

SIRENPUB00215DOC
08/09/2010

SIREN
pp 00215-00266

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION SIREN

Reference: Operation E09/1228

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 8 SEPTEMBER 2010

AT 10.45AM

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

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

THE COMMISSIONER: Mr Payne.

MR PAYNE: If Mr Ryan could be asked to come back in the witness box, Commissioner.

THE COMMISSIONER: Mr Ryan, you're still under the oath that was administered yesterday.

10 <JOHN JERRARD RYAN, on former oath [10.48am]

THE COMMISSIONER: Mr Payne.

MR PAYNE: Mr Ryan, yesterday you were asked these questions by the Commissioner in relation to a payment of \$50 on 17 August, 2009. But I was suggesting you had made to Mr Buckley. You were asked this question. Do you deny you paid him? I don't deny it, but I have no recollection of it. Is it possible that you paid him? Yeah, but I have no
20 recollection of it. I understand that Mr Ryan, but I'm asking you whether it's possible that you paid him? It could be possible, but I have no recollection. Mr Ryan, having reflected on this matter overnight, do you accept that you paid \$50 to Mr Buckley on 17 August, 2009?---Overnight I've had a chance to reflect and when I made my statement a month ago to the Commission, I was pretty happy that I wasn't on site on the 17th, and after reflection overnight, I'm positive that I wasn't on the site that day.

You're positive that you weren't on the site on 17, I mislead you, it was September not August, 17 September, 2009. Is that what you're saying?
30 ---I'm positive I was not there on that site that morning. My intention was to get there for 10.00am to the inspection that had been arranged by Sydney Water coordinators for the purposes of the final paperwork sign off on that project. And because of traffic issues on Pennant Hills Road, I aborted the idea of going there. And my representative, David Redmond, who was going there also, he officiated with Mr Lindsay Rutherford and John Buckley on the site that morning. And I did not attend. I went home and had breakfast with my daughter who had just returned from Europe and she also confirmed because she was in the car when I made some phone calls.

40 Is that a recollection or a reconstruction?---That's my recollection.

I just want to give you every opportunity then. When you say the site does the site include the coffee shop adjacent to the site?---The meeting was organised by Sydney Water Coordinators for 10.00am on the morning of the 17th and when I mentioned to Mr Buckley on the telephone about being there at 10.00am or a little bit later and I mentioned we might go for a coffee after the inspection. So I never, I never actually rang Mr Buckley

and asked him to meet me directly at a coffee shop some place, I said we might have a coffee afterwards.

And I'm asking you is what you've told me having reflected on it overnight are you telling me that you did or did not have a coffee with Mr Buckley on the morning of 17 September, 2009?---I have no recollection of being anywhere near Mr Buckley or having coffee with him or being at a coffee shop with him on the morning of 17th '09, that's absolute.

10 When you say it's absolute are you denying that you met Mr Buckley on the morning of 17 September, 2009?---Based on speaking with my daughter, speaking with David Redmond and speaking with Lindsay Rutherford I was nowhere near the site on that morning.

THE COMMISSIONER: Were you in the coffee shop that morning?---I was definitely not in the coffee shop that morning at 10.00am.

Later?---I have, later on in the day I have no recollection.

20 MR PAYNE: Well, is it possible, having recollected overnight that you were nowhere near the site when did you attend the site on 17 September? ---I have no recollection of being at the site on the 17th. My employee David Redmond says to me, he confirmed to me that we spoke some time that morning on telephone after the connection, after the inspection so I wasn't outside that morning.

Would there be any reason for you to go to the site on that day after the final inspection had been conducted at 10.00?---No reason in connection with the final inspection. If I did go to the site that day it would've been to the ICPS
30 who are the project managers in relation to our just normal commercial affairs but I have no recollection of that.

If the final inspection had taken place at 10 o'clock that morning on the site was there any reason for you to meet Mr Buckley after that time?---I couldn't see any reason.

And do you tell the Commissioner that you met him or you did not meet him on the morning of 17 September, 2009?---I have absolutely no
40 recollection of meeting Mr Buckley on that morning.

Do you deny that you met him on that morning?---Based on thinking about it overnight I have no recollection, I cannot, I cannot recall or deny and I needed to get back to my office which I couldn't last night to actually work out where I was for the rest of the day.

And you've gone back to your office and you've worked out where you were for the rest of the day?---No. No, I said I needed to but last night I just didn't get to do that.

But you've searched your memory you say and you can tell me that you definitely weren't there at the final inspection. Correct?---Absolutely positive that I wasn't there for the final inspection on that morning.

And once the final inspection had been conducted you tell me that there was no reason for you to meet Mr Buckley. Correct?---I have no, I have no, there's no reason for me to meet Mr Buckley that I'm aware of right now.

10 Well, surely when you were scouring your memory last night one of the things you thought about was was there any reason for me to see Mr Buckley on that day. Correct?---If I had attended the final inspection at 10.00am I would have, I would've been there as one of the participants.

I understand that and the final inspection having taken place I suggest to you there was no reason for you to meet Mr Buckley later that day, do you agree?---I would agree to that.

20 Thank you. We'll come back to that day. Where we left last evening I had tendered a telephone intercept, a communication which is P43 which is back on 10 August, 2009. If the witness could be shown P43. You remember hearing this recording and reading this transcript yesterday, Mr Ryan?
---Yes, I do.

I want to ask you some questions about it. You'll see halfway down the page you say to Mr Buckley, "Could you give me a call when you get home from the house phone or something," and he says, "Yeah, but not from one of the work phones in the," and he's cut off, do you see that?---Yeah, I see that.

30 I suggest to you that prior to 10 August, 2009 you had discussed with Mr Buckley the information you had received from Mr Pascoe, namely that Mr Buckley was under investigation by the ICAC and that his telephones may be tapped?---When the connections were happening on that site on one, I think it was a Sunday night or Saturday night, I visited the site because I wasn't doing the connections, Williams Brothers Contracting carried out the connections, that was on the instructions of Sydney Water and I met John Buckley on the site that night, I just walked in and he was, he was in there and he, I just spoke to him and John then made, made it obvious that, yeah,
40 that somebody had reported him for some indiscretion or other so it was common knowledge to everybody in the industry.

Well, you told me yesterday that it was Mr Bob Pascoe who told you that Mr Buckley was under investigation by the ICAC. Do you adhere to that evidence?---That's correct.

And he told you that before or after Mr Buckley himself told you he was under investigation by the ICAC?---I can't recall that, those dates, because it wasn't an important matter to me at the time.

It's an everyday occurrence in your life, is it, that people that you are dealing with are under investigation by the Independent Commission Against Corruption?---It's not an everyday occurrence but whenever it happened it happened, I had other priorities at the time so I cannot tell you exactly who told me what before, I didn't keep a diary on it.

10

I suggest to you that you are the one who told Mr Buckley because you'll remember yesterday I showed you the SMS that you asked him to call you but not from his work phone, correct?---Yes, that's correct.

So you are conveying information to him, Mr Buckley, please don't call me from your work phone, correct?---That's correct.

20

You had told him that it was likely his telephones were intercepted and that therefore you wanted to talk to him on a, on another, on another line, correct?---Yes, I felt uncomfortable about it.

And you had told him that the reason why you felt uncomfortable is that Mr Pascoe had told you that Mr Buckley was under investigation by the ICAC, correct?---No, that's not correct, it was widespread across the industry that, that, that he was being investigated so I just wasn't the one and only person. Mr Pascoe would have told many, many people.

30

Who else do you say you spoke to about Mr Buckley being under investigation by the ICAC prior to 10 August, 2009?---It would be impossible for me to mention about peoples or persons because it was rife across the industry amongst constructors, designers, water servicing coordinators.

Well, you've said that to me three times. Please name one such individual? ---I, I couldn't name one individual because it'd be like a needle in a haystack.

40

So you say you had conversations with constructors about Mr Buckley being under investigation, do you?---I could have had passing conversations with 5,000 people about it. I couldn't, it was rife within the industry. I meet designers, quality checkers, like water servicing coordinators, people in the industry all the time.

A serious answer Mr Ryan, you could've had 5,000 conversations about this topic?---I could've had many conversations about the topic.

And did you say to each of those people, look I really don't wish to discuss it with you on this telephone, please call me on a clean line?---No, I wouldn't of said that.

Well, you were the one telling Mr Buckley to ring you on another line weren't you?---I did tell Mr Buckley that, yes. I felt more comfortable about, about (not transcribable) on his phone.

10 But you were the one, you were the one weren't you who told him he was under investigation by the ICAC weren't you?---No, I was not. If anything Mr Buckley would have mentioned to me that somebody had reported him.

Well, just have a look at P43 that's in front of you. You're saying, give me a call when you get home from the house phone or something. Mr Buckley doesn't say, what are you talking about, Jerry. He knows exactly what you're talking about. Yeah, but not from one of the work phones. That's because you had told him not to talk to you on the work phone prior to this. Correct?---I told him at this occasion whatever happened prior to that I wouldn't know.

20

Well, he's not the slightest bit surprised. You've discussed it before haven't you?---It's been widespread in the industry.

You had discussed it before with Mr Buckley hadn't you?---I told you a few minutes ago that I met Mr Buckley on the night when they were working at night out there and that's when he, he mentioned it to me first that somebody had reported him.

30

What was the date of that conversation?---I wouldn't be able to give you that because I don't, didn't keep those dates. Why would I?

What did he say to you?---He just said somebody had reported him.

Somebody had reported me. That's all he said?---Basically. I haven't got it word for word. It was 12 o'clock, 1.30 in the morning or whatever. It was very late at night, it was raining and the job was happening despite the rain and I went down to the site and I was actually startled because I walked through the building and he was standing there with some of the Williams brothers contractors.

40

I want to give you every opportunity, Mr Ryan, do you tell the Commissioner that he said, somebody has reported me. That's all you can remember about that conversation?---That, that was the pertinent fact that he said that to me, that he, he had been reported.

THE COMMISSIONER: And he didn't tell you why he'd been reported?
---No, he didn't substantiate and - - -

So, from that information you tell the Commission do you, that you discerned that the ICAC were investigating him do you?---I wasn't, not from that particular conversation, but Bob Pascoe had me told previously that somebody have collected information on Mr Buckley, but nothing became of it. And that it would be handed over to the ICAC.

10 So Mr Buckley told you that someone had reported him on the Sunday, but you've just told me prior to that Mr Pascoe told you that the ICAC was involved. Correct?---I can't give you as I sit here the days and dates and times of when Mr Pascoe told me.

Well, Mr Buckley, from what you've just told us didn't tell you anything about the ICAC did he?---No. He just told me he had been reported.

Correct. He didn't tell you anything about telephones being tapped did he? ---I can't say that, I can't, I can't categorically deny or, or accept that he told me anything like that.

20 You told me not three questions ago that he didn't say anything of the sort didn't you?---I'm telling you now that John Buckley told me on that occasion and I can't tell you the date, that somebody had reported him.

(not transcribable) nothing to do with telephones being tapped?---Well, that's, if that's the case that's the case. Nothing to do with telephones being tapped.

30 It is the case. But you knew the telephones were being tapped and you told Mr Buckley that didn't you?---I have no recollection of telling Mr Buckley about telephones being tapped.

When, look at P43?---Yep.

40 When you say to him, can you give me a call when you get home from the house phone or something. And he says, Yeah, but not from one of the work phones. I suggest to you it is clear as day that you had discussed with Mr Buckley prior to this point the fact that his telephones were being tapped. Correct?---Incorrect, because that meant that I personally, John Ryan, had a perception in fact that John Buckley's phone was probably tapped.

MR PAYNE: You did have that perception I take it?---Yes.

You got that perception from Mr Pascoe. Correct?---For my conversation, from his words to me that Mr Buckley was being investigated and that ICAC was involved, yes, straightaway my brain would've told me that Mr Buckley's phone would probably be tapped.

Exactly. And that's what you told Mr Buckley wasn't it?---No, I did not tell that to Mr Buckley.

Well, what, can you give any explanation to this Commission why when you say, Ring me from another phone, Mr Buckley says, Yeah, but not from one of the work phones, there's not the slightest expression of surprise from Mr Buckley in all of this because it's clear isn't it that you'd already discussed this matter?---Well, I have no recollection of discussing phones and tapping with him I just asked him to ring me on a different phone.

10

Is it your practice to tell public officials when you speak to them that you don't wish to speak to them on their work phone?---Not particularly but sometimes you might say to a person can you give me a call on the office phone rather than the mobile.

Quite. Give me a call on the office phone not avoid your office phone at all costs. Correct?---That is correct, yes.

20

Because if you say to a public official please do not ring me on the work phone it is obvious isn't it, Mr Ryan, that you would be suggesting that you wanted to say something you didn't want his employers to hear?---I felt uncomfortable speaking to Mr Buckley on his mobile phone.

THE COMMISSIONER: Mr Payne, the relevant facts on this issue have been established.

30

MR PAYNE: Yes, if the Commission please. Mr Ryan, I'd like you to listen to another tape and I'll hand you a transcript. 17.15.23. It's 10 August, 2009.

PLAYING TELEPHONE INTERCEPT

[11.07am]

MR PAYNE: That's your voice, Mr Ryan?---Yeah.

That telephone conversation with Mr Buckley a couple of minutes after the one that we've just been discussing?---This is on the 10th of the 8?

40

Correct?---The other one we've been discussing was on the 17th of the 9?

No, the one we were just discussing P43, All right, give me a call from the home phone, et cetera, that's the 10th of the 8th at 17.13, two minutes before this call?---Okay.

I tender that recording and transcript if the Commission please.

THE COMMISSIONER: Yes. The transcript and the audio recording of the telephone conversation between Mr Buckley and Mr Ryan on 10 August, 2009 at 17.15.23 is Exhibit P44.

#EXHIBIT P44 - COPY OF TRANSCRIPT OF TELEPHONE CONVERSATION AND AUDIO RECORDING BETWEEN MR RYAN AND MR BUCKLEY DATED 10 AUGUST 2009 AT 17:52PM

10

MR PAYNE: Mr Ryan, I suggest to you that what you felt uncomfortable about talking to Mr Buckley about in the earlier conversation P43 that we've been discussing was that you were asking him after work hours to come out and conduct an inspection in effect to smooth the way for your job. Correct?---That's incorrect.

20

Well, please explain what it is about the conversation in P44 that you didn't want to have on the work phone?---The actual manhole we fit down the back of the job was three metre square chamber that we had constructed over the new 900 mil diameter sewer, it was a big chamber. The base, the base of that chamber had something like I think 15 to 20 cubes of concrete poured into it and when we put in all that steel and the concrete we forgot to put in the one fifty mil conduit, (not transcribable) a service for the Tooheys factory and we were faced with having to core drill a hole in from the outside in through the base of the pit and the builders for the Tooheys complex were pushing to get the sewer for the building connected to it and in the Sydney Water standards you're allowed to do an internal drop into a manhole, an internal drop rather than coming in at the base. And we, we got Mr Buckley down to ask him if he's allow us to put an internal drop in, the builder was showing him how we were going to do it via the use of stainless steel brackets and PVC pipe because we had nobody else at the time to, to ask and that was the quickest way out of it. And he subsequently looked at the, at the, at the standards and allowed us to do it and it was, it was, it was a big relief to us not to have to core drill into the put and it was still within the standards because there is a standard in the Sydney Water system for internal drops.

30

40

So at 5.15 after his ordinary working day you ring him and say come down and Mr Buckley drops everything for you. I suggest to you the reason for that was he knew you were going to pay him, correct?---That's incorrect, Mr Buckley, I'm not sure where he lives but he lives in the western suburbs some place and he would have been heading that direction anyway from the, from his work office.

So it was usual in your relationship with Mr Buckley that after his ordinary work hours he would do favours for you if you rang him and asked him, was it?---No, that's, that's not, that's not true and it's not a, it's not a real statement.

What's untrue about what I've just said to you?---I've had very little to do with Mr Buckley in life apart from that particular job and Mr Buckley was of a help on that job because it was a major project and of course in order to keep things happening I would utilise Mr Buckley's knowledge and his, I kept him involved in that job. We always kept him involved because we want to make sure that everything, he was happy with the job all the way through.

10 Well, you wanted to make sure he was happy, you told Mr Pascoe in January 2009 that you'd looked after him, that you'd paid him, didn't you? ---I never said such to Mr Pascoe, what you were alluding to yesterday was, and I said to you, if I said that to Mr Pascoe or something to the effect that we won't have any problems on this job, at the start of the job, right through the job, it was because of what had happened previously on the only other project I had done with Mr Buckley in 25 years and that was at Joseph Street, Lidcombe when a non-conformance was put on us, a major one, and the response that I gave to it went all the way to Sydney Water's offices and I was called in for a meeting about why I responded in such fashion and
20 that's a fact and you at the Commission here have the evidence of that. Shortly afterwards on that Joseph Street, Lidcombe job Mr Buckley picked something else which was out, straight off I knew that it wasn't correct, he shouldn't do it so I reacted by getting the engineers from Rocla out to the site to look first at all independently and see if Mr Buckley was justified in making his complaint or non-conformance about this particular manhole steps. Rocla people told me clearly that there was no issue with their product. I then organised through the WSC another inspection on the site and from memory a gentleman called Murray Hall from Qualchek,
30 Mr Buckley and another person from Mr Buckley's office came to the site along with the Rocla representatives and my recollection of that meeting on site was that Mr Buckley still didn't accept and wouldn't sign off on the job because he said it wasn't up to standard but the other person from Sydney Water did sign off on the job so that was, that was my two incidences where Mr Buckley had put non-conformances on us and I, it's clearly shown that I stood up to it and Sydney Water asked me to withdraw the response that I gave to the first non-conformance because I think purely for cosmetic reasons because they didn't want to be filing away such paperwork.

40 And yet when we come to 2009 Mr Buckley's doing favours for you and coming after hours and inspecting the job. How did that come to pass, Mr Ryan?---Mr Buckley, if I asked Mr Buckley on an afternoon when he was passing by to call in and look at the situation we had on the job that would be right across the Sydney basin with Sydney Water people, that would be a regular so there's nothing unusual about that.

Mr Ryan, I'm going to take you back to 17 September and this is the last matter that we'll deal with. I want to give you every opportunity, you've said that you weren't there at the site on that morning and that there was no

reason for you to meet Mr Buckley thereafter. Do you adhere to that evidence?---Yeah, that's, that's right, yeah.

Have a look at this video footage.

VIDEO RECORDING PLAYED

[11.15am]

10 MR PAYNE: Commissioner, I tender the surveillance running sheet in relation to that video together with the video evidence.

THE COMMISSIONER: Sorry, the video, the surveillance, sorry, Mr Payne, do you mind just repeating that please.

MR PAYNE: I tender the surveillance log of 17 September, 2009 between the hours of 10.55am and 11.06am.

20 THE COMMISSIONER: Sorry, just a moment, of 17 September, '09 and between?

MR PAYNE: 10.55am and 11.06am.

THE COMMISSIONER: Yes. And, and the video footage relating to - - -

MR PAYNE: To, to - - -

THE COMMISSIONER: The video footage taken at the time.

30 MR PAYNE: Yes.

THE COMMISSIONER: P55 is the surveillance log of 17 September, 2009 between 10.55am and 11.06am and the video footage taken at the time, P45 I beg your pardon.

**#EXHIBIT P45 - COPY OF LOG RECORD AND VIDEO FOOTAGE
DATED 17 SEPTEMBER 2009 TAKEN BETWEEN 10:55AM-
11:06AM**

40

MR PAYNE: Now, Mr Ryan, you've seen that video, we can look at it again in a moment but I want to suggest to you that that shows you at the Quantum Café adjacent to the site on the morning of 17 September, 2009 leaning into Mr Buckley's truck, paying him \$50 and then wandering off into the café. That's true, isn't it?---As I said before, I had no and I still have no recollection of being, meeting Mr Buckley that morning but if I did, I did, I have no recollection of it, I've said that all the way through.

You've told me on three occasions this morning that after the final inspection which had already taken place at 10.00am that morning there was no reason for you to meet Mr Buckley and yet there you are leaning into his car and walking away. You were giving him money, weren't you?---I was not giving him money, I have no recollection of meeting Mr Buckley that morning.

10 THE COMMISSIONER: Can you think of a reason for meeting him at, after the site inspection as is seen in that video?---We have jobs all over like, all over Sydney and I, I've often, even since that job finished now that I know where the coffee shop is, I often call in there and it's just a coffee shop, I often pop in and have, have a sandwich there and I have no, genuinely no recollection of actually that, that footage. I mean, I meet Sydney Water people all the time, I meet them at, you meet them, you know, you meet them on the road, you see them at the traffic lights, I have no recollection of that.

20 MR PAYNE: You'd arranged to meet him on the telephone?---That was on, on the site. If, if, if, after the inspection I said we'll have a coffee with him but I have no, I know that I didn't make it to the inspection and I have no recollection of meeting Mr Buckley at the coffee shop. Nor did you have a coffee with him because you leant into the car and I suggest you gave him some money and you walked away. Do you agree?---Absolutely not. I have no recollection of giving Mr Buckley any money, no meeting him at the coffee shop, but I've seen the video, I have spoken to him momentarily at, at the coffee shop through the door of his car.

30 Yes, Mr Ryan, I suggest that the answers you've given me denying that you paid money in that video are a lie. Do you agree?---No, I don't agree.

I have nothing further for this witness.

THE COMMISSIONER: Is there any cross, any questioning of Mr Ryan? Mr Gorczyca?

MR GORCZYCA: Yes, your Honour. (not transcribable) Commissioner.

40 THE COMMISSIONER: Apparently there's some fault with the sound recording so we'll have to adjourn.

MR PAYNE: A brief adjournment, yes.

THE COMMISSIONER: A brief, for that to be rectified.

SHORT ADJOURNMENT

[11.21am]

THE COMMISSIONER: Yes, Mr Gorczyca.

MR GORCZYCA: Mr Ryan, this job at Auburn Street, at Percy Street, Auburn what was the contract value for your company for the total job approximately?---Approximately it's 650,000.

10 Could you please explain your payment structure that you had with the developer on the job i.e. when were payments, when were, when was the developer invoiced and required to pay?---The developer would be invoiced monthly based on percentages of work completed and generally paid within 30 days.

Was there a retention amount in the contract at the end of the job?---At the end of the job no, there was down to two and a half per cent retention, that would be paid approximately within 20 days of the job being completed.

20 And for your company what, what event was the completion of the job for the retention to be released?---The section 73 certificate would, would be obtained for the developer through Sydney Water Coordinators.

In your contract with the developer what did it say?---Once the works were connected and the project was, was, was finished we were then to get paid fully.

Whose sign off was required?---Sydney Water Coordinators.

30 Could I hand you a document.

THE COMMISSIONER: What's the relevance of this?

MR GORCZYCA: The relevance?

THE COMMISSIONER: Yes.

MR GORCZYCA: I'm going to be showing documentation and tendering documentation that Mr Buckley didn't sign off on - - -

40 THE COMMISSIONER: We don't take documents unless they've been shown to counsel assisting beforehand.

MR GORCZYCA: I can show counsel assisting now.

THE COMMISSIONER: Yes, but it's got, I mean it's got to be relevant. Why is it relevant to this inquiry?

MR GORCZYCA: None of the, none of the, none of the matters that were the subject of the work done by Mr Ryan's company required any sign off of any sort by Mr Buckley. In fact all off the documentation which required a sign off and was signed off was not signed by Mr Buckley, but was signed by other parties.

THE COMMISSIONER: Why was this not put to Mr Buckley? Why was this not put to Mr Buckley?

10 MR GORCZYCA: Mr Buckley didn't say that he signed off on anything relevant, the work done by most - - -

THE COMMISSIONER: You could've put to Mr Buckley that Mr Ryan, Mr Ryan wouldn't have no incentive to pay him because he didn't sign off him and, but that wasn't put to Mr Buckley. And it's Mr Buckley's evidence that implicates Mr Ryan.

MR GORCZYCA: Sorry, I couldn't hear that.

20 THE COMMISSIONER: It's Mr Buckley's evidence that implicates Mr Ryan.

MR GORCZYCA: Mr Buckley didn't say that there was any requirement that he, that he had provided any short cuts or signed off on any work that was inappropriate or failed to sign off on any work.

THE COMMISSIONER: Mr Buckley said that Mr Ryan paid him money.

MR GORCZYCA: Yes, correct.

30

THE COMMISSIONER: But you want to say that there was reason for Mr Ryan to pay Mr Buckley, that should've been put to Mr Buckley. I warned those attending that I was going to apply that rule, that I always apply that rule. That, if you're, if you're contending that a witness is not telling the truth you've got to put the version of client to the witness.

MR GORCZYCA: Commissioner - - -

THE COMMISSIONER: And that is basic law of evidence.

40

MR GORCZYCA: - - - I had a look at the transcript of Mr Buckley's evidence and it was not that he said that he actually received \$50, he says he thinks he may have.

THE COMMISSIONER: Well, Mr Gorczyca, if you think the evidence is not enough to implicate your client, you'll argue that no doubt when the time comes. If you want to prove, well, I'm still not sure what you want to prove. You want to prove that Mr Buckley doesn't have to, didn't have to

sign off on anything. But why does that stop Mr, how does it stop Mr Buckley from issuing a CAR does it and delaying the work?

MR GORCZYCA: That's correct. It doesn't delay any work.

THE COMMISSIONER: Well, where is this going? Anyway, I won't, if you want to put in, you want to put in what, a contractual document?

10 MR GORCZYCA: No. The document, I want to put in a Sydney Water Corporation document that was required to be signed off at various stages of the work being undertaken by Mr Ryan's company. That Sydney Water document did not have nor require any sign offs by Mr Buckley nor any other inspector.

THE COMMISSIONER: All right. I'll take that document. But let's try and short circuit this. I, I don't want to spend too much time on this. You tender a document now and I'll take it as an Exhibit and let's move on.

20 MR GORCZYCA: Yes. I have - - -

THE COMMISSIONER: Now what is this document, Mr Gorczyca?

MR GORCZYCA: The document is a document, a Sydney Water document.

THE COMMISSIONER: Well, what is it?

MR GORCZYCA: It is called, Inspection and Test - - -

30 THE COMMISSIONER: No, I can see that. But what is it?

MR GORCZYCA: Well, it lists various items of - - -

THE COMMISSIONER: I can see what it's called.

MR GORCZYCA: - - - of work, setting out the stages of work that Mr Ryan's company was required to perform. You can see down to the left hand side numbers 1 to number 11.

40 THE COMMISSIONER: Yes.

MR GORCZYCA: That is the total stages of all the work.

THE COMMISSIONER: Yes. And where does it show - - -

MR GORCZYCA: And then against those stages of work there is a, a sign off by the constructors representative in one column and the WSC in the other column.

THE COMMISSIONER: You're tendering an Inspection and Test Plan dated 11 December, 2008 showing that according to this test plan the works described on it did not have to be signed off by Mr Buckley. That's what you're, that's the purpose of it is it?

MR GORCZYCA: Well, it's initial date is 11 December, 2008, but it then has subsequent dates when the coordinator signs off on each stage of the work.

10

THE COMMISSIONER: Well, you're testing, you're showing, you're tendering a document which shows that certain work on the Percy Street property had to be signed off by the WSC person - - -

MR GORCZYCA: Yes, Commissioner.

THE COMMISSIONER: - - - and, and not Mr Buckley.

MR GORCZYCA: Correct.

20

THE COMMISSIONER: And that's all this is about.

MR GORCZYCA: Correct.

THE COMMISSIONER: All right. Yes, that will be Exhibit P46. It is the Inspection and Test Plan relating to 15 Percy Street, Auburn.

30 **#EXHIBIT P46 - INSPECTION AND TEST PLAN RELATING TO PERCY STREET AUBURN**

THE COMMISSIONER: Yes, Mr Gorczyca.

MR GORCZYCA: Mr Ryan, did you ever ask Mr Buckley for any favours or to cut any corners or to approve any work which was non-conforming in any respect?---Never.

40

In relation to the Percy Street job at Auburn?---Never.

Did Mr Buckley ever provide any favours to you or cut corners or approve any non-conforming work for work that was otherwise not done in accordance with the plumbing code at the Percy Street, Auburn job?
---Never.

The work that your company performed when was it, the company that, the work that your company performed on the Percy Street, Auburn site, when was that work substantially, when did you actually commence that work? In

what month?---In late January, from memory. And we finished the test results after all piping was completed in early May, very early in the first few days of May through Sydney Water coordinators. And thereafter the Williams Brothers Contracting who were the company that Sydney Water stipulated had to complete all the connection work, their, their process commenced around that time and followed right through several months until the connections were done. And then my staff, we returned in a small capacity just to tidy up and, and finish the job.

10 Thank you. Nothing further.

THE COMMISSIONER: Yes. Any other questions for Mr Ryan?

MR PAYNE: Given the tender of that document, I need to complete the record. I tender the sewer main connection report signed by Mr Buckley dated 17 September, 2009.

20 THE COMMISSIONER: The sewer main connection report signed by Mr Buckley on 17 September, 2009 is Exhibit P47.

**#EXHIBIT P47 - SEWER MAIN CONNECTION REPORT
RELATION TO PERCY STREET AUBURN DATED 17
SEPTEMBER 2009**

MR PAYNE: I have nothing further, Commissioner.

30 THE COMMISSIONER: Mr Ryan, do you accept that Mr Buckley signed off on the works shown in this document? Have you seen it?---Yes. I can, I can say that there was an inspection on the 4th of the 9th where some problems were pointed out. And then was a subsequent inspection after those issues had been rectified on 17/9/2009.

You may be excused from the summons and your evidence is complete, Mr Ryan?---Thank you, Commissioner.

40 **THE WITNESS EXCUSED** **[11.40am]**

MR PAYNE: Commissioner, I call William Francis O'Donnell.

THE COMMISSIONER: Mr O'Donnell, you're not legally represented are you?

MR O'DONNELL: No, just the legal, Mr Bob McIlwaine.

THE COMMISSIONER: Mr McIlwaine is he here?

MR O'DONNELL: He's outside.

MR PAYNE: I think he's with another witness, yes.

THE COMMISSIONER: Be seated.

MR O'DONNELL: Thank you.

10

THE COMMISSIONER: Mr McIlwaine, do you wish me to make a section 38?

MR McILWAINE: I do, Commissioner.

20

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Mr O'Donnell 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.

30

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT I DECLARE THAT ALL ANSWERS GIVEN BY MR O'DONNELL 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.

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

40

MR O'DONNELL: (not transcribable) the Bible please.

THE COMMISSIONER: Yes.

MR O'DONNELL: Thank you.

THE COMMISSIONER: Yes, Mr Payne.

MR PAYNE: Mr O'Donnell, your full name is William Francis O'Donnell?---That is correct.

10 And you trade under the business name of Bill O'Donnell Contractors?
---That's correct.

Are Bill O'Donnell Contractors accredited constructors?---Yes.

For Sydney Water?---Correct.

For how long have they been accredited by Sydney Water?---Well, since accreditation came in which was about in the nineties but I've been working for Sydney Water since 1970.

20 And during that time you became familiar with an inspector by the name of John Buckley?---That's correct, yes.

The first time you met him was six or seven years ago?---That's correct.

Do you remember the job?---Yeah, I do, I can't remember the street and I meant to get the file but that was at Bankstown, over at Bankstown near the airport.

30 I see?---But it can, I can, I've got files on it but I didn't bring them with me.

And in relation to that job did you have much interaction with Mr Buckley?
---No, he just came for the pre-start which, which is normal and then when we're at the handover.

Since that time you've worked on a number of projects with Mr Buckley have you?---Not, no, only recently done three jobs at Lidcombe. The Commission's got the, the documents for those three jobs.

40 I want to ask you in particular about a job at Ilma Street at Condell Park?
---Yes.

In, it commenced at the end of 2009 and finished in February 2010. You recollect that job?---Later, I thought I just started that job in March and it was only a couple of weeks job. That's 15 Ilma Street, Condell Park?

That's right, yeah?---Yeah, I didn't start that job till March or April, sorry.

And when did it complete?---Couple of weeks after that.

In relation to, I think you mentioned three projects, so there's Condell Park and two at Lidcombe, that's John Street at Lidcombe and Frances Street at Lidcombe?---That's correct.

In relation to those have you ever had occasion to give Mr Buckley a cash payment?---Yes.

10 When was that?---Just after Christmas 'cause I missed him over the Christmas so - - -

And what was the job?---Well, I was doing the two jobs at the same time so it was, you can take either one so it was, we'd just come back to the Frances Street job after Christmas.

And what was your reason for paying Mr Buckley?---None whatsoever, it's just Christmastime and I gave him a bottle of scotch and \$100.

20 For people, with Mr Buckley did you ever have any trouble with him?
---None whatsoever.

Do you remember coming to an examination of the Commission in August 2010?---Yeah, that's, yes, not long ago, yeah.

Can I show you a transcript of that please? Commissioner, I tender that - - -

THE COMMISSIONER: I don't think Mr McIlwaine has it.

30 MR PAYNE: I'm sorry.

THE COMMISSIONER: Yes. The transcript of Mr O'Donnell's compulsory examination on 16 August, 2010 is P48.

**#EXHIBIT P48 - COPY OF TRANSCRIPT OF MR O'DONNELL'S
COMPULSORY EXAMINATION DATED 16 AUGUST 2010**

40 MR PAYNE: Can I take you, the numbers down the bottom right-hand side of the page, Mr O'Donnell, if you go there first of all. At the bottom of that page you were asked after having been drawn your attention to the airport job - - -

THE COMMISSIONER: Sorry, what page is that?

MR PAYNE: 78PT, Commissioner. Do you have that, Mr O'Donnell?
---Page 78?

Yes. Look at the bottom of that page?---Yes.

You were asked the question, “What did you know of John Buckley, had you heard about him from other contractors?” And you say, “He’s a very abrupt man, fairly arrogant, that’s what I knew about him.”?---That’s correct.

10 And then over the page if you could look at 79PT the third question you were asked, “The word amongst contractors was that he was difficult to deal with?” “Yes, very difficult and I found that out as well.”?---That’s correct.

That was your experience of him?---Yes.

That remained your experience of him?---Yes.

That was the background wasn’t it in which you paid him \$100?---No, it wasn’t.

20 Look over if you would at 81PT. Tell me when you’re there. Look at the middle of the page, the line numbers are on the left. “Have you ever given money to Mr Buckley?” “Yes.” “When was that?” You said the Condell Park job but I think what you’ve said earlier today is you thought it was between jobs?---Yes.

\$100?---Yes.

“Glad to get out of the job basically.” That was true?---That’s correct.

30 You said he didn’t request it from you?---No.

Then look at the next question and answer. “Did you hear of Mr Buckley’s reputation with the community for contractors?” You hadn’t heard that at the time?

THE COMMISSIONER: At what time?

MR PAYNE: At the time you made the payment?---I’d heard before that, long - - -

40 You had heard?---Yes, before that, yeah.

I see. Where had you heard that?---Once from the WSCs, the contractors.

I see. So Mr Buckley was well-known to you at the time you made the payment as someone who was interested in cash payments for getting jobs done?---Yes, I, I knew that was happening, yes.

And then look over the page at 82PT. About halfway down the page you were asked why you gave him \$100. You say you didn't think he expected it in the business I gave him \$100, I don't know why I gave it to him, he didn't ask for it, he didn't demand it, there is no reason for me to give it because the job was perfect. See all of that?---Yes, yes.

Why did you give him \$100?---I honestly don't know why I gave it to him but it was just on the day and I just put it in the, put it in the bottle of scotch so - - -

10

THE COMMISSIONER: The inference, Mr O'Donnell, is that you gave it to him to keep him sweet?---Well, yes, that, that would be correct, you know, I wanted to stay on his side 'cause I know he could get difficult and we had no difficulties and I didn't get any CARs from him, I didn't receive any but I knew when he came and said fix it you fixed it.

MR PAYNE: So he was in a position to cause you difficulties by issuing CARs and so on, he didn't as it happened and you wanted to keep him sweet?---That's correct.

20

So to avoid a potential disfavour you made the payment?---In the future, yes.

And just in fairness to you, can you look at 83PT because I think ultimately on the last occasion, look at line 23 on the side. You were asked this question, "Is it part of the culture within Sydney Water that contractors expect some payment, inspectors except some payment from contractors?" and you say, "I don't know if they expect it or not. It was always my thing to give them a bottle of scotch because I got on well with them, from what you're hearing that people like Mr, people who are like having like trouble, especially with Mr Buckley," I take it what you're intended to convey there is for people who could cause you trouble like Mr Buckley, you took the view that making the payment would avoid a potential unfavourable treatment in the future?---Yes, that's correct.

30

Can I ask you just a few questions about the culture as you perceive it within Sydney Water. Is it a regular occurrence for you to give gifts to people in acting in Mr Buckley's position?---Yes, always at Christmastime. Never failed.

40

And what sort of gifts?---(not transcribable) a bottle of scotch or sometimes two.

Would you ever include money with it?---Never.

Do you have occasion to - - -?---Except in, sorry, except in that case where I put the \$100 in the (not transcribable).

I'm sorry, yes, of course?---Sorry.

In the case of Mr Buckley - - -?---Yes.

- - - and you've explained to the Commissioner that, that in your mind he was a special case because of his difficult reputation and the potential to do you harm in the future?---That's correct.

10 Did you have anything to do with an inspector, a Mr Funovski?---No, I don't think so because if it's in this area I, I do very little work, sorry, I mean, in the, John's area - - -

Yes?---I've only done three jobs in that area in all my career with Sydney Water.

And where is your principal focus of your business?---I'm out near Picton, most of our work is around Picton, Camden, Campbelltown, Fairfield.

20 I see. And so it's not Mr Buckley's area or Mr Funovski's as far as you know. A Mr Kane, have you dealt with him?---Yes, once.

Where was that?---That was a sewer encasement at Parramatta about, oh, I could be telling you a lie but it's a good few years ago now, four or five years ago, maybe more.

And did you make any gift to Mr Kane at the end of that job?---No, I didn't.

30 Have you had anything to do with the PIAS inspectors, the smaller jobs, the plumbing, New South Wales sewerage code inspectors or is that not something your company did?---No, we don't, we have it like as part of a project where they have been included but I've always got a plumber to do them because I'm not a licensed plumber.

I see, so that the interaction between the Sydney Water inspector would be with the plumber rather than with you?---With the plumber I hired, I hired to do the job, yes.

40 You told me a moment ago I think that, that Mr Buckley's reputation for asking for or accepting money was well-known within the industry?---No, I, like what I, I knew if he was being difficult how to get, that would help, put it that way. But am I making myself clear?

You knew if he was difficult that cash would be one way - - -?---That would certainly help, yes.

And you'd been, that was a topic of discussion amongst participants in the industry?---Yes, that was quite correct, yes.

Did you ever have a discussion with anybody else from Sydney Water about that reputation Mr Buckley had?---Not, not with people from Sydney Water as such, no.

So you're talking about the water service coordinators, other constructors are you?---Yes, that, people that I work for.

10 Did it ever occur to you that you should do something about Mr Buckley given that he appeared to be very difficult and susceptible to cash payments?---No. As, as I, well, hopefully explained earlier, I don't, that's about three or four jobs I've done in this area in 20-odd years and I knew I wasn't going to see him for a long time again so I was hoping I wouldn't have to see him for a long time again put it that way.

Yes. I have nothing further of this witness.

THE COMMISSIONER: Any questions of Mr O'Donnell?

20 MR STEVENSON: Yes. Mr O'Donnell, I'm the barrister for Sydney Water?---Yes.

You've told the Commission that you've been doing Sydney Water work since 1970?---Yes, we, the company was formed in 1971.

So originally with the Water Board?---With Sydney Water, yes.

30 So the Water Board to begin with and then when it became Sydney Water? ---And then, when I (not transcribable) and then in accreditation, yes, all the way through. I haven't worked for anybody else since Sydney Water.

And so all your working life, is this right, you've been working with Sydney Water?---Correct, yes, almost, yes.

Since 1971?---Since 1971.

And in the course of those 40-odd years you've come across many Sydney Water inspectors I take it?---Oh, yes, many.

40 It's a weekly occurrence for you is it?---Well, each, each job you have the same overseer or each district had their own crews like as you probably well know.

Have you paid money to any of those inspectors other than Mr Buckley? ---No, Mr Buckley is the first man I ever gave money to.

And has any other inspector, sorry, has any inspector ever asked you to pay money?---Not, not actually paid but the suggestion was, you know, a bottle of scotch at Christmas wouldn't go astray.

And who was that?---The, oh - - -

First of all, when did that occur?---Oh, this was way back in the 70's and 80's whenever we had what we called the over the shoulder overseer, you know, you had the same overseer on the same job all day like every day.

10 This is the same overseer from the Water Board?---Yeah, from Sydney Water. When you started the job they allocated you an overseer and then he stayed with you till that job was completed and then he done all the, he rang up the maintenance section and said come and check it and take it, take it over, you know.

And that was in the 70's and 80's you said?---70's, 80's, right up to the 90's.

And that system's changed now, hasn't it?---It certainly did, yes.

20 And what, what are the changes of the system that you've talking about? ---Well, then the WSCs started taking over the jobs.

Right?---So you had very, a lot of my work cause it's only small work, you had very little to do with actually Sydney Water, just on an odd occasion because the, sorry, the WSCs would send out their, their checkers to check the job and, and sign it off.

30 So since the involvement of the WSCs or the water services coordinators you've not been approached by any inspector, leaving aside Buckley, for money or gifts?---No, no, not, the suggestion was, you know, a bottle of scotch at Christmas wouldn't go astray.

But that's pre-water inspector, pre WSC, is it?---Yes, sorry, sorry, yes, that's, you're correct.

So since then nothing of the kind I've mentioned?---No, because I work with the WSCs.

40 Now, as an accredited constructor you have entered into a Developer Infrastructure Provider Agreement with Sydney Water have you not? ---That's correct.

And you know, don't you, that that document sets out amongst many other things your obligations as a provider?---Yes, correct.

And one of those is to act ethically in accordance with Sydney Water's Business Ethics Guides from time to time?---Yes.

And you know, don't you, that it's a part of Sydney Water's Business Ethics Guide that accredited constructors are not to offer, solicit or accept gifts, benefits or inducements?---Yes, I know that.

All right. So you knew, didn't you, when you gave this money to Mr Buckley that you were acting contrary to your obligations as an accredited constructor to Sydney Water?---That's correct.

10 You knew Sydney Water's rules were that you weren't to first of all pay bribes?---Yes, well, it wasn't as a bribe but, yes, you're correct, yes.

But you also knew it was part of Sydney Water's requirement that you wouldn't give gifts, whether you called them bribes or not, you wouldn't give gifts to Sydney Water employees?---Yes, yes, I knew that.

So is there anything you want to say to, to the Commission to justify acting contrary to Sydney Water requirements as you knew them and you agreed to be bound?---Sorry, I, I, you're very quiet.

20 You agree don't you that by giving Mr Buckley this gift - - -?---Yes.

- - - you were acting contrary to your obligations to Sydney Water under the (not transcribable)?---Oh, yes, I knew that, yes, that's correct, I knew that.

30 All right. Well, why did you do it? Why did you act contrary to your obligations in that respect?---Well, as I said, its, as I've been working for Sydney Water for a long time and it's always been my, my and well, everybody else has given them a bottle of scotch, whether it was Sydney Water, council, my bank manager or my accountant, it's just something I did all the years as a contractor.

But you don't give your bank manager \$100 at Christmas?---No, no, no, no, sorry, I didn't. No, I've given him a bottle of scotch though.

Just a bottle of scotch, not the (not transcribable)?---Yes, correct.

40 Well, then, is this right, you gave it to Mr Buckley on this occasion because you'd heard he was difficult, is that right?---Well, yes, as you can see that's giving money to people wasn't part of my, because obviously as what you can trace through Sydney Water, I'm a very easy person to get on with, I do good work, I've had in the 20-odd years, sir, 20 years since it started, I've had two CARS.

And you say that Mr Buckley wasn't complaining to you about the particular projects on which you were working at the time you gave him \$100?---No, he wasn't. And I even felt that, I even felt that he was doing, he was quite happy with my work. But I, I'm only working now with a very small crew, just two men and myself. I'm always on site. I have no need, I

have no need to take short cuts or anything like that or need to pay money. But, yes, I did.

MR STEVENSON: So, so the payments you made to Mr Buckley on this occasion was, what a precaution in case you came across him again in the future?---Well, yes, in case I come back to the area again, yes, that's correct.

10 And as the Commissioner said, it was a sweetener was it, just in case your paths crossed in the future?---Well, I was hoping it would work so, put it that way. And yes, a sweetener, yes, sorry.

THE COMMISSIONER: Mr O'Donnell, do you wish to cross examine?

MR LEE: I do Commissioner. Mr O'Donnell, my name is David Lee, I represent Mr Buckley?---Yes, I heard.

Do you still have Exhibit P48 in front of you? The transcript of your earlier compulsory examination?---Is it in this?

20 I'm not sure?---That's it.

Could I ask you to turn to page 78 pt, the bottom right hand corner of the page? Do you have that page?---I've got 78, yes.

Do you remember counsel assisting, Mr Payne, taking you to the last question and answer on page 78 pt? That's where you were speaking about your knowledge of Mr Buckley as being an abrupt man, fairly arrogant? ---Yes.

30 And then if you turn over the page to page 79 pt, counsel assisting took you to some further questions at the top of the page, in particular, the third question down in which you gave an answer indicating that Mr Buckley was very difficult and you found that to be the case. Do you remember being taken by counsel assisting to that part of your examination?---Yes. Yes, I do.

40 And after being taken to that part of your examination, do you remember being asked a question by counsel assisting that it was because you found Mr Buckley to be difficult, that was the reason why you paid him \$100 in relation to the job at Condell Park and you said, no, it wasn't the case?---No, that's right. That wasn't the case, no.

And then could you turn to page 82 of your examination and you see that there are some numbers on the left hand side of the page, 10, 20, 30?---10, 20, 30 - - -

On the left - - ?---Yes, oh yes, 10, 20, 30, yes, sorry.

Do you see that the question just after the number 20 you were asked, why did you give Mr Buckley \$100 in relation to the Condell Park job?---Yes.

And in answering that question you said you didn't know why you gave him the money. He didn't ask for it, he didn't demand it. There was no reason for you to give him the money because the job was perfect?---Yes, there was no reason (not transcribable) the job, but I put the \$100 and a bottle of scotch for the Christmas period and - - -

10 And then after counsel assisting took you to that part of your examination do you remember at the end being asked some questions about the reason being for why you gave Mr Buckley the \$100 was because he, because you knew that he was difficult in relation to other jobs?---Yes, that's correct.

And do you remember the Commissioner saying to you that effectively it was the case that you gave him the \$100 to keep him sweet?---Yes, that's correct.

20 And do you remember Mr Stevenson just asking you a question a few minutes ago that you agreed with the proposition that you gave Mr Buckley the \$100 because it was a sort of sweetener for future jobs down the track? ---Yes, if I got any work in the area, I thought well it wouldn't go astray just to let him know that I was, you know, but I didn't have to do it, but I did it.

Mr O'Donnell, in relation to the \$100 that you gave, that you say you gave Mr Buckley in relation to the Condell Park job - - -?---Yes.

- - - would you agree with me that you've said three different things about it? Firstly - - -?---That's possible, yes.

30 Well, can I just confirm with you. Firstly at pages 78 and 79 you agreed with counsel assisting that the reason why, sorry, I'll withdraw that. At pages 78 and 79 you agreed with counsel assisting that you did not give Mr Buckley the \$100 because of your knowledge about him as being difficult to deal with. That's the first - - -?---Sorry, yes, go ahead.

40 - - - indication. Is that correct?---Yes. What I said, what I think I didn't explain, I didn't have to give him \$100, but I thought if, 'cause I had no problems with him and I done the work, the work was all good, so there was no problems there. But I gave it just in case in the future, and as I said in the first hearing, I haven't a clue why I put the \$100, to be truthful, and but I did. And anyway, I did it and in thinking of that, oh well, then in the future if I run into him he knows that if I've got a problem or something he can help me.

Mr O'Donnell, what I'm asking you is whether or not you agree that you've said three different things about the reason or lack of reason as to why you gave Mr Buckley \$100 in relation to the Condell Park - - -

THE COMMISSIONER: Mr Lee, that will appear from the transcript won't it?

MR LEE: Well - - -

THE COMMISSIONER: If that's so, it'll appear from the transcript.

MR LEE: I was simply asking whether Mr O'Donnell agrees that that is
10 what has occurred.

THE COMMISSIONER: Well, he's said that he's prepared to agree that.

MR LEE: Yes, Commissioner.

THE COMMISSIONER: I mean, I don't know whether he has, but it will appear from the transcript.

MR LEE: Well, in fairness to Mr O'Donnell of putting those three
20 propositions - - -

THE COMMISSIONER: What are the three?

MR LEE: Firstly that he agreed today that the reason why he gave Mr Buckley \$100 was as a sort of sweetener.

THE COMMISSIONER: Mmm.

MR LEE: On 16 August, he said that there was no reason why he gave Mr
30 Buckley the \$100. And earlier this morning he said that his awareness of Mr Buckley being difficult was not a reason why he gave the \$100 to Mr Buckley.

THE COMMISSIONER: Do you remember all that Mr O'Donnell?---Yes, Commissioner.

And you said those things I think?---Yes, I did.

Yes. Yes, Mr Lee.
40

MR LEE: Mr O'Donnell, could I ask you to turn to page 81 pt, of the transcript?---Yes.

Do you remember counsel assisting taking you to the question and answer just next to the number 40 on the left hand side of the page?---Yes.

And on 16 August, your answer and question about your knowledge of Mr Buckley's reputation within the community of contractors?---Yes.

Do you see that on the page there?---Yes, I see here in front of me, yes.

And you said there on that day that the first time you heard about Mr Buckley demanding money was from two people you know as Michael and Tim?---Yes.

But when you heard that that was actually after you had already given Mr Buckley the \$100 for the Condell Park job. Is that correct?---No, no, no.
10 Yes, sorry, yes, sorry, that was after I'd done the job. But Michael and Tim was, Tim Frost I think he said, that's, I only met him once, but I think that's him sitting over there. And Michael was his partner. And they, they said to me, what, what's the word for, like I could, I could give you three different answers, well I don't mean to, but I said, the reason I gave him the money was because I thought in the future it might help, that's all.

I understand that. I've sort of left that. I'm now asking you about your awareness - - -

20 THE COMMISSIONER: To me he's said that in the transcript. You've got it in the transcript. Why do you want it again?

MR LEE: Well, again Commissioner, it's in fairness. It's something that arose in the course of Mr O'Donnell's evidence which I thought ought to be explored and in fairness I'm putting those two propositions to him.

MR McILWAINE: Commissioner, can I raise a general objection. As I understand Mr Buckley's evidence, he doesn't deny that Mr O'Donnell paid him a sum of money and the circumstances. You can see that in his
30 evidence on 28 April don't seem any different - - -

THE COMMISSIONER: Mr McIlwaine, I really think all of this is peripheral and I'm only trying to stop time passing with nothing being achieved. So it would really help, I don't think that you've, I mean with respect, it doesn't really help. Let's try and get this over with. What else do you want to ask Mr Lee?

MR LEE: Well if, Commissioner, if that's not to be of assistance, then I have nothing further.
40

THE COMMISSIONER: Well, you want, Mr O'Donnell, you have said that the first time that you heard that Mr Buckley had demanded money from contractors was when the ICAC investigators came to speak to you? ---That's correct.

Now is there anything more you want from that Mr Lee?

MR LEE: No, Commissioner.

THE COMMISSIONER: Yes. Thank you. Any other questions? You're free to go Mr O'Donnell. Thank you. You're excused from the summons.

THE WITNESS EXCUSED

[12.10pm]

10 MR PAYNE: Right. Commissioner, I call George Abboud, A-B-B-O-U-D.

THE COMMISSIONER: Yes. Mr Payne, I have in front of me Mr Ryan's, a transcript of Mr Ryan's evidence at the compulsory examination on 12 August. Did you tender that?

MR PAYNE: I did not.

THE COMMISSIONER: Or did you intend to?

20 MR PAYNE: I did not. I wasn't going to tender it, except what I needed from that transcript.

THE COMMISSIONER: No, that's all right (not transcribable) Right.

MR PAYNE: Thank you, Commissioner.

THE COMMISSIONER: Is Mr Abboud here?

MR PAYNE: Mr Abboud is not represented. I ask for a Section 38.

30 MR WOODS: No, he is, by me.

MR PAYNE: He is, I apologise.

MR WOODS: My name is Woods, Commissioner. I appear for Mr Abboud. (not transcribable) ask if you could give him a Section 38.

THE COMMISSIONER: You've first got to get leave to appear.

40 MR WOODS: I seek leave to appear before the Commission.

THE COMMISSIONER: Yes. The reason that I insist on leave being sought as I, which is the rule under the Act, is that if anybody takes too much time and asks unnecessary questions I simply withdraw leave. So, but you have leave.

MR WOODS: Thank you, sir.

THE COMMISSIONER: Mr Abboud, do you want to give your evidence under oath or do you want to- - -

MR ABOUD: Yes, Commissioner.

THE COMMISSIONER: Under oath. Well, I will make that order, Mr Woods. Would you swear Mr Abboud in.

THE COMMISSIONER: Be seated, Mr Abboud. Pursuant to Section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Mr Abboud 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 being produced.

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT I DECLARE THAT ALL ANSWERS GIVEN BY MR ABBOUD 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 BEING PRODUCED.

THE COMMISSIONER: Mr Payne?

MR PAYNE: Mr Abboud, what's your full name?---George Abboud.

And you are associated with a business name Exact Civil?---That's correct.

And they are authorised constructors for Sydney Water?---Yes, that's correct.

For how long have you been an authorised constructor?---Approximately three to four years.

And were you otherwise involved with Sydney Water work prior to that time?---Only as a licensed plumber.

When did you first meet Mr John Buckley?---Ah, approximately ten years ago at a job, Lancaster Street in Punchbowl.

And did you have regular dealings with Mr Buckley after that time?---No, not until I believe possibly 2007/2008. I can't remember the exact date, at a job at Rawson Road first and then Wellbank Street, Concord.

Have you ever given Mr Buckley any gifts?---Yes, I have.

And what are they?---A bottle of scotch.

I suggest to you that you've actually given him money as well. What do you say about that?---Yes, that could be true.

On what occasions did you give him money?---It may be twice in the time that, the first time I had it, had it out with him at Lancaster Avenue over ten years ago- - -

Yes.---?- - -and complained to Sydney Water about him.

10

I see?---They came out and subsequently I think they asked him to leave and then they said, look, don't worry about it, it's okay, because he picked on little things, as he usually does.

I see. Can you tell me a little bit more about the Lancaster Street job? ---Yeah. My recollection of the Lancaster Street job was I didn't know what sort of lamp hole cover to put on top of the riser- - -

20

Yes.---?- - -out on the road and we had to bring the sewer into the property. When he came out he just said to me, he said, "Mate, what's in the book?" And I said, "John, I don't know. I haven't done this before. Can you explain to me?" "Where's your book?", he would say to me. And I'd say, "All right." Back then I think it was the, don't hold me to it, but I think it was the, we have two books, we have a minor works and a major works book to do with the sewer and I'm sure it was the minor works I pulled out then. Pulled it out and said, "Look, mate, I can't work it out. I don't know what to put in the road." Like, I know where to put a lamp hole cover inside a property, how high, what height, where it's got to be within a metre inside the property but I didn't know where to put it in the road because it actually was a deep connection and it came up and then we had to branch off or come off what we call a square.

30

Yes?---I couldn't work it out. I couldn't work out what, to me the lamp hole cover that I had didn't suit the road. Anyway, when he came out he just picked on me straightaway, as he always does, you know. I'd been at a plumber supplier's where you walk in and there would be two blokes talking about this John Buckley. Oh, yeah, I've had dealings with this bloke, yeah.

40

So you're explaining that. What were the circumstances in which you then had to pay him money on that Lancaster Street job?---I think it was, I think I gave him a case of beer. I can't remember the beer but it was a case of beer. I said, "Look, John, I just need to, you know, get this done. I'm in the road. I need to get this hole, you know, I need to get this road finished. I need to be off the road. It's dangerous."

And did cash accompany the beer?---No, not on that job, just a case of beer.

THE COMMISSIONER: And that was ten years ago you're saying?
---I think it was well over ten. I can't exactly, like I say, Commissioner, I can't remember exactly when it was, but it was well within ten years.

MR PAYNE: The two occasions that you paid him cash, can you just outline for me what they were?---Yeah. They might have been anywhere between 100 and \$150- - -

10 Yes.---?- - -at the time. I just can't remember what it was. It's not like something you write down.

I understand. One of the occasions you paid him money was the Wellbank Street, Concord job?---Yeah. I did tell the Commission in the statement that I think I only gave him a bottle of scotch, but I think I gave him money too.

Yes. I was going to ask you about that, just in fairness to you?---Yeah.

20 So when earlier you were questioned you thought it was a bottle of scotch but you recollect you gave him money as well?---Yeah. I just couldn't, yeah, I just couldn't remember giving him money.

But you now recollect that you gave him \$150?---Yes, like, yes, that's right. That's right, yeah.

30 And why did you do that?---Because we were told, like, you know, by other water service coordinators, you know, like, no other, there's no other Sydney Water representative, field representative that is, that you would meet in your, in our line of our, in, in our industry or in our line of work where, you know, they would just stand over you. And this John Buckley's a pretty intimidating bloke. He'd just stand on the top of you, you know, he'd use words, I mean, I don't know if I can say wogs, but he'd say, "You wogs have got plenty of cash", meaning, you know, like, he'd want cash. And, like, he did say it to me once at the Wellbank Street job. I jumped, I don't know whether I jumped out of the manhole or jumped out of the trench and I said to him, "What did you say to me? 'Cause I haven't been called that since I was a kid at school. Are you serious?"

40 I see?---"Mate, my kid got, got bullied at school for that and now he's got OCD." I said, "Mate, who do you think you are?" And I think from that time at that Wellbank Street job, I think 'cause I put it on him, you know, like, that was it since that, yeah.

So the \$150 you paid him in relation to Wellbank Street, that was to stop him doing unfavourable things to you in the course of the construction, like issuing CARs?---Yeah. I just wanted him out of there. I just wanted him out of there, mate. I knew that, everyone, everyone would tell you, yeah, you've got to, you know, it's John Buckley, you've got to have cash on you.

And having paid the money he then stopped bullying you. Is that what you tell the Commission?---Yeah, yeah.

I see. What was the other occasion that you think you paid him \$150?
---I think it was at ah, Rawson Road at Auburn.

I see?---But I can't remember the exact time and date.

10 Do you remember what year the Rawson Road, Auburn job was?---No, I don't remember the year. I can't, you'd probably have to recollect my, if you've got any information on that you'd have to tell me.

I don't as I stand here?---Yeah.

And just in fairness to you, this is one that you didn't remember when you saw the Commission earlier, but having reflected on it you now remember having- -?---Yeah, that's right.

20 - - -paid him \$150 in relation to this job as well?---It could be anywhere between 50 and 150. What do I call you?

My name's Payne?---Oh, Mr Payne, Mr Payne, it's probably anywhere between 50 and \$150. I, I, I work pretty hard for me money, mate, and I don't want to give it to anyone, you know, but this guy's just a pain, I can't say the word, but yeah.

30 Pain, pain will do?---You just want to get him off your job, you don't want him anywhere near, I don't have any problems with anyone else, I do my work, I work hard for my money, Tony. You know, this guy comes along, he's the only bloke I know that does this and I haven't got nothing against this bloke, if anything I feel sorry for him, you know, he's got a sickness, you know, he must be an alcoholic or something.

In relation to the Rawson Road job can you just tell me the circumstances in which (not transcribable)?---He was hassling me about a manhole being five mil out, out.

40 Right?---When we put a manhole in, a manhole's, a manhole lid's flat, when you put it in a road with a grade and it's got a camber you're never going to get it 100% but he knew that, he's just hassling, anyone knew straightaway this bloke wants, you know, he wants to be paid off, straightaway.

And so did you have the money on you or did you have to go to a bank to get it?---Tony, I can't remember whether I had it on me or, I did carry - - -

THE COMMISSIONER: Call him Mr Payne, Mr Payne? Oh, sorry, sorry, Commissioner. Mr Payne, I don't remember. I do carry cash in my wallet

with me but I don't remember going to a bank and drawing cash out. I can't remember.

MR PAYNE: Did you pay him in front of others or did you make sure that it was done in a way - - -?---No, I put it in his car.

I see. Opened the door and left it on the - - -?---Yeah.

10 And did you tell him it was there or did you just leave it there?---No, he knew it was there, told him it was there.

Because you're having this conversation about being five mil out and you took the money out and put it on the seat of his car and that was the end of it?---Yeah, never knew nothin' of it after that until (not transcribable).

I see. So again that was, you paid cash to Mr Buckley to avoid what would otherwise in your view have been potential unfavourable consequences to you namely that he might issue a CAR or otherwise make your life - - -? ---Yeah, yeah, he would just slow the job up on you and that and you get in
20 trouble with, I mean, it's hard enough for us to get our money off who we contract to and he (not transcribable) me up, you know like, that sort of stuff, you just want him out of there. And he's the only bloke, any other, any other, like a field representative come out to you, like I said I do my job good, you know, they say, yep, that's a good job. Great, I'll sign off on it, thank you very much, the Water Service Coordinators are happy and you're out of there.

30 Can I ask you about, have you met and had dealings with either a Mr Funovski or a Mr Kane?---No, mate, no.

You haven't met either?---I, I, I, I've never heard of these blokes until Monday I think it was, you run them, run them by us on Monday.

I see. Can I ask you something about the culture if you like of Sydney Water in your dealings with him?---Yep.

40 Did it occur to you that rather than paying \$150 to Mr Buckley that you could make a complaint about him and he'd be removed?---Well, yes, Mr Payne, that's right but I made a complaint about this bloke what, approximately ten years ago, nothing was done about it, you know, and if you make a complaint about them, we spend a lot of money getting our accreditation and, and, and hard work getting our accreditation through Sydney Water we don't, I don't want to make any ripples in the water and what do you do, you know like, everybody talks about it but no one does anything and now, I think it was one of the ladies here has put a formal complaint in like I said, like you said on Monday and this is the first - - -

I understand. Can I ask you about the complaint ten years ago? Do you remember who from Sydney Water dealt with it, who came out - - -?
---Yeah, I remember his name was Fred from a mob called Asip Creation.

Asip Creation?---Yeah. I can't remember his second name, for the life of me I can't remember his second name.

10 And was the detail of the complaint that Mr Buckley was picking ridiculous things about the work or was it also that he was looking for money from you?

THE COMMISSIONER: What was the complaint you made, Mr Abboud?
---That I couldn't get an answer off him what, what he wanted me to put in the road, whether, what sort of manhole cover he wanted me to put in the road. It wasn't about the money. I gave him a carton of beer then.

MR PAYNE: On that occasion?---Yeah.

20 THE COMMISSIONER: What did you complain to Fred about?---That he couldn't, that he couldn't tell me or we couldn't discuss the matter about the cast iron lid on the road, which one to put on the road. And finally when I gave him, when I gave him the carton of beer it was said and done.

MR PAYNE: He told you which one to use?---Yeah.

I see. So he was holding the job up was he by - - -?---Yeah, he was holding us all up and the builder's going what are you doing.

30 I see. And that was costing you money with - - -?---Yeah, but the road was open and I mean, you know, it was just dangerous and costing me money, yeah.

I see. So, and your reputation I take it if someone got hurt there, it wouldn't be a good thing?---Yeah, I don't want anyone to get hurt on the jobs.

Yes. Was the person you dealt with a Fred Mattern, M-A-T-T-E-R-N?
---Yes, that would be it. Yep, that would be it, yep.

40 I see. And can you remember what Mr Mattern said about this complaint?
---No, I can't remember back then. I just wanted, I just wanted the job finished and I just wanted to get out of there, I wasn't happy to be there with him, I don't like the idea of giving anybody, you know, big wads of money, you know, we, we, as a licensed plumber an inspector turns up on a job on say a house somewhere at the right time or a driller comes out and drills, drills the main for you, you give him five or ten bucks, say thank you very much, he come out the right time, I can backfill the hole, make it nice and safe.

So that's, I was going to ask you about that. In your plumbing days you had things to do with the Sydney Water inspectors who'd come out?---That's right, yeah.

And it was a regular occurrence that you'd pay them amounts of money?
---That's right, yep. When I was an apprentice you had to do that.

Do you know a Mr Fayers?---Know a Richard Fayers, yep.

10 Did you pay him money?---No, not him. When you say that, Mr Payne, I can't be 100% sure. I used to work with Mr Fayers in the plumbing industry.

Really?---I don't know how he became a plumber, I don't know how he came to be an inspector. I taught him how to do, I taught him how to do certain work in plumbing.

I hope that's a recommendation, Mr Abboud?---Well, he's not a very, he wasn't a very good plumber, I don't know how he's, how he got to be an
20 inspector.

Let's move on?---Sorry.

Mr Vecchio, do you know Mr Vecchio?---I know of Tony, Tony Vecchio is it?

Yes?---Yeah, he used to do the, he used to do the, well, I had a job for a builder that we've known or a builder's brother we, builder's brother's house that we did in, as far as I (not transcribable) it was in Ashbury and we
30 brought the sewer and I'd never met this bloke, this Tony Vecchio and I don't remember giving him any money. I'm sure, I might've given him five or, I don't, look, I don't know, mate, I can't tell you.

Is it a regular occurrence that, in that line of country, so when you're a plumber and you're dealing with the New South Wales Sewerage Code and - - -?---Yes, it is. Well, it is, the way I went through my apprenticeship and what I was told you just hand them five or ten bucks for coming out the right time, doing the right thing not because you did bad work, because they turned up at the right time.
40

So smoothing the process to make sure it, in effect doing their jobs in a way that best suited you because you could get it finished on time?---Yeah, because some of these blokes they, they, depending on who they were if they didn't like you they didn't turn up on time, you get trenches open for, you know, like overnight or all day and you'd have a machine sitting there and that's costing you money. You know, if he says he's got to turn up at 10 o'clock (not transcribable) rings you up and he goes, No, I can't I'll turn up at 2 o'clock, it's open four hours and it could rain in that time.

THE COMMISSIONER: Mr Abboud, I'm not quite sure what you're saying. Are you saying that you frequently have to give five or ten dollars to an inspector just to come on time?---Yes.

And how long have you been doing that?---Since I was, since, ever since I can remember being a licensed plumber. And even when I was an apprentice I was told to do it because, it was because you did bad work it was because you did it for them turning up on time so you can either
10 backfill your hole before it rained or - - -

Who told you that?---Sorry? My dad told me that years ago.

Because he was a plumber?---He was a plumber's labourer, yep.

And had you heard that from anyone else?---My brother. He's, he's a plumber as well and a couple of other people.

I beg your pardon?---A couple of other people when I was an apprentice but
20 can't recollect who they were.

And do you pay every inspector or just some?---Sometimes, sometimes they go, No, no, don't worry about it, it's fine, you know, and they're the blokes you remember, you know, they're, they're the good plumbers, these blokes they come out. Look, dad used to say to us, you know, these blokes are there to help you, you know, if you've got a problem, if you come out to a job they're there to help you.

Are you talking about inspectors or - - -?---I'm talking about inspectors,
30 yep. Plumbing inspectors.

And does that still happen today?---I believe so, Commissioner, I, I would say so, I can't speak for all the plumbers.

But as far as you're concerned, your personal knowledge does it still happen today, do you still do that today?---Do I still do it?

Yes?---No, I've had to deal with this John Buckley.

40 When did you stop doing it?---Years. I stopped doing plumbing probably 2004, 2005.

You stopped doing plumbing then?---Yeah. And then got into the Sydney Water accreditation work and that.

Are you talking about the inspectors who do the smaller work?---Yeah, the, the PIAS inspectors.

The PIAS inspectors?---Yeah. Because that Richard Fayers was a plumbing inspector.

MR PAYNE: Correct. So we were talking, just to be clear for the transcript your present job authorised constructor, the big, - - -?---That's right.

- - - big jobs connecting to the sewer where the inspectors, the critical one is Mr Buckley that you've dealt with?---That's right.

10 When you were a plumber full plumbing work needs to be inspected by Sydney Water inspectors under the New South Wales Sewerage Code for the smaller jobs and that's people like Mr Fayers, Mr Vecchio I think you've met?---Yes.

Mr Rogers, have you met Mr Rogers?---No, I've never heard of Mr Rogers. He's not an inspector.

20 What you were telling the Commissioner was that that in that inspection, that is the PIAS inspectors - - -?---PIAS, yeah.

PIAS inspectors, it's commonplace in your - - -

THE COMMISSIONER: We're trying to avoid calling it PIAS but I suppose we'll have to?---Sorry, that's just what like they're, I'm led to believe they're called PIAS inspectors.

30 MR PAYNE: It was commonplace for you to pay them money for - - -? ---Yeah, not for shoddy work. It's just for them going out of their way, turning up at the right time rather than hold your job up.

I understand, not, not to past shoddy work but it was commonplace so that basically every time they'd turn up you'd pay money because, as you said - - -?---Not every time, Mr Payne, not every time.

But the ones that stuck out in your mind, they're the ones who said no thanks, you don't have to pay me?---No, no thanks, and I name three of them right now, they're great blokes, really good blokes.

40 Who would refuse payments that you're talking about?---Yeah, they'd just say no, no, no, thanks very much but no thanks.

I might leave that to Mr Stevenson. In terms of the, so we dealt with the, we've addressed that culture if you like, the plumbing work and the small jobs. I think what you said to me is other than these problems with Mr Buckley and having to pay him, you haven't struck that, once you've moved into the accredited constructing work, other than in the inner west of Sydney where, which was Mr Buckley's area - - -?---I have had no dealings with, with anyone like, that, that, all the other blokes are great, they're

fantastic, they check your work out, they say great, good job but not John Buckley, he wants to come over and intimidate you, stand over the top of you, call you a wog, you know. Like you wogs have got plenty of money, that was his attitude.

THE COMMISSIONER: Do you do work outside the, outside Mr Buckley's area as well?---Yes, I do.

MR PAYNE: And you haven't paid money?---No, not at all.

10

Other gifts that are involved?---No, haven't paid anyone, given anyone any money outside of John Buckley's area or given gifts, just to John, just in, you wouldn't even want to work in John Buckley's area, we'd rather not do a contract, lose money than work in his area because he's just, we know what he's about.

I understand. And you told me that you didn't think you could complain because you'd done that to Fred Matters ten years before and thought it was swept under the carpet?---Yeah, Fred Mattern I think.

20

Mattern, I'm sorry?---Yeah.

Yeah. Can I try and just tie down this date of the \$150 payment in relation to Wellbank Street, Concord. Were you here in court when I played the tape recording?---Yes, I was, yeah.

And that was 12 August, 2009. Was the payment made to John Buckley short after that because if - - ?---I have it in my diary as being not 12 August, I have it in my diary as being another day.

30

And what's that date, have you got the diary there?---Yes, I certainly have. It's July.

So you've made a note of the payment to Mr Buckley in your diary, have you?---No, I didn't no, just, just when I was at the job or when I wasn't at the job because when you got to the job you had to ring the water service coordinator and let him know you were going to be there.

Perhaps just to try and tie this down can I show you the transcript which is Exhibit P24?---Certainly.

40

I've got a copy here if that assists, it speeds things up?---That's the one we seen the other day isn't it?

That's right. And just look at the bottom there when you say to Mr Buckley, "I've just got something for you, John," and he laughs and says, "Don't say too much"?---Yeah, that's the bottle of scotch.

I see. So you've paid him the \$150 already at that stage?---Yeah.

I see?---I believe so, yeah.

I see. And you think that, give me that date again in July?---I've got it down as the, well, starting from, I've got starting from Monday, 6 July through to on or about the 13th, the week of the 13th.

So you think it's paid during that period?---Yes, I'm sure it was.

10

And it's paid then rather than at the final inspection because you're smoothing the way to make sure he doesn't create problems for you at the final inspection, is that what you say?---Yeah, I would say so, yeah, yeah.

Just excuse me one moment, Mr Abboud. I have no more questions for Mr Abboud.

20

THE COMMISSIONER: Yes. Mr Stevenson, I know you wish to cross-examine and you will get your opportunity. I just want to find out, I think Mr Woods should go last. Is there anyone else who wants to cross-examine or question Mr Abboud?

MR LEE: Commissioner, I may but I'll just take some brief instructions.

THE COMMISSIONER: All right. Well, I think that you - - -

MR LEE: I can do that when Mr Stevenson or someone else is - - -

30

THE COMMISSIONER: I am not sure if you, you may want to be present for Mr Stevenson, I'm not sure.

MR PAYNE: This is an occasion I should say there are, some of the things that Mr Abboud has said that I think in fairness hadn't been said before and I'd support a - - -

THE COMMISSIONER: Yes, perhaps Mr Lee better be here.

MR PAYNE: Yes.

40

THE COMMISSIONER: All right, Mr Stevenson.

MR STEVENSON: Mr Abboud, I'm the barrister for Sydney Water?---Mr Stevenson.

You understand where I'm coming from. And just so I've got it clear, you have been an accredited contractor since, I think you said, two or three, three or four years ago?---Yes, I believe so, yeah.

And before that you were a licensed plumber?---That's right.

So your first - - -?---I still am a licensed plumber.

But you got your accreditation as a constructor three or four years ago?
---That's, that's correct.

10 And do you remember when you became an accredited constructor you
signed a written agreement with Sydney Water - - -?---Yes.

- - - called the Developer Infrastructure Provider Agreement?---Yeah.

And you understood that in that agreement one of the things you promised
to do was to behave in a ethical manner?---That's right.

In accordance with Sydney Water's Business Ethics Guides?---Yeah.

20 You understood that part of the Business Ethics Guides were you weren't to
make - - -?---Yeah.

- - - gifts or pay bribes?---Yeah.

And that was quite obviously - - -?---That's right, yeah.

- - - correct to you. So you understood that when you made these payments
to Mr Buckley you were acting contrary to what you'd promised to Sydney
Water, right?---(NO AUDIBLE REPLY)

30 You agree?---Do I say I agree?

So you nodded?---I agree, yeah, yeah, yeah, I'm agreeing to all that.

You need to, this is being recorded so you have to say your answer?---Yes, I
agree, yes.

But you say you did that for the reasons you've explained to the
Commissioner over the last few minutes?---Yes.

40 Right. Now, how, what proportion of your work over the last three or four
years has been outside Mr Buckley's area, outside the inner west area?
---Sorry, what was that?

What proportion, what percentage of the work you've done - - -?---Probably
90 per cent.

So it's mostly outside - - -?---Yes.

- - - Buckley's area. And you've come across many inspectors of course - -
-?---Yes.

- - - in the course of doing that work?---Yeah.

And you tell the Commission you've had no problems with any of them?
---Yeah.

None of them's ever asked you for money, do you agree?---Yeah.

10

None of them's ever hinted that you should pay money?---No, no one's
hinted.

And you've never paid money to them?---No.

You never paid money to anyone except Buckley?---Yeah.

THE COMMISSIONER: That's over the last four years while you were a
contractor?---Yes, just with, yeah.

20

MR STEVENSON: I'm talking since you became an accredited
constructor?---Yeah.

In that period Buckley is the only bad egg you came across?---Yes, yes.

Now before that when you were a licensed plumber you had a problem with
Buckley that you took to Mr Fred Mattern?---That's right.

30

And just so I've got this clear, you didn't complain to Mattern about
Buckley expecting money from you?---No.

You didn't tell Mattern that you'd given - - -?---No.

- - - Buckley some scotch?---No, that was, that was a case of beer at that
time.

Sorry, but you didn't tell Mr Mattern about that?---No, I didn't, no.

40

Your complaint to Mattern was about how picky Mr Buckley had been in
relation to the work you were doing.

THE COMMISSIONER: Not picky, how obstructive I think. He refused to
give - - -?---An answer.

- - - Mr Abboud an answer.

MR STEVENSON: That's clear, you were complaining to Mr Mattern
about how obstructive - - -?---Yeah.

- - - Mr Buckley had been to you and what did Mr Mattern, what was the outcome of that discussion with Mr Mattern?---Well, they turned up to the job and, from what I can recollect, they turned up to the job and they spoke to John Buckley about something and then he got in his car and left and then they come up to me and said look don't worry about, it's fine the way it is, you can finish the job off, that's fine.

10 So that worked out pretty well from your point of view?---Yes, it did.

You made a complaint?---I did make a complaint, I never heard nothing of it after that.

You made a complaint and Sydney Water reacted to your complaint and came out and to your mind fixed the problem for you?---Yeah, that's right, yeah.

20 In the period when you've been paying, when you paid money to Buckley did he ask you for the money?---No, no, he don't, you don't have to ask him for money, he knows, you know why he's there, he knows why he's there too.

So you worked out from his conduct that he - - -?---Yeah, he stands over you, he intimidates you.

30 So you worked out from his conduct you say that if you wanted life to be easy you had to give him some money?---Not for life to be easy, I just wanted to do the right and go home at the end of the day, mate, sorry, what was your name again?

Stevenson?---Mr Stevenson, sorry, Mr Stevenson, I just want to go home, I did me work, work hard, sweating all day, I want to go home. I don't need to be hassled by this guy.

All right. And when you were a plumbing, a licensed plumber and you were dealing with, sorry, before you became an accredited constructor, when you were dealing with the PIAS people - - -?---Yes.

40 - - - you say regularly you had to pay money or you - - -?---You didn't have to, you just did it - - -

You did pay them?--- - - - in appreciation.

And have you had any direct experience of that kind of activity since you became an accredited constructor?---Sorry?

Have you had any direct experience with the PIAS people since you became an accredited constructor two or three years ago?---No.

Thank you.

MR PAYNE: Just before Mr Woods and Mr Lee, there are two documents I should have tendered and I didn't. One was the compulsory examination, I did ask Mr Abboud about it, he hadn't told us about the cash payments then and I think in fairness I should put that in.

THE COMMISSIONER: Yes.

10

MR PAYNE: And there is - - -

THE COMMISSIONER: So what is it, it's a transcript of Mr Abboud's compulsory examination.

MR PAYNE: Of 16 August, 2010, copies have been distributed and I'll give, hand one, Mr Abboud can have one as well. And just one other document that might assist with - - -

20

THE COMMISSIONER: Well, I'll just make, I better make a note of that, Mr Payne. Exhibit P49 is a transcript of Mr Abboud's compulsory examination of 16 August, 2010.

**#EXHIBIT P49 - SEWER MAIN CONSTRUCTION AUDIT REPORT
DATED 7 JULY 2009**

30

MR PAYNE: And the other document which might just assist with dates, it's been drawn to my attention that Mr Buckley attended and had a sewer main construction audit report on 7 July, 2009, if I might with leave show, show that to Mr Abboud and see if that assists in - - -

THE COMMISSIONER: Yeah, so it's the sewer main inspection - - -

MR PAYNE: An audit report.

THE COMMISSIONER: Of what date?

40

MR PAYNE: 7 July.

THE COMMISSIONER: Thank you. Two thousand and?

MR PAYNE: Nine.

THE COMMISSIONER: Nine.

MR PAYNE: Just with your leave, Commissioner - - -

THE COMMISSIONER: Yes.

MR PAYNE: Seeing that, Mr Abboud, does that, is that more likely the date that you paid that \$50?---Yeah, that, yeah, that'd be it, mate, yeah, not the date you, you told me.

I understand. I tender that document.

10 THE COMMISSIONER: Yes. The sewer main construction audit report of 7 July, 2009 will be Exhibit P50.

**#EXHIBIT P50 - TRANSCRIPT OF MR ABBBOUD'S EVIDENCE
GIVEN IN COMPULSORY EXAMINATION DATED 16 AUGUST
2010**

20 THE COMMISSIONER: Yes, Mr Lee? Do we have to have an adjournment?

MR LEE: Commissioner, I thought I'd only take a couple of minutes to get some instructions.

THE COMMISSIONER: All right. We'll adjourn, we'll adjourn for five minutes.

MR LEE: Thank you, Commissioner.

30 **SHORT ADJOURNMENT** **[12.42pm]**

THE COMMISSIONER: Mr Lee.

MR LEE: Mr Abboud, I represent Mr Buckley. Do you understand that? ---Yep.

40 Do you have Exhibit P49 in front of you? It's the transcript of your examination last month?---Yep.

Could I ask you to turn to page 92 pt, it's on the bottom right hand corner of each page?---Yep.

Do you see on the bottom of that page you were asked a question about whether or not you had any reason to hand over money to Mr Buckley. And you answered, there's no reason to hand over money. Do you see that there?---Mmm.

Do you see your answer there?---Yes, I do.

Right. Were you being truthful when you gave that answer?---No, I wasn't being truthful on that one.

You weren't?---No, I wasn't.

Could I ask you to turn to over the page to 93 pt?---Yep.

10 You see the second line down again you were asked whether there was any lawful reason for you to hand over money to Mr Buckley. And you answered, that there was no money exchanged with him at any time. You don't do that type of thing?---Yep.

Were you being truthful when you gave that answer?---No, not then, no.

And could I ask you to stay on that page and look about half way down. You were asked a question particular to the job at Wellbank Street in Concord?---Yep.

20

First of all you were asked, did you pay money to Mr Buckley? You answered, no. And then you were asked, at any stage of this project, being the project at Concord and again you answered, no. Do you see those two questions and answers there?---Yes.

About half way down the page?---Yeah, they're there. Yep.

Again were you being truthful when you gave those answers?---About?

30 About not paying money to Mr Buckley at any stage during the project at Wellbank Street, Concord?---When I gave the statement, no.

You weren't being truthful?---No, I wasn't being truthful when I gave the statement.

And do you say that you're being truthful today when you gave your evidence?---Yes, I am because I remember what I, what I did.

40 And was that recollection based upon what you said in evidence about Mr Buckley saying something to you, like you wogs have got plenty of cash at the Wellbank job?---Yep.

When you said that you were being truthful today, you said it was based upon your memory, your recollection?---Yep.

And was that memory or recollection based upon what you say Mr Buckley said to you at the Concord job (not transcribable)?---That's right. When he come on to the site and down the back of the property.

What I'm asking you was your memory based upon what you say Mr Buckley said to you, words to the effect of, you wogs have got plenty of cash?---Yep.

And you said something like, that that was something that stuck out in your mind. You were concerned about your past personal history and also - - -? ---Yep. That's right.

10 - - - your family. Is that right?---Yep. That's right.

I suggest to you that Mr Buckley never said anything like that to you. What do you say to that?---He did say that to me. And why I remember it is because I was in the trench at the time and he came down, he had his hands in his pocket and he said, "What are you doing here?"

This job at Wellbank took place between July and August, 2009. Is that correct?---It happened in July. It didn't happen in August. I wrote it down.

20 That's July last year?---Yep.

And that's when you say Mr Buckley said these words to you. Is that correct?---I think he said it before too. But I know he said it there.

And you agree that the transcript in front of you records questions you were asked - - -?---Yes. It didn't say that.

- - - just, just last month?---I didn't give them that in that statement. I didn't say that to them in the statement that I thought it was wrong. This is the first time I've been to a inquiry. The first time I've been to court. I thought I was being, you know, the one getting in trouble. But apparently it wasn't. I didn't know. I'm a law abiding, I think I am, I hope I am. You know, but unfortunately not now because of what we've been doing and what we had to put up with.

30

Mr Abboud, I was asking you whether or not you would agree that the answers you gave in the transcript in front of you was just last month on 16 August. Do you agree with that?---The answers I gave at the time?

40 Yes. It took place on 16 August last month?---Yep. That's right.

Do you agree with that?---Yep.

What I'm suggesting to you is that if it had been the case and Mr Buckley had said something to you like, you wogs have got plenty of cash, you would've remembered it when you were giving your answers on 16 August?---No, I didn't remember it then. I didn't think I had to say that.

You didn't remember it despite what you said before about it being something that reflected upon your personal history and that of your family?---Yeah, I remembered after I had the, given the statement. I remembered afterwards and I remembered what people go through when they called that sort of stuff.

Mr Abboud, are you sure it's not the case that you're giving different evidence today - - -?---No, not - - -

10 Just let me finish. Is it, are you sure it's not the case you're giving different evidence today about this thing you said Mr Buckley said because of what you've heard in the course of evidence this week?---No, that's got nothing to do with it.

Mr Abboud, I also suggest that at no stage did Mr Buckley stand over you during his time at the job at Wellbank Street, Concord. What do you say to that?---No, he stood over me. And that's what he does.

Nothing further, Commissioner.

20

THE COMMISSIONER: Mr Abboud?---Commissioner.

Mr Lee asked you some questions about your evidence on 16 August this year and do you agree that you weren't being truthful about that?---Yes, that's right. Not, not saying not truthful, just not remembering what exactly happened.

30 THE COMMISSIONER: All right. That's all I wanted to ask you about. When you said you weren't being truthful, what did you mean? Did you mean that you were lying?---No, I just couldn't remember. No, I'm not lying about anything. I just couldn't remember. I didn't actually state that in the statement. I should've, but I didn't do it.

And, and why didn't you do it?---I just couldn't remember. I couldn't recollect. But after the statement I was given, I'd realised, yeah, I remember him now, he's the one who came down the back of the site, stood over the top of me, like he always does. He stands there and looks, looks down at you and talks to you.

40 All right. Mr Woods?

MR WOODS: Commissioner, I've got no questions for Mr Abboud.

THE COMMISSIONER: Yes. Mr Abboud, you're excused from your summons. You may leave?---Thank you very much.

Thank you.

THE WITNESS EXCUSED

[12.57pm]

THE COMMISSIONER: And the Commission will now adjourn, Mr Payne?

MR PAYNE: Yes. Yes, Commissioner. 2 'clock?

10 THE COMMISSIONER: 2 o'clock.

LUNCHEON ADJOURNMENT

[12.58pm]