you've struck through connection and part 3 post connection, you were there at the site the day before, weren't you?---I'm not sure what the date, yeah, it could have possibly been.

30 Well, it's likely, isn't it?---Possibly.

And what you've done after that report is put in another cross in there, audit report issued to DSR to raise CAR, correct?---Yes.

And on that day you took Mr Nasrallah aside and you said to him keep away from me, you've accused me of taking bribes, I know it was you that complained about me to Sydney Water. You said that, didn't you?---I can't recall.

40 Well, Mr Buckley, you knew on 24 August that there had been a complaint and you knew it was about you taking, soliciting a bribe, didn't you?---No, I didn't. I've already said that. I didn't know about the bribe.

Well, you agreed with me a moment ago that you could have told Mr Nasrallah that very thing on 24 August and that's where we went off looking for the, the relevant date. Do you remember that answer about five minutes ago?---I'm a bit confused sorry, yeah, I'm right.

Well, on 25 August you sign this document, the sewer main connection report which is Exhibit - - -?---The 25th is what I've got here.

THE COMMISSIONER: P11.

MR PAYNE: - - - P11. Have you got that document?---25 August, yes.

You see that your signature, date. Correct?---Yes, yes.

10 You agree with me it's likely that you attended an inspection at 42 Sherwood Street, Revesby on 24 August, 2009?---Could have been, yes.

And what I'm putting to you squarely, so that you can deal with it, is on that day you took Mr Joseph Nasrallah aside and you said to him, Keep away from me, you've accused me of taking bribes. I know it was you that complained about me to Sydney Water?---I could of but I honestly can't remember.

You could have said that?---I can't remember though.

20

It's likely, isn't it?---I honestly can't remember.

Well, you knew there'd been a complaint, you knew you'd solicited a bribe from Mr Nasrallah and you were doing everything you could to make his life difficult, weren't you?---No, I was not doing it to make his life difficult at all. All I asked him to do was to, I think the job, I didn't pass it off on that date because if I remember the, the channels had dips in them and they were all holding water and he had to rectify that work and - - -

30 If he'd have paid you \$500 as you'd have asked back in July 2009 none of this would have happened, would it, Mr Buckley?---Yes, I would not have passed off that work like that at the end.

THE COMMISSIONER: But that was the deal wasn't it?---No.

He paid you \$500 and you wouldn't issue a CARs report?---Possibly but I still would have made sure all the work was constructed to standard. I've always done that.

40 MR PAYNE: Is it the case Mr Buckley that what you're telling the Commissioner if you would have taken the \$500 in relation to that problem you had identified back in July and if other problems had come up you would have solicited further money from him?---No.

It never crossed your mind to do that?---No.

You would have expected, would you, that he'd make a gift at the end of the project nonetheless?---No.

So on the 30 occasions that you've agreed with me that he did pay you money, you tell the Commission that had nothing to do with you exercising or not exercising your powers on behalf of Sydney Water?---I always made sure the work was to the best of my ability completed, construction was to standard.

10 Mr Buckley, I want to ask you some questions about another constructor, Sadek Nasrallah. Do you know who he is?---I think it's Joseph's brother.

He is and he has a separate firm where he operates as an authorised or accredited constructor in relation to Sydney Water. Correct?---I think so.

When did you first meet Sadek Nasrallah?---I can't recall. A fair while ago and I haven't seen him for a long while.

20 Well, we'll come to that. I suggest to you that you first met him in August, September 2004 in relation to a major sewer works at 99 Highview Avenue?---I can't recall, it could have been.

And I suggest to you that you were the Sydney Water inspector on that job. Do you agree?---Yes.

At the first inspection when you were there after you had finished your inspection as you walked away you said to Mr Sadek Nasrallah, you owe me a beer, didn't you?---I can't recall.

Well, it's likely, isn't it?---I don't, I, I don't know.

30 Well, it was typical of your conduct with constructors to say things like you owe me a beer wasn't it?---No.

Do you say that you have never said that to an authorised constructor at the end of an inspection?---I could have said that, yes.

40 I suggest to you that the second inspection at this property, 99 Highview Avenue, Greenacre, was one or two days after this first occasion and as you walked away from the property and got in your car you said from the window of your car to Mr Sadek Nasrallah, now you owe me two beers?
---No, no.

No, are you denying you said that?---Yes, I'm denying I said that.

You remember this job, the 99 Highview Avenue, Greenacre job?---No, not really.

So you don't remember the job but you do remember that you never said to Mr Sadek Nasrallah now you owe me two beers?---To the best of my knowledge, no.

You accepted cash payments from Mr Sadek Nasrallah, didn't you?---I can't recall.

10 Mr Buckley, I want to suggest to you that this is the first occasion that you'd met Mr Sadek Nasrallah and you were in effect grooming him to try and solicit cash payments from him. Do you agree?---No.

On the third occasion that you met him, one or two days after this second inspection and again we're talking about a job you recall, 99 Highview Avenue, Greenacre, you came onto the site to complete the inspection, the trench was about one metre deep and Mr Sadek and his brother were standing inside it shovelling, you knelt down beside him and nobody else could hear this, you said, I could give you a corrective action request for this. Do you agree?---No, I don't recall.

20 You didn't say that?---Not that I can recall, no.

What is it about those words, I could give you a CAR for this that leads you to say - - -?---I don't remember the job.

You don't remember the job. So it's possible, is it, that everything that I've put to you was in fact said?---I don't think so, no.

Why?---I don't recall saying it.

30 Do you remember receiving money, cash money from Mr Sadek Nasrallah? ---I can't recall.

Well, you received cash from a number of accredited constructors, correct? ---Yes.

You freely admit that, you remember receiving that money?---I have at times, yes.

40 Mr Sadek Nasrallah was one of them, wasn't he?---He could have been, I can't recall.

I suggest to you that when Mr Sadek Nasrallah got out of the trench he opened his wallet, took out a \$50 note and he held it out to you, you took it from him and quickly put it in your pocket. Do you agree?---I, I can't recall.

If he had offered you money that's what you'd have done, isn't it?---I don't know.

Well, would you have waved it around to the other people there, look, I've been given a gift by Mr Nasrallah?---No.

You would have kept it a secret, wouldn't you?---Possibly, yes.

And you'd have put it straight in your pocket?---Possibly, yes.

And that's what you did, isn't it?---I can't recall.

10

I want to ask you about a job at 154 Marion Street, Bankstown which took place in about November 2005. Do you remember that job?---No.

You don't remember anything about it?---No.

Well, I'll need to show you some documents, 30 November, 2005. I'll show you this document. It's a sewer main construction audit report. You appear to have signed it on 2 December, 2005. I tender that document, Commissioner.

20

THE COMMISSIONER: The sewer main construction audit report of 2 December, 2005 is Exhibit P12.

**#EXHIBIT P12 - SEWER MAIN CONSTRUCTION AUDIT REPORT
DATED 2 DECEMBER 2005**

30 MR PAYNE: Mr Buckley, that's your signature at the bottom of that document in two places, field representative and then signature?---Yes.

Dated 2 December, 2005?---That's correct.

Is it otherwise your writing on this document?---Sorry?

Is it otherwise your handwriting on this document?---Yes. Oh, yes.

40 This is an older version of the sewer main construction audit report than those that we've been looking at earlier today?---That's correct.

You can see that it's for 154 Marion Street, Bankstown?---Yes.

You can see that the constructor is Mr Sadek Nasrallah?---Yes.

The water servicing coordinator is a Mr Greg Houston?---Correct.

You've written down the side, if you can help me with that, random audit, constructor not on site at time of audit. Do you see that?---Yes.

And then what is it, footpath, Marion Street, needs repair and then there's a word I can't read, can you read it?---No.

Referred constructor?---Yeah.

10 Now does that assist your recollection that you were the inspector in relation to a job where Mr Sadek Nasrallah was the constructor at 154 Marion Street, Bankstown in November and December, 2005?---Yes. I would've been along with the other one, Barry Golding, yes.

Was Barry Golding's name on that document I've shown you?---On the right hand side, under the words, computers.

I see. And what was Mr Golding's role in relation to this, in this project? Do you remember?---He the, doing the same sort of job.

20 As you?---Yes.

I see. Having read this document, you now remember the 154 Marion Street, Bankstown inspections?---No.

Can I assist you this way, the job was scheduled to be completed in two stages and you came on to the site at the day of commencement when Mr Sadek Nasrallah was half way through a section. He stopped what he was doing and went to the rear of his van to get his paperwork and you said to him, "I want \$100 for this one."---I've never said that, no.

30 You deny it do you?---I deny it.

I suggest to you that Mr Sadek Nasrallah took out his wallet and removed \$100 from it, handed it to you and you placed it in the top pocket of your shirt?---I deny it.

You deny you received \$100 from Mr Sadek Nasrallah in relation to this job do you?---As far as I recall, yes, I deny anything like that happened.

40 You deny you ever received money from Mr Sadek Nasrallah?---I don't deny that I may have received money from him, but not like that.

Well, what he handed it to you and you put it in your top pocket?---I don't recall any money on this job. I can't recall any.

Well, on how many occasions do you remember receiving money from Mr Sadek Nasrallah?---I don't, I only met him a few times. I can't recall.

I suggest to you on the second inspection on this job, still Marion Street, Bankstown when you arrived again you approached Mr Sadek Nasrallah and said, "I want another \$100 for this job."?---I deny that.

I suggest to you that he then took out \$100 from his wallet and handed it to you and again you placed it in the top pocket of your shirt and you walked away?---I deny it.

Do you remember a job at 22 Ravenna Street, Strathfield?---No.

10

Well, that was a job where again you were the inspector and Mr Sadek Nasrallah was the authorised constructor. Do you remember, do you remember that job?---No.

I'll show you another document in the now more familiar form of the Sydney main connection report, apparently dated 9 September, 2008. Yes, I'll show you this document. That's a sewer main connection report with your signature on it in three places. The first signature being 9 September, 2008?---That's correct.

20

Yes, I tender that document, Commissioner.

THE COMMISSIONER: Yes. The sewer management report of 13 February, 2008 is Exhibit P13.

**#EXHIBIT P13 - COPY OF SEWER MAIN CONNECTION REPORT
DATED 13 FEBRUARY 2008**

30

MR PAYNE: You'll see Mr Buckley that in this document you've signed the constructor as shown on the top right hand side as Sadek Nasrallah. Correct?---That's correct.

And the project is 22 Ravenna Street, Strathfield?---That's correct.

Having shown you those documents, does that assist you in recalling your involvement?---No, I don't recall the job.

40

Well, in relation to this job I suggest to you that there was a problem with a fence at the back of the property. Do you remember that?---No. No.

And that during an inspection you came and said to Mr Sadek Nasrallah in relation to the fence, "This is not Sydney Water certified. I can give you a CAR. I want 350 for this job"?---I deny it ever happened.

Mr Nasrallah said to you, "John, what does the fence have to do with me. I can't make the owner change the fence, that's an issue for council". You said, "I want \$350"?---I deny it.

You said, "I want 350." He said, "John, I don't have that sort of money." You said, "I don't care. It's not my problem." He said, "John, I'll give you \$300". You said, "All right then, give it to me"?---I deny, it never happened.

10 He then took \$300 out of his wallet, gave it to you and you said, "Just leave it on the seat of the truck". Correct?---I deny it. It never happened.

You see you said to me a moment ago that Mr Sadek Nasrallah, you only saw him infrequently and then he left your area. You know don't you that he stopped tendering for work in the inner west area because he no longer wished to pay you money you'd been soliciting from him?---I find that untrue.

20 You find it untrue?---On a couple of occasions on a couple of jobs he may have given me \$50, but that's, that's all I can recall. I never, never asked Sadek for money and I've never done what you've said.

THE COMMISSIONER: These contractors like Mr Nasrallah and his brother are pretty vulnerable people, aren't they? I mean they're immigrants, I presume that don't speak English all that well, they're dependent on Sydney Water for a job. Is all that correct?---No, they're, most of them are well-educated.

30 Are they dependent on Sydney Water for a job?---Some of them are, some of them do (not transcribable) with other civil, civil works.

So your say-so over them is crucial for them, for them, for them to earn a living, isn't it?---No, not necessarily, no.

Not necessarily, but often?---No. They can go over my head. I've told them if anybody's ever got a problem- - -

40 They can go over your head, what, to- - -?---To the water servicing coordinator or to the supply management group that look after them within Sydney Water.

Who looks after them in Sydney Water?---The supply management group.

Who is there in the Sydney, in that group who looks after them?---I'm not sure.

Are many of these contractors immigrants?---A few.

And many of them don't speak English well?---They all speak English reasonably well, all the ones I've met.

They don't know the system, do they, like you know the system?---As far as I know they were here before I was.

I mean, you issuing a CARs report can seriously affect their livelihood, can't it?---No, it shouldn't. It's only a notice of rectification work they've got to do. It shouldn't hold the job up.

10

It could make them unpopular with people who employ them, can't it? ---It shouldn't, but it doesn't go to them, it only goes, it only goes to the constructor, it doesn't go to the people that hire them.

It must be a big temptation for them to pay you money so that they stay out of trouble and keep their job?---It's not like that.

How is it like?---I don't know. I only issued CARs when constructors didn't seem to rectify the work. Most constructors just rectify it.

20

And you've not issued CARs because you've been paid money?---No, that's not the reason.

Only once?---Sorry? No, I have issued CARs before where people I think have given me money. I can't recall.

MR PAYNE: Can you name a single occasion when you have received a payment from a constructor when the constructor's reward has been a CAR? ---What do you mean by a reward?

30

Well, you turned around and said, thanks very much for the payment, constructor, go away and fix it up anyway?---I've been given money after I've issued a CAR.

So that you would release it from the system, as we've seen?---No.

If it stays in the system- -?---No.

- - -it could even be a real problem?---No. The constructor fixed everything up.

40

What occasion are you talking about? When did, when did you receive money after you'd issued a CAR?---I think it was on a company called Green Civil.

That's Mr Joseph Doogue, is it?---I'm not sure. Could be.

Well, who was the person you remember?---I think that was, I think that was his name. I'm not sure.

So after Mr Joseph Doogue paid you money, how much?---I can't recall. Could have been \$100. I'm not sure.

After he paid you \$100, you did what?---Sorry?

10 After he paid you \$100, you did what?---When I inspected all the work, there was about, I don't know, fifteen or twenty things that needed rectifying so I issued a Corrective Action on the job.

Yes. And then he gave you \$100?---(NO AUDIBLE REPLY)

And then he gave you \$100?---No, I didn't sort of say, there's the notice and he gave me \$100, no.

20 Well, let's just go through the sequence. We'll come to Mr Doogue in some detail, but I want to understand the sequence of what you're putting. So there were fifteen to twenty things you said that needed to be rectified- - -? ---Yeah.

- - -on the job and you issued a CAR?---Yeah.

Then Mr Doogue gives you \$100?---Sometime, yes. I can't recall in what order, yes.

He gave- - -

30 THE COMMISSIONER: Sorry, what did you say?---I can't recall in what order, but yes.

At some time?---Yes. He give me a hundred, yes.

MR PAYNE: And then you signed off on the job. Is that, is that the, is that the chronology? So CAR, \$100, you sign off?---No, that's not, that's not correct.

40 You tell me. What was the order?---All the things were rectified before the Corrective Action was signed off.

And at what point was the \$100 paid- - -?---Before everything- - -

- - -in that, in that process? I'm sorry?---Before everything was signed off. But everything, everything was checked out first by the water servicing coordinator and myself.

THE COMMISSIONER: What did he pay you the \$100 for?---Just for helping him out I think, telling him what was wrong that he should have done. Just a gift to buy a beer.

MR PAYNE: I still have some way to go with a number of other constructors and Mr Buckley. I notice the time, Commissioner.

THE COMMISSIONER: Yes. Thank you. The Commission will now adjourn till 2.15.

10

LUNCHEON ADJOURNMENT

[12.44pm]