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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 TUESDAY 7 SEPTEMBER 2010

AT 2.05PM

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

MR STEVENSON: Commissioner, I think Mr Lee has no questions, but with your leave there are a few more matters I'd like to put to this witness.

THE COMMISSIONER: Yes.

MR STEVENSON: I'll be brief.

MR STEVENSON: Mr Nasrallah, part of the accreditation process you have to sign don't you a Sydney Water, a developer infrastructure provider agreement?---That's right.

10 And I think this is right, that there's a regular tendering process whereby you've got tender to be accredited every couple of years?---Every year we have to submit paperwork to Sydney Water to, to stay on the list.

Right. I'll show you a document, that we haven't in the time available been able to find the developer infrastructure provider agreement you've actually signed?---Yep.

But do you agree that this is the form of the document that you've signed?
---Yep.

20 And can you recall when the most recent time was that you executed one of these developer infrastructure provider agreements?---I've done one earlier this year and I submitted to Sydney Water. They, they come as a global, they come to my house. We, they give me three years, but every year we have to submit papers to Sydney Water to stay on the list.

30 So for three years you have to submit papers until - - -?---I done agreement with the providers for every three years. I sign agreement, so I stay with them for three years and they, they give me some sort of documents, they give me like a refresher what's going on every year. They check my paperwork, they go through it, there's nothing wrong, then they give me certificate at the end of the day and I submit that certificate to Sydney Water to stay on the list for another 12 months.

All right. And you have to regularly do you, sign one of these developer infrastructure provider agreements? Does that happen every year as well?
---Every year.

40 All right. Now I'm suggesting to you that what I've just shown you is the, a standard form agreement although this is not the one you've actually executed. Do you follow me?---Yeah.

Can you turn please to page 6 and to clause 3.3.6. You see that that's part of 3.3 which sets out a whole string of your obligations under the agreement? Might I approach, Commissioner, just to (not transcribable) the right page.

THE COMMISSIONER: Yes.

MR STEVENSON: I've just drawn your attention to clause 3.3.6. Do you see that - - -?---Yeah.

- - - that's one of your obligations and it is to act ethically in accordance with Sydney Water's business ethics guide?---Yeah.

As updated from time to time by Sydney Water. Available for download from Sydney Water's website. Do you see that?---Yeah.

10 And could, could the witness be shown Exhibit P34.

THE COMMISSIONER: I beg your pardon. The Ethics Guide is P34.

MR STEVENSON: And that's the Business Ethics Guide and it refers to course 3.3.6?---Yeah.

20 You see there's some further points just down on the left hand side of the document in your right hand and the fourth bullet point is, do not offer solicited or accept bribes, benefits or inducements. Can you locate those words?---Yeah.

Yes. So you understood didn't you from the obligation, sorry, from the documentation that you've signed each year with Sydney Water - - -?---Yes.

- - - that it was your obligation and Mr Buckley's - - -?---Yep.

- - - to behave ethically and to not offer to sort of accept bribes?---That's right.

30 So in your statement I think you tell us that this is how it happened, that when you first came across Mr Buckley he was causing you difficulty and delay, that's the first thing you noticed?---That's right.

Then one of your colleagues in the industry said to you that the way you had to deal with Mr Buckley was to pay him money?---That's right.

The second thing that happened?---Yeah.

40 And the third thing that happened was that next time I think you had a job with Mr Buckley you assumed that if you wanted to get things working quickly you had to pay him some money?---That's right.

So you took along some money in an envelope, \$100 in an envelope?---Yeah.

And when Mr Buckley said to you are you going to look after me that's when you realised you, you say you had to pay him the money?---Yeah.

Now I just want to put this to you, you understood that even though Mr Buckley was behaving unethically - - -?---That's right.

- - - you also were behaving unethically, weren't you, in making the payment to him?---Definitely.

But you say you felt as if you had no choice, is that the idea?---Yeah.

10 Was there any reason why on the first occasion Mr Buckley said are you going to look after me you didn't shortly thereafter decide to complain to Sydney Water and draw their attention to what he'd said to you?---Because when you're in a situation, you're on the job and the job want to get done, if you want to stop that to follow that process it might take your time and the job is stranded and then you can be sued from the builder or, I discussed that with every, there is not evidence or proof we had, you know, like we haven't got proof that he takes it so when I thought about just recording his voice then, you know, I had that - - -

20 Well, that was of course quite a few years later?---Yeah, a few years later.

So it was your position on this first occasion that you didn't think that you'd be able to prove - - -?---That's right.

- - - to Sydney Water's satisfaction that Mr Buckley was asking for money? ---Yeah.

And you decided that as it was only going to be \$50 to \$100 a go you'd put up with it - - -?---Yeah.

30 - - - and pay him to get jobs done more easily?---That's right.

Thank you.

THE COMMISSIONER: Before you start, Mr Lee, you're not asking any questions?

MR LEE: No, I'm not, Commissioner.

40 THE COMMISSIONER: My practice is to, generally to take into account the failure of an affected person's legal representative to question a witness when that witness falsifies the evidence of an individual. I just don't want to be taken by surprise on that.

MR LEE: Yes, I understand that, Commissioner.

THE COMMISSIONER: You understand.

MR LEE: I do.

THE COMMISSIONER: Yes, good.

MR STEVENSON: Your Honour, I tender the Developer Infrastructure Provider Agreement Proforma.

THE COMMISSIONER: Yes. The Developer Infrastructure Provider Agreement is P38.

10

#EXHIBIT P38 - COPY OF DEVELOPER INFRASTRUCTURE PROVIDER AGREEMENT

THE COMMISSIONER: Mr Lee, by saying that I don't intend in any way to suggest any criticism of your conduct. It may be perfectly appropriate.

MR LEE: Yes.

20 MR PAYNE: Commissioner, I have one or two questions arising from what's just fallen from Mr Stevenson and from some earlier questions from Mr Lewis.

THE COMMISSIONER: Yes.

MR PAYNE: Firstly, Mr Nasrallah, in terms of what Mr Stevenson just asked you, you did of course as you told me make complaint to water service coordinators who you understood were the people with the connection with Sydney Water to take that matter forward?---Yes.

30

You agree?---I made a complaint to Sydney Water.

Through water service coordinators and in particular Mr Farrell?---Yeah, I did complain to Farrell.

Can you tell me what year that was?---I was doing a job in Bankstown, I can't remember the name of the street very well, that was about, I'm just guessing, around four years.

40 About four years ago?---Yeah.

And I need to clear up something with you that Mr Lewis asked you about. If you can open your statement again and look at paragraph 16?---Yes.

Do you, do you have it in front of you?---No.

THE COMMISSIONER: Mr Payne, what is the, the statement is Exhibit P37.

MR PAYNE: Do you have that open at paragraph 16, Mr Nasrallah?---Yes.

Okay. And you see there you say you spoke with other sewer constructors regarding the problems you were having with John?---Yes.

Now, you told Mr Lewis that the person who told you what is set out in quotes in paragraph 16 was not the Mahmoud but I suggest to you that you had told me originally that it was Mr Mahmoud. My question is which is true?---I spoke to Mr, when I went back to Mr Mahmoud then we done a job together with Mr Buckley he told me we have give him money to pass the job.

Is what you are saying that you had a conversation with Mr Khaled Mahmoud where he told you that you would have to pay money to Mr Buckley to pass a job but it wasn't this conversation in paragraph 16. Is that what you're saying?---Different occasion.

A different occasion?---Yes.

20

Do you remember the occasion where you had that discussion with Mr Khaled Mahmoud?---With Mr Khaled, when I first became partner I wasn't aware the exact date we went on together so I can dig that out the exact date.

So this is a conversation before '97, '98 is it?---Around the '97, '98 or maybe earlier when we first became partners, I can't really recall the date.

THE COMMISSIONER: I'm not understanding your evidence on this, Mr Nasrallah, I'm sorry. Are you saying that the person's name mentioned in paragraph 16 is Khaled Mahmoud or are you not saying that?---No, it's not him.

30

So did you not say earlier this morning that it was him?---I spoke to a lot of constructors - - -

Did you not say this morning that the name of the person mentioned in paragraph 16 in the second line is Khaled Mahmoud?---(NO AUDIBLE REPLY)

40 Did you say that this morning or not?---He could be one of them because I spoke to constructors - - -

Did you say this morning that the person in the second line, mentioned in the second line of paragraph 16 is Khaled Mahmoud? Because I thought that that's what you said. Did you say that or not?---I really can't remember what I said this morning. I said a lot of things but for me to remember just, but what I meant by speaking to constructors - - -

Did you tell Mr Payne before today that the person who told you the words set out in italics in paragraph 16 in quotation marks was Khaled Mahmoud? ---I don't know, I can't, like what I, what I mean by constructors like I meant whole heap of constructors.

I don't want you to talk unless I've asked a question or someone else has asking you a question?---Yep. But I mentioned Khaled Mahmoud when he, when (not transcribable) mentioned his name then I - - -

10 You're talking again when I haven't asked you a question?---Yes.

Mr Khaled Mahmoud's name was mentioned by Mr Payne in opening yesterday long before his name was mentioned today?---Yep.

You were in the hearing room yesterday weren't you?---Yes.

You heard Mr Khaled Mahmoud's name mentioned yesterday?---That's right.

20 Is that when you thought you were free to mention his name again?---Yeah, because I know a lot of constructors who have told me that I didn't mention their name there so I said I heard from other constructors which is he's, he's a constructor so that he's one of them so I didn't mention all the names in the paragraph I just mentioned constructors.

In paragraph 16 - - -?---Yes.

- - - you mention a specific conversation. You mention a conversation where a person told you you have to give him money to shut him up.

30 Everyone was doing it?---That's right.

You have to pay him \$100 when he turns up. Just put it in the paper and give it to him. If you don't pay him you won't finish your job on time with him?---That's right.

Do you remember somebody telling you that or don't you?---It's a long way back.

40 No. I just want to know whether you remember someone telling you that or not?---I remember Khaled Mahmoud told me that in the beginning.

When?---When we first start together as partners. We have to follow that procedure.

MR PAYNE: And so does it follow Mr Nasrallah when you said, I can't remember the person's name, that wasn't true, you were protecting Khaled Mahmoud were you?---I'm not protecting nobody, but you didn't often come past constructors because like if you as a constructor, you can pass

inspectors, pass builders or (not transcribable) but for you to come past a constructor it's very rare. And you hear from inspectors what they saying about other constructors. They, you come past constructors every now and then you can meet them at the WSC's or maybe at a function and we have a talk about what, what goes on in the industry.

10 Just so we're clear this conversation that's set out in the italics, in paragraph 16, you're telling me that Khaled Mahmoud told you that. And when you said, I can't remember the person's name in the statement it was untrue?---A lot of constructors told me but Khaled Mahmoud, I remember very well because me was my partner 12 years ago or 13 years ago. So there's a lot of names there that, there's no, I can't remember their names. I have a few constructors they, I'm doing work for them at the moment, they tell me stories about, about Buckley, but to be honest, I don't know their full name properly.

So just so we're clear when you say in paragraph 16, I can't remember the person's name - - -?---Yes.

20 - - - that was untrue, because you can remember his name, it was Khaled Mahmoud. Is that what you're saying?---When yesterday he, he was like out of my mind completely. When yesterday he mentions his name, he came to my memory. So I just told you his name. So I'm not hiding nothing, so I'm just, whatever comes up I, I'm giving it to you straight away.

And when you told Mr Lewis just before lunch that it wasn't Mr Mahmoud you were referring to in paragraph 16, was that true?---It's referring to all other constructors. I mentioned, I mentioned all the constructors.

30 I have nothing further for this witness.

THE COMMISSIONER: Yes, Mr Nasrallah, you may be excused. Thank you.

THE WITNESS EXCUSED

[2.23pm]

40 MR PAYNE: The next witness, if the Commissioner pleases is Mr Sadek Nasrallah.

THE COMMISSIONER: Yes, Mr Nasrallah. Do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MR NASRALLAH: Either way, I don't mind.

THE COMMISSIONER: All right. You choose.

MR NASRALLAH: Affirm my evidence.

THE COMMISSIONER: Would you give Mr Nasrallah the affirmation, please.

<SADEK NASRALLAH, affirmed

[2.24pm]

THE COMMISSIONER: Mr Payne.

MR PAYNE: Commissioner, as Mr Nasrallah is not represented, I'd ask for a declaration of Section 38.

10 THE COMMISSIONER: Pursuant to Section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Nasrallah and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for him to make objection in respect of any particular answer given or document or thing produced.

MR PAYNE: Thank you, Commissioner. Mr Nasrallah, you've made a statement in this matter?---Yes.

20 Can I show you this document? Is that the statement you have made?
---Yes.

And have you had an opportunity recently to go through the statement and check that it is correct in all respects?---No, I haven't.

Well, I'd ask you to do that now, please. Can you read the statement and let me know when you're finished.

30 THE COMMISSIONER: Well, this is going to take time. Perhaps we should call another witness. Do you have another witness?

MR PAYNE: Yes, yes. If the Commissioner pleases.

THE COMMISSIONER: Mr Nasrallah, I think you, it's going to take you time to read it. I suggest you go outside and read it and we'll call you at another time.

40 **THE WITNESS STOOD DOWN**

[2.26pm]

MR PAYNE: Yes, I call Mr John Poyntz.

THE COMMISSIONER: Mr Poyntz, do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MR POYNTZ: Under oath.

<JOHN POYNTZ, sworn

[2.26pm]

THE COMMISSIONER: You're not legally represented Mr Poyntz?---No.

10 Pursuant to Section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Poyntz and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for him to make objection in respect of any particular answer given or document or thing produced.

MR PAYNE: Mr Poyntz, you've made a statement in this matter?---Yes, I have.

Can I show you this document? Is that the statement you've made?---It is, yes.

20 And do you say that it is true and correct in all the particulars contained therein?---Yes, it is. Yeah.

Yes, I tender that statement, if the Commissioner pleases.

THE COMMISSIONER: The statement of Mr Poyntz of 12 November, 2009 will be Exhibit P39.

30 **#EXHIBIT P39 - COPY OF STATEMENT OF JOHN POYNTZ DATED 12 NOVEMBER 2009**

MR PAYNE: Mr Poyntz, can I ask you about the job you were engaged on in September, 2009 at the Britannica Estate at Lidcombe, which I think is 22 Joseph Street, Lidcombe. Is that correct?---That's correct.

40 There were two sub-divisions close together. You were the authorised or your company, Tywest, T-Y-W-E-S-T Pty Limited, was the authorised constructor of the sewerage works on the job?---Yep.

And Mr Buckley on behalf of Sydney Water was inspecting your work? ---Yep.

Had you met Mr Buckley before?---Never.

Had you heard anything about Mr Buckley prior to this occasion?---Never.

You have been involved in pipe laying in New South Wales for 20 years. Had you done a job in the inner west of Sydney before?---No.

Did Mr Buckley, to your understanding have a reputation amongst constructors in New South Wales?---Yes.

What was that?---That he wanted a backhander.

10 And where had you heard that from?---Just at WSC bloke told me that he was looking for it.

Who was the WSC on the job?---Peter Gozzard.

And do you remember, doing the best you can, what Mr Gozzard said to you about Mr Buckley?---Well, I can't remember exactly, but it was along the lines, he's always looking for a bit of cash.

20 I'm sorry, I didn't catch that last word?---He was always looking for a bit of cash, little bit of money.

A bit of cash?---Yeah.

I see. You met Mr Buckley on site the day you started?---Yeah.

That's in September some time but - - -?---Yeah.

30 - - - you can't be more precise than that. Just explain to the Commission what the conversation you had with Mr Buckley in that first meeting the backwards and forwards to the extent you can still remember?---Just more or less told me what was, he had come off a previous job, he, it was more a complaint he wanted, he wasn't going to accept the steps on the manholes, there was a gap in them.

Yes?---Just more or less under those circumstances would he pass any on this job that had a gap.

40 So he was complaining about a gap in the steps of the manhole in another job?---Yeah, another job he had come from and on this job he wouldn't accept them, they had a gap.

So he was warning you in advance of a particular issue that he had?---Yeah.

Can you remember anything else that he said on that first occasion?---No.

A few days later he came back and you had another conversation with him. Can you tell the Commission what you remember about that occasion? ---(not transcribable).

Have a look at paragraph 8 of your statement. Do you remember there being an issue with the pipes and Mr Buckley saying that it wasn't good enough what you were proposing?---Yeah, remember that number paragraph 8, yes.

10 Can you explain to the Commission what that was about?---Well, there was two little small jobs side by side, we had (not transcribable) I can't be in two places at the one time, they were accredited pipe layers as well as myself but because my name was on the top of the constructor's form he wouldn't accept them even though I was going to check three, four times a day to see that everything has gone smooth.

And what was Mr Buckley's ability to do you harm about this issue of CAR couldn't he?---He could've done, yeah, but he just got the blokes to pack and leave.

From your perspective as an accredited constructor getting a CAR is undesirable in a number of ways isn't it?---Yeah, it's not, it's not nice.

20 Does it cause you delay?---Can do if it's a really bad one.

And you'll have to make good the site in accordance with the CAR and that will be extra expense and delay for you obviously. Your reputation with Sydney Water and the Water Services Coordinator can also suffer if a CAR is issued to you?---Yeah.

Have you been on jobs when CARs have been issued to you?---No.

30 Never had one in all your time laying pipes?---No.

Do you regularly do work where the pipes connect to the sewer?---Yeah, regularly, yeah.

And have never once had one?---Never.

I think you did learn that Mr Buckley issued a CAR to the Water Services Coordinator on the job in respect of this issue. When did you find that out? ---I think it was, had to be either that day or the next day.

40 So whilst he didn't issue one to you he was in a sense - - -?---Yeah, like he went straight to the WSC.

Yes. The next time Mr Buckley arrived on the site was the following week on the Monday or the Tuesday. Your working hypothesis was that all the paperwork had been submitted by the coordinator you say, that's the WSC, Water Services Coordinator you're talking about?---That's right, yes.

And approved by Sydney Water. You say you found out it was not the case, how did you come to find that out?---I was, it was a little small job and there was a few case numbers on the job, three different jobs on the one and I think they had just put in to start one job and the jobs were like minute so he wanted two days notice for each, each, each, each new job.

He, Mr Buckley?---Yeah.

10 And did you regard what he was doing as reasonable or not?---Not, no, definitely not.

Had you ever encountered that before in connecting the sewer works to have this requirement of the two days notice for small jobs?---Never. The two days, the two days notice is mandatory but there was a mistake with us that all of them going at the right time, you know.

I see. And your experience is that typically an inspector would say, - - -?
---Would say, yeah.

20 - - - would see the good sense of dealing all of it in one day rather than - - - ?
?---Could just maybe change the date for you there and then.

The result of Mr Buckley not agreeing to change the date was what as far as you were concerned?---(NO AUDIBLE REPLY)

Was the work delayed?---The work wasn't delayed, no, because I rang him and as you heard on the telephone - - -

30 Yes. Well, perhaps there's an occasion. P14 if that could be played. I'd like to go through that with you. Perhaps for your assistance I'll give you part of P14 which is the transcript. Yes, if Mr Poyntz could be shown that.

TELEPHONE INTERCEPT PLAYED

[2.37pm]

MR PAYNE: Now, Mr Poyntz, you mention at the outset that's your voice that we hear on this recording?---Yes.

40 And Mr Buckley's?---Yes.

And in fairness to you the first time you heard that recording was yesterday I take it?---Yes.

Whereas some months ago when approached by ICAC, that's November 2009, you freely admitted what's in paragraph 10 of your statement, namely that you said you'd sort him out when you get here which you hear a number of times on this transcript. Can I just ask you about what precisely

you were asking him to do, if you look at the second page, the third, fourth entry from the top, "If you could just call them, let them do, let those little bits and pieces and I'll see you right, a hundred per cent when you get here." He says, "Yeah, because they aren't supposed to be done by the end of the job." What did you understand he was saying to you there?---That I didn't have to wait for the extra two days' notice, that I could do it today rather than wait for an extra two days.

10 If you had to wait for an extra two days what would be the impact on you and your firm about this job?---Well, that we couldn't do anything, we'd have to go home and sit at home for two days and - - -

And you have to pay your staff and so on, it'd cost you money?---(not transcribable) on that job so I would have to just lose out my, my own money.

I see. And so for that reason to have Mr Buckley smooth the process over to his extent you were willing to sort him out and pay him \$200?---Yeah.

20 And I think as you say in your statement that's what you did, Mr Buckley turned up on the site, you took \$200 out of your pocket and you gave it to him?---Yes.

What did he do with it?---He put it in his pocket.

Was there anyone else there to witness this?---No.

30 He said he didn't start until 2 o'clock that day. Did he actually do any inspecting?---I think he had a walk, I can't be a hundred per cent sure but I think he did the walk around.

But you'd filled over the pipes that had been laid so to that extent he couldn't actually look at them?---(not transcribable) no.

So again to that extent the payment secured, at least for Mr Buckley, favourable treatment in that he otherwise would have caused that delay - - -? ---Oh, yeah.

40 - - - and insisted on inspecting the actual work?---Yes.

He then came back the next day and said he wanted to see the site before it was backfilled, he checked the junction and told you it was okay. You didn't see Mr Buckley again after that date?---I seen him on the jobs but I had no dealings with him.

I see. In all of your dealings with inspectors, are they regular within Sydney, Sydney, do you deal with inspectors on a regular basis or not? ---Some yes but not overly, you know, maybe five or six times a year.

I see. And have there been any other occasion where you felt it necessary to make payment which you made on this occasion?---Never, no.

And I take it from your statement that that's something you very much regret doing?---Yeah, for sure.

I have no further questions, Mr Poyntz.

10 THE COMMISSIONER: Yes. Does anybody wish to question Mr Poyntz? Mr Stevenson.

MR STEVENSON: Mr Poyntz, I'm the barrister for Sydney Water. Do you understand that?---Yes.

You tell us, you tell the Commissioner in your statement that you are an accredited Sydney Water Corporation pipe layer?---Yeah.

20 Does that mean that you are, you have to sign a Developer Infrastructure Provider Agreement with Sydney Water?---No.

Have you entered into any written agreement with Sydney Water - - -? ---No.

- - - to give you your accreditation?---I'm an accredited pipe layer on their list of constructor pipe layers.

30 Can I show you, could the witness please be shown Exhibit P38. Have you signed an agreement in that form with Sydney Water - - -?---No.

- - - as a part of the accreditation process?---No.

Have you signed any agreement with Sydney Water or any document as part of the accreditation process?---No.

You understood, did you, as part of, as an aspect of being an accredited pipe layer for Sydney Water that it was your obligation to act ethically so far as Sydney Water was concerned?---Yes.

40 And that you understood that in order to act ethically it would your obligation to not offer any Sydney Water employee a bribe?---Yes.

And that's what you did on this occasion, isn't it?---Yes.

And if I understand the position, was it the case that when you arrived on the Monday or Tuesday which you refer to in paragraph 9 that some paperwork which was supposed to be completed was not completed? ---It wasn't, that's right, yes.

And who was the party that was supposed to get that paperwork in order? Was that you or somebody else?---Walltech, Peter Gozzard, the company that Peter Gozzard worked with, Walltech.

Is that a water coordinator?---Yeah.

10 And is this right, that because the paperwork hadn't been dealt with properly there was going to be hold up in the work?---It would have, I would have been finished one job before the other job could start, you know.

You were doing two jobs at once?---Yeah, well, there was little small jobs on the one job, each with different case numbers.

So can you reach your statement there, paragraph 8 you say that Mr Buckley says, looking at the fourth line, "You have to be on the site as you the designated pipe layer." You see that?---Yeah.

20 And he was right to say that, wasn't he?---He was.

You were supposed to be there?---Yes.

The problem you had was that you had these two jobs going on at the one time and you couldn't be in two places at once?---Yes.

Right. So that was the first problem. The second problem was the paperwork wasn't put in place by the coordinator?---I think just because my name was on it and there was someone else doing it, that's what upset him.

30 Well, either way there the result was that because of the paperwork not being in earlier - - -?---The paperwork, yes.

- - - order you couldn't get on with the job as quickly as you were physically able to do the job?---That's right, yes.

And I think you said earlier that this two day notice period is mandatory? ---Yes.

40 That's part of Sydney Water's rules and regulations?---Yes.

And what you decided to do was to offer Mr Buckley a bribe to see whether he could in effect cut corners for you?---Yes.

And that's because to be fair to you you'd heard - - -?---Yes.

- - - that his reputation was to take a backhander?---Yes.

And it turned out to be quite correct - - -?---Yes.

- - - as it turns out but Buckley, he didn't ask you for money?---No.

You offered him money?---Yes.

You expected he'd take it?---Yes.

And he did?---He did.

10 And you accept that you behaved improperly - - -?---Yes.

In doing that?---Yeah.

Just as he did in taking your money?---Yeah.

THE COMMISSIONER: No further questions for Mr Poyntz? Thank you, Mr Poyntz, you're excused from the summons.

20 **THE WITNESS EXCUSED**

[2.48pm]

THE COMMISSIONER: Is Mr Nasrallah ready? Is Mr Sadek Nasrallah ready? Mr Sadek Nasrallah.

MR PAYNE: Yes.

THE COMMISSIONER: Mr Nasrallah, you won't be sworn in again but the oath, the affirmation still applies to you.

30

MR NASRALLAH: Yes, I understand.

MR PAYNE: Mr Nasrallah, have you had a chance to read that statement now?---Yes, I have.

And is it true and correct in every particular?---Yeah, it's true and correct to the best of my knowledge on the day that I gave the statement.

10 Is there anything you'd like to correct in the statement today having read it?
---There probably is. The first time that I met John Buckley I put in there was at Greenacre.

That's paragraph 5?---Yeah.

Yes?---Actually, the first time I actually met him was at 29 Craigie Avenue, Padstow.

20 And when was that do you think?---Probably, it could have been anywhere between, oh, it could have been anywhere within a year or two years of the Greenacre job.

So prior to Greenacre?---Prior to Greenacre, yes.

So perhaps 2002, 2003?---No, I started working for Sydney Water in 2003 so probably early 2004.

Early '04?---Early '04 or later, or late '03.

30 Yes. And can you just give me that address again for, for the record?---I'm pretty sure from memory it was about, it was a good, quite a while ago now but from memory it's 29 Craigie Avenue, Padstow.

Craigie Avenue, Padstow, thank you. We'll come back to that in a moment. Are there any other corrections that you think that you might like to make to the statement?---No, not that I, not that I can recall, no.

I tender that, Commissioner, please.

40 THE COMMISSIONER: Yes. Mr Sadek Nasrallah's statement is Exhibit P40.

#EXHIBIT P40 - COPY OF STATEMENT OF SADEK NASRALLAH

MR PAYNE: Mr Nasrallah, can I just take up with you this 29 Craigie Avenue, Padstow?---Yeah.

Just tell us in your own words what you remember about that location?

---I think that was my first major works job.

Yes?---I'm pretty sure that was my first. And as John Buckley is the major works inspector, that's the first time I met him. And there was an issue with the job where the junction for the, for the property that, that was to service the property was actually coinciding with a telegraph pole- -

10 Right---?- -or an electricity pole. And um, I asked John if I could move it back and then fix up the paperwork later. He said no, I couldn't do that. And then I rang the coordinator and the coordinator had to, the coordinator was Dennis Mahoney from Harrison Friedman and Associates.

Say that name again?---Dennis Mahoney.

20 Dennis Mahoney?---And he had to do some quick, he had to do some quick paperwork which, which meant that I could, which meant that I could move the junction, move the junction. But John wouldn't allow it at first for some reason. I don't know why. It wasn't in the original design but obviously the designer didn't come out onsite and see that there was a telegraph pole there.

Yes?---So it was a, it's a simple thing, you know, all the, all the, all the, all the inspector had to say was, just move it, and then when you draw up the work as executed report, then we can just put it, put it back that we moved it back a metre because there was a telegraph pole in the way. So that was the first instance that I met John.

30 I see. And then so it's the second instance when we go to your paragraph 5 at 99 Highview Avenue, Greenacre?---Yes. That's the one.

And that's where I think he said to you, after the first inspection, "You owe me a beer?"---Yes, that's what I heard.

Have you got a clear recollection of him saying that?---Yes, I do.

40 And on the second inspection one or two days afterwards, "Now you owe me two beers?"---Yes, I do.

What did you think he meant?---Oh, I don't know. I guess I put two and two together and realised that he wanted to extort some money from me to pass the job.

On the third inspection he said, "I could give you a CAR for this." Had you heard of a Corrective Action Request prior to this time?---Yes. I know what they are and it would have been disastrous for me if I'd got one of those

because it was my second job and Sydney Water thoroughly inspects your first three major works jobs. They bring an audit team out to the site.

Yes?---And if you pass the first three, then you get on the list, and this was my second one and I wanted to get onto that list.

So in effect you were on probation as an accredited constructor?---Yes, well, for the first three major works jobs, as I was for the first three minor works jobs.

10

And so as well as all the other undesirable things about a CAR for you- - -? ---Yeah. Well, if I got a CAR it could have been, could have been the end for me.

Yes. So- - -

THE COMMISSIONER: And was that an obvious thing, Mr Nasrallah? ---Oh, no, it wasn't obvious, but you can see that if you get a black X against your name on the, on the, on the second job, then you're probably not fit- - -

20

It's not a good start?---Yeah. You're not fit, you're not fit for this sort of work, so- - -

MR PAYNE: And your belief about him raising this possibility of a CAR with you is that he was trying to get some money from you?---Yes, I do.

Did you discuss that with anyone?---Ah, no, I didn't, because I wanted things to just flow nice and smoothly.

30

I see. I think when he said this to you, I think you were in a trench at the time?---Yes. I was in a trench about a metre deep and there was a bit of heavy rain the previous day where the trench was left open and, and, and a bit of the trench subsided.

I see?---About maybe a hundred kilograms or two hundred kilograms of dirt fell into the trench from the top edge of the trench and I was shovelling it out and he leant down and said, "I could give you a CAR for that." And I said, "It's only a metre deep, it's not, it's not a safety hazard." And he said, "I could still give you one if I wanted to." So then I knew very quickly that I had to do something to avoid that CAR.

40

And what did you do?---Well, I, well, basically I had no choice but to offer him some money.

So you got out of the trench first?---I got out of the trench, I made sure nobody was around.

I see. And how many people were working on the job at the time, do you remember?---Oh, there was an excavator operator and oh, and, and, and a, and a friend helping me out. There were probably just three of us.

And so you thought you had no choice but to pay him the money so as to avoid the unfavourable- - -?---Corrective Action Request.

- - -effect that a CAR would have on you?---Yes, that's right.

10 And just to summarise, your particular concern was that you were in effect on probation so it would be a black mark with Sydney Water?---Yeah, it would probably put me on a further probation if not, probably end my chances of getting on that list.

It would affect your reputation with water service coordinators who are important for you?---Oh, that's one thing, actually I'm glad you touched on that. Probably just stop him from giving me any, any, any, any jobs to tender. It would probably, it would probably be the end of that.

20 Because getting a CAR early on in your career like this is looked on unfavourably?---It is, it is. It's, it's not looked on very favourably at all.

And in terms of delay in relation to a CAR, can you tell the Commission what, if any, your experience is. Does a CAR sometimes or always create delay and expense for a constructor?---Well, I've never had, I've never had a CAR but from my, from the understanding, because my, my elder brother is a constructor as well, I have asked him in the past what a CAR means and I think it means you have to write a report as to why you got the CAR and how you can avoid it in the future and, you know, paperwork, hassles and,
30 yeah, just delays and possible further orders.

So after this threat of a car and you paid money, at no time in the future whilst you were still a constructor did you ever get a car. Is that- - -?---
In the eight years that I've been with Sydney Water I've never had a CAR. I've got quite a good reputation and- - -

And the audit team came out and they checked your work and they were happy with it?---Yeah. Jim Price and I think it was Ian Barnes I think, came out and they did, did a survey of the job. They found all the materials and
40 all the paperwork was ready onsite and to standard. They checked the pipes to see if they were to standard, they checked the blue metal, they checked everything and everything was fine.

Just so the Commission understands, when Mr Price and Mr Barnes came out to audit it, why, why didn't you raise with them what Mr Buckley had done standing over you in the trench?---Well, it was my second job and I wasn't, I wasn't about to sort of ruffle any feathers or open any cans of worms. Like, I just wanted to get, to get through the job smoothly and

because also you're not sure how they're going to react, you're not sure, you're, I mean, you could be talking to the enemy, you could be talking to someone who's on his side, you just don't know. You just don't know who you're talking to so it's better to just shut your mouth, just get the job done and he wasn't asking for a kidney so basically I just wanted to get the job done.

I see. And can I ask you about the next job you did, and it says in your statement second job, but it's really the third job as you've explained?

10 ---Yes, that's right.

And that's 154 Marion Street at Bankstown?---Yeah.

Scheduled to be completed in two stages. Can you just explain why that was?---Well, with, with major, it was two, it was two, it was a corner block so there were two, two side lines to do, one on Marion Street and the other one on the other street, which I can't remember the name of.

So they're two separate sewer connections, are they, for the two blocks?

20 ---Yes. Two, two separate, it was a corner, it was a corner block and it was being subdivided into two separate lots, one on the residential side of the street and the other one on Marion Street, which is quite a busy street.

I see. And so each block would need its own- -?---Yeah.

- - -sewer access?---There was a sewer main running along Marion Street, which I cut into and brought into the Marion, Marion Street site, and there was another sewer main running, running along the other street, which I can't remember the name, I think it's Clarence I think, Clarence Street, that's right. And I had to cut into the sewer main there and bring it in for the, for the other subdivision.

30

The first day that Mr Buckley came to the site, he asked to see your paperwork. That's, that's entirely ordinary I suppose?---Yeah, that's standard, standard practice.

And he told you he wanted \$100 for this one. Did you understand that to be a reference back to the \$50 that you'd paid him on- - -?---Yeah. Well, I understood from the, from the Greenacre job that he required money, yes, to pass work.

40

And again for, for the same reasons you told me earlier, you paid him the \$100?---Yes, I did.

Again you just took it out of your wallet and he put it into his top pocket? ---Yes.

Were there other people around when that happened?---No, no one was around. I guess he made sure that he wanted to be in a position where nobody else could see.

So he took you from the site to your van which - - -?---To the back of my van which, which, which had the back gate open and he sort of leant in and I, I leant in with him and just gave him \$100 and he put it in his top pocket.

10 There's then a second inspection of the same?---Yeah, that was for the second sideline on the Marion Street side, it's quite a busy street and it's a clearway, it's a clearway after 3.00 and before 9.00 so I had to be out of there, I had to finish the job at about 2 o'clock, it was quite urgent that I did or I would've got a fine from Council, yeah, so - - -

And he told you he wanted another \$100 for this job?---Yes, that's right.

20 Were you starting to think that enough was enough or this was still - - -?
---No, because I think that was now my third job under audit, that's right, it was too. Jim Price did come out and the job was, it was my last job under, under, under the audit strategy where having my first three jobs, major works jobs audited and that was the last one so I wasn't about to, as I, as I said on the previous incident I wasn't about to cause any commotions on my last one and then I did get on the list after that so I was no longer provisional and I wasn't going to ruffle any feathers so - - -

Can I just ask you about this audit? When the auditors for Mr Price I think or Mr Barnes you said?---Ian Barnes did come out and actually a third junior auditor came out as well.

30 Do you remember the name?---No, I don't. I think it, I think, I think it could've been Matthew Barker but I'm not, I'm not quite certain about that.

Can I just ask you a little bit about that audit? Is one of the things that they audited or asked you about was Mr Buckley the inspector or not?---No, they didn't ask me anything because they, they, they basically had the power of inspection unto themselves so they didn't ask me about the inspector at all.

40 I see. Did they ask you questions about the job though, about the connection to Marion Street?---They asked me about everything regarding the job. They checked all my safe work plans, all my environmental management plans, my compliance place entry permits, they checked everything from top to toe.

But didn't ask you any questions at all about your interactions with Mr Buckley?---No.

After this time and you had your accreditation it became your practice to start to inflate your prices so that you didn't get jobs in the Inner West?

---Well, I actually, I did start to inflate my prices and there were a few questions asked by the Water Servicing Coordinator, he did mention to me quite a few times that my prices were quite high and I was just, you know, I said, well, I blatantly said because John, it's John Buckley's area and I used to actually ask, ask around what areas he took because his, his areas were quite extensive so I made sure I inflated my price, if I got the job well, good, if I didn't get the job well, I could get a better night's sleep.

10 THE COMMISSIONER: Why did you have to tender, why didn't you just not tender?---Well, I actually started to avoid tendering after that 'cause my prices were so ridiculous that I could've been seen as, you know, could've been - - -

Over the top?---Could've been bad for my reputation to overprice as well. Didn't look good when somebody else gave like say 6,000 and I gave 18,000 I could've, could've looked bad on me so I just stopped.

20 I assume then, I'm still not quite sure why you bothered to tender, why did you just not tender?---Well, if you think about it if a job is worth \$3,000 and you put \$18,000 - - -

You're prepared to do it for that?---Yeah, you could be, the compensation is worthwhile.

Yes.

30 MR PAYNE: You did actually get at least one other job in Mr Buckley's area, Ravenna Street in Strathfield. How did that come about?---Yes. Well, I was very quiet for quite a while and I got a little bit frustrated and I thought I'll this on. The price wasn't too bad, it was, and I was surprised that I got the job.

THE COMMISSIONER: You say you were very quiet and you didn't have work?---Yeah, I didn't have work so I just, I got a little bit desperate so I just thought I'll take it on and yeah, so I took it on and I regret taking it on so, but I took it on.

40 MR PAYNE: This is another two stage job so it's a subdivision is it where you're making two different connections to the Sydney Water system?
---No, the, no, there weren't two connections but the inspector is required with the Water Servicing Coordinator to come out at the beginning of every job so they both check up on the paperwork, that's the first stage. Second stage is basically a walkover at the end of the job and I think the middle stage is to basically check the work before you backfill it. So there can potentially be three stages, sometimes they didn't come out for the first stage but there is normally around two to three stages on every major works job. The initial handover of the paperwork with a coordinator, the second part would be for the inspector to look at your pipe work et cetera, look at

your materials on site and the third stage would be a final handover, a final walkover they used to call it.

There was a problem with a fence on this job?---Well, yeah, the builder didn't use one of those Australian standard temporary fences, he used one, he used, what do they call it, that concrete mesh. The mesh, the bars that you put into concrete slabs.

10 I see?---Yeah, he used that as a fence which was common practice about 15 years ago. I think builders used to do it to save money and then at the end of the job they used to just rip the fence down, put it into the driveway and just finish off the job instead of paying two or \$3,000 to put a temporary fence. Now, John on site and said this fence is not Sydney Water accredited, I'm going to give you a CAR for this. And I, you know, I basically started to argue my point and I said, Well, what does that have to do with me I'm not the builder on the site. He said, I don't care, when you're working on this site, this is a Sydney Water site. I continued to argue the point that, you know, this is, the builder's in control of what he does here legally. I know it's a Sydney Water site but you can see the
20 overlapping of, the overlapping of the sort of, how can I put it?

(not transcribable)?---Yes. So you've got the builder who legally owns the land, you've got Sydney Water who takes over the site whenever there's an easement, a Sydney Water easement on the site. So, and then he said, O.K., I want three fifty for this job. After I started arguing with him about the fence he said, I want three fifty.

MR PAYNE: It seems considerable inflation on his earlier demands?
---Yeah, I know, I was shocked, I was, I was taken aback a little bit by that
30 amount of money and I got quite frustrated actually.

THE COMMISSIONER: Mr Nasrallah, what sort of profit would you make on such a job?---Well, if everything went smoothly which, which it was I'd say I'd make about \$6,000 profit.

And how many days work is that?---Probably about three days, four days.

And do you have to pay, that's net is it, net profit after expenses?---Yeah, it's net profit after expenses, yeah. So you can see I did, I did, the quote
40 wasn't too bad. Normally I do it a lot cheaper than that but I was, I was, I was surprised that I got that job.

MR PAYNE: The method of payment was slightly different - - -

THE COMMISSIONER: Sorry, Mr Payne, I'd just like to ask - - -

MR PAYNE: Sorry.

THE COMMISSIONER: For a job at a standard price how much profit would you earn a day?---Not including say other particulars like your registration, your petrol, your insurances, \$2,000 a day but you don't get that work everyday.

And what's a usual sort of profit that you would make a day, just a standard job?---Fifteen hundred to \$2,000 a day. But you have to understand that work doesn't come every day, it may, I'll be - - -

10 You mean you're not working every day?---No, no, if I was working every day I would've, I would've retired after the first three years.

So how much a month do you work, how many days?---Me, I'm, I'm, I don't do much work, I, I, so I'd probably do about maybe two jobs, three jobs maximum a month.

Right. And the job takes how long?---Most minor works jobs take one day, 90% of them take one, one day and major works two to three days depending on the job, it could take two weeks. But I've never done a job of
20 that scale, the biggest job I did, I've done, the largest major works job that I've done takes two to three days.

So three fifty dollars could be about 10% of your monthly earning?---Yeah, quite a, quite a large amount. So that 6,000 I made had to last me maybe a month and a half so it wasn't, it wasn't, I was, I wasn't going to the next job after that, that's for sure.

MR PAYNE: The method of payments changed slightly with this as well, he asked you to leave it in his truck. Were you surprised by that?---No, I'm
30 pretty sure my statement, from my statement, I don't know how it was taken but I'm pretty sure I, he said put it on the front seat of your truck.

I see?---'Cause I had my truck parked, actually it was a rental truck at that time. So I put it on the front seat of the truck, closed the door and walked away.

I misunderstood. You're quite right. It doesn't say his truck, it says the truck. You're talking about your own truck?---Yeah, the one I rented, yeah.

40 He's leaning in the window talking to you is he?---No, no. We were both standing in the nature strip. I walked up to the truck, opened my wallet, put the money on to the seat.

Yes?---Closed the door of the truck and walked away.

And the nature strip, that's because people are coming past are they?---Oh, it was a pretty quiet street.

You understood he was concerned about others seeing the - - -?---Yeah. Oh there were, there were, I think there were quite a few bricklayers on site.

I see. I see. And so you saw him step forward, open your truck door, take the money and - - -?---Yeah. I basically had my, I think I had my back to him but I heard the door. And when I went back to the truck it wasn't there anyway.

10 There was no money there. I see. You raised this \$300 problem in the fence with, with a senior project manager at GHD Management, a Mr Irga?
---Yeah, (not transcribable) I knew he couldn't do anything about it, but out of sheer frustration I just had to tell somebody.

When you say you knew he couldn't do anything about it, what did you mean?---Well, he's just the water servicing coordinator. Everybody knows that the inspectors reign sort of supreme in Sydney Water. And the coordinator is just, just a regular office worker, 9.00 to 5.00. He doesn't really have any power in Sydney Water.

20 In terms of doing anything about Mr Buckley, did you by this stage, you'd become more established, did you think that you should take steps to do something about him?---Well, I actually had a number of a guy named Val in Sydney Water and I understand he's pretty high up.

You know his - - -?---I don't know his surname, but I know his name is Val. And I do, and I do know that he's, I've been told that he's pretty high up. And I got a number off a friend. And I rang him out of frustration, but he said he couldn't do much about it, so - - -

30 When was this?---This was during the Strathfield job.

So November, 2007?---Yeah.

Who gave you his number?---A guy I did a job for in Carramar.

40 Whose name was?---I think his name was Peter, with a long surname. I don't remember his surname. He was basically a resident, I did a job for him, I did a sewer extension for him and he said if you need, if you need any help, this number might help you, you know, he's a contact high in Sydney Water he might help you out.

How did the client in this situation know that you needed helping out with Sydney Water?---Oh, no, just, just with any like technical matters with Sydney Water.

I see?---Not, not, I know what you're alluding to, no, just technical matters.

You didn't discuss Mr Buckley with this client?---No.

I see. Well, if we can track Val down, what did you say to Val?---Well, I noticed that John Buckley, I backfilled a section of the job, which I'm pretty sure I was allowed to do. It was only a couple of metres of it. And then John Buckley came back to the site and he said, "I want to see that small piece of pipe." And I said, "But I've already backfilled it." And I'm pretty sure John told me I could backfill it. And then he made me dig it up again. And, but out of frustration I rang Val and I said, "He's making me dig it up again, can't you just, can't you just let it go. It's only like a two, three metre section of pipe. It's not going to change the world. But digging it up I could damage the pipe again." But he said, "Sorry, I can't help you."

THE COMMISSIONER: So you didn't mention anything about making payments to him?---No, no, I didn't. No.

MR PAYNE: Did you ever mention making payments to anybody within Sydney Water?---No, I didn't.

So other than your complaint to the water services coordinator on the job at Ravenna Street, Strathfield, Mr Irga, other than that, you didn't make any complaint?---No. Maybe just complaints to my brother now and again, here and there, to other people, to other workers, but never to any officials.

Did you ever discuss with, with constructors other than your brother the payments that you were being asked for from Mr Buckley?---No. No. Because I've only, in all my time with Sydney Water I've only been on probably three or four sites with John Buckley, so no I haven't discussed, just with workers or friends or family.

Do you have any experience of Sydney Water inspectors, Mr Kane or Mr Funovski?---I have met Brian Kane once at Westmead.

On a job?---Yeah.

And was any cash asked of you on that job?---No. Definitely not. Definitely not.

And I think in an answer to one of my questions or perhaps his Honour's questions a few moments ago, you said the, everybody understands that water services coordinators have no power over inspectors. How did you come to that understanding?---Well, just, just, I understand, I understood quite clearly that the, the inspectors had all the power. That's from what I understood. The water servicing coordinator is a, is basically someone who draws up a design of what needs to be done. Instructions, he gives instructions to the constructor if he wins the tender to do the job. And that's basically all his role is. He doesn't, they never used to come out and inspect the work. And from what I understand, if you're inspecting something then you have total control over it and you're liable for it as well. But that's how

I came to my conclusion. If you're inspecting something before, before it's being backfilled, then from that you can ascertain the, you know, you have all control over it.

Because you were going through this process whilst Mr Buckley was extorting you, this process of accreditation with Sydney Water, was there any literature or anything else you received letting you know about what the channels for complaint were?---No. No.

10 Did anybody within Sydney Water explain to you the contents of the agreement you were asked to sign when you became an accredited constructor?---I'll be honest with you, I didn't even read the agreement.

How did you get it? Did they send it to you in the post?---They sent it to me in the post. I just basically signed it and sent it back.

And did you have, did anyone ever give you a Business Ethics Guide for Sydney Water?---No. But I, but I do understand what Business Ethics are, but - - -

20

I was going to ask you, and you knew what you were doing was wrong in the sense you were paying money. But as you explained to me you thought you had no choice?---Well, I had no choice. It was either, you know, I don't pay my mortgage or rent or whatever it was or bills or just get a, get a job done and go home.

I'll show you P34. And in particular the fourth dot point. I think this is downloaded from a Sydney Water website. Did you ever see this document?---No, I haven't.

30

Did it accompany any material that you got from Sydney Water when you signed the accredited constructor?---I probably didn't look, so, I know that's careless of me, but I probably didn't look. I just wanted to sign the agreement and get it back as soon as possible.

And if you don't mind my saying, Mr Nasrallah, you seem like a man who can look after himself. Why didn't you complain at the end of all this, why didn't you just walk away from the Buckley area?---Sorry, I didn't quite understand your full question.

40

Well, Mr Buckley had been extorting money from you?---Yeah.

You thought it was wrong. You thought you're being made to do it was quite wrong too. Why didn't you take it up with Sydney Water? Was it because you thought you wouldn't get anywhere?---Yeah, basically.

I have no further questions for his witness.

THE COMMISSIONER: No questions?

MR LEE: Commissioner, I have a few questions on one topic area. I don't expect there to be any questions beyond that. But I do ask for a brief opportunity to take some instructions in light of Mr Nasrallah's evidence and statement. Five minutes.

THE COMMISSIONER: I'm sure Mr Stevenson will have some questions will you?

10

MR STEVENSON: Yep.

THE COMMISSIONER: Well, I don't think the questions that Mr Stevenson asks will concern you. Why don't you turn and take your instructions now.

MR LEE: Yes, Commissioner.

THE COMMISSIONER: Yes, Mr Stevenson.

20

MR STEVENSON: Mr Nasrallah, I'm the barrister for Sydney Water?
---Ah hmm.

Do you understand that?---Yeah.

Mr Payne just asked you why you didn't make a complaint to Sydney Water and you said you thought you wouldn't get anywhere. That was the evidence?---Yeah.

30 Now you have given evidence of speaking to someone called Val at Sydney Water?---Yep.

I know you've been asked this, but can you remember what Val's position was?---No. I just knew that he was high up in Sydney Water.

High up?---Well, I was told that he was high up in Sydney Water and he could help me with technical issues if I needed any help with, you know, with the technical aspects of Sydney Water work.

40 And you did discuss the technical issue, I think, that you outlined a few moments ago with Val?---Yeah. Because, yeah, that's right.

And was he helpful in response to your inquiry?---Not in the sense that it was, he basically said it's the, it's the inspectors call on the day. So he basically said, well if John Buckley wants to have a look at the pipe, he's got the right to look at the pipe, so, but, then I said, I'm entitled, I was pretty sure according to the technicality of it, I was entitled to backfill that section.

But he, he said, he said the inspector reserves the right to have a look at anything he wants on the job, so - - -

Well, did Val seem to you to be happy or at least prepared to discuss and debate with you the problem you raised with him did he?---Not really, no, no. He just, he just said let John Buckley, you know, basically do what he needs to do and then move on from there.

10 Well, do you agree that you could've said to him that while I've got you on the phone, would it be wrong of an inspector to ask me to pay money? You could've asked him that?---I could've asked him that.

You didn't want to?---But I didn't.

Were you tempted to? Surely you were tempted to?---I was very tempted to, because I was very frustrated at that time.

20 You could've said to him, well look if an inspector asked me to pay him money to cut corners, where should I go? Where in Sydney Water should I - - -?---Maybe because the number, when it was given to me, I think his name was Peter who gave it to me, he said he could help you out with technical issues. I didn't want to probably go beyond that. Maybe it was getting a bit personal if I told him about the extortion issue.

Or was it, and I'm not being critical, was it just you didn't want to have any further problems (not transcribable)?---Well, basically I swore, I swore to one of my workers that I'd never do a job in his area ever again after this one.

30 That's Buckley's area you mean?---Yeah. That's his area. So I just thought, look, I'll just let it go and I'll never see him again until he retires because I'm sure he's pretty, from his age, I'm, you know, sure he was due to retire in the next 10 or 20 years and I was willing to wait.

All right. And after all did you think to yourself, I've only had to pay him a couple of hundred bucks I might as well get on with my life?---Yeah, that's basically it.

40 It would've been good wouldn't it, sitting there now don't you think it would've been a good thing if you'd (not transcribable) and asked him what you should do about a Sydney Water employee making improper (not transcribable)?---Well, I wasn't sure of the consequences would've been for me, 'cause being, having a young family, a large mortgage, I wasn't sure what the consequences would be for me. So I, you know, I wasn't a secure, I wasn't secure in my finances. So basically I just wanted to get the job out of the way and just move on from there.

All right. You mentioned in answer to one of Mr Payne's questions or you said that you thought inspectors reigned supreme?---Yeah.

And you then said you thought inspectors had all the powers. Had you had experience of inspectors other than Mr Buckley?---With regard to what exactly?

Doing, doing your work as an accredited sewer contractor?---I have seen, I have seen other inspectors, yes on other jobs in other areas, yes.

10

So when you've been working in the inner west area it was only Mr Buckley was it?---John Buckley's got quite a large area actually. All the way from, I think it's on the borders of Bankstown Airport all the way down to the inner west. He's got a very large area.

So you're not aware (not transcribable) Inner West, that's for sure?---Sorry.

But you've dealt with other inspectors have you?---Yes, I have.

20

And I think one was Mr Kane was it?---Yes, Mr Kane. I met him at Westmead.

And Mr Kane asked you whether you'd received a corrupt (not transcribable)?---No, no, there was nothing - - -

You said definitely not. You were quite emphatic (not transcribable) emphatic?---Definitely not.

30

You sound very emphatic?---Because all the other inspectors were nice people. John, John wasn't only the person who asked you for money, he was a person that stood over you, made you feel about that small, cut you down to size and then ask you for money. So he didn't only ask you for money he, he humiliated you first and then asked you for money. Which is, yeah.

Would you regard him as being a bully?---Yeah, he was a bully.

40

And is your point that that was not the way you found the other inspectors? ---No, the other inspectors came on site, how you going, how's, how's life, how are the kids, you know. Just what a normal human being would ask.

And wouldn't ask you for money?---Well, no.

Or, or hint or hint (not transcribable)?---Or talk down to you, you know. They'd just talk to you like you're a human being and basically, you know, let's have a look at the job. What have you got to do? I'll come back, I'll come back tomorrow or the day after and we'll have another look and see how you're going and that's it. All really nice people.

So Mr Buckley was the only black sheep that you came across. Is that about it?---Yeah, yeah, the bully.

Now Mr Payne asked you questions about the document you've signed with Sydney Water. I think you said you didn't read it?---Yes. I (not transcribable) Sydney Water.

10 If the witness can be shown Exhibit P38. I just want you to - - -?---I mean, I didn't read it out of ignorance, I just trusted that Sydney Water would look after my interest. I saw no reason why Sydney Water wouldn't look after my interest.

I'm not criticising you?—Yeah.

Could we just look at that document? Is that, is that the standard - - -?
---Yes, that's the document, yes.

20 Now if you look at, down to B2, there's a clause in that document which obliges you to act ethically?---Yeah.

Now as you, and you said earlier I think that although you didn't read the Business Ethics Guide, you knew what Business Ethics were. Do you remember saying that?---Yeah. Yeah.

It was your point that you don't need to be told in a formal way to behave ethically because that's the way you normally behave. Was that the idea?
---I mean its common sense really.

30 That's right. But you understood it to be of your obligations in doing work for Sydney Water?---Yeah. In any business dealings.

To act ethically?---Yeah.

And you understood that part of the obligation to act ethically was not to offer bribes?---That's right.

40 And you said earlier I think that when you were talking about inflating the price for your work, that if you didn't get the job you'd sleep easy?---That's right. If I got the job it'd be a nice payment.

All right. But by sleep easy did you mean you wouldn't have to involve yourself in - - -?---John Buckley's area.

- - - John Buckley asking you for money?---Yeah.

Was that the idea? Because you knew it was wrong of you - - -?---It wasn't only the money, it was, it was the bullying, yeah, sorry.

Can you just answer my question and then you can (not transcribable)?
---Yeah, sure, sorry.

Now we all agree that it was wrong of Buckley to ask you for money.
Right?---Yeah.

As you understood it it was also wrong of you to pay him money, although
you've explained why you did it?---Yeah.

10

So just draw those things together, there were four properties you dealt with
(not transcribable) there's the Padstow property where he was difficult but
didn't ask you for money?---Yeah.

There was the Greenacre property where he said you owed him a beer and
then two beers?---Yeah.

Then said he could put a CAR on you for the trench issue?---That's right.

20

Pausing there. Did you think that he would've been justified in giving you a
CAR on the trench?---No, definitely not, 'cause it wasn't a safety issue. I
would understand if I was in the trench above my shoulders or above my
head. But it was basically up to my waist. So there wasn't a safety issue
there.

So there was no Sydney Water regulation with which you were not
complying at (not transcribable) you say?---No, no, there wasn't.

30

Then there was the, the Bankstown property where he asked you for \$100
on a couple of occasions?---Yeah, on two occasions.

And that point you were still on probation?---No, that was I think my last
job on probation. My first job - - -

I think you decided that you thought on that third job you were still on what
you called - - -?---99 Highview was my first. No, no Padstow was my first.

Highview Avenue first?---Padstow was first. 99 Highview Avenue was
second and Bankstown was third.

40

You were on probation you think?---I was on probation. I think Bankstown
was the last, was the last probation job.

All right. Then Ravenna Street, Strathfield, which was two years later (not
transcribable)?---Yeah, but I wasn't on probation then.
You were accredited by them?---Yes.

So you didn't then have the problem that you had earlier in your mind about (not transcribable)?---No, I didn't have the same problem.

10 So can I ask you why is it then that on that fourth occasion when you weren't on probation, you had your accreditation secure why would you, why didn't you tell (not transcribable)?---As I explained previously I, I swore to one of my workers that I'd never do another job in his area again and I had a young family and a large mortgage and I just basically just wanted to put the job behind me and just move on. And I was quite successful after that actually in other areas, his isn't the only area so - - -

You certainly felt bold enough on that fourth occasion to have a negotiation with Buckley about what you should pay him?---Yeah, well, I was a little more bold because I basically wasn't under the, wasn't under the, you know, under the sort of pressure of being on probation.

20 And finally, you tell us that Mr Irga the Water Servicing Coordinator I think told him he was going to report it, report - - -?---That's what he said he was going to do but I didn't hear anything after that.

Did you chase him up and ask him what he'd done?---I think I did call him once and asked him whether he chased it up but I don't, I don't recall the conversation too well 'cause it was quite a while ago.

You don't recall whether he said he did or he didn't?---No.

Yes, thank you.

30 THE COMMISSIONER: Mr Nasrallah, I think to one of the questions that you were asked about why you didn't speak to Sydney Water about what was happening to you in your dealings with Mr Buckley was that you were scared of the consequences. I don't think that's exactly what you said but that's the impression that I got from your evidence. Is that right or not?---I was worried about the consequences, yes.

And could you, were you worried that perhaps you could lose your accreditation?---That was a possibility that went on in my mind, yes.

40 In other words if you reported this to somebody who supported Mr Buckley and not you you wouldn't be looked on with favour would you? Is that what you thought?---Another one of the, something that just came to mind, sorry to interrupt, another thing that just came to mind now I remember during the 99 Highview Avenue job the Water Servicing Coordinator they came on site, a Mr Prem Chand was having a few discussions with John Buckley, like heated discussion and then I went, when I spoke to Prem Chand by himself a bit later on he said that John Buckley had been disqualified from Sydney Water for three months and he's had issues with Sydney Water and, but after disqualification he was brought back on again.

So basically I think I asked him why and I think he said it was something to do with accepting bribes or something like that. So then I thought to myself well, if he, if he can get away with it once he can get away with it again so that's probably another reason at that time why I didn't say anything either as well as the probation.

Mr Stevenson, do you want to - - -

MR STEVENSON: No.

10

THE COMMISSIONER: Mr Lee?

MR LEE: Mr Nasrallah, I represent Mr Buckley. Do you understand that?--Yes, I do.

You've given some evidence about doing three Sydney Water jobs, the first one being at Padstow, the second one at Greenacre, the third at Bankstown and sorry, there's a fourth one also at Strathfield?---Yes, that's right.

20 Now, it's your evidence that in relation to the first job at Greenacre on that occasion you gave Mr Buckley \$50?---Yes.

And in relation to the third job at Greenacre you gave him two amounts of \$100 each. Is that right?---At Greenacre - - -

Sorry, Bankstown?---At Bankstown, yes.

Totalling \$200?---Yes.

30 So by the time of the last job that you were involved with, involved in with Mr Buckley at Strathfield you say that you have paid him a total of \$250. Is that right?---I think I've said it was about \$300.

But I'm not talking about what you say you paid Mr Buckley in relation to Strathfield job but I'm saying that by the time of the Strathfield job in relation to earlier jobs you say you paid Mr Buckley a total of \$250. Is that right?---I understand what you mean, yes.

40 Now, do you remember being asked some questions by Mr Payne about the fact that because of what you say you paid to Mr Buckley you had to increase or inflate the quotes that you were given for Sydney Water? ---Yeah.

And did you, do you remember giving an example of inflating the quote saying that for example, A job might cost \$6,000 and I would quote \$18,000?---Yeah, something like that, just some ridiculous, ridiculous price, yeah.

Do you agree that that's an increase of about \$12,000?---Yes, it is.

Was that, as an example that increase of \$12,000 are you giving evidence that that was taken into account the money you say you to pay to Mr Buckley?---No. No. No, it was having to put up with his attitude as well and his bullying. I basically just did it, I wanted to avoid the area but I guess if the financial compensation was that, was that tremendous then I'd be willing to put up with it.

10 So is it your evidence that you were prepared to over quote by as much as \$12,000 more than double what a quote should be in order to avoid Mr Buckley's area?---Yeah. Which there's nothing wrong with that 'cause Sydney is a big, a big city so there's plenty of work all over the rest of Sydney.

Now, going back to the, the second job that you were involved in with Mr Buckley, the one at Greenacre - - -?---The one in Highview, yeah.

20 You've given evidence that you said that Mr Buckley said something to you like you owed him a beer?---Yeah.

And on a second occasion you say that he said now you owe him two beers? ---Yes.

And was it your evidence that after he made the first comment about the beer that you began to think that there was something strange going on with that situation?---Yeah, it seemed to me very unusual for someone to ask you for a beer on a jobsite.

30 And you gave evidence before that you started doing contract work with Sydney Water in 2003?---Yeah.

Your brother Yousef had been doing that type of work for Sydney Water since about 1997, 1998. Is that right?---Yes, that's right.

40 So he'd be doing that, he'd been doing that type of work about five or six years prior to when you first started doing contract work with Sydney Water. Is that correct?---I, I don't know how long he was doing it before me but he was doing, he was a plumber for a long time and, and I do remember that he started doing Sydney Water, specifically Sydney Water sewer work a while before I did, yeah.

Since about '97, '98. Is that right?---I don't, can't be exactly sure, I don't know how important that is to you but I'm not certain of when he started but I know it was way before I did.

And in that time from when you knew that he'd started up to the point in 2003 when you started doing Sydney Water contract work your brother

never said anything to you warning you about this man called John Buckley being in the Inner West area. Is that correct?---I didn't ask, no.

I wasn't suggesting that you didn't ask, I'm saying that your brother never said anything to you as a warning about this man called John Buckley as an inspector in the Sydney Inner West area?---No, no, I found out the hard way.

10 Can I take you to the last job you say you were involved in with Mr Buckley. This is the one at Ravenna Street in Strathfield?---Yeah.

I want to suggest to you that at no stage in relation to that job did Mr Buckley say to you words to the effect of, I want \$350 for that job. What do you say to that?---He said that right at the beginning of the job when we first walked in.

I also want to suggest to you that at no stage did Mr Buckley receive an amount of \$300 from you in relation to that job?---Yes, he did.

20 Nothing further, Commissioner.

THE COMMISSIONER: Yes, thank you. Thank you, Mr Nasrallah, that's all and you may go?---Thank you. Will I take these with me?

I beg your pardon?---Will I take these with me?

Sorry, you take the exhibits, no, if you wouldn't mind leaving them, thank you.

30

THE WITNESS WITHDREW

[3.38pm]

MR PAYNE: Yes. The next witness is John Gerard Ryan.

THE COMMISSIONER: Mr Gorczyca, you appear for Mr Ryan?

MR GORCZYCA: Yes.

40 THE COMMISSIONER: Yes, you want a section 38 order?

MR GORCZYCA: I ask for a section 38 order.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Mr Ryan and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for him to make

objection in respect of any particular answer given or document or thing produced. Mr Ryan, do you wish to swear to the truth of your evidence or do you wish to affirm the truth of your evidence?

MR RYAN: Swear.

THE COMMISSIONER: Would you swear Mr Ryan in please.

THE COMMISSIONER: Mr Payne.

MR PAYNE: Your full name is John Jerrard Ryan?---Yes.

And what's the name of the company with which you are associated which is an accredited constructor for Sydney Water?---Mystold Pty Limited.

10

You spell that M-Y-S-T-O-L-D?---That's correct.

For how long have you and Mystold Pty Limited been associated as authorised constructors or accredited constructors with Sydney Water? ---Approximately since 1987, originally my first registered company with Sydney Water was Mystold Enterprises but that was changed a few years back.

20

When was that?---Approximately, I can only give you an approximate date or a year, but about five years ago.

And you've participated in a compulsory examination with the Commission in August 2010?---That's correct.

Yes, I'll show you this document and just to orient yourself, you'll see on the first page there's your name and it records a transcript of your examination on that day, being 12 August, 2010. Do you see that?---Yes.

30

I'd ask you to turn, the page numbers are in the bottom right-hand corner and I'd ask you to turn to page 67PT. Now you were asked on that day a number of questions about your relationship with Mr John Buckley, correct? ---Correct.

And I suggest to you that you said to the Commission on your oath that you had never met Mr Buckley offsite. Do you see that?---That's correct.

Do you adhere to that evidence?---To the best of my knowledge.

40

You have, I want to give you every opportunity, Mr Ryan, you've never met Mr Buckley offsite?---I have no recollection of meeting Mr Buckley off site.

And you would have a recollection if you did, wouldn't you, given the emphatic answer you gave the Commission here on page 67 at line 23, "No, I never met him offsite"?---If I could have recalled meeting Mr Buckley offsite I would, I would acknowledge it.

Well, there's no reason for you to meet him offsite is there?---No reason, no, but it could happen.

Well, I'm asking and I'm asking you whether the answer you gave to the Commission at page 67 line 23 is true?---To the best of my knowledge that, that's the truth.

Listen to this if you would, I'll give you a transcript so you can follow it.

TELEPHONE INTERCEPT PLAYED

[3.45pm]

10

MR PAYNE: That's your voice, Mr Ryan, talking to Mr Buckley on the phone?---That's correct.

20

Arranging to meet at a coffee shop?---That coffee shop was virtually on the site. If you visit the site you will see that the coffee shop is in the block of factories beside the, the site. That site at (not transcribable) Auburn was inaccessible for vehicles or was in accessible because it was like a ten acre site and they were building a warehouse on it and we even as contractors couldn't drive our vehicles into the site because we had to park all on the road, virtually all that was allowed in there was concrete trucks and trucks bringing materials in and I had my lunch at that coffee shop almost every day while I worked on the job and when I wasn't working on the job if I visited a site I always had a sandwich at that shop as well because that's where everybody went.

30

When I asked you questions a little while ago about meeting off the site you said none of that, did you?---I don't classify that coffee shop as being offsite.

I see. So we should understand when you said to the Commission earlier that you only ever met Mr Buckley on site, that includes adjacent coffee shops, does it?---That, that's my perception is like is if somebody said we'll have a coffee outside the ICAC offices, there's a coffee shop downstairs, this coffee shop wasn't in the next street, it was in the same street, in the next, just next door.

40

So if somebody said to you I'll meet you at ICAC, it's good enough if you meet in the coffee shop downstairs, is it?---That's what I, what you're saying to me now is look, the coffee shop at Percy Street, Auburn wasn't on site, I'm classifying it as being on the site.

Mr Ryan, let's just understand one another. You said on your oath that you had never met Mr Buckley other than on site, correct?---That's correct, yes.

And now when you were played this tape you tell me that a coffee shop is part of the site, that's nonsense isn't it?---As far as I'm concerned it's not, it's just quite practical, it's on Percy Street, it's not on Russell or Murphy

Street, it's on, it's on Percy Street next door, there is no other coffee shop, there's just one on the right-hand side as you look at it.

You knew very well when I started asking you about whether you'd met him on site or not that I was going to ask you about a coffee shop, you were here yesterday when Mr Buckley gave evidence, weren't you?---Of course, yes.

10 Yeah. And Mr Buckley said that he met you in a coffee shop and you paid him \$50 there. Do you remember that evidence?---I have no, I remember the evidence yesterday by Mr Buckley.

Yes, and that's true, isn't it?---No, I have no recollection of giving Mr Buckley and I know that Mr Buckley yesterday when you said that in evidence that he said he wasn't sure either.

20 You have no recollection of giving him money, you're quite sure about that? ---No, I have no recollection of giving Mr Buckley money and on top of that I have no recollection of having a coffee with him.

Mr Ryan, you understand you're on your oath?---Yes.

You understand that on your oath you've told this Commission during the compulsory examination that you only ever met Mr Buckley on site. Correct?---That's correct.

30 I suggest to you you were caught out yesterday because you heard what Mr Buckley had to say that you met in a coffee shop, correct?---I heard what Mr Buckley said yesterday and I had, I had to think about it for two hours as to where on earth I could have met Mr Buckley in a coffee shop and then I realised it was obviously next door to the site.

Well, when, when you say you have no recollection of meeting him, when I asked you some questions earlier this afternoon and asked you whether you had met him on site, you didn't suggest to me then that you'd had a revelation overnight and indeed you had met in a coffee shop, did you?---I answered your questions.

40 I see. So when I asked you about the site, site includes adjacent coffee shop, does it?---Well, that said to me it was (not transcribable) he goes up and down that street, it's like a 10-acre site and there was definitely no coffee shop on the site because it was just a mud bath in there and everybody walked down to the coffee shop around the corner on that street. It was just in the adjoining block of units.

And when you heard this evidence yesterday and you racked your brains, when you came into the witness box this afternoon you knew very well that you'd met him in a coffee shop, didn't you?---No, I did not. I still can't

recall meeting Mr Buckley in the coffee shop. But if I did, I did. I just can't, I meet lots of people in coffee shops and even on that project I often met sales reps and so forth at that same shop, so it wasn't in the next parish or the next suburb or the next street, it was just next door to the, to the building that was being constructed.

Sitting here today on your oath you say you have no recollection of meeting him in this coffee shop you've just told me about?---I have no recollection of meeting Mr Buckley in the coffee shop.

10

I take it that if you had paid him \$50 you would remember?---Yeah, I would, yeah. I think I'd remember, yeah.

Yeah. You did pay him \$50, didn't you, Mr Ryan?---I have no recollection of paying Mr Buckley \$50. Mr Buckley has stated yesterday that I did, well, I have no recollection of it.

20 You are telling me very carefully that you have no recollection. That means, does it, that it is possible that you paid him money but you want to see what else I've got on tape. Is that what you're telling me?---No, that's not what I'm telling you.

Well, did you pay him or not?---I have no recollection of paying Mr Buckley \$50.

THE COMMISSIONER: Do you deny that you paid him?---I don't deny it but I have no recollection of it.

30 Is it possible that you paid him?---Yeah, but I have no recollection of it.

I understand that, Mr Ryan, but I'm just asking you whether it's possible that you paid him?---It could be possible but I have no recollection.

All right.

40 MR PAYNE: Mr Ryan, when you were arranging this meeting with Mr Buckley, you took great care, didn't you, to ensure that you didn't have any telephone conversations with Mr Buckley on Mr Buckley's office line, didn't you?---If I was to ring Mr Buckley on his office line ordinarily 'cause I didn't have it I'd have to ring somebody to get it.

Well, let me give you every opportunity, Mr Buckley. In the days leading up to this meeting at the coffee shop, did you or did you not make arrangements with Mr Buckley that you would speak on a line other than his office line?---I cannot categorically say that but I knew at the time that Mr Buckley was being investigated.

Please explain?---I knew at the time, I knew last year that Mr Buckley was under investigation.

So in September 2009, you knew that Mr Buckley was under investigation, did you?---Yes, there were rumours, just heard rumours about it.

Who told you that?---It was just in the industry.

10 So if you were going to pay him money, you'd have to do it at a place where nobody could see and you'd have to make the arrangements other than on his office phone. Correct?---First of all, if I was going to pay Mr Buckley money, paying him at a coffee shop wasn't going to be any difference in doing it anywhere else. And as for the thing about his phone, I probably felt uncomfortable speaking to the man on, on, on his phone because I'd already been told that he was under investigation.

20 Why would you be uncomfortable about talking to him if he was under investigation if you hadn't been paying him money?---People are, just human instinct.

Human instinct that you might get caught paying him money. Correct? ---That's not correct.

Can you tell this Commission, can you give us any earthly reason why if your dealings with Mr Buckley were entirely above board you'd be asking him to switch phones?---I, I can't give any reason for that.

30 Yeah. And that's because you know, Mr Ryan, that you paid Mr Buckley. You'd been paying him for some time, hadn't you?---That's incorrect.

Let's go back in time to the beginning of 2009. When do you say you found out that Mr Buckley was under investigation?---Can you repeat the first part?

When do you say you found out that Mr Buckley was under investigation? ---At some stage in 2009 when the Percy Street project was underway, Mr Bob Pascoe mentioned to me that John Buckley was under investigation.

40 Mr Pascoe told you. What did he say?---He just said that John Buckley's under investigation. I can't be any more specific than that. That's his- - -

Did he say anything about soliciting money on jobs?---I think Mr Buckley's ah, Mr Pascoe's issue with Mr Buckley was that he personally himself, Mr Pascoe, was having a lot of trouble getting his projects handed over and therefore there was a lot of animosity between Mr Buckley and Mr Pascoe.

You see, you'd discussed Mr Buckley with Mr Pascoe before that year, hadn't you?---Before that year?

Earlier in that year at Perry Street at Auburn you were the constructor and Mr Buckley was, I'm sorry, Mr Buckley was the inspector, you were the constructor and Mr Pascoe was the water services coordinator. Percy Street, I'm sorry?---Oh, sorry, yeah. I, you had me there. So now that we've established its Percy Street- - -

10 Yes.---?- - -that's where I said to you that Mr Pascoe, he told me when that job commenced, sometime after it commenced but I can't tell you how, how quickly afterwards Percy Street job commenced that Mr Buckley and him, you know, I knew there was a lot of animosity between the two of them.

You regarded Mr Pascoe as a reliable person?---I had no experience with Mr Pascoe.

20 You believed what he told you when he said that Mr Buckley was under investigation, did you?---Well, it wasn't a priority, I just, you just listen to people and he, he said he was under investigation and that's, you just take it. It wasn't a priority, I had other factors in my life to deal with.

At the commencement of this project you had a conversation with Mr Pascoe and you said to Mr Pascoe this, didn't you. "We aren't going to have any problems with John Buckley because I have looked after him." That's what you said, isn't it?---That's absolutely rubbish.

30 You never said that?---I wouldn't have said that because my previous history with John Buckley showed that, and you have that history here in the Commission 'cause I brought it in and showed how I dealt with Mr Buckley when he had put non-conformances on us.

What you told Mr Pascoe was that you'd looked after Mr Buckley. That was true, wasn't it?---That I looked after him on the Percy job?

Yes?---That's absolutely untrue.

40 I see. And you're told you think in July or August 2009 that Mr Buckley is under investigation. You hear that from Mr Pascoe, do you?---Yeah. I can't be specific on the time that he told me because I don't, don't just go around worrying about what everybody says.

Well, I might be able to help you with the date. I'll show you an SMS you sent on 10 August, 2009. I'll give you a transcript of it. It's now on the screen?---Yeah.

10 August, 2009. Buckley, to Buckley from Ryan. "Give me a call on my mobile but not from your work phone. Jerry."?---Yeah, I can see that, yeah.

Why did you send that?---Because I, I believed, as a matter of fact I believe Bob Pascoe told me that, that John Buckley's phone was tapped.

Oh, I see. But that's just come to you, has it?---(NO AUDIBLE REPLY)

As you sit in the witness box, you've just remembered that?---Yes. Yeah, well, that's the reason why I did that, because I was uncomfortable about speaking to him on his mobile phone.

10 What else did Mr Pascoe tell you?---He told me that somebody had tried to video or record Mr Buckley but it wasn't sufficient evidence and that the matter was handed over to ICAC.

I see. So you knew when you sent this text that Mr Buckley was under investigation by this Commission, did you?---Well, Mr Pascoe said that but, you know, people say things, you're never sure, but I obviously felt uncomfortable speaking.

20 Yes. Yeah. People say things, you're never sure. Mr Ryan, why would an honest man send a text like this? Give me a reason?---Because I felt uncomfortable about speaking and on that project as well it was a massive project, it was a big project and we very much, Mr Pascoe lives in Wollongong, we didn't see him very often, it was a huge project and there was a lot of necessary protocols for Sydney Water people above John Buckley's level for the connections because the connections were (not transcribable) constructed underground, built by hand in the 1920's and Sydney Water were very very scared of an environmental issue if it backfired and if I could just tell you, we started that project in late January and we finished the pipeline construction in May and then Sydney Water
30 made it mandatory that another company but under our wing, Williams Brothers Contracting, came in and constructed the connections part of the project which lasted from May right until the connections were finished sometime in August, because it was just a big big project. And so I was, I was predominantly left the site on the 3 or 4 May and Williams Brothers under their own (not transcribable) came in and in conjunction with Sydney Water, managed those connections over a long period of time and then we came back to the site and we got it ready for, we finished it off because Williams Brothers were finished doing the connections.

40 Have you quite finished?---Thank you.

Would you now do me the courtesy of answering my question. Why would an honest man send this SMS?---Because I was uncomfortable speaking to John Buckley on, on his work phone.

Ah ha. Uncomfortable speaking to John Buckley on his work phone. Why was that? What did you think that somebody was going to hear if you spoke to Mr Buckley on his work phone?---Because I wasn't, I just, I just wasn't,

you know, I wasn't comfortable with it. It wasn't what they were going to hear, I was just uncomfortable with it.

You knew he was being investigated for taking a bribe and you send him a text saying, "Give me a call but not from your work phone." There's only one possible explanation, isn't there, Mr Ryan, is that you didn't want the people investigating Mr Buckley to hear what you were talking about?
---I had no concerns about what I was talking about, I just wanted Mr Buckley to come out to the site obviously.

10

You knew that the ICAC was investigating Mr Buckley. You've already told me that. You knew that this Commission were the people who were, who were going to be listening in, didn't you?---Yes, but I, I, I just wanted Mr Buckley to come out to the site. I wasn't saying anything on the phone that was, was wrong.

20

What were you going to say to Mr Buckley that you didn't want the ICAC to hear?---Nothing. I just wanted Mr Buckley, because we depended on him to come out to that job. Mr Pascoe was, was pretty hard to find a lot of the time, he wasn't there, he was living in Wollongong. He visited the site probably once a week and Williams Brothers were constantly, when they were, this was the period that Williams Brothers worked on the connections and there was, they were constantly looking for assistance and formalities and stop and go because we had to actually do the connections and it just was a big project.

30

What has any of that got to do whether he rings you from his work phone or not?---Well, I've answered the question. I felt uncomfortable speaking to him on his mobile.

Because you thought ICAC would hear what?---I wasn't hiding anything. I just felt uncomfortable about speaking to Mr Buckley on his mobile.

Mr Ryan, you were hiding things. You were trying to procure that Mr Buckley, who you knew was under investigation for taking bribes, that he ring you on a phone other than his work phone. I'm trying to understanding why. Nothing you've said so far provides any explanation?---Well, I can't explain it any better than that.

40

Listen to this, I'll give you a transcript of it. On the same day- - -

THE COMMISSIONER: Before you do that, Mr Payne- - -

MR PAYNE: I'm sorry, I should tender that.

THE COMMISSIONER: The transcript, the audio recording and transcript of the telephone conversation between Mr Buckley and Mr Ryan on 17

September, 2009, is Exhibit P41 and the transcript of the SMS from Mr Buckley to Mr Ryan on 10 August, 2009, is Exhibit P42.

#EXHIBIT P41 - COPY OF TRANSCRIPT OF TELEPHONE CONVERSATION AND AUDIO RECORDING DATED 17 SEPTEMBER 2009

10 **#EXHIBIT P42 - COPY OF TEXT MESSAGE FROM MR BUCKLEY TO MR RYAN DATED 10 AUGUST 2009**

MR PAYNE: I'll show you another transcript. If you can listen to it it will be shown on the screen in a moment.

TELEPHONE INTERCEPT PLAYED [4.05pm]

20

MR PAYNE: That's your voice - - -?---That's correct.

- - - having a conversation with Mr Buckley?---That's correct.

I tender that recording and transcript of the Commission please.

THE COMMISSIONER: Yes. The audio recording and transcript of a telephone conversation between Mr Buckley and Mr Ryan on 10 August, 2009 is Exhibit P43.

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#EXHIBIT P43 - COPY OF TRANSCRIPT OF TELEPHONE CONVERSATION AND AUDIO RECORDING DATED 10 AUGUST 2009

THE COMMISSIONER: Mr Payne, I'm happy to continue but I'll leave that to you.

40 MR PAYNE: Yes. Commissioner, I think it would be a suitable time for a break. Prior to doing so I'd just like to remind Mr Ryan that he's under oath, these are very serious matters and I'd like him to reflect over the adjournment this evening on whether he's going to continue with evidence of the kind he's given to date.

THE COMMISSIONER: Yes, I'm sure Mr Ryan will think about it seriously and no doubt he will talk to Mr Gorczyca about it and the Commission will adjourn until 10.00am.

THE WITNESS STOOD DOWN

AT 4.07 THE MATTER WAS ADJOURNED ACCORDINGLY
[4.07pm]