

SIRENPUB00312DOC
09/09/2010

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pp 00312-00370

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION SIREN

Reference: Operation E09/1228

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 9 SEPTEMBER 2010

AT 10.10AM

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

THE COMMISSIONER: Mr Payne.

MR PAYNE: Mr Aoun's back into the witness box and I think there's an application from his solicitor today.

MR LEWIS: Commissioner, Mr McIlwaine was given authorisation to represent this witness. Unfortunately Mr McIlwaine has been delayed today and I'm seeking your authorisation to represent Mr Aoun until Mr McIlwaine arrives.

10

THE COMMISSIONER: Yes, Mr Lewis.

MR LEWIS: Thank you, Commissioner.

MR PAYNE: Thank you. Mr Aoun, I want to ask you some questions this morning about another topic Mr Fayers but before I do having reflected on it overnight is there anything more that you can tell the Commission about the conversation with Mr Jim Price from Sydney Water that we discussed yesterday?---Yes, yes, I can.

10 And what's that?---I was reflecting last night about the conversation, was it on the phone or was it in person, it was actually in person and it was at a site in Chapel Street in Liverpool. I just can't pinpoint the exact date, I think 2007, maybe 2008, not sure exactly but I just didn't have a chance to go back to the office. He did, that was when he mentioned to me, Look, we know that Sydney Water inspectors get boxes of beer or wine or scotch, we just turn a blind eye to that, we don't, we don't pursue that, you know, we find that it's okay. And then I really just pushed, moved on with my job, just we had a conversation and that was, that was as far as it went with - - -

20 And, sorry, go on?---Sorry.

In what context did Mr Price say that to you, what had you said to him for that response?---Well, he was doing an audit on my job and I was just asking questions and one of the questions I would've brought up, I did bring up were, you know, I, when inspectors ask of us to give, give, give bottles or wine or something what do we do? And the response was, was that.

I see. This is an audit that Mr Price was conducting of you you think in 2007?---Yes.

30 And to your knowledge at least so far as you're aware that that audit was resolved favourably to Aoun Constructions in that your accreditation was confirmed?---Yes.

You gave some evidence yesterday about a conversation with a Mr Barnes immediately after the incident where \$500 was demanded of you at the Homebush job and paid by you to Mr Buckley. Do you have any further recollection about that conversation?---Yeah, the actual conversation was held at First Avenue, Willoughby, from recollection it was number 6 First Avenue, Willoughby.

40 Yes?---But I never told him that I'd given money, that John had asked money off me from, because I, I don't know, I was just scared not to, that's one of the things I was scared to say. Because I don't know what, I just was scared to say anything to them. And as I said to you yesterday, you'd tread nice and slowly and tip toe around without asking a direct question to him.

And other than the location of the conversation do you remember anything else about the conversation with Mr Barnes? Other than what we've discussed yesterday?---No.

I see. Can I ask you then some questions about, I think it's pronounced PIAS, the Plumbing Inspection Service, which was part of Sydney Water and is in the process of moving to the Department of Fair Trading. And as I understand it, they're the inspectors who come out and inspect minor works under the New South Wales Sewerage Code. Do you agree?---Yes.

10

And you've had some interactions professionally with those inspectors as part of Aoun Constructions?---Yes.

Can I ask you do you still have in front of you your compulsory examination, which is P54 from yesterday? And if, if not perhaps it could be given to you. Turn first to page 45 pt, if you look all the numbers are in the bottom right hand corner. Do you have that page, Mr Aoun?---Yes.

20

THE COMMISSIONER: What page, sorry, what page Mr - - -

MR PAYNE: 45 pt, Commissioner. And just to orient you, the sequence is that the statement that you had made, which I think it's P53, subsequent to that you had a recollection of a payment to a Mr Fayers, F-A-Y-E-R-S and you've raised that with ICAC investigators and then that was the subject of these questions and answers that we're looking at here. Do you agree?
---Correct.

Mr Fayers was a PIAS inspector at the time?---Correct.

30

And you were doing a job at Carlingford. Can you tell us any more about that job?---Not Carlingford, Blacktown.

I'm sorry, Blacktown. And that's 24 First Avenue, Blacktown?---Correct.

And just to orient you as to the time, so this is a construction commencement notice for minor works, so minor works are looked after by the PIAS inspectors at the relevant time?---Yes.

40

And you'll see there that your company, Aoun Constructions, is the constructor and there's a warranty from you at the bottom. That's your signature in the middle of the, bottom of the page there?---At the time, yes.

Okay. And it's, the original was to Mr Fayers, F-A-Y-E-R-S is it?---E-R-S, yes.

Yes. And that was sent by you at the commencement of these works. So we're talking about works in April, 2005?---Correct.

I tender that document, Commissioner, please.

THE COMMISSIONER: Yes, the construction commencement notice for minor works dated 11 April, is that a 4 is it or is it a 9?---That's a 4.

4, 11 April, 2005 is Exhibit P55.

10 **#EXHIBIT P55 - CONSTRUCTION COMMENCEMENT NOTICE
FOR MINOR WORKS DATED 11 APRIL 2005**

MR PAYNE: And just taking you back to the transcript of the examination, Mr Aoun, P54, you thought that it was two or years ago but it seems that time flies, it's actually five years ago, in relation to this job you made a payment of \$300 to Mr Fayers?---Correct.

20 What were the circumstances in which you made that payment?---I had to meet up with him at McDonald's.

Had he asked you to meet him there or did you ask him to meet you there? ---I can't recall.

And what, what then happened?---I had to sit down outside with him and I had to listen to him talk about his, his love for motorbikes and how he enjoys that and, and then I gave him his \$300 and I just, I can't remember even what happened after, I just got into my truck and I was off.

30 Do you remember which McDonald's it was?---Blacktown.

And you had a conversation about motorbikes, did you?---Well, he was talking about the motorbikes.

I see. And how did it come about you paid him \$300? Why did you do that?---Well, 'cause I, I didn't finish the work on a day - - -

I see?--- - - - and he got, he got angry and, and then he started issuing me with corrective actions as well.

40 I see. And what, to defuse the situation you suggested McDonald's or he did or you can't recall?---I can't recall.

And so the work was, just going back in time, the work was supposed to be finished on a particular day, he'd come to inspect it, it wasn't finished and he got angry with you, he did or didn't issue corrective actions?---I've, I can't recall.

And you attended McDonald's, you had \$300 cash on you did you?

---Correct.

And how did you give it to him?---Oh, he told me not to make it, he said make it discreet but I can't recall exactly how, how I gave it to, I mean, I would have just given it to him possibly in an envelope or - - -

And after you made the payment were the problems or potential problems with the inspection at First Avenue, Blacktown resolved favourably to you?
---Yes.

10

And did you report the payment to anybody else at the time? Did you have a discussion with anybody else about it?---I was 23 at the time, I was just, just received my accreditation, I was, I'm scared, who can I, who do, who do I turn to?

20

And have you dealt with Mr Fayers since that time in relation, professionally in relation to plumbing jobs?---He was very difficult to deal with. No, I dealt with him on another occasion and the reason why I remembered all this is I actually dealt with him at a job in, in, just recently in Carlingford - - -

Yes?--- - - - and I just started painting the same picture that he was doing back then and I just, I just remembered that's when I, I remembered, I mean it was, it was a long time ago, it was 2005, that's what brought me onto remembering what had happened.

And do you have any recollection in relation to the payment that was made, any part of the conversation about, about who suggested the payment?
---Yes, Richard did.

30

He suggested that to you?---Yes, of course.

I see. Did he nominate the amount?---No, he didn't.

Doing the best you can, do you remember what he said on the subject of, of making a payment?---Look, to the best I can recall, we will meet at McDonald and you can fix me up there.

40

I see. Now have you dealt with other, I'm sorry, I think I cut you off. In relation to Carlingford you said he seemed to be indicating that, that there were problems with the job and being difficult again. Is that what you said?---Correct.

How was that resolved if at all?---Well, we had to do the, it was resolved, but I didn't pay him any, any money. My subcontractor was doing the job.

I see?---And he just persevered and continued on with the job and with his really bullying tactics. The way he was putting pressure on us, and we just

continued on and, and we made several trips to the office to, to comply with whatever code we were, with the code that he was looking at.

But he didn't suggest the payment of money nor did you pay him any money?---No. No.

I see?---Definitely not.

10 Can you have a look at 48 pt of the transcript, which is Exhibit P54. It's just a (not transcribable) aspect. Other than the, and in particular I'm drawing your attention to about line 25, the question, Have you given other gifts to other Sydney Water employees, I think it should be?---Sorry, I can't see - - -

All right. Have you got 48 pt, about half way down the page. The question is, Are you, have you given other gifts to other Sydney Water employees? Do you see that question and answer?---Yes.

20 And what you say is Christmas, the only time I've ever given anyone else anything like, we've got A C bottles of wine, so that's Aoun Constructions, and you have your labels made do you?---Correct.

And you give them to developers, anyone who's been nice to us. Would that involve Sydney Water employees?---Not with those A C bottles, no.

And, and other than the payments that we've discussed in the course of the evidence over yesterday and today and the payment to Mr Fayers this morning, were there any other payments that you made to Sydney Water employees?---No.

30 And any other gifts other than those that we spoke about yesterday or today that you made to Sydney Water employees?---No.

Okay. Excuse me just one second?---Sure.

40 And just finally on this payment, do you remember I showed you the construction commencement notice, which is Exhibit P55? Can I show you this document, this is a property connection sewer concreting encasement work as executed report. Your name and signature appears on the bottom of that document does it?---Correct. That's my signature.

And it's dated 15/4. Does that assist you in identifying the likely date that the \$300 payment was sought by Mr Fayers paid by you?---Well, there should be another report saying, the inspection report by the inspector.

I see. I'll see if I can assist you with that. In the interim I tender that document, Commissioner, please.

THE COMMISSIONER: What does it show Mr Payne?

MR PAYNE: Sorry?

THE COMMISSIONER: What does it establish?

MR PAYNE: Well, it identifies the job's still going. If it's not of assistance
- - -

10 THE COMMISSIONER: All right. The junction property connection
sewer concreting encasement work as executed report of 15 April, what
year?

MR PAYNE: 2005.

THE COMMISSIONER: 2005 is Exhibit P56.

20 **#EXHIBIT P56 - JUNCTION PROPERTY CONNECTION
SEWER/CONCRETE ENCASEMENT REPORT DATED 15 APRIL
2005**

MR PAYNE: And the document I think you just identified, Mr Aoun, I'll
show you this document tell me if that's what you had in mind. It's the
minor sewer main report of the same date. Is that the document to which
you're referring Mr Fayers done an inspection on it?---Correct.

Dated the same date 15 April, 2005?---Correct.

30 Does that assist you in identifying (not transcribable) \$300?---Correct, yes.

And was that 15 April, 2005 to your best of your knowledge?---No, it was
the next day.

So that payment was 16 April, 2005?---Yeah.

Yes, I tender that, Commissioner.

40 THE WITNESS: He gave me this paper after I paid him.

MR PAYNE: I see. He gave it to you the day after?---When I paid him he
them released, on the 16th.

I see. Yes, I tender that document.

THE COMMISSIONER: The minor sewer main construction protection
inspection report dated 15 April, 2005 is Exhibit P57.

**#EXHIBIT P57 - MINOR SEWER MAIN
CONSTRUCTION/PROTECTION INSPECTION REPORT DATED
15 APRIL 2005**

THE COMMISSIONER: Mr Aoun, what's the effect of getting this report?---That's the, once I get that I can compile all my, my work as executed.

10

I see. Because the box is ticked construction is considered satisfactory?
---Correct. On that job he issued Corrective Actions as well.

He had issued a Corrective Action Report before this?---I don't know when he issued the Corrective Actions in relation to this document he gave me on the day after. I'm not sure.

20

You mean there could've been Corrective Action Reports after this?---No, no, before, so he arrived at the site, issued me Corrective Actions and then we have to close them at the same time. We also needed what's called his construction main inspection report and I couldn't get that until I finalised the Corrective Actions.

So this shows that you finalised the Corrective Actions?---I don't know exactly what Sydney Water's procedure is with that. Maybe, I needed this inspection report to submit so we can get the section 73 for the developer.

30

What I'm trying to find out is whether you can say, whether after this report which is now Exhibit P57 was given to you whether there was still work outstanding on CARs or not?---No.

There was no work outstanding?---There was no work outstanding.

MR PAYNE: I think finally, Mr Fayers, - - -

THE COMMISSIONER: Mr Aoun.

40

MR PAYNE: Mr Aoun, I'm terribly sorry. (not transcribable)
Commissioner has asked can I just show you this document and it may be that you haven't seen it before, it's the internal Sydney Water (not transcribable). Have you seen this document before?---I can't recall seeing this.

It's from the e-Developer system. Is that something that you had access to at the time?---No. No.

That's an internal Sydney Water computer system as you understand it?
---Correct.

That seems to show that there's a CAR raised on 22 April and someone has written in by hand, Speak to Richard Fayers about getting material prior to construction. It's also got an audit date of 15 April, 2005. Doing the best you can does this indicate that the work, there was continuing work to do after the 15th or not?---No, 'cause across the road there was a ten pin bowling place, we, me and my apprentice, his name's Tim, Tim Bromhead we went and played a round of tin pin bowling. We were waiting for the inspector at the same time. We had everything ready for him so he can, so he can inspect just - - -

10

Just to summarise on the inspection day there was the problem you've identified, the next day you met at McDonald's, there's a payment of \$300 and as far as you're concerned after that day there was nothing further you needed to do in relation to this job?---Correct.

Yes, I tender that document, Commissioner.

THE COMMISSIONER: Yes. The document headed Update CAR raised on 22 April, 2005 is Exhibit P58.

20

**#EXHIBIT P58 - UPDATE OF CORRECTIVE ACTION REQUEST
DATED 26 APRIL 2005**

MR PAYNE: Yes, I have nothing further for this witness, Commissioner.

THE COMMISSIONER: Yes, thank you. Mr Lee, do you have any questions?

30

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

Do you have a copy of your statement in front of you?---No.

Can Mr Aoun be given Exhibit P53 please? Mr Aoun, I just want to ask you some questions about the various CARs that you say Mr Buckley issued to you for different jobs that you were involved in?---Correct.

40 The first one being the job at Nicholas Avenue, Concord about August 2006. Remember that job?---Yes.

Am I right in saying that this CAR was issued for two reasons, firstly because you weren't on site at the time the inspection was to take place? ---Correct.

And secondly because one of your employees was a, was not accredited for sewerage work?---Correct.

And you agree that that was the situation in relation to those two issues for the CAR?---No.

You don't agree with them?---Definitely not. I went, I went to go and get lunch if you can read there. I went to go and pick up lunch and John thought I was overseas.

But do you agree that you weren't on site when the inspection was to take place?---Correct, yes.

10

And do you agree that your plumber wasn't accredited for sewerage work? ---Yes.

So would it be fair to say that there was a legitimate basis for the CAR to be issued against you?---I suppose so, yes.

And there was a second CAR issued for this job at Concord wasn't there? ---Yes.

20 CAR was issued because a bobcat had driven over a manhole and damaged it?---Correct.

And when the manhole was replaced it was put in the wrong position. Correct?---The, the manhole was put in the place of where the design and where the, the Water Servicing Coordinator told us to put it. The, what you're referring to is the maintenance shaft was dislodged by the bobcat. And that was off on an angle.

30

So the maintenance shaft was lopsided?---Yes. Yes.

And was there a manhole that was put in the wrong place?---With the plans that we had, no, but according to John's plans that he had, yes.

According to Sydney Water's plans they were, the manhole was in the wrong place?---Depends on which, I had two, he had a Sydney Water plan, I had a Sydney Water plan for construction at the time.

(not transcribable)- - -?---Yes.

40 - - - the plans which Mr Buckley had the manhole was in the wrong place? ---Correct, yes.

So would you agree that in relation to this instance involving the maintenance shaft and the manhole again there was a legitimate basis for you to be issued with a CAR?---Correct.

Could I take you to the job at Powell Street, Homebush. Do you remember that job?---Yes, I do.

Again you were issued some CARs in relation to this particular job?
---Correct.

And could I just summarise it generally without getting too technical, the reason you were issued with a CAR was because first of all the builder damaged an existing sewer line, is that correct?---Correct.

10 You were asked by the builder to run a bypass so that construction work could continue?---Correct.

And what you should have done was notified Sydney Water first of all that the builder had damaged the existing sewer line, correct?---No, not correct. I should have, and I did, notify the water servicing coordinator and he just said to fix it. Don't let no sewer flow anywhere.

20 But do you agree that Sydney Water should have been notified when a Sydney Water, a Sydney Water asset was damaged by the builder?---No, no one's ever told me to do that.

The, the bypass line which was installed, that shouldn't have been done without Sydney Water approval, is that right?---As far as I know, yes.

30 Because it was Sydney Water's decision whether or not the existing line should have been fixed or whether a bypass should have been put in, correct?---Yeah, the site won't allow, when I saw the site, when you're doing a bulk excavation, digging down four metres and the soil would be floating through midair over a 30 metre span the sewer just can't sit in midair, it has to, it has to do something and they ripped it all out, we went out to site, helped the builder, nothing to do with me, I didn't get paid to do all that, he said I need help, the sewer is flowing into the trench, can you come and fix it for me. I should have said no now I'm thinking about it.

You should have said no because it was Sydney Water's call whether or not the existing line should have been fixed or whether a bypass should have been put in, isn't that the case?---Look, sorry, the last person I want to be calling is Sydney Water, John Buckley, then I have to pay him more money. So why call Sydney Water, for what?

40 Mr Aoun, I'm just asking you whether or not that's correct, the reason why you should have said no is because the damage to the existing line was in effect Sydney Water's call to repair?---The builder rang me, he didn't ring Sydney Water and I'm, I'm going out to the site to help him. I'm a plumber, I know what, I know what I do, I fixed it for him.

I know that's what happened and what you did but what I'm saying to you is that when the damage occurred it should have been Sydney Water's call as to how it should be fixed.

THE COMMISSIONER: By virtue of what rule was it Sydney Water's call, Mr Lee?

MR LEE: Well, Commissioner, I'm asking whether or not Mr Aoun understands that.

THE COMMISSIONER: Or whether he agrees with it.

10 MR LEE: (not transcribable) something in the CAR.

THE COMMISSIONER: Well, I think you can ask him whether he agrees with that.

MR LEE: Do you agree with that, Mr Aoun?---No.

You don't. Can you turn to annexure 7 to your statement. Do you have that? It's behind the, behind the tab numbered 7. Do you recognise these as being the CARs issued in relation to the job at Homebush?---Yes.

20

And you agree that there's three documents there, do you see three documents?---Yes.

In relation to each one you or company's completed something in relation to prevention description?---Correct.

And you see the prevention description reads that in the future we will contact Sydney Water and advise them of any repair works the developer/client has requested us to do on Sydney Water assets?---Correct.

30

So all I'm asking is do you agree that when the builder damaged the existing line for the Homebush job you should have notified Sydney Water of damage to one of their assets?---This is, this is the fourth amendment to this corrective action. We had, he would reject them, John Buckley would reject them. We, I'd said that I went out to site originally, I said that I tried to fix it myself, he didn't want that answer so I can't agree with you because I don't know what the answer was at the time but now when the CAR was closed off I know now that it's got to go through Sydney Water's repair group.

40

So do you accept that there was a legitimate basis for you to be issued with a CAR in relation to this aspect of this job?---No. No.

You don't accept that?---Definitely not. It was bullying. He was pushing me to a point where I didn't have to be in. And I just remembered now that I was once upon a time not that far away, I was at S2, S2 accredited in Sydney Water as well.

All right. Mr Aoun - - -?---I just remembered that now. But I'm no longer that.

So can you turn to paragraph 49 of your statement?---49.

Can you see there that you're talking about tendering to become a water servicing coordinator?---Yes.

10 And you mention something there about the fact that you estimate that in of the total number of CAR's you've been issued, 60 per cent of them have been issued by or indirectly through Mr Buckley?---Correct.

Basically what you've said in evidence this morning, would you agree that at least for some of those CAR's there was a legitimate basis for Mr Buckley to issue them to you?---No. I don't agree with that.

Even though you acknowledged just a while ago that there was a legitimate basis for you to be issued with CAR's for the Concord job?---Well, because I went to lunch.

20

But you - - -?---Because the bobcat, yeah, I agreed with it, because I went to lunch, a bobcat hit, which I wasn't driving, things happen on site.

I understand that but do you remember agreeing with me that for the Concord job in relation to the inspection and the manhole and maintenance shaft, you agreed that there was a legitimate basis for you to be issued with a CAR?---No. He should've issued to the, to the coordinator not to me. But, if it makes you happy I'll say yes.

30 Well, Mr Aoun, I don't want you to say something you're not happy with? ---No, then.

You've estimated that about 60 per cent of the CAR's that you were issued came via or indirectly through John Buckley?---Yes. Maybe more. His influence on other inspectors to be tough, who knows how many he really, he really had on all of them. Who knows. Every time, he was brought to a lot of peoples attention, his bullying nature, push, he's trying to cover up how much he's taken.

40 Mr Aoun, I'm just asking you whether or not you agree with that you said in your statement, that about 60 per cent of the CAR's you were issued with came from John Buckley?---Correct. More. 90 per cent possibly. My work, I've been doing plumbing since, a long time.

So now you say that it's 90 per cent of the CAR's that you were issued came from John Buckley?---Possibly, yes.

So what you said in your statement is incorrect.

MR PAYNE: I object. It's quite an unfair question. (not transcribable) was actually put to Mr Aoun before putting such an allegation.

THE COMMISSIONER: (not transcribable) were Mr Payne.

MR PAYNE: I believe that over 60 per cent of the CAR notices issued by John Buckley or indirectly through Buckley. So the suggestion that's a lie, in the last answer is an unfair on in respect of this.

10

THE COMMISSIONER: Mr Lee.

MR LEE: Mr Aoun, you said that in your statement you believe that over 60 per cent of CAR issues, CAR notices issued by, issued to you came from John Buckley?---Yes.

And now you're saying that you think it's 90 per cent or more?---Well - - -

20

MR LEWIS: Commissioner, I object at that point. (not transcribable) per cent in paragraph 49. It goes on to say something else. And I think if my friend is going to put that to the witness he should put the entirety of the (not transcribable) rather than (not transcribable)

THE COMMISSIONER: Mr Lee - - -

MR LEE: Commissioner, I'm happy to leave - - -

30

THE COMMISSIONER: - - - I think the point, the point such as it is is made.

MR LEE: Yes. Mr Auon, can I take you back to the - - -

THE COMMISSIONER: Can I just ask a question here, Mr Lee, please? Mr Aoun, I just want to understand something. On this job when you were at lunch did you know that the inspector was coming?---No, he just done a random audit.

40

And is it, is it a normal thing to issue a CAR notice if the constructor is not on site?---Correct.

So what is correct?---Yes, yes.

If the constructor's not on site it's a normal thing to issue a CAR notice?---I believe so.

Even if the inspector is told that the constructor's at lunch?---Well, no, there's been occasions where I've told someone I'm, a Sydney Water inspector I'm at lunch, they say that's fine, I'll just wait for you or wait until

you get back here and, and then or we, you know, we can meet up on the pre-connection or something.

So it's a discretionary issue whether to issue a CAR notice because the constructor is not on site?---Correct.

And what time do you take lunch?---12.00 till 1.00.

And do most constructors take lunch at that time?---I believe so.

10

So why, would an inspector generally come on site to inspect between 12.00 and 1.00?---John Buckley would just come up any, any time. I never, he would never call ahead or anything, he'll just turn up. He would turn up in the afternoons, I, I don't know.

And what is the, if you're not on site what does the CAR notice say? What are you supposed to do? What happens then is what I'm really thing to find out?---Oh - - -

20

If the constructor is not on site when the inspector arrives and the inspector issues a CAR notice, what happens then?---Drop your lunch, do whatever you've got to do to get back to the site 'cause - - -

But the inspector won't be there?---Well, you can only hope you catch him so that way you don't get a corrective action off - - -

So you - - -?--- - - - no, no, only off John Buckley was like that, I never, there was never any other inspector that was like, I don't recall any other inspector, to the best of my knowledge, doing that.

30

What happens if you come back and the inspector's gone and he's issued a CAR notice because you've been on lunch?---Well, we end up here I suppose, with John.

Yes, Mr Lee.

MR LEE: Mr Aoun, just staying with the job at Concord, I just want to get the sequence correct. I'm not asking you whether or not you believe the CAR was rightly or wrongly issued but first of all there's a CAR issued for not being at an inspection because your plumber's not accredited, correct?
40 ---He's on my, he's on my list of key personnels.

I'm just asking the sequence of events, not about your view as to whether it was done rightly or wrongly?---Well, I had my brother Tony, one second, I had my brother Tony - - -

Just listen to my question?---Tony Aoun was on the site as well, it's taken Tony Aoun over four years to get listed. He's done all the training necessary, courses, and even till that day he still wasn't listed.

Mr Aoun, first of all, a CAR is issued at Concord, correct?---Yes.

Then you say that you gave Mr Buckley \$500, correct?---Yes.

10 And then a second CAR is issued for the issue involving the manhole maintenance shaft, correct?---The \$500 was at the end of all the corrective actions I believe.

So its your belief that the \$500 is paid to Mr Buckley at the end of the job, is that right?---Correct.

Do you see in paragraph 19 of your statement you state that Mr Buckley said to you, Give me \$500 and this will finish the job?---Correct.

20 And do you remember giving evidence yesterday saying something like when you were having a conversation with Mr Buckley you say, you said that Mr Buckley said something to you like I want money instead of beer? ---Correct.

Do you agree that that reference to what Mr Buckley said about saying I want money instead of beer is not in your statement?---I recall saying beer some, I, I, do you want me to read the whole statement now and - - -

If you need to.

30 THE COMMISSIONER: Well, I don't, put the question you want to put, Mr Lee, I really haven't got time for that.

MR LEE: Yes, Commissioner. Mr Aoun, I suggest to you that first of all Mr Buckley never asked you for \$500?---Yes, he did.

And I also suggest to you that he never said anything to you like I want money instead of beer and that's the reason it doesn't appear in your statement.

40 THE COMMISSIONER: Well, the first part of the question is, it's been put to you that Mr Buckley never said I don't want beer, I want money. Is that correct, Mr Lee?

MR LEE: Yes, Commissioner.

THE COMMISSIONER: So what do you say to that?---He said no more beer, I want money.

All right. And then Mr Lee has put to you that because that's not what Mr Buckley said it's not in your statement, you can't answer that because you don't know what's in your statement and what is not at the moment?
---Well, I do recall it's in my statement but just - - -

Well, we'll look at that later.

MR LEE: Mr Aoun, can I now take you to the job at Silverwater, Melton Street in Silverwater?---Yes.

10

You see at paragraph 27 that, can you go to paragraph 27, and that over the page you're saying something there about what you say Mr Buckley said to you?---Yes, he said he wants \$300.

I want to suggest to you that Mr Buckley in relation to the job at Silverwater never asked you for \$300. What do you say to that?---Incorrect.

20

And could I take you now to the third of the jobs, this is the one in Homebush. You say in your statement and you've given evidence that in relation to this job you've paid Mr Buckley \$500?---Correct.

And am I right in recalling your evidence yesterday that first of all the construction work was supposed to commence in September 2008, is that right?---Correct.

And that it was about 12 months after the repair work to the damaged sewer line had finished, is that correct?---Correct.

30

So am I right in saying that it was about September 2009 when you say you paid Mr Buckley \$500?---Correct.

Could you turn to annexure 6 of your statement. This is a copy of a MYOB printout for your company, is that right?---Yes.

And I think when Mr Payne was asking you questions yesterday you identified the date of 9 November, 2009 as being the date on which this entry was made?---I don't, don't, I don't, I don't do any of these entries, I don't know how they do them. I, I don't know.

40

So you don't remember saying yesterday that you thought the date 9 November, 2009 was when the entry was made?---I can't - - -

THE COMMISSIONER: I think it might be fairer if you explain to him how 9 September was arrived at though, because it was only after Mr Payne had taken Mr Aoun through a number of documents that he was then able to show him this. I don't know, it was a pretty, it was in effect an exercise in reconstruction.

MR LEE: Yes, Commissioner. Mr Aoun, do you see that the MYOB printout relates to the period July 2008 to June 2009?---Yes, I see that.

And is it your belief that the money, the \$500 that you say you paid to Mr Buckley was paid after June 2009?---I, I - - -

THE COMMISSIONER: That's last year, Mr Aoun?---Last year, right. No, I don't know, I'm confused now with the paperwork.

10 MR LEE: What I'm asking you is that the MYOB printout appears to relate to the financial year ending June of last year. Do you understand that?---I understand that, yes.

And what I'm asking you is it your position that when you say you paid Mr Buckley \$500 for the Homebush job that you paid it to him after June last year?---No.

That wasn't the case?---No.

20 But when do you say you paid Mr Buckley \$500 for the Homebush job?---I can't, I can't remember exactly, exact date when. I can't remember.

THE COMMISSIONER: Can you remember approximately when?---(NO AUDIBLE REPLY)

Do you need to refresh your memory from any documents to answer this question?---Yes, I do 'cause - - -

30 What documents?---When I spoke to Antonio Martinez I said to him I've already paid him for the job, what more does he want. Just can't remember when that conversation, what day that, when I had that conversation so it was before then but can't remember exact day. At the time I had other jobs going with John Buckley as well and before that time as well, I just can't remember exact day, Commissioner.

MR LEE: Mr Aoun, do you remember giving evidence that the \$500 that you say you paid to Mr Buckley that was provided to you by your wife? ---Yes, she picked it up from the office.

40 The office of the bookkeeper?---Yes.

Now, for the, just taking you back now. For the Concord job you said that you paid Mr Buckley money that came from John Tannous. Is that right? ---Correct.

For the second job, the Silverwater job you said when you paid Mr Buckley \$300 you already had that with you because you knew what had happened at the Concord job. Correct?---Yes.

But you say that for the Homebush job you actually had to ask your wife to pick up \$500 from the bookkeeper?---Yes.

Is that correct?---Yes.

If you had paid Mr Buckley \$500 for the Homebush job I'm suggesting there would've been no need for you to ask your wife to pick up more money from the bookkeeping bearing in mind what you said about the earlier two jobs?---I didn't have money in my pocket.

10

Mr Aoun, I suggest that in relation to the Homebush job you never paid Mr Buckley \$500. What do you say to that?---It's incorrect.

You said that even after you paid Mr Buckley \$500 he still issued you with the three CARs for the issue involving the bypass sewer line. Correct?
---Correct.

20

So in effect as far as you were concerned your payment had no effect upon the CAR being issued?---As far as, yes, maybe he'd want more money I don't know.

I have nothing further, Commissioner.

THE COMMISSIONER: Yes, thank you. Other than Mr Stevenson and Mr McIlwaine is there anybody who wishes to question Mr Aoun? Yes, Mr Eurell.

30

MR EURELL: Mr Aoun, I represent John Tannous. You and he are friend I understand?---Look, we're business colleagues.

And he asked you to do some work (not transcribable) premises which you understood to be in preparation for having (not transcribable)?---Correct.

And there was an arrangement between you and he in which he did some IT work for you and you did the plumbing work?---Correct.

40

And you did that at cost I think you told the Commission which means that effectively all Mr Tannous had paid for was the parts, works and any fees that were involved. Is that right?---That's right.

And you understood didn't you that (not transcribable) he effectively trusted this job to you, you'd attend to the details so that he could get on with attending to his business (not transcribable)?---Of course.

(not transcribable) friend of mine?---Yes.

And that's effectively how (not transcribable). Is that right?---Yes.

And you told the Commission that Mr Buckley approached you and asked for \$500?---Correct.

You understood him to be, I understand, soliciting bribes, Mr Buckley?
---Yes, correct.

And you understood that because of your experience within the industry?
---I've heard of John Buckley, yes.

10 Mr Tannous didn't have that experience did he?---No.

And you agree don't you that there's a possibility if not a probability that Mr Tannous would not have appreciated what the money was for?---
Correct, yes.

And you remember how the payments went, were they structured payments or were you given (not transcribable)?---They weren't structured, just, we just had a (not transcribable) talk to John to say, Look, I've done over 80%, 90% or whatever, just give me some money and there was nothing, we
20 didn't sign any contracts.

It wasn't official, there was no receipts or anything like that?---No.

(not transcribable) that you don't have a recollection of how the payments were made to you. Is that right?---Well, (not transcribable) delivery.

But you're guessing, I mean it was four years ago but do I understand that you just - - ?---Right now, yes.

30 And you agree that it's possible that when you approached you say Mr Tannous about what had happened with Mr Buckley and that you could've just said something to the effect of look, I've got to get my (not transcribable)?---I could've said that.

Thank you, Commissioner.

THE COMMISSIONER: Yes. Yes, Ms Hughes.

40 MS HUGHES: Mr Aoun, I represent Mr Fayers. You gave us some evidence this morning that you paid Mr Fayers a sum of \$300 for a job at Blacktown?---Correct.

You said that Mr Fayers suggested that he pay, you pay him. What did he say?---What did he say?

How did he make that suggestion to you? Do you recall what he said to you?---Not word for word.

Did he ask you for a sum of money?---Yes.

You gave evidence that he didn't suggest the amounts. Is that correct?
---That's correct.

10 So what is your evidence, that he just asked you for some money and left the amount up to you?---Such a long time. Really, really can't recall exact how, how we exchanged conversation but to the best of my knowledge I do recall him asking for money off me and saying he'll meet me at McDonald's at Blacktown.

At the time that he came to see you in relation to the job at Blacktown at the time of the inspection is it correct that your paperwork wasn't complete at that time?---(NO AUDIBLE REPLY)

What I'm putting to you, Mr Aoun, is that he had (not transcribable) at the job at Blacktown to carry out the final inspection but you hadn't yet completed all your paperwork. Is that possible?---Possible.

20 I'm putting to you that he suggested to you that if you had the paperwork done by the following day he would be in the area and you could meet at McDonald's and you could provide him with the paperwork?---And money.

I'm suggesting to you he didn't make the suggestion about money, he suggested he give you another day to complete the paperwork having been out there at the prearranged time to carry out the inspection and at that time the paperwork wasn't (not transcribable)?---On the day we're playing ten pin bowling. The paperwork was ready and we had to meet the next day to pay him \$300 at McDonald's.

30 But you're saying you gave him the paperwork the day before?---No. The time I saw the paperwork at McDonald's.

40 And that's because it wasn't paid on the day that he attended the premises. Is that correct? Or you can't recall?---I can recall. We were on site. There was some issues with some pedestrian control. There was an issue with (not transcribable) not arriving on site. Some inspectors want blue metal there and some inspectors don't. Some inspectors want it on the pipe, some inspectors don't care. Mr Fayers wanted money. He asked for \$300 off me and we'll meet tomorrow to finalise all the paperwork, which was at that McDonald's.

You gave evidence though yesterday that you couldn't recall. That he didn't suggest the amount?---I just recalled then.

So now you recall that he did ask you for a certain amount?---Just, I can recall because I've given him money and I just went through the steps, what, what he'd done and what he'd asked for off me.

See what I'm suggesting to you Mr Aoun, is that you hadn't done your paperwork and that Mr Fayers didn't ask you for money but, and you in fact gave him money (not transcribable) ease the situation. That it'd make Mr Fayers more likely decide (not transcribable) report?---The work was done in accordance with Sydney Water's code. I complied and he was bullying me to pay him and he asked me to pay him money to finalise this job.

10 You also gave evidence about a more recent job in Carlingford where Mr Fayers also asked you to carry out some corrective action. Is that correct?
---No. He never gave me any corrective actions.

He did ask you to, you gave evidence that he would constantly ask you to comply with various codes and that your subcontractor persevered. Is that correct?---He, yes, that's correct.

But at no stage did he ask you for any money?---No, not then, no.

20 So it is the case that (not transcribable) has asked you to comply with Sydney Water's requirements in relation to a job?---It could be.

So what you may have seen as bullying in fact may just have been Mr Fayers carrying out his job diligently?---On that job, yes.

I've got nothing further, Commissioner.

THE COMMISSIONER: Yes, Mr Stevenson.

30 MR STEVENSON: Mr Aoun, I'm the barrister for Sydney Water. As part of the process of becoming an accredited constructor, your company signed a developer infrastructure provider agreement?---Correct.

I'll show you this document. I'll orient you to the second last page, I think you'll find the point where you and your wife, where you executed the document on behalf of Sydney Water and your wife witnessed your signature?---Yes.

You see that?---I see that.

40 See your signature there and your wife's signature?---Yes.

And you see the last page of the copy I've given you is a document called, Business Ethics Guide. On the last page?---The last page?

Yes?---Did you just staple that on to it now?

Why don't you just wait for the question, Mr Aoun?---Sorry.

Are you accusing me of doing something improper?---I'm sorry. I have never seen this page. Anyway, go on.

Why don't you just wait for the question, Mr Aoun and see how you go. My question to you is going to be, was that document, the Business Ethics Guide attached to the contract when you signed it?---I can't recall seeing this.

10 THE COMMISSIONER: Mr Stevenson, is, Mr Stevenson I think that I stopped you from tendering this document when Ms Potts was testifying. But as, as it is in fact an agreement with Mr Aoun, I accept that it is proper for it to be tendered if you wish it to be tendered.

MR STEVENSON: I'll tender it.

THE COMMISSIONER: Right. The, the Development Infrastructure Provider Agreement signed by Mr Aoun is Exhibit P59. And that has the, the Exhibit has the Business Ethics Guide attached.

20

#EXHIBIT 59 - DEVELOPMENT INFRASTRUCTURE PROVIDER AGREEMENT SIGNED BY MR AOUN DATED

MR STEVENSON: My question to you Mr Aoun is this, at the time that you signed the, the contract was at page, you signed the Business Ethics Guide attached to it.

30 THE COMMISSIONER: He said, no. He said he couldn't remember.

MR STEVENSON: Right. Have you ever seen this document called Business Ethics Guide?---Not that I can recall.

Can you turn to the contract to paragraph 3.3.6 on page (not transcribable) 6 of 41. Have you found that paragraph?---3.3.6, yep.

You see that clause, by that clause you have agreed (not transcribable) to act ethically in accordance with Sydney Water's Business Ethics Guide?--- Yes.

40 And you understood didn't you that your obligations under your contractual arrangements with Sydney Water were to act ethically?---Correct.

And is this right, so far as you were concerned that went without saying, obviously to act ethically?---Correct.

And looking at the Business Ethics Guide, which is the last page of (not transcribable) bullet points and the fourth bullet point, to never offer, solicit

or accept gifts, benefits or other inducements. Do you see that?---Yes.
What do I do if - - -

What you do is listen to my questions?---Okay.

And then answer the questions?---Sure.

10 And you understood that it was part of your obligation ethically that you
shouldn't offer bribes or make payments to Sydney Water officers?---Well,
I didn't read that there, no.

No, that wasn't, listen to the question?---Yes.

You understood that part of your obligations to act ethically that you
shouldn't offer Sydney Water employees bribes or pay money to them?
---Yes.

20 Okay. To be fair, you've explained why you did it. But the point is you
agree (not transcribable) you understood that (not transcribable) his conduct
was, you were also behaving unethically by making the payments to him.
Do you agree?---I can agree, yes.

Now in relation to - - -

THE COMMISSIONER: Mr Stevenson, I'm afraid technical difficulties
have arisen again with the sound. We'll have to adjourn for five minutes.

30 **SHORT ADJOURNMENT**

[11.19am]

THE COMMISSIONER: Mr Stevenson.

MR STEVENSON: Mr Aoun, you've been asked some questions about
your encounters with major works inspectors, civil maintenance inspectors
including Mr Buckley?---(NO AUDIBLE REPLY)

You need to say yes or no?---Yes.

40 And your evidence is, isn't it, that the only civil maintenance inspector who
asked you for money or hinted that you should pay him money was
Mr Buckley?---Correct.

And that was always in the inner west area?---Yes.

And you've done a lot of work, haven't you, in Sydney Water areas other
than the inner west area?---Approximately 425, yes, a lot of work.

So about 425?---A lot of work, yes.

That's outside the inner west area?---No, no, all up, like in total.

And as well as the inner west area you've done work haven't you in the city east area?---Yes.

The north coast area?---Which, which area is that one?

10 Including Mosman for example?---Yes.

Called the north coast area by Sydney Water. The northern districts area?---Yes.

South west area?---Yes.

And in the Hills, the Hills area?---Correct.

20 And you've done work all over, all over Sydney west, sorry, Sydney Water's area?---Yes.

And in doing work in all those areas other than the inner west you've had no problem with any civil maintenance inspectors?---(NO AUDIBLE REPLY)

By which I mean no one's asked you to pay them money?---Besides Richard Fayers.

Yes, I'll come back to Fayers?---Sorry.

30 I want to draw a distinction between the major works - - -?---Yes, yes.

- - - where the Buckley's of this world operate?---Yes.

And then what I think was Mr Payne called the minor works which is where Mr Fayers was?---Right.

So looking at the major works, Mr Buckley's been the only problem, the only inspector that you've had bribery problems with?---Correct.

40 And obviously therefore the only person to whom you've paid a bribe, do you agree?---Correct.

Now looking at minor works, what we call minor calls, is the only inspector that you've had, is the only inspector who has asked you for bribes or taken bribes from you Mr Fayers?---Correct.

You've dealt with many other inspectors obviously in that minor works area?---Yes.

And you've never had any experience with them asking you for money or hinting that you should pay them money?---No.

Now, in your affidavit at paragraph 46, if you could look at that, or your statement should I say, you say that you believe that in relation to the complaint that you refer to there you become a target of Sydney Water?
---Correct.

10 And the complaint you're referring to in paragraph 46 is the only you refer to, is it, in the immediately preceding paragraph, 45?---(NO AUDIBLE REPLY)

The one you made to Mr Barnes, is that it or do you mean the complaint about Buckley generally?

THE COMMISSIONER: Maybe the email. Do you understand the question?---Please repeat it one more time.

20 MR STEVENSON: In paragraph 46 you say I believe in relation to the complaint you become a target, is the complaint you're referring to your wife's email complaint to Sydney Water?

THE COMMISSIONER: Well, which complaint are you referring to Mr Aoun?---The email complaint.

MR STEVENSON: In paragraph 45 you say that, paragraphs 44 and 45 you speak of a conversation that you have with Ian Barnes. Do you see that?
---Yes.

30 And you say in paragraph 45 that Mr Barnes had informed you that you were would need to make a formal complaint. Do you see you said that there?---Yes, I did.

And isn't it the case that what Mr Barnes said to you was that you'd need to put the complaint in writing, any complaint in writing?---I, he never, I can't really recall exactly what was said word for word.

40 Can I suggest something to you, tell me if you agree?---Sure.

What I'm suggesting to you, what I'm suggesting to you is what Mr Barnes said to you was, you'll need to make any complaint, such as the one about Buckley in writing. Do you recall either way?---He told me - - -

THE COMMISSIONER: Are you saying that's all he said, Mr Stevenson or is this part of what is something he said?

MR STEVENSON: Well, I can, what I can put to you is that in the course of the conversation Mr Barnes said to you, you'll need to make a complaint or any complaint in writing?---I can't recall him saying that.

And in any event the position was wasn't it at around the time of that conversation that you knew your wife had made a complaint in writing or was about to?---I can't recall exactly what happened.

THE COMMISSIONER: The sequence?---The sequence.

10

MR STEVENSON: All right. At paragraph 39 you tell the Commissioner about the conversation you say you had with a Mr Martinez.

THE COMMISSIONER: I think he changed that to Anastasiades.

MR STEVENSON: Thank you, Commissioner. In paragraph 39 you speak of a conversation that you had with a gentleman the Commissioner has just mentioned. Correct?---Correct.

20

And he told you, you say, about something that he'd heard from Jim Price? ---Correct.

Now I just want to suggest this to you or ask you about this, is it possible that what the gentleman you were speaking to said was that Mr Price was having a close look at the excessive number of CARs that you were receiving and that Sydney Water was looking at you about that matter? ---No, not how, how he said it to me though. He didn't say it like that.

30

All right. And you told us yesterday I think that Mr Delahoy said to you some time after your wife's complaint with him that Sydney Water was trying to scrap you off the list or something to that effect?---(NO AUDIBLE REPLY)

THE COMMISSIONER: That's a question Mr Aoun.

MR STEVENSON: I think, I think the witness agreed.

THE COMMISSIONER: Oh, did you. Did you say yes?---He, he asked me, I agreed to that, yes.

40

MR STEVENSON: Now you estimate in your statement that of the CARs that have been delivered to your company Buckley's been involved with about 60 per cent of them. That's what you say at paragraph - - -

THE COMMISSIONER: More then.

MR STEVENSON: More then 60 per cent.

MR PAYNE: Directly or indirectly.

MR STEVENSON: I said involved?---Indirectly, yes.

Yes. And did I hear you this morning saying you thought that the correct figure might be more like 90 per cent?---Correct.

Do you agree with this, that between 1 July, 2001 and 8 June, 2010, you've done 167 jobs for Sydney Water?---Possibly.

10

Well, my instructions are that that's what Sydney records show. Is that a figure that sounds wildly wrong to you?---No.

And you've received a total of - - -?---Sorry, 2001?

Between 1 July, 2001 and 8 June, 2010 you've done 167 jobs?---Is that Aoun Plumbing and Auon Constructions combined?

I don't know the answer to that question. Do you think the combined figure was more than 167?---No, no. They're two different entities.

20

Yes?---Auon Constructions has only been operating since 2004.

Right. And is it Aoun Constructions that was conducting the work that lead you to your encounters with Mr Buckley?---I started off with Auon Plumbing, it was my brothers company. And I think - - -

THE COMMISSIONER: If you could just answer Mr Stevenson's question. Is it correct that your encounters with Mr Buckley were only, were they only when you were with, when you were running your own company or did they also include the time when you were working with your brothers company?---I, I never had dealings with Mr Buckley in, in my brothers company.

30

I see. So your dealings with Mr Buckley started in 2004?---When I started my own business.

Yes.

MR STEVENSON: So just so I'm clear. Aoun Plumbing Pty Limited, is your brothers company?---Correct.

40

And you did work with your brother through that company?---We worked together, yes.

And what, over what period? What, from year to what year approximately?---Since I was, since I was 15. I started from '95 I think.

That's when you started - - -?---Yes.

That's when you started with your brothers company?---Possibly around that time.

And Auon Pty Limited only started in 2004. Is that the case?---Correct.

Do you agree that Aoun Constructions Pty Limited has carried out up to June, 2010 about 167 jobs?

10

THE COMMISSIONER: Mr Stevenson, is that a, I'm not quite sure how to put this, but is that, I understood that your instructions were that the 167 came from 2001.

MR STEVENSON: That's so.

THE COMMISSIONER: So is it fair to put to him that the 167 is from 2004?

20 MR STEVENSON: I was putting it as a question, but perhaps it wasn't fair. I'm sorry. I'll ask another question. Aoun Constructions Pty Limited has received a total of 35 CARs has it not?---Possibly, yes.

And I want to suggest to you that only 10 of those CARs come from jobs done by Aoun Constructions in the inner west area?---Is that 10 with the water servicing coordinators as well?

30 It is and you've reminded me to ask you a question. CARs can be issued by Sydney Water inspectors or by WSC's. Is that right? Do you agree with that?---Right.

And you've received CARs haven't you generated by at least one WSC, Mr Farrell?---That's correct. Yep.

All right. But I'm suggesting to you you've received, Aoun Constructions has received a total of 10 CARs of the 35 arising out of work in the inner west. Do you agree?---Yes. Yes.

40 And of those 10 only five were made by Mr Buckley?---Correct.

Right. And the other 25 CARs that Aoun Construction has received come from work done outside the inner west in the areas that I asked you about a few moments ago?---Correct.

All right. Well, if those figures are right and you've said they are, it means that the total number of CARs that you've received which come from Mr Buckley are about 15 per cent?---No, they're not.

THE COMMISSIONER: Mr Stevenson, in fairness, Mr Aoun has said, I think the figure of more than 60 per cent is directly or indirectly. And in his evidence today he explained what he meant by indirect. So if you're going to ask, put to him that they only came from, that a certain percentage only came from Mr Buckley, the fair question is the ones that directly came from Mr Buckley represents so much. Not all of them.

MR STEVENSON: Well, I'm going to go into some more detail, Commissioner. So, I'll do it that way.

10

Now you recall, don't you, having a meeting with Mr Phil Hammond and Mr Phil Mallin, M-A-L-L-I-N, from Sydney Water in November 2007 at which meeting the CARS which had been sent to Aoun Constructions Pty Limited to that date were discussed?---Particularly, yes, they did, yes.

And you went along with your wife and a person called, I'm not quite sure how to pronounce this, it's spelt S-U-G-A-N-Y-A second name S-I-N-N-A-R-A-S-A?---Correct.

20 And that person's a colleague of yours?---No, a work colleague, yes.

All right. So Mr Sinnarasa, is that how you say it?---Yes.

You, your wife, Mr Sinnarasa, and Mr Sinnarasa met Messrs Mallin and Hammond at Sydney Water?---No.

Or you met them somewhere?---No, they came to my office.

30 You met them somewhere, your office?---Yes.

And how long do you recall did that meeting take?---15, 20 minutes possibly.

And they came to your office, that is Mr Mallin and Mr Hammond by arrangement, that is, they made a time or an appointment with you to come out?---That's right.

40 And did he tell you before they arrived what they wished to speak to you about?---No.

But what they did speak to you about was their concern of the 20 CARs which Aoun Constructions Pty Limited had received to date?---From one person, Phil, it was Phil Farrell.

From one person you say?---Well, he issued them over, it was a number of, look I, I, I don't want to get into all this but those corrective actions were raised from him, we answered and addressed every single one of those aspects of the, the job. We even put cameras down pipes and reconfirmed

that everything was done in accordance with, in accordance with Sydney Water and actual Phil, Phil Hammond went out to the site and done a inspection with the testers which all our work complied and passed now.

10 I want to show you a folder just to give you some more detail of the matter so you can identify the Phil Farrell matters. I want to show you a folder called Non-Inner West Aoun Corrective Action Requests. Mr Payne has a copy of this. And you see there's a schedule at the beginning, if you just open the folder there I just want to explain to you how this works. There's a schedule which lists 25 CARs and each CAR is behind the tab having the corresponding number and you'll see that some are highlighted blue. Do you see that?---Yes.

The ones that are highlighted blue are the ones that I'm suggesting were discussed with you at the meeting on 12 November, 2007?---Just over half.

So just have a look through them and your reference to Mr Farrell was in reference to the site at 10-16 Castlereagh Street, Liverpool, am I right?
---Yes.

20

And you'll see that the CARs in relation to that site are numbers 15 through to 21, so six of them.

THE COMMISSIONER: Seven.

MR STEVENSON: Thank you, seven. So seven of the 20 discussed on 12 November, 2007 were Castlereagh Street, Liverpool?---Yeah.

30 And there was, there was quite a lot of discussion, wasn't there, about the Liverpool site?---Yes.

Isn't it the case that one incident that occurred on the Liverpool site was that a car fell into trench?---I can't recall.

And at the meeting you were told this, weren't you, that Sydney Water has seriously considered suspending your company from further activity?---No, they never told me that.

40 And you were told that the purpose of the meeting was to give you fair warning that Sydney Water would take action to remove your accreditation if the company failed to implement appropriate construction and safety processes?---And we have.

THE COMMISSIONER: But were you told that?---I can't recall that.

MR STEVENSON: All right. Well, just so we're clear I'm making two suggestions to you. One is that you were told on this occasion on

12 November, 2007 that Sydney Water was seriously considering taking away your accreditation, what do you say about that?---I can't recall.

And that they in effect gave you warning that unless things were fixed up you would lose your accreditation, that's right, isn't it?---I can't remember I'm sorry.

THE COMMISSIONER: Mr Stevenson, did you say that Mr, and Ms Potts was present at this meeting?

10

MR STEVENSON: Yes, yes.

THE COMMISSIONER: It wasn't put to her. I see Ms Potts in the hearing room.

MR STEVENSON: Commissioner, if you think it's, I'm happy to - - -

THE COMMISSIONER: It's up to you, Mr Stevenson.

20

MR STEVENSON: I'm very happy to put this to her as well.

THE COMMISSIONER: I think that would be appropriate.

MR STEVENSON: I'm happy to do that.

THE COMMISSIONER: At a convenient time. Ms Potts, are you going to be here for the rest of the day or are you leaving?

MS POTTS: (not transcribable)

30

MR McILWAINE: I think my client does have some childcare issues which - - -

THE COMMISSIONER: I understand that, I just, can you, Mr McIlwaine, if you can discuss with your, Ms Potts and let me know what convenient time, what, what a convenient time would be for her, we will be very long.

40

MR STEVENSON: Commissioner, can I suggest a way forward? I'm about to tender a document which I might show Mr McIlwaine which might have the result that there's not any controversy about this.

THE COMMISSIONER: Very well.

MR STEVENSON: I tender a note made by Mr Hammond of the meeting of 12 July, '07. I'll show a copy to Mr Aoun, I don't suggest of course that he has seen this document before.

THE COMMISSIONER: Right. Are you calling Mr Hammond?

MR STEVENSON: I think - - -

MR PAYNE: I'll be calling Mr Hammond, Commissioner, and the Commissioner can take it that I have some questions for Mr Hammond about this topic.

MR STEVENSON: We'll get to the bottom of it.

10 THE COMMISSIONER: Mr Stevenson, this document is, what do I call it?

MR STEVENSON: A minute by Mr Hammond dated 12 November, 2007.

THE COMMISSIONER: The minute by Mr Hammond dated 12 November, 2007 is Exhibit P60.

**#EXHIBIT P60 - STANDARD OF SERVICE PROVIDED BY AOUN
CONSTRUCTIONS DATED 12 NOVEMBER 2007**

20

THE COMMISSIONER: And you draw attention to the conclusion, Mr Stevenson.

MR STEVENSON: Yes, I do. Mr Aoun, perhaps I'll ask you some questions about this just to see whether you agree that, whether it's accurate. Do you see about a third of the way down it says who was present at the meeting?---Yeah.

30 And you agree that that's accurate, it accurately states who was there?
---Yes.

And do you see there's a paragraph after that reading Initial Discussions? Now, that paragraph of course is Mr Hammond's view of the world, my question of you is do you agree that that summarises an aspect of what was said at the meeting?---Yes.

40 And you see the heading Conclusion? And what I'm suggesting to is that the three lines under the heading Conclusion summarise what was at the end of the day or the end of the meeting put to you and your wife. I'm asking you do you agree?---Present at the meeting was Khare, Tony and Suganya. Was Odelia there?

Sorry?---Odelia wasn't there.

Sorry. I've led you down a wrong path. What this note says is that you were there, your brother and Mr Sinnarasa?---Yes.

I think I suggested to you earlier that your wife was there?---You did.

That seems to be wrong doesn't it?---That's correct, yes.

Do you recall whether your wife was there?---That's what I was trying to remember.

Sorry, I misled you?---It was all confused with the whole thing and well, now he took the minutes and that she wasn't there.

10

Right. Good. Thank you for drawing that to my attention.

THE COMMISSIONER: I'm not sure which paragraph you put to Mr Aoun and which one he agreed was correct?

MR STEVENSON: I'll start again I think. Below the list of people who were present there's a paragraph commencing, Initial discussion with you. See that? And I think you've agreed that that accurately summarises an aspect of what was said at the meeting?---Yes.

20

And there's a heading Conclusion near the bottom and I'm suggesting to you that that summaries what was put to you at the end of the meeting? ---Yes.

You can put that down now.

THE COMMISSIONER: Sorry, when you say yes what do you mean? ---That's, they, they spoke and they said to me, what's summarised in this sentence.

30

Yes, thank you.

MR STEVENSON: You can put that away just for the moment. Looking at the folder with the schedule of, I draw your attention to the blue markings. You see there's some pink markings there as well?---Yes, I do.

I want to suggest this to you. Between August 2007 and March 2008 your company received no CARs. So there was a period of around eight months
- - -

40

THE COMMISSIONER: Sorry, can you just tell me that again? Between what period?

MR STEVENSON: Between August 2007, that is a few months before this meeting we've just discussed and March 2008 your company received no CARs?---Yes, correct.

But that between April 2008 and October 2008 the company received seven more CARs. I'm suggesting to you that they're the ones which are highlighted in pink in the schedule to the (not transcribable)?

THE COMMISSIONER: Are these all outside the Inner West area, Mr Stevenson?

MR STEVENSON: They are.

10 THE COMMISSIONER: I see four.

MR STEVENSON: Yes, sorry. The four pink items on the schedule are four of those seven?---Yes.

And they're the four of the seven that were outside the Inner West area? ---Yes.

I tender that folder.

20 THE COMMISSIONER: The folder marked Non-Inner West Aoun Corrective Action Requests will be Exhibit P61.

#EXHIBIT P61 - FOLDER MARKED NON-INNER WEST – AOUN CORRECTIVE ACTION REQUESTS

MR STEVENSON: I'm going to show you another folder now, Mr Aoun. Now this is - - -

30

THE COMMISSIONER: Not the one having the same headings?

MR STEVENSON: Protocols, yes. So - - -

THE COMMISSIONER: We'll have to give this a different name.

MR STEVENSON: I tender this now. It's the Aoun Inner West CARs, a bundle of Aoun Inner West CARs.

40 THE COMMISSIONER: These are Inner West?

MR STEVENSON: Yes.

THE COMMISSIONER: P62 will be a folder marked Inner West - - -

MR STEVENSON: Mr Aoun, what I'm suggesting to you is - - -

THE COMMISSIONER: - - - Aoun Corrective Reports, sorry. Corrective Action Requests.

**#EXHIBIT P62 - FOLDER MARKED INNER WEST – AOUN
CORRECTIVE ACTION REQUESTS**

10 MR STEVENSON: Mr Aoun, you see there's a table there at the beginning of the folder, I'm suggesting to you this is a summary of the ten CARs you've had from the Inner West area?---Yes.

And you see looking at items 3, 6, 7, 8 and 9 five CARs from Mr Buckley? ---Yes.

20 And I'm suggesting that the ones marked blue are five of the ones discussed at the 12 November, 2007 meeting and that the three marked pink are three of the seven that you incurred between August 2007 and March 2008. Do you have it for me?---Yes.

Now, looking at the ones that according to this schedule don't come from Mr Buckley, that is 1, 2, 4, 5 and 10 do you say that any of those came about because of some conduct of Mr Buckley or activity?---He would ring up the Water Servicing Coordinator and tell them he needs to issue a Corrective Action to our company.

THE COMMISSIONER: How do you know that?---Because they would ring me up and tell me.

30 MR STEVENSON: You see that items 4 and 5 are CARs which are generated by Mr Chris Green. Mr Chris Green do you know who he is? ---Since he's left now, yes. No longer working at KR Stubbs.

But when he was working at KR Stubbs he was working as a Water Services Coordinator?---Correct.

40 And do you say that Mr Buckley somehow wanted Mr Green to make complaints about you that are recorded in these CARs?---Not sure with Mr Green.

You know of no connection do you between Mr Buckley and Mr Green? ---No.

Well, if you see the first one it was generated by Mr Peter Jansen. Do you know him?---No, I don't.

Do you know of any connection between Mr Buckley and any complaint made by Mr Jansen?---Just on the time of the, like when we'll meet up on

site we'll just run through over some briefs and talk about John and the site as well.

See item number 2.

THE COMMISSIONER: I'm not sure if I understand (not transcribable) What are you saying, Mr Aoun?---We would meet on site.

Who, you and Mr Jansen?---Yes.

10

Yes?---And just we'd talk about the site and John Buckley as well and just make sure everything's in order. We'd a brief site meeting.

Are you saying that Mr Jansen told you that Mr Buckley told him to issue a CAR or are you not saying that?---No, I'm not saying that for Mr Jansen, no.

MR STEVENSON: Look at number 2, there's a reference to Cardno Young, I think you did refer to them in your evidence yesterday?

20

---Yes.

And there's a Mr Frank Corrozza, C-O-R-R-O-Z-Z-A who generated this second CAR. What do you say so far as you understand it the connection between Mr Corrozza generating the CAR and any activity of Mr Buckley? ---Correct.

No, what do you say is the connection?---Oh well, he would, he would ring up Frank and tell him you have to issue a Corrective Action for this site. And if you don't I'll issue one against him. And that's what they relayed back to me.

30

Now the item 6, 7, 8 and 9 are all from the Homebush site that I think you've given some evidence about already?---Yes.

And they're all from, all connected with Mr Buckley. What about number 10, Mr - - -?---Ornelas.

- - - Mr Ornelas, O-R-N-E-L-A-S from Civil (not transcribable)?---I believe that's a water main job. We do sewer and water.

40

All right. I'll - - -

THE COMMISSIONER: What, I don't understand, what is the, the fact that it's a water main job, what does that, what's the importance of that? ---Well, no just, it's not a Corrective Action for sewer. It's a Corrective Action against a water site, a water job that we've done. But he's just a different inspector, he's for water construction.

Is he a PIAS inspector?---No, I believe a water inspector, from memory.

So is this an inspector of minor works not major works or am I - - -?
---Major works for water mains.

Right. So - - -

THE COMMISSIONER: Not sewer.

10 MR STEVENSON: - - - fresh water?---Yes.

Yes. So not Mr Buckley's area, someone else's area?---No, Mr Buckley only works under the sewer and, yeah.

THE COMMISSIONER: The same area but a different part - - -

MR STEVENSON: So item 10 has got nothing to do with Mr Buckley?
---No.

20 All right. You can close that up now. Now earlier this year, around May, 2010, you were doing some work at, your company was doing some work at 29 Royalist Road, Mosman. Do you agree?---Yes.

And obviously Mosman was not in the inner west area?---No.
It's in the northern districts area, no, north coast area?---Right.

And you came across, didn't you, at that job an owner developer called Rique, R-I-Q-U-E Romero?---That's correct.

30 And is that a Mr or a Mrs Romero?---Mrs.

Mrs Romero?---Yes.

And you had a bit of a run in with Ms Romero didn't you?---Not really.

How many days were you, sorry, first of all, what was in brief terms the nature of the work you were doing at Ms Romero's property at Mosman?
---Minor works and water main, it's called a main to meter.

40 All right. So it's on her property?---Not on her property, no. In the nature strip.

Okay. In front of her house?---Yes.

She mentioned didn't she, complains she'd received from neighbours about your company, well you, spreading all your materials in front of her house and on the driveway?---She did.

She complained to you about that?---We had safeguards in the, in the, to hold in its position because she'd finished digging the excavation she had nowhere to put the soil. So we had really no room to move on that site.

How many days were you working there do you recall?---I was assisting ICAC at the time and I was popping in and out from the site, leaving at the time which I shouldn't of, an unaccredited personnel there.

10 Mr Wild?---Well, it wasn't while - - -

Mr Wild?---Sorry.

Was it Mr Wild?---He's just the operator, no. He's, he's only an excavator. It was my plumber, Anthony (not transcribable). Wild is just the, Mr Wild is, is just an excavator operator.

(not transcribable)?---That's all.

20 But my question was how many days were you there? How many days did the job take?---I can't recall.

Was it three?---Maybe more.

And Ms Romero told you that she was going to make a complaint about you to Sydney Water?---No, she never warned me about making any complaint.

THE COMMISSIONER: Is that delay, Mr Stevenson? I mean the fact is that Mr Aoun was helping ICAC with this, with their inquiry.

30 MR STEVENSON: Yes, I've been told that. There's no dispute about that, obviously.

THE COMMISSIONER: That rather diminishes the effect of the complaint.

MR STEVENSON: Well - - -

40 THE COMMISSIONER: Certainly in my eyes, this, these complaints that I understand Sydney Water could (not transcribable) having been told that Mr Aoun was otherwise occupied and had no bearing on their decision or should have no bearing on their decision how to treat him.

MR STEVENSON: I'm not aware of all the matters that you've mentioned, Commissioner, but I'll - - -

THE COMMISSIONER: So I'm just mentioning those now.

MR STEVENSON: Yes, thank you.

THE COMMISSIONER: Because I'm not sure what the purposes of this cross exam, this part of the cross examination is?

MR STEVENSON: It's to reveal a process which I'll come to shortly, which is relevant to one aspect of the matters Mr Payne (not transcribable)

THE COMMISSIONER: Very well.

10 MR STEVENSON: Now following the work done at the Mosman property you received further CARs didn't you?---Correct.

Five more?---Correct. Because I wasn't on site. Well, I was and I wasn't, my head wasn't all there on that site.

But the CARs all relate do they simply to your absence from the site?---I don't believe any of them do.

20 All right. I'm not going to ask you about the detail of the complaint, I want to ask you about the process that's been undertaken since then. The first step is you've got, your company got five CARs. Correct?---Correct.

And you're then given an opportunity to make a statement, make submissions to Sydney Water about whether the CARs are justified?---And we did.

Yes, I know?---Yes.

30 (not transcribable). And, Commissioner, I'm sorry, I only have one copy of this, I think.

THE COMMISSIONER: I think just proceed with the one, Mr - - -

MR STEVENSON: Yes. Can I show you, this is, this is an email that Mr Kevin Adams from Sydney Water sent to you on 25 August, 2010 inviting you to respond to the CARs?---Yes, it is.

I tender that.

40 THE COMMISSIONER: Can you tell me how to describe it, please, Mr Stevenson.

MR STEVENSON: Email from Mr Kevin Adams to Mr Aoun dated 25 August, 2010.

THE COMMISSIONER: P63 is the email from Mr Kevin Adams to Mr Aoun dated 25 August, 2010.

**#EXHIBIT P63 - EMAIL FROM MR ADAMS TO MR AOUN DATED
25 AUGUST 2010**

MR STEVENSON: And I'll show you this document. And do you agree that's your email of 26 August, 2010 to Mr Adams in effect setting out your arguments in relation to the five CARs?---Yes, correct.

10 And to be fair to you on the second page of that bundle at the top you do make reference to assisting ICAC with an investigation, with this investigation?---That's correct.

I tender that, I tender that document.

THE COMMISSIONER: Yes. Exhibit P64 is the email from Mr Aoun to Mr Adams of 26 August, 2010.

20 **#EXHIBIT P64 - EMAIL FROM MR AOUN TO MR ADAMS DATED
26 AUGUST 2010**

MR STEVENSON: And Mr Aoun, your understanding is that Sydney Water is considering the submissions you made in that last document and you are yet to hear from Sydney Water what, you're yet to hear anything from Sydney Water?---I was, I spoke to Pascal Delahoy. He told me that as far as he knew they were closed off.

30 THE COMMISSIONER: Sorry, they were closed - - -?---Closed down.

MR STEVENSON: And does that - - -

THE COMMISSIONER: Sorry, I beg your pardon, what was closed down?
---The corrective actions.

What does that mean, they were closed down?---That they, they're classified open and all the time until the response was good enough, sufficient and then they closed them.

40

So in other words that Sydney Water is satisfied that the appropriate corrective action had been taken?---Correct.

That's what you were told, by this man?---As far as he knew, yes, correct.

And he was?---Pascal Delahoy.

Yes, thank you.

MR STEVENSON: And so who is he?---A water servicing coordinator.

So how would he know what Sydney Water was doing?---Well, how would he, isn't he, he's a water servicing, a WSC, that's how he would know I assume.

10 All right. Well, you've heard, but you haven't heard from Sydney Water?
---I haven't heard, no. I called actually Ray Blinkhorne, I called, I called
him yesterday.

At Sydney Water?---Two days ago or something.

He's at Sydney Water?---Yes.

Yeah?---And he's aware that he's received everything and everything seems O.K. Nothing more than that but I didn't get into detail with him.

20 Would you excuse me for one second, Commissioner. Just two further
things. Yesterday you gave evidence to that Mr Danny Ghantous, I think
you thought he was, had said to you something to the effect that Mr Buckley
had it in for you, had it in for you or something along those lines?---This is a
while back, yes.

Are you sure about that?---(NO AUDIBLE REPLY)

30 Are you sure that Danny said that to you?---I don't his, his surname exactly
but yes, a character by the name of Danny that works at Sydney Water said
that to me, yes.

Well, I want to suggest this to you, that Danny Ghantous never said
anything to you about Mr Buckley, what do you say about that?

THE COMMISSIONER: Do you know Danny Ghantous is?---I don't know
his surname, sorry, Commissioner.

But do you know who Danny Ghantous is?---(NO AUDIBLE REPLY)

40 I know of a Danny that works at Sydney Water at the audit, not, at civil
maintenance in Bankstown that was working at Seven Hills depot.

All right. Mr Stevenson, perhaps you, we will later find out whether they
are one and the same person.

MR STEVENSON: I know there's no Brown v Dunne rule here but - - -

THE COMMISSIONER: No, no, no, no.

MR STEVENSON: But I'll put this question which - - -

THE COMMISSIONER: I mean I, look I, I'm not suggesting that you put the question because you have to but you seem to want to so - - -

MR STEVENSON: If the Danny was Danny Ghantous I'm suggesting to you that he didn't say it?---If he was Danny Ghantous he did say it.

10 I want to put this to you and this is a very serious question, it's a very serious proposition I'm going to put to you so just make sure you're clear about what I'm saying, you've given evidence about Mr Price saying to you that it was quite okay by Sydney Water to, or Sydney Water employees to receive gifts of alcohol?---No, we turn a blind eye to it.

Yeah. So just, just so we're clear, what do you say Mr Price said to you? ---That we know it's happening and we turn a blind eye to it.

20 All right. I think you agree or you said that you didn't tell Mr Price about Mr Buckley asking you for money or you giving money to Mr Buckley?---I never said anything about that, no,

So there was no part of the conversation you say you had with Mr Price, it wasn't any part of the conversation you say you had with Mr Price, I'll start again. The question is - - -

THE COMMISSIONER: He's given that evidence.

30 MR STEVENSON: Yes. The question of bribes wasn't raised between you and Mr Price?---I, none, as I said, I was very scared to say anything.

And you've explained why. I want to put this to you, that Mr Price has had no conversation with you where he said anything to the effect that Sydney Water turned a blind eye to the giving of alcohol and I'm suggesting to you, telling you Mr Price denies saying that to you, what do you say about that? ---I'm not dreaming these things. It's definitely, people I've been speaking to, Jim Price, when I spoke to him he gave me that response.

40 I want to suggest this to you, that the evidence you've given about that conversation with Mr Price is not truthful evidence?---It's correct.

Thank you, Mr Aoun.

MR PAYNE: Before Mr Aoun's lawyer rises to ask any questions I wish to ask a few further questions about this material that's been tendered by Mr Stevenson. It won't take long.

MR STEVENSON: Commissioner, I now agree I don't need to put anything to Ms Potts.

THE COMMISSIONER: Yes.

MR STEVENSON: There's been no, contrary to what I've put to the witness that she wasn't there.

THE COMMISSIONER: Are you seeking an admission from me, Mr Stevenson?

10 MR PAYNE: I think that's the you started it rule. Mr Aoun, you've got some documents in front of you and I just want to ask you a few questions about them. Document P60 first of all, it's called the Standard of Service Provided and it's the note that Mr Hammond provided. Have you still got that in front of you?---I don't think so.

I'll ask that you be shown P60. Now this is not your document and you hadn't seen it prior to today I take it, no, no, I made the wrong note, the Standard of Service Provided I note that that is P59, I apologise.

20 THE COMMISSIONER: The Standard of Service Provided is P60.

MR PAYNE: P60 is the one I'd like him shown, please, yeah.

THE COMMISSIONER: P60 according to my notes is the minute by Mr Hammond.

MR PAYNE: We're in furious agreement, Commissioner. So this is the note prepared by Mr Hammond dated 12 November, 2007. Do you remember being asked some questions about this document?---Correct.

30 And you hadn't seen this document before today?---No.

I want to draw your attention to one thing, in the second paragraph you'll see James Miller, legal adviser, now he wasn't at this meeting obviously? ---No.

40 So this wasn't said but it records that Sydney Water was going to focus at this meeting on the Castlereagh Street, Liverpool property and you remember giving some evidence I think at the outset to Mr Stevenson you thought this meeting was about Castlereagh Street, Liverpool because that's what they were asking you about, correct?---That's correct.

And at the bottom you agreed with Mr Stevenson that words to the effect in the conclusion were said to you and they were going to take action if you failed to implement appropriate construction and safety processes and my question is this, shortly after this meeting it's true, isn't it, that Mr Hammond went with you to the property they were talking about, Liverpool, at Castlereagh Street, Liverpool and tests were conducted? ---Correct.

And you were given a clean bill of health by Sydney Water and Mr Hammond in particular in 2007 about this matter?---That's correct, yes, I did.

10 Can I ask you then about P61, the folder, do you still have that in front of you? That's the Non-Inner West Corrective Actions folder. So my first question to you is of these matters in blue which are highlighted I suggest to you it was only those matters concerning Castlereagh Street, Liverpool which were the subject of this meeting with Mr Hammond in 2007, do you agree?---Yes.

And the second thing I want to ask you about, in 2008 you remember being shown the pink highlighting, I think four pink highlighted CARs?---Yes.

20 I want to suggest to you that Mr Ian Barnes, a senior officer of Sydney Water, came out and spoke to you in 2008 and said to you in effect you were doing well and you complied and that there would be no further action about these matters as well?---Yes, he did.

There was an audit, I'm putting, just so we're clear, I'm putting to you in 2008 there was what they call an audit by Sydney Water conducted by Mr Barnes. Correct?---That's correct.

He came to you, he discussed the CARs, there was further discussion about your work in general and that you were told in effect in the end that Sydney Water was satisfied with your work in 2008?---And with yes, he did and he also then reissued the tender to us and I thought - - -

30 Yes.

THE COMMISSIONER: Can I tender that?

THE WITNESS: And that's just the, to continue on doing construction.

THE COMMISSIONER: I don't understand. Why do you put it to tender?

40 MR PAYNE: Sorry. It's the accreditation you're talking about?
---Accreditation, yes.

THE COMMISSIONER: He reissued the accreditation?---Yes. When it came up for renewal.

MR PAYNE: Yes.

THE COMMISSIONER: And when did it come up for renewal?---2009.

After this audit had been done, the audit by Mr Barnes?---Yes.

MR PAYNE: Yes. So after the audit by Mr Barnes in '08 I suggest to you that he said to you your work was now of an acceptable standard and the accreditation was renewed in 2009?---Correct.

And between those pink highlighted 2008 CARs and the ones you were taken to about the Mosman job which I'll come to in a minute Aoun Construction received no CARs at all. Correct?---That's correct.

10 Just in relation to that job P64 if you might have that in front of you which is your response to Sydney Water of a few weeks ago, 26 August, 2010. Your attention was drawn to page 2 but also on page 3 if you go to it at the top, just have a quick look at that. And at page 4 at the top if you look at it. I suggest to you that your principal response to the complaints made in the CARs was that you recruited personnel, namely you, was under great pressure from ICAC to assist them with an investigation and that that is your principal explanation for the problems that were raised in this job?---That's correct.

20 I have nothing further, if the Commission please.

THE COMMISSIONER: Mr McIlwaine.

MR McILWAIN: I would like the opportunity of discussing some of these issues.

THE COMMISSIONER: How long do you need?

MR McILWAIN: Just a few moments to speak to him.

30 THE COMMISSIONER: A few moments?

MR McILWAIN: Five minutes, ten minutes.

THE COMMISSIONER: Mr Payne, were you going to say something?

MR PAYNE: I was. There was an issue earlier about Mr Tannous but I know understand from the cross-examination from Mr Tannous that the evidence will be very short. If acceptable we can do that, I don't know
40 whether Mr McIlwaine wants to see - - -

MR McILWAIN: (not transcribable) I can take instructions.

MR PAYNE: So we can interpose Mr Tannous and then finish with Mr Aoun.

THE COMMISSIONER: So you will be asked some further questions by your counsel Mr McIlwaine but he needs to talk to you first so can you please leave the witness box and we will hear from Mr Tannous.

THE WITNESS STOOD DOWN

[12.33pm]

10 THE COMMISSIONER: You may be seated, Mr Tannous. Mr Eurell, you're acting for Mr Tannous?

MR EURELL: Yes, thank you.

THE COMMISSIONER: Do you want me to make a section 38 order?

MR EURELL: Thank you, Commissioner.

20 THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Mr Tannous 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 TANNOUS 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 Tannous, do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

40 MR TANNOUS: Oath please.

THE COMMISSIONER: Yes, Mr Payne.

MR PAYNE: Mr Tannous, what's your full name?---Mr John Tannous.

10 And can I take you to 2006. You were involved in a development at 20
Nicholas Avenue, Concord?---That's correct. It was a renovation of my
property.

And Mr Khare Aoun and Aoun Constructions, accredited constructors with
Sydney Water were involved in some sewerage works at that time on the
property?---That's correct, yes.

20 The arrangement between you and Mr Aoun's company for payment was in
effect a barter system in that he was doing work at cost in relation to
plumbing and you have an IT background and you were assisting him in
relation to various IT requirements that his company had?---That is correct,
yes.

Payments were made by you in cash from time to time as required for the
purposes of the job by Mr Aoun?---To the best of my recollection it was a
payment on completion. That's the best, that's what I remember.

But that you accept don't you that it is likely that as the work progressed
you made some, in effect, some progress payments in cash to Mr Aoun?---I
don't exactly remember but it could be possible, yes.

30 Yes. And you heard, you were present in court when Mr Aoun was giving
his evidence and you heard him accept what your lawyer had put namely
that it was possible that Mr Aoun said to you, I need \$500 for Sydney Water
and that you gave it to him in about June 2006?---I, I would, I suppose I'd
remember something like that but I don't exactly know, he would've asked
me for money but I don't know if it was to the effect of - - -

40 THE COMMISSIONER: You say you would've, I get the impression that
you don't actually remember what was said?---That's exactly right. I don't
know, he would've called me up asking for money and I would've just
given it to him.

MR PAYNE: So you think, you're doing your best, you don't remember,
you're reconstructing and he asked you for \$500 and he was doing the work
on the property, your best reconstruction is that you'd have given him that
money?---That's probably what happened, yes.

And you don't recall him saying anything to you about the money being involved in any bribery or a Mr Buckley?---That's correct, yes, I don't remember.

Yes, I have nothing further for this witness.

THE COMMISSIONER: Any questions?

10 MR McILWAINE: Sorry, Commissioner, I'm a bit at a loss, I wish to make it clear for the witness. I wish to ask him some questions. Can I just make it clear for you, Mr Tannous, you've heard - - -

THE COMMISSIONER: You better say who you represent?

MR McILWAINE: Sorry, I represent Mr Khare Aoun. You're aware of the evidence in the statement of Mr Aoun of 16 November where he says in relation to your job he told you he had, in effect he told you he had to pay Mr Buckley and you provided him \$500 in cash?---I don't remember that conversation.

20

Do you deny the conversation?---Sorry?

Do you deny the conversation?---Yes, I do.

When you gave, but you agree do you not that you did have conversations both with Mr Aoun and workers on your job about the fact that Mr Buckley is a person who would be looking for a payment? Do you agree at that?---I remember the name Buckley and I remember that they were always disgruntled about this person Buckley but that's really where it went in terms of that.

30

But it went a bit further didn't it?

THE COMMISSIONER: Mr McIlwaine, - - -

MR McILWAINE: Sorry, I withdraw that comment.

THE COMMISSIONER: Mr Aoun as I understand it accepted in his evidence that he may not have mentioned Mr Buckley or that Mr Buckley asked him for \$500 as a bribe. Now, what's the point of your cross-examination now?

40

MR McILWAINE: I just want to take him to, I'll leave that.

THE COMMISSIONER: Any other questions? No. You may be excused, Mr Tannous. You're excused.

THE WITNESS EXCUSED

[12.39pm]

THE COMMISSIONER: Can we recall Mr Aoun, Mr McIlwaine?

MR PAYNE: Sorry Commissioner, Mr McIlwaine stayed and I had thought he was going to talk to him outside. But - - -

10 THE COMMISSIONER: All right. How long do you need Mr McIlwaine?

MR McILWAINE: Five minutes.

THE COMMISSIONER: We'll adjourn for five minutes.

SHORT ADJOURNMENT

[12.40pm]

20 MR McILWAINE: Commissioner, I have no questions for my client.

THE COMMISSIONER: Yes. That means that Mr Aoun can be excused.

MR McILWAINE: Excused, if the Commission please.

THE COMMISSIONER: Mr Aoun is excused.

THE WITNESS EXCUSED

[12.46pm]

30 MR PAYNE: Commissioner, I call Mr Mahmoud. And I understand there's an Arabic interpreter who is necessary for him to accept Exhibits.

THE COMMISSIONER: Where is Mr Mahmoud and the interpreter.

MR PAYNE: Sitting here I have - - -

40 THE COMMISSIONER: Be seated Mr Mahmoud. And the interpreter? Do we need to swear in the interpreter, are you swearing the interpreter?

MR PAYNE: Yes.

<RAMIA TAK TAK, sworn

[12.48pm]

MR LEWIS: Commissioner, could I seek authorization to represent the witness, please?

THE COMMISSIONER: Yes, Mr Lewis. Does Mr Mahmoud wish to be sworn in?

MR PAYNE: Yes.

THE COMMISSIONER: Please swear Mr Mahmoud in.

THE COMMISSIONER: Does that need to be, that might need to be translated.

MS TAK TAK: Oh no, it's all right (not transcribable)

10 THE COMMISSIONER: All right. Mr Mahmoud, did you understand the oath?---I did, yes.

MR PAYNE: Mr Mahmoud, what is your full name?---Khaled Mahmoud.

And what is the company you're associated with which is an accredited constructor with Sydney Water?---Pharaohs Plumbing.

MR LEWIS: Commissioner, I'm sorry to interrupt, was the declaration made?

20 MR PAYNE: No.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Mr Mahmoud 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 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 MAHMOUD 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 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

40 **PRODUCED.**

THE COMMISSIONER: Thank you, Mr Lewis.

MR PAYNE: Mr Mahmoud, you participated a few weeks ago in an examination before this Commission and there has been a transcript prepared and I understand you've been given a copy and had a chance to look at that prior to giving your evidence today?---Yes.

Can I show you the document.

THE COMMISSIONER: Are you tendering that?

MR PAYNE: I tender that document.

THE COMMISSIONER: Yes. P65 is the transcript of Mr Mahmoud's compulsory examination.

10

**#EXHIBIT P65 - TRANSCRIPT OF MR MAHMOUD'S
COMPULSORY EXAMINATION**

MR PAYNE: Can I just by reference to that document I'll ask you some questions and if at any time you don't understand my question or if I ask you to read something and you'd like the interpreter to explain it to you, please let me know and I'll stop and give you whatever opportunity you need. Can I take you first of all, just, just to ask you some questions about
20 Pharaohs Plumbing. You're both an accredited constructor doing major sewerage works for Sydney Water and you also do plumbing work from time to time?---(not transcribable)

And in that, if I can just concentrate on that for a moment, in that plumbing work you interact regularly with Sydney Water inspectors, they were from the PIAS division of Sydney Water and as you understand it they're now moving to the Fair Trading Department of New South Wales?---Yes.

In addition of course when you do major works you were involved with,
30 your works would be inspected so far as sewerage is concerned by people from the maintenance department of Sydney Water and in particular Mr John Buckley?---Correct.

Pharaohs Plumbing conducts business in a number of different parts of Sydney?---Yeah. Well, I, we operate from one part but we work everywhere.

Yes. So so far as Sydney Water is concerned you have a wide experience - -
-?---Correct.

40

- - - of dealing with Sydney Water operatives. For how long has Pharaohs Plumbing been an accredited constructor of Sydney Water?
---Approximately ten years.

And for how long has Pharaohs Plumbing conducted plumbing, what I've called minor plumbing works inspected by the PIAS or P and D inspectors?
---We've been doing it for about 13 years, not, we're not, we stopped doing it for about three years or reduced it. We're more focussing on doing minor

and major work, for the past three years we haven't been doing a lot of plumbing.

So you've been focussing on the major works?---And the minor, yeah.

I see. Can I ask you to turn, I've been given a document with special numbering but can I ask you to turn to page 228PT, you'll pick up the page numbering in the bottom right-hand corner?---I don't have that page.

10 Can you see the bottom right-hand corner, that there are numbers?---Yeah.

I'm asking you to look at 228 and then it says PT, do you see that page?
---Yes.

You've been asked questions here and there are line numbers down the left-hand side of the page at about, between the ten and the 20 on the left-hand side, you're being asked questions about Mr John Buckley?---Yeah.

20 When did you first meet Mr Buckley?---When did I first meet - - -

When did you first meet him, yes?---A shop in Bass Hill about ten years ago.

And since that time you've had regular interactions with him?---Yeah.

And on occasion you have paid him cash?---Yes.

30 Can you indicate the circumstances, first of all, how many times have you paid him cash?---About three or four times.

And in what amounts, do you remember?---20, 50.

And did you ever have a discussion that you recall with Mr Buckley about this payment of cash?---No.

40 Well, when to the best of your recollection was the first time that you paid him cash?---I can't remember a exact date, I only gave him a small amount of money because he comes early sometimes, we'll ask him to come early to witness a connection which has allowed me to disuse my workers and finish the job early.

So I'm not suggesting there's any quality problem with the work - - -?
---Okay.

- - - just so we understand one another but your evidence is you paid him money in effect to do a favour for you to come earlier than - - -?---The appointed time.

- - - otherwise appointed? And how would you arrange for him to come, you would ring him?---Ring him.

And upon the favour being performed you would give him cash in front of everybody else or would you go somewhere private to pay him?---It doesn't make any difference, I just, I give him money as a thank you whether it was \$20 or \$50. I don't recall that was anybody that with me at the time or me giving him money.

10 And I just want to explore with you a few of your answers. If you can look down the page that we've had open 228PT?---PT.

You were asked questions by the Assistant Commissioner on that occasion?---Yeah.

The effect of that question is why did you pay him. I think your answer was he done a favour and you say, "I didn't feel there was anything wrong with it." I'd like to just take that up with you if I could?---Sure. Yeah.

20 You knew didn't you that paying money to public officials like Mr Buckley to give them cash in the performance of their duties was not an acceptable practice didn't you?---Well, first of all that when I gave them money that was after then, inspection has been done unbiased and what I meant they given him thank you money that's, that's a common practice that I deal with delivery, coming to my home, it's like tips, you pay for a good service at restaurants.

THE COMMISSIONER: What service was Mr Buckley giving you?
---Coming early to, we, we would - - -

30 When he's come early?---Yeah.

So did he do you a favour?---Yes.

So you paid him money because he did you favours?---Yeah, thank you, yeah, like get yourself beer or coffee or something.

He could come late if he wanted to?---He could (not transcribable).

40 And that could cause you harm?---That cost me money, yeah.

So you gave him money so he would come early?---Yeah.

MR PAYNE: You think there was, just looking down that page at line 40 just for a moment?---Yep.

You think you paid him three or four times and that the maximum amount you gave him was \$50?---That as much as I can remember.

Do you remember anything else about the amounts paid? So the maximum was 50, what was the minimum?---20.

And you think three or four times?---Yeah.

And he would accept this money from you?---Yes.

10 There was never an occasion when he said Mr Mahmoud, I'm simply doing my job, there's no need to pay me?---No.

And you're quite certain, you realise it's a solemn occasion, you're quite certain you never had any discussion at all about money with Mr Buckley? ---Never.

Was there any occasion when you rang him and asked him to come early and do you a favour that you didn't pay him?---I can't, no, I can't remember.

20 So on all of the occasions when you were seeking a favour from him you'd make sure that you would pay him?---I can't remember. Maybe I didn't have money at the time. I don't know.

But certainly as you sit here you can't remember any occasion when you sought a favour from him that you didn't pay money?---Oh, sorry, I can't understand that question.

30 I'm just really testing whether there was any occasion that you remember where you'd sought a favour yet didn't hand money over. Did that ever happen?---It did happen, but I can't recall exactly when the time happened.

THE COMMISSIONER: Sometimes he came early without you paying him?---Yes.

MR PAYNE: And you say you don't remember when that happened. But do you remember whether there was then any discussion with Mr Buckley? ---No.

40 Did you ever buy him other presents other than giving him cash?--- Christmas, I usually hand people with bottles of alcohol at Christmas time.

Yes. Mr Mahmoud, I'm a little puzzled about this because you do work in areas of Sydney other than the inner west. You agree?---Yes.

And I take that the sort of favours you would ask of John Buckley to come early, you would ask other Sydney Water inspectors to come early from time to time and do you a favour?---Yes.

Why didn't you pay them money?---Why did I - - -

Why didn't you pay them money as well or did you?---Most of my work, like I would say 90 per cent of my work around Bankstown area, because that's where I live.

90 per cent did you say?---Yeah.

10 I see?---90 per cent of my work around Bankstown area, close to my office, close to my, and I don't recall that how many time when I'm working outside of this area that I ask other inspectors to come earlier. Which is, it doesn't happen so often that we finish the job more then appointed time. It's actually we more then likely we finish later. But not many occasion that we do finish earlier and that's when we ask - - -

Well, in terms of finishing later, would you also ask for a favour from Mr Buckley to get him to come back when you've actually finished to inspect the work?---Sorry?

20 If you'd made an appointment at say 2 o'clock?---2 o'clock, yes.

And what you've just said to me is if you hadn't finished the work at 2 o'clock when Mr Buckley arrives, would you then ask him for a favour, please John, come back at 4 o'clock?---Yeah, yeah, sometimes we - - -

And would you make a payment to him on those occasions?---I would, not that I recall, but if I feel that he went out of his way to help me, I would've give him money to say thank you.

30 All right. So the 20 or \$50 you've told us about on three or four occasions, you said 90 per cent of your work is in the Bankstown area. Is it possible that you paid Mr Buckley 20 or \$50 on more then three occasions?---It's possible.

Doing the best you can, can you estimate what the number of times you've made payments is?---Four or six.

40 And do you have a clear memory of these occasions? Can you, can you actually remember - - -?---No.

Can you tell me what jobs were involved with the payments of money? Where you'd ask for these favours and pay money?---One, one major work when we need to connect earlier then the time that is indicated. But are you asking for specific addresses or - - -

Yes, that's what I'm asking. Can you remember any specific address?---No. Every job, every day is a new job for me and every day is a new address.

Yes?---It's very hard.

THE COMMISSIONER: Mr Mahmoud, you must have given, you must have had experiences in other parts of Sydney not just the inner west where inspectors did you favours. Did you pay them?---No.

Why not?---Because it's not my, maybe it's one favour every different other areas. But I don't work outside of Bankstown area actually much.

10 What I can't understand is why you paid Mr Buckley for doing you favours but you didn't pay any other inspector for doing you favours. What was the difference between the inspectors?---I, I see more, he comes out to my work more. Because I do most of my work around his area.

MR PAYNE: Would you describe your relationship with Mr Buckley as a close relationship?---No. I don't see him out of the work area. Only I met him when is inspection time.

20 Do you do water connections as well as sewerage connections?---Yeah, yeah.

In the Bankstown area no doubt if you needed a favour you would ask the water inspector for a favour as well. Correct?---No. You can't, with water, no, you can't.

30 I see. It's only sewerage that favours can be done?---Yes. Because water is appointed time that given five hours it start and finish is determined by Sydney Water. And you can't ask for favours. This is your five hours (not transcribable).

I see so sewerage, there's a greater discretion in the inspectors so far as sewerage is concerned about when they do things is there? That they have a, they have a greater freedom to decide the time?---Yes. Because connection for the sewer is not affecting anybody else.

I see?---But in terms of the water, you turn off the water for the whole area.

I see. So it's much more regulated if you like. Much more confined?---Yes.

40 Can I - - -

THE COMMISSIONER: Mr Payne, I think we might adjourn.

MR PAYNE: I see the time, I'm sorry. 2 o'clock?

THE COMMISSIONER: 2 o'clock.

LUNCHEON ADJOURNMENT

[1.07pm]