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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 FRIDAY 10 SEPTEMBER 2010

AT 2.10PM

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

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

THE COMMISSIONER: Mr Vecchio, could you be seated?---Yes, your Honour.

<ANTHONY VECCHIO, on former oath

[2.15pm]

THE COMMISSIONER: Mr Payne.

10 MR PAYNE: Mr Vecchio, so that we're clear I've determined not to ask you for that list of names and for my part I have no further questions, Commissioner.

THE COMMISSIONER: Yes, thank you. I don't think there are any other questions to be asked of Mr Vecchio. Mr Vecchio, sorry that you had to wait til now, but your evidence is completed and you may leave the witness box. You're discharged from the summons?---Thank you, Commissioner.

20 **THE WITNESS EXCUSED**

[2.15pm]

MR PAYNE: Commissioner, I call Robert Pascoe.

THE COMMISSIONER: Mr Pascoe, are you legally represented?

MR PASCOE: No, I'm not.

30 THE COMMISSIONER: You're not. Please be seated. I propose to make the same order about your evidence that I have made for every other witness, which is to your benefit. You've been in the hearing room and you've heard me make it.

MR PASCOE: Yes.

40 THE COMMISSIONER: Yes. Pursuant to Section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Mr Pascoe 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.

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

Now Mr Pascoe, do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

10

MR PASCOE: I'll give it under oath.

THE COMMISSIONER: Yes.

THE COMMISSIONER: Mr Payne.

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

And you've made a statement in this matter?---I have.

10 Can I show you this document? That's a statement dated 11 November, 2009 made by you?---Yes.

You've had a chance to examine it in recent days?---Yes.

Are there any corrections you wish to make to the statement?---No.

And do you say that the contents of that statement are true and correct to the best of your knowledge and belief?---Yes, I do.

20 Commissioner, I tender the statement.

THE COMMISSIONER: Yes. Mr Pascoe's statement of 11 November, 2009 will be Exhibit P79.

#EXHIBIT P79 - STATEMENT OF ROBERT PASCOE

30 MR PAYNE: Mr Pascoe, can I ask you first some general questions about your role. You're a water services coordinator?---Yes, I am.

When did you become an accredited water services coordinator with Sydney Water?---2007, early 2007, I believe.

And to become an accredited water services coordinator do you need to have particular qualifications?---Well, I did the role for Sydney Water as a field auditor for about 20 years prior. And I was made redundant because of a back injury. And I hadn't worked for a while and the company has contacted me, then I was listed to do this sort of work.

40

And as a water services coordinator is it fair to describe the role as in effect an outsourcing of part at least of the audit function in relation to connections to Sydney Water facilities?---You could say so, yeah.

Water services coordinators enter into a written agreement with Sydney Water?---Yes.

As part of their accreditation?---Yes.

And water services coordinators have a role in managing the process of connections to the Sydney Water sewerage system?---Yes.

One of the things you can do is issue Corrective Action Requests?---Yes.

Or you can have them issued to you by Sydney Water inspectors?---That's right.

10 As a water services coordinator performing, I think in a shorthand way, you agree with me this outsource function, a water services coordinator have interactions with Sydney Water at an official level?---Yes.

And they're called Water Service Coordinator forums aren't they?---Yes.

How regular are they?---Every three months I believe.

And who attends?---Water Servicing Coordinators, everybody from, somebody from each company.

20 And from Sydney Water?---Yes.

Who attends?---Well, I'm not sure what these people are called but it's people from the development section.

Of Urban Growth?---Yes.

So some names I'll suggest to you. Mr Purcell does he attend such forums? ---Yes.

30 Mr Price?---I haven't seen Mr Price there. I've only attended three of those meetings.

I see. And who from Sydney Water was present on those occasions? ---Well, Mr Purcell was and to be honest I don't know all the people, Ray Thompson was at the last one that I went to. Caroline Rae.

And at these forums have issues related to probity and Sydney Water inspectors been raised in your presence?---At the last, the last one I went to, yes.

40 Can you tell the Commissioner what was said and by who?---I brought up the subject of Mr Buckley that, how would I put it, that I could - - -

How did you put it?---I did, I put it that I couldn't work with the man anymore, that he wasn't approachable with the work, that he was demanding money for work that in my opinion was properly done and he was holding work up and when I first put it to them they didn't put it on the agenda, they instead had Sydney Water's private investigators explain to us the

procedures to go through to get these things done and once that was told that's when I got up and said that I had done that the previous year and nothing had happened.

Taking it one step at a time. What was the approximate date of this WSC forum?---It was in May.

2010?---Yes.

10 And when you said you had done the things the year before to what do you refer?---I'd spoken to the Sydney Water investigators.

Who did you speak to?---Can I look through here and - - -

Of course, yes?--- - - - and look at his name? Sorry, I can't find it in here.

Yes, I wasn't conscious of it being there?---No.

20 To what are you referring though?---When I met the investigator, I know I met him at Maroubra and I spoke to him and I do know his name but it just - - -

THE COMMISSIONER: Which investigators?---The Sydney Water not people from here.

MR PAYNE: In approximately what month was that in 2009?---That would've been about July.

30 Before or, just to orient ourselves, before or after the tape recording that you refer to in your statement that Mr Joseph Nasrallah took of (not transcribable)?---It was after that, I took that to him.

I see. And you met a Sydney Water inspector at that time (not transcribable)?---Yes.

I see?---I reported it to Paul Saxby and Paul Saxby sent the investigator to meet me.

40 Yes. I see. There is another interaction between Water Service Coordinators and Sydney Water called the External Quality Council. Are you aware of that?---No.

You've never been a member obviously?---No. I'm only a field representative, I'm not a designer so I only receive the plans and make sure it's - - -

I see. You're drawing the distinction between some Water Service Coordinators who actually design the work and then supervise its

construction and those like you who simply supervise the construction with somebody having designed it?---Yes.

I understand. Can I ask you to look at the statement P79 and I'm not going to take you though all of it but I'm going to ask you to amplify some of the matters here.

10 THE COMMISSIONER: Sorry, Mr Payne, before you go on, I'm interested in, in this, in the evidence that Mr Pascoe's just given, are you going to take Mr Pascoe through that again or expand on that?

MR PAYNE: I was, Commissioner, when I came to, he deals with Mr Nasrallah and the complaint and then it stops there.

THE COMMISSIONER: At later stage, yes.

MR PAYNE: I was coming to back to it in that, in that context - - -

20 THE COMMISSIONER: Thank you.

MR PAYNE: - - - with it being reminded in that background.

THE COMMISSIONER: Yes.

MR PAYNE: Mr Pascoe, you had a lengthy career as you mention with Sydney Water and in paragraph 3, if I can draw your attention to that, you say you were doing the same job as Mr Buckley except in the Wollongong area?---That's right.

30 So is the Commissioner to understand by that that this, I know technically they're not inspectors, but this, as part of the maintenance department, this inspection function of constructors' work, that was something that you were doing?---Yes.

40 And you, yet you only met Mr Buckley once, was that because there was not much interaction - - -?---There was no interaction between, well, we were in Wollongong, I don't know about the Sydney area but we had a meeting once at a Padstow store where they got everybody in that did this sort of work and we had a, a day's discussion on the way we did things and how things were done and that was the only time in my time there that we ever actually all got together and did this.

Prior to leave in August 2006, and I know it is some time ago, are you conscious of having received any training or instruction from Sydney Water about probity issues concerning your inspection function?---Never.

And in your time you were at Wollongong and as you say you didn't have much overlap but, but had you, had it ever been suggested to you that some

inspectors in the Sydney area are maybe taking cash payments from constructors?---I didn't really hear it.

You hadn't heard of that?---No. The only time we ever had anything to do with the fellows up here was if we needed to know something about a new constructor or a new designer, a new WSC that came to work in the area and, and that was only because we just needed a bit of background information on them to make sure that they did the right work, that's, that was about it.

10

Can I ask you about paragraph 7 of your statement, if you can open that just for a moment. You say from the moment you became a Sydney Water coordinator in '07 I think that is you told me - - -?---Yes.

- - - you were advised by numerous sewer constructors and other coordinators that John Buckley was forcing constructors and developers to pay him money. Can you elaborate on any particular instances of this information that you received at that time?---What do you mean by elaborate?

20

Well, other than what you've set out later about particular conversations about particular jobs, you say that the moment you became a coordinator you were in effect flooded with this information about Mr Buckley, is that what you're trying to convey?---Well, about 60 per cent of my work was in Mr Buckley's area.

I see?---And people just said to me that he made life difficult for them, that, I considered myself to have good knowledge of the system - - -

30 Yes?--- - - - and that - - -

This is the Sydney Water system?---Yes, the way things are constructed and built and, to their standards - - -

40 Yes?--- - - - having done that for the period of time that I did and people just started saying to me that he made things difficult, he would just pick on little things and from my experience now was that, is, that they would give him some money so that it didn't make the job go longer so we didn't have the people on the job longer and so that the developers or whoever the clients were screaming down their neck which has happened to me.

And just dealing with that topic for a moment. You may have heard there's been a deal of evidence about the affect of a CAR on a job and whether there can be delays and so on occasioned by the inspector picking fault and issuing CARs. Is it your evidence to the Commissioner that such delays can occur when a CAR is issued?---Yes.

And is it your evidence that, that if the CAR is not resolved there can be a problem in obtaining the issue of a Section 73 certificate?---Yes.

And that's been your experience both as an inspector and subsequently as a water service coordinator?---Yes.

10 Can I just take up just for a second about paragraph 7. You hadn't heard about Sydney inspectors accepting cash payments prior to coming, becoming a water services coordinator. You'd been told by these people that Mr Buckley was doing that. You did have a background with Sydney Water and you'd been an inspector yourself, did you suggest any form of redress to these people within Sydney Water that they could take this matter up with somebody?---Not straight away.

At the time did you know who they should take it up with?---No.

20 And there was nothing in your training background or experience as a Sydney Water inspector that prepared you to know who might deal with allegations of this kind within Sydney Water?---I possibly could've found out through channels of people that I had worked with in Sydney Water. I, I had been in, I did work up here at times, I didn't work, I was the OH&S chair person for over 20 years for network services. So I'm sure I could've found out.

Well, I suppose Mr Pascoe, why didn't you? What stopped you?---Why didn't I?

30 Yes?---Because the majority of the constructors didn't want to upset the applecart. They didn't want to be involved in anything like that. They just wanted to get in and get their work done and get out of the place.

THE COMMISSIONER: Do you have any idea why they didn't want to act to get to, to raise the issue?---Maybe they just figured it was too hard.

Well, what made it hard?---I don't know if you realise, but for someone like me or some of these constructors to go through something like this is quite daunting.

40 I know, I understand that. But I'm really asking about why they didn't raise it with Sydney Water?---I really can't say. The first person that wanted to do something was Mr (not transcribable)

I take it - - -?---I've said to them - - -

I take it that Sydney Water is less intimidating then ICAC or maybe it isn't?---Yes. But I said to, once it was, once I considered it was getting out of hand I started suggesting to people that if they wanted me to do something I would be quite happy as long as they were willing to

participate. And this is what happened, Mr (not transcribable) was the first one who was willing to. And no, I didn't say, don't get me wrong I didn't say it to everyone that I worked with because I - - -

No, I understand that. I'm - - -?---I wasn't always aware.

Mr Pascoe, I'm more interested in the reason why the, why they were reluctant to, for you to report it?---I couldn't honestly say.

10 So - - -?---But they felt, I think they felt that one on one that their word wouldn't stand. Because after I realised, I don't know if I should say this, but after I realised that this was happening quite frequently, I started suggesting it and these people were ready to, were prepared to go along with it. Because most of them - - -

Sorry, you said - - -?---Prepared to go, keep going along with the status quo.

20 The constructors were?---Because most of them don't do a lot, they're in and out of the area. They're not, you know, they work in so many different areas and - - -

Were they nervous about repercussions to their position?---Yes. I believe so.

And why do you believe that? Was it something they said to you or - - -? ---Well - - -

30 Or do you infer it from the situation?---Yeah. It was probably more inference, but we were licensed by Sydney Water, so, I mean there was, I don't think there was ever any threats or anything. I really can't say.

Yes. I'm not, there's no evidence of threats or I'm not sure that's right? ---Yeah.

40 But certainly at the stage we're talking about there is no evidence of threats. The, so why would they be concerned about repercussions to them? Is that just a fear based on the situation rather than anything that anybody said or did?---Definitely, yeah, nobody said or did anything it's just the way I read it from the people I was suggesting it to that they didn't want to rock the boat, that was - - -

They didn't want to rock the boat. And I gather from, and please correct me if I'm wrong or this isn't strictly accurate, part of the reasons for not doing so was that they thought they could jeopardise their own accreditation? ---Yes.

Because they may not, it might not be believed?---Yes.

And even if they were believed the information might not be welcome?---I don't know if it was that so much it was just that it's, it was probably more effort to do that.

They wanted to avoid trouble?---Yep, than to just - - -

I understand. Yes, thank you.

10 MR PAYNE: Mr Pascoe, you deal in paragraphs 11 to 15 about a development at 97 Queens Road, Five Dock?---Yes.

And I think Mr Khattar was the authorised constructor on that job for his company?---Who?

Mr Alan Khattar?---I can't remember the name to be honest.

I see?---The developer of the site is it, the builder of the site or the constructor of the sewer?

20 I'm sorry, I'm terribly sorry, I've misled you. It was - - -?---Williams Brothers.

Sorry, it was Mr Kennedy, I'm terribly sorry, not Mr Khattar, Mr Kennedy?---That built it?

The gentleman who gave evidence this morning Mr Kennedy?---I wasn't here this morning but there was two constructors on that, there was first the temporary line then there was the second one and you're probably right, yes.

30 You don't remember who it was in any event?---In the second one I think it's in my diary.

Well, on your paragraph 14 the only thing I was going to draw to your attention was you put in inverted commas a conversation with the sewer constructor, I was going to ask you who it was but what you're telling me is you don't know?---No, I can't remember. It was (not transcribable) just a company name and I'm sure I've got it written in my diary who it was and that's been furnished.

40 If you don't recall I won't ask you anymore questions about it?---No, I'm sorry.

Then can I ask you about paragraphs 16 to 21, the Croydon job involving a Mr Peter Lanigan of Templemichael Constructions?---Yes.

You've recorded a conversation you had in paragraph 18 with Mr Lanigan, I just wonder did you make a note of it at the time?---No, I didn't.

Why do you have a recollection in particular of this conversation, is there something about it that surprised you?---Because it was extremely pedantic.

This is that the concrete encasement was too wide and too high?---Yes.

So you remember that issue on this job then do you?---Definitely do, yes.

And so you thus remember this conversation with Mr Lanigan?---Yes, I do.

10 And when he said to you, "John said he would let it go this time because I gave him a gift" what if anything did you say to Mr Lanigan?---I think I probably responded, Good, didn't need any more headaches with these sort of minor things that don't - - -

THE COMMISSIONER: Mr Pascoe, did you not regard it as your obligation to pass this on to Sydney Water?---As I've said to the investigators at the time when I did these interviews at first I would just turn a blind eye so I could get the work done for the client and then it got to the stage where it outraged me.

20

Yes. I mean the notion that somebody has to pay to get work that is essentially in order passed is, is something that I would expect would outrage you so was your relationship with Sydney Water such that you were really, that they would rely on you to tell them about this or not?---I should have.

But I'm really interested, I understand that, Mr Pascoe, I want to make it clear that I'm actually interested in slightly different things than your own personal attitude to all of it, I'm really trying to understand your relationship with Sydney Water. What, what did you have to do for Sydney Water as a WSC?---I have to ensure that the work's done to standards and it's done correctly.

30

And you have a contract with Sydney Water?---I've never signed anything.

Are you regarded as an employee of Sydney Water?---No.

So you're an independent contractor - - -?---Yes.

40 - - - as a WSC?---Yes.

And what is your job as a WSC?---My job as a WSC is to make sure that the plans are correct for the job, that the job is done correctly to plan, that the job is done safely, that the job is done so it doesn't damage the environment.

And Sydney Water relies on you to do your best to monitor all those things? ---Yes.

But what about ethics? The ethics of the people who you monitor, whose work you're monitoring? Doesn't Sydney Water rely on you to monitor that as well?---Yes.

Why do you say yes? Were you - - -?---Because that's true.

Is that, were you expressly told this or was it an - - -?---No, no.

10 - - - an implicit part of your job?---I've always tried to be ethical and that was the thing that burnt at me, I did that job for 20-odd years myself and I considered my, that I did it ethically.

Yes?---But I also saw this as something that I needed not just myself to report it, I needed - - -

I'm trying to get to the bottom of this because I find it really difficult to understand why it is that everybody knew what was happening - - -?---Well, there's - - -

20 - - - and didn't report it to Sydney Water?---Yes, but there's also, you know, getting the job done and that was, and I was prepared to turn a blind eye to that for a certain time until it burnt me up enough and I can understand where you're coming from and I can't give you an answer.

I mean, because it actually doesn't affect only Sydney Water, it affects the contractors, especially those who are not earning a huge profit, I mean the, the gatekeepers here are a very important part of the system, aren't they? ---Well, it affected me moneywise also because I work for, I don't just work for one company, I work for four or five companies and it got to the stage in, in Mr Buckley's area that I had to tell the people that employ me that if I checked a job and I found it to be okay, which I went first and I go to the job regular, that if Mr Buckley knocked the job back and gave us a CAR then I would go back to the job and make sure it was right for nothing. I didn't, I couldn't charge them for my time to go there just to keep good faith so I still had work to do.

Did you know who in Sydney Water you had to, you should report corrupt conduct to?---Not at the time I didn't.

40 Did anybody at Sydney Water ask you to report any instance of bribery? ---No. I, look, I know it's wrong and I should have been the one sooner because I worked within the organisation for so longer and, and if you work in an organisation for 34 years it's not just a job, it's your life and I still treat it that way, that I've got a lot of people that, that I've worked with for a long time and they're still my friends and I, I not only felt that I let Sydney Water down, I felt that I let myself down and that's why I've come forward.

I appreciate that, Mr Pascoe. But - - -?---I'm sure that if I had of felt as deeply about it as I did later on, I know I should've come forward sooner. And I know I could've found out who to talk to, but - - -

10 I understand that. Look, I, I'm, as I say, I'm not, I don't mean to be disrespectful to you, I'm more interested in the broader picture than you as an individual in this. I understand your position and it's highly relevant. But I really, what I would like to know is does the whole, does the, did, was anyone else in a position as you were to have found out what, on behalf of Sydney Water who, who was in a position to know what Mr Buckley was doing and to report it to, to the right people in Sydney Water?---It's hard to know who the right people are because I'm sure there's, I found out eventually who to report it to.

Who was that?---I reported it to Paul Saxby.

20 But as between you inspectors, sorry, as between, well as, as between Mr Buckley and Paul Saxby, there was you who could've found out what he was doing and reported it. Was there anyone else who could've reported, found out and reported it?---Was there somebody that could've done it other than myself you mean?

Yes?---I'm sure there probably was.

30 Like who? And if you don't want to mention names, can you just tell me about the, the official who was, whose duty it might've been to have done this or to have investigated or to have checked what was happening?---Well, no I don't, I can't. But what I can say is that when I did bring it up at the Sydney, at the forum, there was other WSCs who, who said, we've been telling you about this man for years. And I hadn't been, I'd only been to a couple of those forums so I wasn't aware.

Yes, thank you. Yes, Mr Payne.

MR PAYNE: I'll just take you up on one thing that you said in the exchanges with the Commissioner. You said you didn't sign a WSC contract. I thought at the outset - - -?---I did with my company.

40 Your company signed one?---Yeah. I signed one for my company. I'm not sure of what the paperwork is, but it's, it is probably a Sydney Water document, now that I think back on it.

I see. And I just wanted to ask you (not transcribable) the questions that the Commissioner has been asking you. At the time you entered into this role as a water service coordinator, what training was provided to you by Sydney Water about what they expected if any?---There was questions put to me on the job. There was a, a letter sent to me to say that when I first started that I'd been accepted as provisional.

Yes?---And then after almost three years I was taken off the provisional list and I'm not provisional now. There was probably notification given, but as I've heard a lot of the other contractors say, I probably didn't read the fine print. So, but there's been very little training. My, my training was my experience.

10 And just in terms of this how to find, you identified Mr Paul Saxby and then ultimately an investigator I'm going to ask you about later. Was there any training of that nature about who to go to in the case of allegations like this when you took on the job as a water service coordinator?---No. I'm pretty sure there wasn't.

Can I then ask you about your statement at paragraph 22 and 23. And I think just to be clear we're talking about Percy Street at Auburn rather than Perry Street aren't we?---Yes.

20 And that's a Mr Ryan. Were you here when Mr Ryan gave his evidence?
---I was.

In paragraph 23 you set out a conversation that you said you had. You remember me asking some questions of Mr Ryan and he denying that. Do you have a clear recollection as you sit here today of that conversation?---I do.

And you say as you already said that Mr Ryan said that to you. Did you say anything back to him after he said, "I have looked after him"?---Probably only, Good.

30 For the same reasons that the Commissioner was exploring with you earlier about the (not transcribable) - - -?---Yes.

- - - of Mr Lanigan?---Yes. This was a job we had a lot of pressure on.

I see. Can I then ask you about 17 Juno Parade, Enfield and that was a job involving Mr Devereux and his company Perfect Pipes?---Yes.

40 In relation to that job did you form a view about the appropriateness of Mr Buckley's suggested corrective actions at the job?---The - - -

Mr Buckley was suggesting corrective actions of various kinds at the Juno Street job?---Yes. Yes.

What did you think about what he was suggesting?---I thought they were very pedantic and it was just, he was just trying to stand over us.

And just by pedantic so that the Commissioner, is this part of the evidence that the Australian Sewerage Code looks like a telephone book?---That's right.

And it's got a number of very proscriptive requirements and I want to suggest to you that some of them are essential and a number of them raise matters of discretion for the water authority concerned?---Yes.

10 And that's been your experience both at Sydney Water and subsequently?
---Yes.

And so that an inspector in insisting on the strict letter of the Code sometimes will be perfectly justified in doing it and other times common sense would suggest that there be modification?---Yes. Yes.

And that an experience operator such as yourself has got a pretty good idea where the line lies in terms of absolute requirements and things that are discretionary?---Yes.

20 Would you agree that the constructor is then in a position, very powerless position dealing with an inspector who insists on the strict letter on every occasion because of the discretion he's exercised against that constructor, there's not much of a comeback because they can, the Code can then be shown?---It can, it could be that way.

30 And that might be at least in part the explanation for why these constructors were prepared to pay Mr Buckley to get on with their lives because if they fought about the strict interpretation they might ultimately be vindicated but it was ultimately discretionary and Mr Buckley's view may have prevailed despite it being unreasonable in your view?---Yes.

I'm going to ask you about Sherwood Street at Revesby which circling back to the questions I asked you at the outset that's the job with Mr Joseph, Yousef Nasrallah?---yes.

Where ultimately he recorded Mr Buckley and sent a copy of that recording to you?---Yes.

40 Can I just ask because your statement ends at paragraph 42 with your report to Mr Saxby. I wasn't aware that you then had interactions with Sydney Water about this matter and even though you can't remember the name of the gentleman can you tell the Commissioner as best you can what took place in effect after the end of paragraph 42? You found Paul Saxby, you sent him the recording, what happened next from your point of view?---The following day the investigator called me and asked me to, when I could meet him.

THE COMMISSIONER: The Sydney Water investigator?---The Sydney Water investigator, yes. And I had a job at Maroubra that day so I met him there. We met in a coffee shop and had a coffee and we discussed it, he took my statement and it went from there. When he took my statement he told me something like this would have to be reported to ICAC and I said I'm quite happy for that to happen. And he was, he went on from there.

10 MR PAYNE: You said he took your statement, it's not this document here that we're looking at, P79 is it?---No, he, he took a story, he took, I told him about what happened at Sherwood Street.

I see. And did you sign a statement on this occasion?---I don't think I did.

THE COMMISSIONER: Did you sign a statement with Sydney Water? ---I'm not sure, I couldn't be, I, I did give him a statement and I, but I can't remember if I signed it or not.

20 MR PAYNE: If there is one present I'd call for a copy from Sydney Water, if one is present. Did you have any further interactions with Sydney Water about this topic of the Joseph Nasrallah, Buckley situation other than the WSC forum that we discussed at the outset of your evidence?---No, because I called him back again.

Called the inspector back?---Yeah.

Yes?---Barry someone, I can't, I'll get it.

Barry McClure?---Barry McClure.

30 That's his name?---Mmm. And I called him back again and asked him and he just, he, I'm pretty sure he said to me that he won't be doing anymore it's in the hand of ICAC now so I didn't have anymore to do with him until the WSC forum.

And so this is two days after the, you'd passed the tape on so we're talking about the end of July 2009?---Yes.

40 Can I just ask you a few questions about that. Were you in the room when Mr Ryan was giving his evidence earlier this week?---I was.

You remember that he says that you were the person that told him that ICAC was investigating and tapped telephones of Mr Buckley. Is that true? ---I didn't tell him that there was telephones tapped because I didn't know but I possibly told him I did, I told a couple of people that were doing work that I was dealing with, that were doing work in Mr Buckley's area because I didn't want anybody else to be involved. I didn't elaborate I just said there's an investigation.

Did you tell him about the tape that Mr Nasrallah had taken of Mr Buckley?---I possibly did.

Excuse me one moment, Commissioner. I have no further questions for this witness.

10 THE COMMISSIONER: Mr Pascoe, I just want to come back to something that you said, I'm not sure if I have got the picture completely. You said that when you first came to Sydney and you encountered Mr Buckley you'd heard that people had reported him to Sydney Water?---There was a rumour around not when I first come after a time when I was doing the WSC work, there was a rumour around that there had been a previous investigation.

When did you hear that, when did you hear this? Can you put a year on it? ---No. It was, no, I couldn't put a year on it I'm sorry but there was a rumour around amongst the constructors that some developers had hired a private detective or whatever, an agent to follow Mr Buckley and video him.

20 I see. But there was no, you'd heard nothing to the effect that Sydney Water had carried out some investigation about - - -?---No.

And had you heard, did anyone tell you that Mr Buckley had been reported to Sydney Water for receiving money?---Part of the, part of the rumour was that the recording had been sent to Sydney Water.

But you don't know?---No.

It's just a rumour?---Yes.

30 And did any, no one said to you that certain people had reported Mr Buckley to other people at Sydney Water?---No, I'd only heard of the rumour.

So the first time to your knowledge that any report was made was the report that you were involved in?---Yes.

40 And when you did report him nothing was said to you that led you to believe that anybody knew anything about it, anyone at Sydney Water knew anything about Buckley or was something said to you that led you to believe that they'd heard this sort of thing before?---No, I don't believe anybody said that other than what I'd said.

And you reported it to whom, to Mr Saxby?---Yes.

And then you had a meeting?---Yes.

And what happened at the meeting?---I gave a statement.

A written statement?---I spoke it and he wrote it down.

Is this the meeting with the, with the investigators?---Yes.

Is that the only, did you meet anybody else from Sydney Water to tell your story to?---No.

Just this investigator?---Yes.

10 And that's because, and this happened as a result of you speaking to Mr Saxby?---Yes.

And he said to you I'll send you, I'll send an investigator to speak to you? ---He didn't say that to me, the, once I told Paul Saxby the investigator then rang me.

So does Sydney Water have investigators?---I believe so.

20 What do they investigate?---I've got no idea, he just gave me a card which I've still got at home.

Is there a, is there a kind of a department in Sydney Water, an investigation department?---All I knew is when this gentleman came out and showed me his card. He contacted me and I met him on (not transcribable).

What did his card say? Did it say investigator?---I can't be, I've got the card at home, I've kept it.

30 All right. We might perhaps find this out later?---Okay.

Sydney Water investigative division?---It may not have said that but - - -

MR PAYNE: I think Mr McClure is from the internal audit department and, Commissioner, you'll be hearing from Mr McClure.

THE COMMISSIONER: All right. Now who is going to cross-examine Mr Pascoe? Mr Lee?

40 MR LEE: I have no questions, Commissioner.

THE COMMISSIONER: No questions. It looks, Mr Stevenson, that you're on your own.

MR STEVENSON: I'll do my best. I'm the barrister for Sydney Water. I want to ask you some questions of a more general nature right away from the Buckley matter for a moment. At paragraph 4 of your statement, do you have it there, you mention a number of participants in the activities that we're dealing with here. You mention the, the developer, constructor and

sewer and water designer, the sewer and water designer and the water services coordinator?---Yes.

If I can just ask you some questions to make sure I understand how they all fit in. Obviously the property owner or developer is the person who owns the property which is to be connected to Sydney Water's sewerage system? ---Yes.

10 That's the idea, for example, by constructing a block of home units, is that a typical example?---Yes.

Now, it's the property owner or developer that engages the constructor, is that right, to do the work?---Most of the time, yes.

20 And is it the property developer that also engages someone like you, the water services coordinator?---They organise, it's not always that way. They will get a consultant to oversee the whole job, the consultant will then pick a designer, all designers aren't necessarily water servicing coordinators but most designers are in, they work within a, a company that has a water servicing coordinator so that the water servicing coordinator then forwards on paperwork and so forth to Sydney Water and then it comes back and the job continues from there.

So the developer engages the consultant?---Yes.

The consultant engages a company which might have within its structure a water service coordinator and a designer?---Yeah, yes.

30 So that company could provide both those services?---Yes.

So is this right, that strictly speaking it's wrong to say that the constructor does work for Sydney Water, the constructor does work for the developer, is that, is that a more accurate way of putting it?---Yes.

Although - - -?---But they're approved by Sydney Water to be a constructor.

And because they do work on Sydney Water's infrastructure?---Assets, yes.

40 And have to do that work in accordance with Sydney Water's rule and regulations?---Yes.

All right. Now, I think it's fair to say that you now regret not coming forward earlier?---My word.

And can I suggest this or ask you this, when you left Sydney Water in I think August 2006 you left on happy terms?---Yes.

You thought you were well thought of by Sydney Water?---Yes.

I'm not suggesting anything to the contrary?---By most people anyway.

And you have lots of mates at Sydney Water?---Yes.

And I think you'd agree now that you could have and indeed ultimately did find out who in Sydney Water you could complain to about Mr Buckley?
---Yes.

- 10 Can I suggest this to you, that you were particularly well placed as a former Sydney Water employee who was an inspector to find out where in Sydney Water that complaints should be made?---Yes.

You'd agree with that. But was this the problem from your point of view, that you felt you couldn't make the complaint without the authority of the constructor in question?---Yes, yeah, not so much the authority.

But permission?---With their backing.

- 20 And in the four instances that you've told us about in your statement, did you speak to the constructor in question and ask them whether they'd back to if you went to bat for them at Sydney Water?---Not all of them, no.

So which ones did you, can you remember?---I, I couldn't, it may not have been these ones, I couldn't exactly say that it was one of these ones that I spoke to but there are, there were other contractors that I said, said, did say it to but I couldn't say that it was these ones that I've named, these were just jobs that stuck in my memory.

- 30 And ultimately it was when Mr Yousef Nasrallah spoke to you about Mr Buckley's conduct that you found someone who would back you to go to Sydney Water?---Yes, he actually approached me.

And ask you to go in to bat for him?---Yes.

And did the fact that he had Mr Buckley on tape as it were weigh in the balance of whether you went forward or not?---Definitely.

Because you had some corroborative evidence - - -?---Yes.

40

- - - you thought to - - -?---Yes.

All right. And is this right, that when you approached Sydney Water with Yousef Nasrallah's complaint they reacted so far as you could see very quickly, didn't they?---Yes.

And ultimately it led to Mr McClure speaking to you at Maroubra and taking the statement that you'd referred to?---Yes.

And he told you that so far as he knew Sydney Water would be referring the matter to ICAC forthwith?---He said he was obliged to.

Yes. And did you ever hear when it was after that that Sydney Water did refer the matter to ICAC?---I, I can't give you a timeframe but I was contacted by ICAC pretty quick and it was before I gave my statement, Michael Riashi rang me up.

10 Your statement is dated 11 November, 2009, are you saying you were approached quite some time before that?---Yes.

And so far as you could see from the timing of the approach that you had from ICAC Sydney Water had reacted probably to your complaint and referred the matter to ICAC as Mr McClure - - -?---Yes.

- - - said he felt obliged to do?---Yes.

20 At the water service contractors forum that you mentioned as having occurred in May 2010, you may have answered this, but can you recall who from Sydney Water was present?---I can't, I have an email that came to me, the minutes were sent to me after the meeting, I can supply that, but I can't remember offhand, I don't know the people.

Right. So the people from Sydney Water who were there were not known to you?---Not all of them, no.

Was Barry McClure there for example?---Yes.

30 He was there?---Yes.

So one person you recognised as being at the May 2010 Sydney Forum was the bloke who told you the previous July that he was going to refer Buckley to ICAC?---Yes. Yes.

And did it occur to you that the fact that Mr McClure made no substantive response to the inquiries about Buckley, it might have something to do with the fact that the matter had been referred to ICAC?---Can you ask me that again, please?

40

I think you said that you raised the Buckley matter at the May 2010 - - -? ---Yes.

- - - Forum. I think you said that others mentioned his name as well?---Yes.

But I think you said there was no positive response received by the meeting from the Sydney Water people about Buckley at that meeting. Is that - - -? ---Yes.

Did it occur to you, having had your conversation with Mr McClure the previous July that there might be some connection between Sydney Water's response in May, 2010 and (not transcribable)?---They told me that they were, they were told by ICAC not to do anything til the investigation was finished.

When did they say that to you?---They said it at that meeting.

10 Thank you.

THE COMMISSIONER: Thank you, Mr Pascoe. You're excused- - -?---
Thank you.

THE COMMISSIONER: - - - from giving evidence. And thank you for your help.

20 **THE WITNESS EXCUSED** **[3.11pm]**

MR PAYNE: Commissioner, I call Joseph Doogue.

THE COMMISSIONER: Mr Doogue, you're not legally represented?

MR DOOGUE: I am.

THE COMMISSIONER: You are?

30 MR DOOGUE: Yes.

THE COMMISSIONER: Come forward.

MR BROYDEN: (not transcribable) solicitor for (not transcribable)

THE COMMISSIONER: Are you seeking leave to represent Mr Doogue?

MR BROYDEN: Yes, Commissioner.

40 THE COMMISSIONER: Yes, you have that leave. Do you want a Section 38 order?

MR BROYDEN: Yes, please, Commissioner.

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

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR DOOGUE AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HIM TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

Mr Doogue, do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

20 MR DOOGUE: Under oath, please.

THE COMMISSIONER: Mr Payne.

MR PAYNE: Mr Doogue, what's your full name?---Joseph James Doogue.

You participated in a compulsory examination before this Commission on 27 August, 2010?---That's correct.

10

Can I hand you a copy of the transcript which I tender if the Commission, please.

THE COMMISSIONER: Yes. Copy of the transcript of the evidence given by Mr Doogue at a compulsory examination on 27 August, 2010 is Exhibit P80.

20

#EXHIBIT P80 - COPY OF TRANSCRIPT FROM MR DOOGUE'S COMPULSORY EXAMINATION

MR PAYNE: Put that to one side for the moment, Mr Doogue. I want to cut to the chase with you if I can. I want to suggest to you that in relation to a job at the former Bass Hill Drive-In site, you on behalf of Green Civil, an authorised constructor arranged payment of cash to Mr John Buckley, an inspector from Sydney Water. Do you agree?---Yes.

30

And we'll come back to the detail in a moment. I want to suggest to you that in the last year you on behalf of Green Civil, an authorised constructor of Sydney Water arranged a cash payment which was made to Mr Bryan Kane, an inspector from Sydney Water?---Yes.

And I think I put to you, but just to be clear, you believe that both payments were in the amount of approximately \$300?---That's correct.

40

And just so that we're clear about this matter, during the examination which is P80, you told the Commission that no money had been paid to Mr Buckley by you. Correct?---Yes.

And having reflected on the matter you've come forward and you accept that the evidence you gave to the Commission on that occasion was untrue and now you're telling the Commission the truth. Correct?---That's correct.

Can we just examine each of the payments. The first in relation to the Bass Hill, the former Bass Hill Drive-In project where Mr Buckley was the inspector, can you tell the Commission in your own words your involvement in the payment made to Mr Buckley?---We had an inspection

on the job and before the inspection was ever done, I gave him money and then after the inspection was done, I had to spend two days to repair works that he wasn't satisfied with. So I don't know why I even done it later.

You don't know why - - -?---I don't know why - - -

- - - you paid him?---Yeah, because after our inspection I had to spend two days doing the repairs that he wasn't satisfied with. The work that I had done he wasn't satisfied with.

10

For how long has Green Civil been an authorised constructor?---Probably Green Civil, five, six years, Green Civil.

And how long have you been associated with the company?---The same amount of time, longer.

THE COMMISSIONER: Is it your company Mr Doogue?---No. No, Commissioner.

20

MR PAYNE: And was this payment made at the Bass Hill, the former Bass Hill Drive-In site, is that the first occasion that you had paid Mr Buckley? ---Yes. It was the first job I ever done for Mr Buckley.

I see. And what caused you to make the payment, Mr Doogue?---Because I heard he was very strict with his, with the work (not transcribable) and I thought in case, give it to him it might be a sweetener for me, but in the end it wasn't.

30

And did you consider making any further payment given how difficult Mr Buckley continued to be?---No.

And did you, is this the only payment you say you've ever made to Mr Buckley?---Yes.

Can I ask you about Mr Kane? Again, you arranged a cash payment to him of approximately \$300?---Correct.

That was earlier this year?---Correct.

40

Do you remember the job that was involved?---Yes.

What was it?---It was a job out at (not transcribable) Schofields area.

Do you remember the address?---It's, it's off Schofields Road, it was actually, I don't think there was no number to there, to the job as such. Schofields Road, it's, the job I think was called number 32, it was a Section 32 or something like, that's what it was called.

Off Schofields Road?---Off Schofields Road, that's correct.

And what was being constructed there?---We were doing sewer.

And as part of a major development?---That's correct.

And Mr Kane was the inspector?---That's correct.

10 How did it come about that you paid him \$300 in cash, Mr Doogue?---We had to do the connection to a large sewer and the connection had to be done because there was a storm water system going over the top of our sewer. And if I didn't do it, the sewer couldn't be, the storm water pipe couldn't of been installed or the road couldn't of been constructed. So I rang Mr Kane and asked him to come out and I showed him what was happening, like and explained could I do the connection. And I explained exactly what was happening (not transcribable) and he gave me permission to do it, 'cause otherwise the job couldn't of been, it couldn't proceed as such unless we went to higher channels or the companies went to higher channels.

20 And I understand so far, but why pay him \$300? What, what caused you to pay him \$300?---Probably to get the connection done.

Because what you were asking was in that grey area of discretion that the inspector had was it? It was strictly against the Code what you were asking him to approve?---It was but in hindsight I probably wish we could've probably took it further because the road had to be constructed, this connection had to be done, like couldn't it wait till the end of the job, it had to be done, it would hold the whole job up.

30 THE COMMISSIONER: Mr Doogue, did you pay him the \$300 before he agreed or after he agreed?---When I met him I explained the job, I give it to him then, Commissioner.

MR PAYNE: And then he agreed and you did what you needed to do and the job went forward?---I think he probably would've agreed either way 'cause it was common sense like to get the job done.

THE COMMISSIONER: He didn't ask for the money you just offered it?
---I, correct, Commissioner.

40 MR PAYNE: You offered it hoping for a favourable outcome obviously, namely an exercise of discretion to permit you to do something that within the strict terms of the Code may not have been permissible. Do you agree?
---I'm not familiar with the terms such but it probably was just to get the job done.

And I think you said you paid Mr Buckley as a sweetener because he had a reputation for being picky which he lived up to even after you'd paid him

the money you say?---Just a waste of time anyway, I still had to do my repairs that had to be done so - - -

Yes. Other than these two payments that you have identified of \$300 one to Mr Kane and one to Mr Buckley have you ever paid cash to a Sydney Water inspector?---Never (not transcribable).

10 Mr Doogue, if I may say if you've been doing this for six years you'd agree with me it seems a little unlikely that this came out of the blue these two payments of \$300. Would you agree?---No, because Mr Buckley only, I only ever done one job with Mr Buckley, our company only ever done one job and that was the only job, I have never done any since.

I see. And Mr Kane obviously you knew him prior to this time, you've done other jobs in the Hills (not transcribable)?---Yeah, other jobs done, yes.

20 And you knew him well enough to ring him up and ask him to come out?---I don't think I ever had done it before, ask him to come out it was just this one where the pit was situated and I had to get him out to have a look at it.

And the payment was made in the circumstances you've identified. And the Schofields job can you give me a month earlier this year when the payment was made?---Probably eight, nine, eight weeks, eight weeks ago, when the job probably started probably eight weeks ago, seven weeks.

I see?---Roughly.

30 So very recent memory, seven or eight weeks ago and \$300 was paid?
---Correct.

Excuse me one moment, Commissioner.

THE COMMISSIONER: Why did you feel free enough to offer the money to Mr Kane?---I've worked heaps with Mr Kane and I never offered the man nothing before, like it was just this situation I was in - - -

40 You mean it was such an urgent (not transcribable) situation?---I took it on my own shoulders to do it, it's stupid in doing it like but I could've - - -

I understand, Mr Doogue.

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

THE COMMISSIONER: Yes. Mr Lee?

MR LEE: I do have some questions, Commissioner. Mr Doogue, I represent Mr Buckley. Do you understand that?---Yes.

You said that after you paid Mr Buckley some money that you spent two days repairing some issues with the job?---That's correct.

The issues that Mr Buckley found with the job you didn't think they were unreasonable did you?---Not me personally.

This was the first time you had been on a job in contact with Mr Buckley?
---Correct.

10 Mr Buckley came out to the job about three times?---Yeah, three to four times, it's in around that, no more.

There was nothing about Mr Buckley's behaviour on the occasions where he came to the job which made you think that he was grooming you to pay him money in the event of any future jobs with him. Is that correct?---Not me personally, yes, that's correct.

Nothing further, Commissioner.

20 THE COMMISSIONER: Yes, Mr Harris.

MR HARRIS: Thank you, Commissioner. Mr Doogue, I'm appearing for Mr Kane?---Yes.

Just on this recent job you mentioned \$300, there was some urgency in that one was there?

THE COMMISSIONER: He's already said all that, Mr Harris.

30 MR HARRIS: Yes, all right. Have you never had urgent situations involving Mr Kane before over the years?---No.

All right. Thank you.

THE COMMISSIONER: Mr Habib?

MR HABIB: I'm sorry?

THE COMMISSIONER: Do you have any questions?

40

MR HABIB: Nothing, Commissioner.

THE COMMISSIONER: Thank you, Mr Doogue, you may be excused.

MR STEVENSON: May I ask a question?

THE COMMISSIONER: Sorry, I beg your pardon, Mr Stevenson.

MR STEVENSON: You've forgotten me already. I'm the barrister for Sydney Water. You said in your examination on 27 August that you were an employee of Green Civil?---Correct.

But you're not a shareholder or director?---No.

You're not one of the owners?---No.

10 Who are the directors, who are your bosses?---My bosses?

Who are they?---Mr Quinn.

And what's his full name?---There's father and son, there's Kevin Quinn and Eugene Quinn.

20 And did they give you any instructions about whether you should make payments to Sydney Water employees if you thought it was necessary to get a job done quickly?---It was the situation that I was in with Mr Kane out at Schofields that I spoke about and that's the only, the only time like as such with Mr Kane 'cause I had to get it done.

I'm focusing on Mr Kane. Did you pay him out of your own money or did you - - -?---No, I got money from the company.

Who did you speak to to get money from the company?---I spoke to my boss, my employer Mr Quinn.

And did you tell him what you needed the \$300 for?---Yes.

30 What did you say to him?---I said I needed to get the job done 'cause I needed to get a pre-connection into the existing manhole which usually you can't get so and I explained that to my boss, I explained the same to Mr Kane.

So did you tell Mr Quinn that you needed to pay \$300 to Mr Kane to get the job done?---It was just a figure that came up, it wasn't 300, 200, it could've been 50.

40 But was the figure of \$300 your idea or Mr Quinn's idea?---Well, it came from Mr Quinn, yes, we had to, it had to be done.

So you were having a problem with Mr Kane, you rang Mr Quinn your boss?---No, I was having no problem with Mr Kane, I just done it off my own back to give it to him. I need not probably give it to him.

It was your idea was it to pay some money to Mr Kane?---Well, I probably brought it up first thinking to myself and then I talked, talked to my boss.

Did you tell Mr Quinn that you thought it would be a good idea to pay some money to Mr Kane?---Yes.

And what did Mr Quinn say about that? I agree did he say?---Well, he got the money.

Okay. How did you get the money, did Mr Quinn - - -?---I got the money from Mr Quinn.

10 What, did he come out and give it to you on the site or did you go and get it from him, what happened?---I got money off off him.

Well, where was he in relation to the site?---He's never on site Mr Quinn.

If you're on the site - - -?---I'm the, yeah, I'm on site all the time.

Where was Mr Quinn when you asked him for money to give to Mr Kane? ---He would've been at his office.

20 Yes. Where is that?---That's at Wetherill Park.

And how far away from the site was that?---Wetherill Park it's probably half an hours drive.

Did you drive to Mr Quinn to get the money?---I had the money before on me.

THE COMMISSIONER: You've gone to Mr Quinn beforehand to get it? ---Yes, I had the money previous.

30 MR STEVENSON: So had you before you went to the site got money from Mr Quinn in case you needed to pay a Sydney Water employee?---Yes.

So your idea that you might have to pay money to Mr Kane came to you before you went to the site?---That's correct.

And you said to Mr Quinn, You better give me some money so that I can pay the Sydney Water employee a sweetener?---Yes.

40 THE COMMISSIONER: But you'd been to the site before because, I mean you could see, well, or am I wrong, I thought you'd gone to the site, realised it was a difficult problem and then gone to see Mr Quinn - - -?---This problem was hanging around for a couple of days.

And you were working on the site?---Yes, correct, 'cause there's different sections on the site that I could work and continue my work.

MR STEVENSON: So how did you know that you might need to make a payment to Mr Kane?---Just in case he refused in maybe giving me the connection.

So you suggested to Mr Quinn that Mr Quinn should give you \$300 so that you could give it to Mr Kane as a sweetener?---Yes, I don't know who came up with the amount whether it was me or Mr Quinn for the exact amount. I ended up getting \$300.

- 10 You had a discussion with Mr Quinn did you about how much money would be necessary?---Yes, there would've been a discussion, yes.

This was only a few weeks ago, isn't it?---It's probably eight weeks ago, yes.

So did you have a discussion with Mr Quinn about how much money he should give you in case you needed to make a payment to Mr Kane?
---I probably said, I probably said \$300.

- 20 Did you?---Yes.

And did Mr Quinn seem shocked by your suggestion?---Of course any boss would be shocked, like, looking for money like, yeah, but as I explained, the job had to be done like and- - -

In effect, weren't you saying to your boss, look, I need \$300 from you so I can pay a bribe to someone from Sydney Water? That's the effect of what you- - -?---When you say it like that, yes.

- 30 Well, that's, that's how it was?---It's, yeah, I did.

Well, did Mr Quinn seem taken aback by that suggestion?---He was shocked, like, yeah, but- - -

What did he say?---I don't, I can't recollect exactly what he said, like.

Wouldn't he say, Joe, I'm not going to do that?---Obviously he did do it. I can't, honestly, I can't just remember the words exactly that were said. I just got the money and I give it to Mr Kane.

- 40

Well, did you need to persuade Mr Quinn to give you money to give to Mr Kane?---I didn't need to persuade him.

Well, how was it, you made the suggestion, he agreed without hesitation. Is that what happened?---It wasn't without hesitation. He agreed after we're having a, after we had discussed it and I explained the type of work, the type of work I've had to do and the job I had to get done.

And you made the payment to Mr Buckley earlier than the payment to Mr Kane, didn't you?---That's correct.

And you may have said this, but around approximately when did you make the payment to Mr Buckley?---Mr Buckley, that job was in July I think '09 so July, probably August, probably about three months later when the just was coming to, was at completion, three to four months later.

10 And did you have to speak to Mr Quinn about whether you should make, pay a bribe to Mr Buckley?---Same as this.

Well, did you have another discussion with Mr Quinn then about how much should be paid?---The figure, same figures came up like.

So is this the case, that in both these cases you thought you might need to make a payment, a bribe to a Sydney Water employee. Is that right?---Yes.

So you spoke to your boss, made that suggestion to him. Right?---Yes.

20 He agreed?---Yes.

And he gave you the money to pay the bribe?---Correct.

THE COMMISSIONER: Yes, thank you Mr Doogue. You are excused?
---Thank you.

THE WITNESS EXCUSED

[3.32pm]

30

MR PAYNE: Commissioner, I call Robert Rogers.

THE COMMISSIONER: Be seated, Mr Rogers. Ms McGlinchey, do you want the usual order?

MS McGLINCHEY: Yes, thank you, Commissioner, if you'd make that the order.

40 THE COMMISSIONER: Pursuant to Section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Rogers 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 been produced.

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

10

Mr Rogers, do you wish to give your evidence under oath or do you wish to affirm the truth of- -?---Affirmation, please.

THE COMMISSIONER: Mr Payne?

MR PAYNE: Mr Rogers, what's your full name?---Robert Rogers.

And until February this year you were as PIAS inspector with Sydney Water?---Correct.

10

You're now on redeployment within Sydney Water?---Correct.

What's your current position?---I'm currently working logistics driving a forklift and a truck.

You participated in a compulsory examination before this Commission on 25 August, 2010?---Correct.

20

I'll show you a transcript of that examination which I tender, if the Commission please.

THE COMMISSIONER: The transcript of Mr Rogers' evidence at a compulsory examination on 25 August, 2010, is Exhibit P81.

#EXHIBIT P81 - COPY OF TRANSCRIPT OF MR ROGERS' COMPULSORY EXAMINATION

30

MR PAYNE: Mr Rogers, for how long were you a PIAS inspector? ---Approximately five years.

So 2005 until the beginning of 2010?---March 2005 till 2010.

Yeah. And prior to March 2005 were you employed as a licensed plumber? ---I was working as a project supervisor.

40

But you have a licensed plumbing qualification?---Correct.

Have you ever worked as a licensed plumber?---Yes.

In the Sydney Water area?---Yes.

And from what period did you work as a licensed plumber?---I think I started in 1986.

And during, you started in 1986 and left to become a project manager when?---I became a project manager in 2000.

And so for those four years as a licensed plumber you had interactions with what was then called the P and D (not transcribable)?---Ah, sorry, from 1987- - -

Yeah.---?- - -to 2000.

10 1987 until 2000 you had interactions with the P and D?---Correct.

During that time was it your habit to make cash payments to P and D inspectors?---Never.

Have you ever heard of that practice?---I've heard rumours but that was it.

Well, what rumours did you hear?---Rumours many many years ago.

20 What was the nature of those rumours?---I think in those days it was a redback.

Forgive me, what's a redback?---A redback is a \$20 bill.

And you heard rumours that it was common to pay \$20 as a plumber to a P and D inspector, did you?---There was only the one.

The one what?---Inspector.

30 Who was that?---His name at the time was Joe Lechair.

And is that person still employed by Sydney Water?---No, he's long retired.

And taking you forward then to the time that you became a PIAS inspector, was it to your knowledge, well, first of all did you ever accept cash payments from licensed plumbers whilst a PIAS inspector?---No.

You never accepted a payment from a licensed plumber. Are you quite sure about that?---Yep. Yes.

40 Have a look at page 200PT at line 10. You're asked this question, "Have you ever in the course of your employment with Sydney Water accepted any payments?" "Yeah, I accepted payments. In the later stages of investigations the plumbers would have to provide what they call sewer service diagrams, they had problems. I used to draw the diagram in my own time and they would pay me for that." Do you see that?---Correct.

That was a truthful answer?---Yeah. I only got the payment for producing a diagram.

Well, it was a cash payment in the course of your employment with Sydney Water from a licensed plumber. Do you agree?---Yes.

So what you told me a few moments ago was untrue, was it?---No, I didn't understand that question like that 'cause this is when I provided them with a drawing.

10 Well, let's just examine that for a moment. The Sewerage Code of New South Wales. Have you ever heard of that?---Yep.

That, that requires you as a PIAS inspector to check those diagrams, doesn't it?---It only requires you just to make sure that they are to scale and they indicate is shown on the diagram.

20 You are required to check that the work he's done is in accordance with the diagram and if you're not satisfied you can reject the job. Correct?---No. It has to comply with the Code of Plumbing Practice. The diagram is only indicative.

So the diagram doesn't make any difference at all, you've got no authority over that?---No, the, the diagram does make a difference.

And part of your inspection duties involve inspecting the diagrams. Correct?---I suppose so, yes.

Well, you know so, don't you?---Yes.

30 Well, Mr Rogers, you understand that this is a solemn occasion, it's not a talk show. Do you understand that?---Yes.

I'm asking you questions about corruption within Sydney Water. Do you understand that?---Yes.

I'm asking you about cash payments you received from plumbers. Do you understand that?---Yes.

40 And I suggest to you that you know very well that you accepted cash payments from licensed plumbers over a period of time within Sydney Water as a PIAS inspector. Correct?---Only to produce a diagram for them.

Yes, well, stand back for a moment. Part of what you do as a PIAS inspector is to check those diagrams, do you agree with me?---Correct.

Do you agree with me that it is at the very least highly undesirable to have the inspector who is checking the diagrams to also be the author of those diagrams?---I suppose so.

Yet you did so, checked your own work?---On (not transcribable), yeah.

How many times have you done this, Mr Rogers?---I done it about ten times.

And received a payment of what for each drawing?---Approximately \$50.

10 And you then checked your own work, did you?---They would give me the information of what they'd done, I'd produce what they told me they had done.

And certified to your employer, Sydney Water, that the diagram was in accordance with the work done and everything could go forward, correct? ---The plumber certifies the diagram.

And you check it?---Correct.

You'd drawn the diagram?---Correct.

20 So you're checking your own work?---Yes, but that's the information given to me by the plumber.

Mr Rogers, did you ever raise with anybody in a position of authority within Sydney Water the fact that you were drawing diagrams for plumbers and then checking them?---No.

And you did that because you knew you were not permitted to do so, correct?---No, I didn't know that.

30 You thought your superiors would be perfectly happy with you both drawing the diagram and then being the judge of whether the diagram was sufficient?---No.

You knew they'd be unhappy with that, didn't you?---No, not really, no.

40 It comes as a great shock to you, does it, that there might be a view taken that to have you as judge and jury of your own work is undesirable?---No, because, you see, the whole principle's wrong here because how it works, we go out to a job and we look at the actual installation of the job. The plumber provides a diagram for the job that he has done.

Which is required by the New South Wales Sewerage Code, you've agreed with me already?---Correct.

And part of your job as a PIAS inspector is to check the diagram, you've agreed with me about that already, haven't you?---Correct, as to scale.

Mr Rogers, you're aware, aren't you, that as a Sydney Water employee you're not permitted to have secondary employment without permission? ---I was under the, not quite, I don't know what you mean by that.

Well, did you regard it as being perfectly appropriate for you within the terms and conditions of your employment with Sydney Water that you draw these diagrams for plumbers and accept cash payment?---I didn't actually see a problem with it.

10 Can the witness be shown Exhibit P35. This is a document called Working at Sydney Water, What You Need to Know. I take you've seen a copy before?---No.

Never seen it before?---(NO AUDIBLE REPLY)

Quite sure about that?---No, I've only had the standing operating procedures.

20 Well, bear with me, turn over to page 5 of that document and we'll look at the substance. Look at the bottom of the page. Can I do other paid work. Sydney Water will allow staff to do other paid work if it does not adversely affect your normal work and performance. Point 2, There is no potential conflict of interest, point 3, you and your manager have considered contractual, regulatory or other, and/or political relationships other organisations may have with Sydney Water and 4, your manager has given approval. Do you see all of those?---Yes.

30 You understood when you were employed by Sydney Water didn't you that in order to undertake this drawing work for reward you needed to meet all of those criteria, correct?---Probably, yes.

So you knew it yet you didn't take any steps whatever to obtain that approval?---No.

You agree that was quite wrong?---According to this, yes.

Well, you knew it was wrong, didn't you?---Look at this, yes.

40 Well, not just looking at this. You knew at the time it was wrong, didn't you?---No, not really.

So it comes as a shock to you that your employer might be a little bit worried about potential conflicts of interest, does it?---Yeah, they may.

They may what?---Be.

They may be concerned about it, well, it's obvious isn't it, Mr Rogers, that your employer would be concerned about you both drawing the diagrams

and then being involved in approving them, it's just obvious?---Yes, I suppose so.

THE COMMISSIONER: I mean, you've got to, under the, under the rules the plumber has to draw the diagram or someone has to draw the diagram but not, not the person checking the diagram, do you accept that?---Yeah, I suppose so.

10 And then the, and then the person checking the diagram checks so that there are two people involved in the exercise?---Sorry, can you state that again, Commissioner.

Yes. Once the plumber's drawn the diagram and the inspector has checked the diagram, two people have drawn the diagram, two people have checked the diagram?---Correct.

And one of the, one of the persons is someone who has got a direct interest in the construction, that is the plumber, that's so?---Correct.

20 And the other person who checks it is the inspector who should have no interest except an interest in determining that the diagram is as it should be? ---Correct.

But if you draw the, if you draw the diagram and not the plumber you lose the two people and furthermore and more importantly perhaps you can't, you having been paid or you charging for the diagram can hardly say the diagram is defective?---I wouldn't say it was defective.

30 No, you wouldn't if you'd drawn it but if you hadn't drawn it you might because that's your job but if you draw it yourself you take it for granted that it's correct without checking it, isn't that so?---If you want to look at it that way, yes.

MR PAYNE: Mr Rogers, I want to ask you some questions about the PIAS inspectors. Did you participate in any training within Sydney Water whilst a PIAS inspector?---Yes, I did.

Did that cover ethical issues?---I can't remember exactly.

40 Is it your understanding that you are permitted to take cash payments from licensed plumbers?---There was a gift thing, I remember there was a gift thing.

THE COMMISSIONER: What do you mean?---That you couldn't take gifts.

MR PAYNE: I suggest to you Mr Rogers that you have taken cash payments as gifts from licensed plumbers, do you agree with me?---If you think so.

Well, I'm asking you but leave aside the payments for the drawings that we've discussed, it's true isn't it that you took cash payments from - - -?
---No.

10 Well, do you know a Mr Ray Romanous?---Yes, I do.

Were you present in court when he gave evidence yesterday?---No.

Well, I want to suggest to you that you know him and that he made cash payments to you at the end of jobs?---No, I only met him on one job.

And he made a cash payment to you, didn't he?---No.

20 In terms of the other inspectors, do you know Mr Fayers?---Yes, I know Mr Fayers.

Are you aware whether or not he has accepted cash payments on jobs?---No.

Have you ever discussed it with him?---No.

Were you present in court earlier today when Mr Vecchio gave evidence?
---Yes.

You've met Mr Vecchio before?---Yes.

30 Mr Vecchio told us that he'd been accepting cash payments for 32-odd years at Sydney Water?---Yes, I heard that.

Did that come as any sort of surprise to you, Mr Rogers?---Yes, it did actually.

You'd never, never in your wildest imaginings thought that PIAS inspectors would accept cash payments, is that what you tell the Commission?---No.

40 It never occurred to you?---No.

So when you started taking cash payments for doing these drawings this must've been a very serious matter then?---If you think so, yeah.

Well, you said that to me twice, I'm asking what you think, Mr Rogers, what you thought at the time?---I didn't think it was a problem at the time so now that you state it, yes.

Well, you told me that you'd never heard about cash payments being taken from licensed plumbers, surely when you started doing it you must've been very concerned about - - -?---I wasn't concerned because I didn't look at it as a cash payment.

I see. Excuse me one moment. I have nothing further for Mr Rogers, Commissioner.

THE COMMISSIONER: Yes. Mr Stevenson? Ms McGlinchey?

10

MS McGLINCHEY: Mr Rogers, I just want to ask you some questions about the service you provided drawing the diagrams. Now, as I understand it there was a time when the diagrams were provided by Sydney Water. Is that correct?---Correct.

20

And at some, so Sydney Water personnel would provide a diagram to plumbers?---The procedure was before they brought out the new system that each inspector had his own LGA area. The plumber would pay an inspection fee and ring that inspector for that area, make a time with that inspector. The inspector would go out to the job, inspect the works and collect a drawing or a plan which would indicate where the plumber has put his pipes. That drawing was then taken back to Sydney Water and Sydney Water from that produced a sewer service diagram.

And so do I take it that there was a department within Sydney Water which was responsible for providing the sewer service diagrams?---Correct, yes.

30

And they are the type of diagrams that we would get when we do a search to add that document (not transcribable)?---Correct.

Okay. So it's fairly important that the document (not transcribable)?---(NO AUDIBLE REPLY)

40

So was there a time when that policy changed within Sydney Water?---Yes, when they brought out the new tablet system that Tony mentioned today they brought out the new inspection system, they also put it out that plumbers had to produce their own sewerage service diagram. They did some training for some, for the plumbers right across Sydney. A lot of the plumbers can't draw the diagrams, they are frustrated and cannot produce a diagram so they, they are actually out in the cold.

So there's nobody within Sydney Water that they can go to?---There's no one in Sydney Water they can go to to get a diagram produced.

And the training that you spoke about was it the case that it was offered to the licensed plumbers working at the time?---Correct.

(not transcribable) training?---Correct.

Is it an ongoing thing so the plumbers can (not transcribable)?---No, it's all finished now.

Okay. All right. So did you see practical problems with the practical application of that new policy?---Yeah, the plumbers can't, some, not all the plumbers but there's plumbers out there that cannot produce a sewer service diagram.

10 Did this problem have something to do with how you started to produce the diagrams?---Correct.

20 Would you like to tell the Commission about that?---You'd go to a job and the plumber would finish the work, everything would be fine, the only problem was he couldn't do the diagram. And from 2008 when the three month amnesty finished, they had an amnesty for plumbers to try and get their act together to produce a diagram I was then helping plumbers which probably I shouldn't have done on the back of the car with no remuneration to help them draw a diagram but you only get half an hour per inspection and sometimes it could take up to half an hour to draw a diagram. The plumbers just, you don't have time to carry out the proper inspection because you're helping them do a diagram. And with that frustration a couple of them asked me if I could produce a diagram for them and I always indicated that I could, I would do it in my own time, not in Sydney Water's time and I would produce it as a drawing that they, what they told me they had carried out, the works that they had carried out I would do to that as if they were still doing it with Sydney Water.

30 And you tell the Commission today that on about approximately ten times you may have also been the inspector?

THE COMMISSIONER: I didn't hear the question, I'm sorry.

MS McGLINCHEY: The question was is it correct that you've told the Commission today that on about ten occasions you may have produced a plan where you were in fact the inspector. Is that correct?---Yeah, it could be up to ten times.

40 But there were other times when you weren't the inspector?---Correct. I was producing diagrams and I wasn't the inspector.

THE COMMISSIONER: So was that a kind of a little business on the side where they would come to you? Because I mean they would - - -?

---Correct. Because I'm no longer employed as an inspector some of the plumbers have asked me if I could produce a diagram for them.

Yes. But I think Ms McGlinchey was asking you about the time that you were employed as an inspector and the plumbers came to you to do a diagram when you weren't the inspector on the job?---Correct. They asked

me if I could produce a diagram and they would tell me the information, I'd produce it at night and send it back to them, they would take it to go and meet their inspector the next day.

Is this something others would do as well, Mr Rogers?---I don't know, Commissioner. I only heard Tony doing it today as well.

10 Who would, who could they, what sort of person could they employ to draw a diagram?---I don't know, I don't think there's anybody out there that can do it for them.

I suppose a surveyor could but that would be pretty expensive?---Maybe a surveyor could, yes, but I don't know if a surveyor can do it in the timeslot that they require the drawing to be done. See the poor plumber doesn't get, he only gets three days to produce this diagram if he doesn't have the inspection. Sydney Water, Sydney Water was conducting a new system with audit based inspections where the plumber would pay the fee, the inspector may not turn up, that meant that plumber had three days in which to submit all his paperwork. If he didn't submit the paperwork in that three 20 days he gets a defect. All they ever seem to do is defect. And don't get me wrong, I defected plumbers many times but at this stage I just think it's very hard for them.

So how many plumbers, can you put a figure on it, how many plumbers are unable to draw the diagram?---I'd probably say one in five.

So what do they do?---They struggle, they produce drawings that are totally unacceptable and get defected for it.

30 How long does it take you to draw a diagram?---Depending on the size of the drawing, diagram probably up to 20 minutes if I do it properly.

Does it have to be to scale?---Yes, it does. That's, that's the only thing that you basically check when you go out to site that the diagram is to a specified scale.

What implements do you use to draw a diagram?---I use drawing paper and all the proper drawing equipment.

40 Has it got curves involved?---Yes, there is curves involved when the boundaries have curves on them.

Yes, thank you.

MS McGLINCHEY: Just one more question on that. Would you estimate that you would virtually just by nature of the skills involved need to be a plumber or have plumbing experience to do that?---I'm sorry, Karen, I didn't understand what you were saying.

Would you, just by nature of you understand the skills that are involved in producing these diagrams would you think that you would need to be a plumber to do that diagram?---I don't think all plumbers have those drawing skills.

10 THE COMMISSIONER: I think the question is can only plumbers draw that diagram?---No, no, no. I've actually collected, sorry, I've actually collected drawings where the children of plumbers have actually had a go at drawing the diagram.

MS McGLINCHEY: Have they been acceptable to Sydney Water?---Some of them marginally and some not.

Mr Rogers, just moving to a different point now. You know Mr Fayers?
---Correct.

20 And you've worked in offices with Mr Fayers?---Probably only in Liverpool office for the most time but, yeah, for a while I worked with him.

And for a while at Five Dock office?---Yes, at Five Dock. No, actually no, not at Five Dock.

Would there have ever been an occasion where you would have said to Mr Fayers that you have accepted cash payments from plumbers?---No.

That conversation has never happened?---No, really no need to.

30 And why is that?---Because there's no need to, I've never had cash payments.

Other than - - -?---The diagrams.

The diagrams. So is it your evidence to the Commission that you have never accepted a cash payment from plumbers except in where you have provided the diagram?---Correct.

40 Now, you gave evidence here in a compulsory examination, do you have that transcript in front of you?---Yes, I do.

Could you look at page PT201?---Which page was it?

THE COMMISSIONER: 201, on the bottom right-hand side, the bottom right?---Yeah.

MS McGLINCHEY: Can you look at your evidence at around point 20?
---Yeah.

You were asked by the solicitor assisting the Commission whether you had ever been offered and accepted any gifts and you said, I think the effect of your evidence was that you had not?---Correct.

Have you considered that evidence since then?---Yes, I did after talking to my wife I realised that I did receive a bottle of red wine, I think it was Christmas '08 or '07.

Just the one bottle of wine?---Just the one bottle of wine.

10

Was that the only occasion?---That's the only occasion.

Do you remember who gave you that gift?---From my memory it appears it might have been Julian's Plumbing.

I have no further questions.

THE COMMISSIONER: Yes, thank you.

20

MR STEVENSON: There is one other matter I should (not transcribable) Commissioner. Mr Rogers, do you recall that the Commissioner suggested to you that you had a conflict of interest when you were drawing plans and then approving them?---Correct.

Your position is that you don't recognise there to be a conflict of interest? ---It's not that I don't agree there's a conflict, we don't approve the plans, we only make sure that the plans are up to a certain standard. We don't physically approve them.

30

THE COMMISSIONER: You don't sign them off?---No, we don't. The plumber actually signs the drawing off.

MR STEVENSON: And Mr Payne showed you the Working at Sydney Water document?---Yes, he did.

He took through some aspects of it. You agree, don't you, you didn't seek your manager's approval to do any work?---Correct.

40

In fact you didn't tell anyone at Sydney Water you were doing it so - - -?
---Correct.

Now, you've been to presentations, haven't you, at Sydney Water where the question of conflicts of interest has been discussed?---Correct.

And you recall don't you being at a presentation as recently as 20 October last year where one of the matters that was stated was that employees should ensure that their personal interests do not conflict or appear to conflict with the way they do their work?---Correct.

MS McGLINCHEY: Well, could we first establish whether he was at the presentation or not?

MR STEVENSON: I just asked him whether he was?---I can't remember.

We'll do it the long way. I'll show you this document. Now do you see that's an attendance sheet and a fraud awareness training seminar, 20 October, 2009?---Yeah, I'm second from the top.

10 You've signed in as being present. Could Mr Rogers be shown (not transcribable) P78 and if I can open at the right page. What I'm showing you is a bundle of printouts from a slide presentation, the overall title of which was Fraud Awareness and Ethics and I've opened it at a page which is headed Confidentiality and Conflicts of Interest. Now my first question is do you recognise this bundle of papers as being a printout of a slide presentation made of the fraud awareness training seminar that you attended on 20 October, 2009?---It could be, yes.

20 And don't you recall that as part of the matters which were put to you and the others gathered at that seminar were the matters on the page which I've opened headed Confidentiality and Conflicts of Interest?---Yeah.

And that one of the things that was said to you I'm suggesting, and I want to put this to you, at that seminar was that employees should ensure that their personal interests do not conflict or appear to conflict with the way they do their work?---Correct.

30 So you understood that that was a requirement of Sydney Water didn't you? ---What do you mean by personal interests though?

Don't you know what that means?---Employees should ensure their personal interests do not conflict and interfere with their - - -

Just take it step by step. Don't you recall that at this seminar you attended on 20 October, 2009 one of the things that was stated was that employees like you should ensure that their personal interests didn't conflict or appear to conflict with the way they do their work?---Correct, yeah.

40 And is it your case that you don't recognise that doing their plans privately and being paid for them and then approving the plans involved you in just such a conflict?---Yes.

You do recognise that?---That there's a conflict?

Yes?---Yeah, but see, you keep saying approving the plans, we don't approve the plans.

So you don't, you don't agree that you were in a position of conflict of interest?---It might be conflict of interest but we don't approve the plans.

All right. And apart from the money you received for the plans you say do you that you received no cash payments on any occasion from any person?

---No, no.

And that anyone who comes to this Commission to say they've made payments to you is wrong?---Yeah, I haven't taken any money.

10

And you say the only gift you ever received was a, one bottle of red wine?

---It was a bottle of red wine at Christmas, yeah.

THE COMMISSIONER: Mr Rogers, I'm still not clear in my mind as to what you do in regard to the, as to what the inspectors do in regard to these diagrams. You say they don't approve them but they have to check them?

---We got to the job, we get the diagram and we look at the job to see if it resembles what they have done. So if - - -

20

You look to see whether the diagram resembles what's in the ground?

---Correct.

Resembles?---Yeah.

That's all?---The diagram is only an indicative diagram, it's not - - -

It's a picture of what's in the ground?---Correct.

30

But not an accurate representation?---No, you can't use the diagrams to scale to locate any of the sewers that are in the ground.

What happens to the diagram once it's, once it's - - -?---It's been collected and submitted, its, it goes to, its kept in storage by Sydney Water or the Department of Fair Trading.

And do you sign it?---No, we don't sign any diagram.

So how does, how is it - - -?---The plumber signs the diagram.

40

How does Sydney Water know that an inspector has checked it?---How does Sydney Water know the plumber hasn't checked it?

No, no, how does Sydney Water know that the inspector has checked the diagram?---The fact that we have collected it from the job and we ticked it off on our tick sheet to say that we have received it.

I see?---On our tick sheet it says work as executed, received from the licensed plumber and that's all we tick.

And where is it laid down that there has to be a diagram?---Sorry, I don't understand you, Commissioner.

Well, by virtue of what facts does a plumber have to produce a diagram? Where's the, how is, where is the plumber told that he has to provide a diagram?---Oh, it's only, it's only changed in the last, since 2008.

Yes, but is it laid down somewhere?---Not that I know of.

10 Is that just a practice?---Yes, it is, as far as I'm aware.

MR PAYNE: Commissioner, if I can ask some questions arising from what you put. What regulates this interaction between PIAS inspectors and the licensed plumber is the New South Wales Plumbing Code. Do you agree?
---Correct.

Do you agree that amendments were made to the New South Wales Plumbing Code within the last five years requiring, amongst other things, the diagram to be produced by the plumber?---No, I wasn't aware of that.

20 It's not in the New South Wales Plumbing Code. Is that what you're - - ?
---Not that I'm aware of.

The PIAS inspectors so far as Sydney Water's area are concerned have an obligation under the New South Wales Plumbing Code to inspect plumbing works and to either provide or withhold consent. Do you agree?---Can you restate that for me, please.

30 PIAS inspectors are the body so far as the Sydney area is concerned that have the obligation under the New South Wales Plumbing Code to either consent or not consent to the plumbing work being approved. Do you agree?---Correct.

When you were giving evidence to Ms McGlinchey's questions earlier you were talking about diagrams produced by children, some of which had been acceptable and some not acceptable?---Yes.

40 Do you remember that? When as an inspector you found the diagram to be unacceptable, what happened was, wasn't it, that the plumber had to go away and do it again and get it right before you as the PIAS inspector would grant the approval that you had to grant under the New South Wales Plumbing Code?---No. He'd send the, he'd send the drawing into the office and they would then put it away.

Without such a drawing being approved by you, you could not give consent, could you?---I don't, I don't approve the drawing. I just say to them the drawing's unacceptable, they send it in. The job can still be passed off.

You say, do you, under the New South Wales Plumbing Code, your understanding of your obligations was that it was an irrelevant matter whether or not there was an acceptable diagram or not?---Correct.

It's a question (not transcribable)

THE COMMISSIONER: Are you sure you understand what you're agreeing to?---No.

10 An inspector can't approve the work and sign off on it until the inspector is satisfied with the diagram?---No, that's actually incorrect.

You mean the inspector can, even if the inspector is not satisfied with the diagram an inspector can, can- -?---See, we've passed off jobs where they haven't had the diagram. They get issued a notice, they have to produce the diagram and send it in later on, but that doesn't hold up the job. If you were to go in, if you were to go into Sydney Water archives you could probably find thousands of jobs where they've been passed off and there is no diagrams or the drawings in those days were unacceptable or the plumbers didn't send drawings in.

20 But I thought you said that one of the problems was for these plumbers who couldn't produce diagrams is that there would be delays?---There would be delays, delays as in he would get a defect for, for not having the drawing submitted. You, you couldn't stop him from completing his work, no. He'd still go on with his work but he would get a notice to say that he needed to submit a diagram.

30 Thank you. You are excused. Thank you, Mr Rogers.

THE WITNESS EXCUSED

[4.12]

MR STEVENSON: I tender the attendance sheet.

40 THE COMMISSIONER: Mr Stevenson, I don't want to be another Mr Buckley but I really don't think that it's necessary because you've got an admission that he was there. Unless there's anything more you want to prove.

MR STEVENSON: (not transcribable)

THE COMMISSIONER: All right. The, you want to prove, right. The attendance sheet of the 20 October, 2009, is Exhibit P82.

**#EXHIBIT P82 - COPY OF ATTENDANCE SHEET FROM FRAUD
AWARENES TRAINING DATED 20 OCTOBER 2009**

THE COMMISSIONER: Yes. Well, very well. Is there anything else?

MR PAYNE: No, nothing further for today, Commissioner. Adjourn till Monday morning.

10 THE COMMISSIONER: Yes. We adjourn till Monday morning at 10.00am.

AT 4.12PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.12pm]