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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION SIREN

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 13 SEPTEMBER 2010

AT 10.05AM

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

THE COMMISSIONER: Mr Payne.

MR PAYNE: Commissioner, I call Mr Fayers.

THE COMMISSIONER: Won't you take a seat, Mr Fayers.

MR FAYERS: Thank you, sir.

THE COMMISSIONER: Ms Hughes, you want a section 38 order?

10

MS HUGHES: I do, Commissioner.

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

20

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

30

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

MR FAYERS: Under oath.

THE COMMISSIONER: Yes. Would you swear Mr Fayers in please.

THE COMMISSIONER: Mr Payne.

MR PAYNE: Mr Fayers, what's your full name?---Richard Stephen Fayers.

And your present occupation?---I'm unemployed.

10 For a period of time you were employed by Sydney Water?---Yes, sir.

As a PIAS inspector?---Yes, sir, for approximately seven and a half, am I speaking loud enough, sir?

I can just hear you, yes?---Oh, a little bit closer. Yes. Approximately seven and a half years, sir.

And between what years were you a PIAS inspector?---Oh - - -

20 Let's work backwards, Mr Fayers?---Yeah.

You ceased being a PIAS inspector when they inspectors went across to the Department of Fair Trading earlier this year?---Yes, sir.

So seven and a half years prior to that, about what, 2002 you started did you?---2002, 2003.

Yes. You participated in a compulsory examination before this Commission?---Yes, sir.

30

And you've had a chance to look at the transcript of that compulsory examination in recent times?---Yes, I have.

I'll show you that document which I tender, Commissioner.

THE COMMISSIONER: Thank you. The transcript of Mr Fayers' compulsory examination on 17 August, 2010 is Exhibit P83.

40 **#EXHIBIT P83 - TRANSCRIPT OF MR FAYERS' EVIDENCE
GIVEN IN COMPULSORY EXAMINATION**

MR PAYNE: Now, Mr Fayers, whilst you were a PIAS inspector where were you based?---I was moved around to several different locations. I started out at Dunheved, at a yard out there and then I was moved to Beecroft, an office there, and then moved to Liverpool, from Liverpool up to an office near Drummoyne, well, Five Dock, and then back to Liverpool.

And in all of those moves there were other PIAS inspectors with you at each of those locations?---Yes, sir.

And you had occasion, you had regular communications with those PIAS inspectors about your work?---Yes, sir.

And can I ask you to turn to the transcript P83 that I've handed you and - - -?---I'm sorry, could you repeat that, P - - -

10

It's P83, it's just, that's the transcript that just - - -

THE COMMISSIONER: You won't find it there, Mr Fayers.

MR PAYNE: What I'm asking you to look at is the bottom right-hand corner where there are page numbers 164PT?---Yes.

THE COMMISSIONER: You can't - - -?---Yes, 164PT.

20

MR PAYNE: And I'm directing your attention in particular, if you look at the line numbering down on the left hand side, you'll see between the numbers 20 and 30, there's this question asked by the assistant commissioner, How many jobs did you get money for? And you're talking about your, your answer is talking about your time as a PIAS inspector? ---Yes.

And what you're saying there is you received cash payments, a five, a tenner or a 20, maybe six or seven times a week from different individuals. Do you see that answer?---Yes. Yes, sir.

30

That was correct?---Yes, sir.

So you received payments from licensed plumbers in relation to your PIAS inspecting activities approximately six or seven times a week on, on different jobs from different individuals?---Yes, sir.

40

And that was so right throughout the period you were a PIAS inspector at each of these depots?---Not, not every single week, sir. Some weeks, some weeks the inspection work that you did didn't involve, didn't involve actually meeting, meeting plumbers for drainage work. So, yes, it would, it would, sometimes it would vary, but you know, on the, on the average, yes, that would be correct.

And on occasions you received more than that 5,10 or \$20 didn't you? ---Yes, sir.

And was the largest sum you ever received as a PIAS inspector was that \$300?---Sir, now I don't recall ever receiving that amount. But it was, it

was sort of on occasions over, over \$100. There was \$100 I think to memory, 120, maybe 150. But I certainly don't recall actually receiving an amount for, of \$300.

We'll come back to that in some detail later, Mr Fayers?---Okay.

But I just want to, try and sketch it down if I can?---Okay.

10 Just further down that page, just after line 30 on the left, the Assistant Commissioner asks you, So there could be a period where you'd be signing off five or six jobs a week where you, I think it should be where you received money? And you say, I was signing off a lot more than that. We were doing 10, 12 inspections a day?---Yes, that's correct.

So what you were conveying to the Commissioner was you weren't, you didn't receive cash from licensed plumbers for each of the inspections you carried out?---No, no, sir.

20 But six or seven times a week was your best estimate of the likely regularity of receipts?---Yes, sir.

And if you can look down the page at about line 35, the Assistant Commissioner asks you, What did you think you were getting the money for? And what you say is, It was part of the culture, part of the culture, it wasn't to pass the job off. Right. So can I just ask you some questions about that answer?---Yes, sir.

And just so we're clear, I'm not suggesting to you that you received money in order to pass work which you regarded as defective?---Thank you, sir.

30 So we understand one another?---Ah hmm.

I am suggesting however, that you regularly received money in circumstances where the exercise of your discretion was involved so that you could do things to speed the job or turn up earlier or otherwise assist the plumber in doing the licensed plumbers work. Is that fair?---Well if, if you were to sort of put that in a colloquial term to grease the wheels, I guess that's, yes, sir, you could say that.

40 I see. Can I just ask you some questions about your answers about it being part of the culture. When was the first time you accepted a cash payment from a licensed plumber having started as a PIAS inspector? Was it, was it on the first day on the job?---No, it was, it was some weeks, it was some weeks into it, sir. It was some weeks after I'd started. I had, I had started with the, with the PIAS group at the (not transcribable) the St Mary's depot. My history is, I'm third generation plumber in my family, you know. When I say - - -

THE COMMISSIONER: So your grandfather and your father were plumbers?---Yes, sir. I, I recall ah, I recall working with my father on the weekends and on, on, during the week during school holidays and I remember this was, especially when I was in my teenage years, as he had me earmarked as a plumber, that this was a subject that was brought up, even when I was a young bloke that ah, an envelope, you would often get, "Duck out to the truck and grab dad's, dad's wallet, will you?" "Oh, what for?" And then you'd see something, you'd seen an envelope or a piece of paper passed from the father to the, to the inspector. And ah, he terms that 10 at the time, the first time I, first time I heard that I think I was about 13 when I heard the term, oh, that's ah, giving the inspector a drink. Yeah. Ah, then consequently when I, I obtained my licence, after my dad patted me on the back and said, "Go out there and make some money", he said, "Don't forget the inspectors. Don't forget the inspectors. They're all good blokes. Look after your inspectors."

MR PAYNE: And for how long had you been a licensed plumber prior to starting work as a PIAS inspector?---Oh, just over 20 years so- - -

20 And on that side of the fence, if I can put it, and particularly having regard to what your father had told you- - -?---The answer is yes. Sorry, sorry, Mr Payne. Sorry, sir.

I take it- - -

THE COMMISSIONER: That's- - -

MR PAYNE: Mr Fayers, it's fine.---I'm not mean to pre-empt your questions.

30 What you expected me to ask is what I'm going to ask. On a number of occasions I take it then, on a very regular basis you would make cash payments to, to what were then P and D inspectors from Sydney, or the old Water Board?---Yes, sir.

THE COMMISSIONER: And then that started happening some twenty years before you became an inspector yourself?---Yes, sir. I think it's ah- - -

40 And do I take it that that's all over Sydney?---Yes, sir. I, I worked the full metropolitan area. North, south, into the eastern suburbs, out to the foot of the mountains. Ah, is, is, is the, is the word, is the correct word endemic?

I think you have it in one, Mr Fayers?---Yes. Okay. So then I went ah, I thought I'd reached my pinnacle when I became an inspector. Ah, I sat at that lunch table for the first day, that morning tea table at St Marys, Dunheved there and I was given the ah, I was given the talk. This is how it happens, this is the culture, you don't speak about it, you don't talk about it,

if you are asked about it, you deny it. You've never seen it, touched it, taste it, you know. Does anyone ever do it? The answer is no. If you say anything about it your life will be made, made most uncomfortable in the organisation. That's if you can tolerate it.

THE COMMISSIONER: So really this is something- - -?---Oh, look, please, sir, I'm not, I'm not excusing, by saying that, I'm not excusing my actions.

- 10 No, I understand, and I can only say that speaking for myself personally I'm grateful for your candidness and forthrightness in coming forward, Mr Fayers. But what I wanted to put to you is that I understand from your evidence that this conduct was endemic, as you rightly describe it, amongst the contractors who would offer the money and the inspectors who would receive it throughout Sydney. Is that correct?---Yes, sir.

And that's been the case for, since you were a boy?---As long as I can remember.

- 20 Now, what I really, what I, many of, who supervises the inspectors?---Ah, a management team.

And were most of these inspectors, were most of, or all of this management team inspectors before they became managers?---Yes, sir. That's the, that's how the general oh- - -

- 30 The system worked?---Yes, the, once you reached a certain I guess proficiency as an inspector then they looked in the, looked into the inspection group for people and individuals to rise up to a management level.

The impression, please correct me if I'm wrong, but the impression I get is that there could not be a manager at Sydney Water supervising plumbers who did not know full well exactly what was happening with PIAS inspectors and bribery?---There's only one logical answer to that, sir, and the answer is yes, as much as I reluctantly would say that, the answer has to be yes.

- 40 And who, to whom do these supervisors report, do you know?---Well, obviously there's a, a chain of management.

Yes?---So - - -

And higher up from the chain of managers do you know whether any of those people who were, who really were the superiors to the managers, were they former, former plumbers or inspectors?---In the present group I, I don't believe a lot of them have or have, or have a, have a plumbing background.

I see?---I don't believe they have a plumbing background but yes, I've, I have my, on a personal opinion, sir, I believe that, I believe they had an inkling that this was going on. I think this is why they went to, my first thing is why they used to want to move inspectors, I talked to you about the, the moving around of inspectors.

Yes?---They used to sort of shuffle, that's probably the best way to it, they'd sort of shuffle the inspectors through the different areas, like a deck of cards, on a very regular basis and then, then I think that's the, was probably 10 a thought, if not the initial thought, but certainly the thought in regard to the centralised scheduling.

Yes?---I know that that might be, may not be clear to you, Mr Payne, but I think that's, that's why they were taking that part of accountability out of the, out of the hands of one group and putting it into another.

Another impression that I get, and please correct me if I'm wrong, is that it would have been very difficult to complain to anybody about this culture of bribery because the people to whom you would complain certainly if you 20 were an inspector which is to your boss as it were would be somebody who had countenanced this for years and if not participated in it himself?---The answer is yes, sir, yeah, yeah.

So really apart from being endemic it was entrenched and fortified?---Yes, sir.

Yes, Mr Payne?---Sir, I, I personally experienced, I personally experienced that the true nature of the, of the group on, on at least two occasions and, yeah, a great personal stress was put on me to the point of, the point of 30 almost breaking, to the point that, you know, I, I had snapped at one plumber one day who had the wrong thing and I'd got on with this guy for years quite okay and I used a couple of really colourful adjectives and he took affront to it, he sent a letter to Mr Sharp complaining and as a result I, you know, I took myself off to, I took myself off to actually some counselling, to, to address the stress and pressure that I was, I was under so, yes.

And did, what did, did you inform Mr Sharp about these payments?---No, no I never actually said directly to Steve that at any, any time that you, no one did, sir. It was, as I said, right at the beginning. It happened, you didn't speak about it, if it was brought up, it's called, what do they call it, plausible deniability, you know. It never, it never existed. But everyone knew that it, it happened, everyone.

What were these two, you've described one incident, you mentioned two Mr Fayers. What was the other one?---It was when I was, moved up to the, I was actually moved into the Blue Mountains area and the inspector that had

had, that had the Mountains, as you've heard over chaps talk about their, in the early stages plumbers would look after designated suburbs in areas.

MR PAYNE: Yes?---They would break Sydney up and this chap had, he was located up in the Mountains area, he considered that the Mountains area was his and his alone. And when he was moved out of it he took great umbrage to that and he thought I had had something to do with the fact that he'd been moved out, I got moved in. And he proceeded to make my life a misery in that he would actually visit, and plumbers had told me this, he
10 would actually visit plumbers at night saying that if you don't like, you don't like the call that Richo makes, you know what to do, here's the phone numbers, make calls, send letters, get the F-ing so and so out of my area so I can get back here.

THE COMMISSIONER: And did he want to stay in the area because he had a relationship with the plumbers and was getting a regular source of income from them?---Well, sir, I can't ascertain that. I can't answer that honestly and truthfully whether I knew that. I was never close to this inspector so I never spoke to him of, of that.

20 I understand. Mr Payne.

MR PAYNE: What was the name of that inspector, Mr Fayers?---Russell Martin.

Is he still with the PIAS inspectors group?---Yes, he's in the Fair Trading group.

30 To your observation having worked all around Sydney was the Blue Mountains a, a particularly lucrative area in terms of inspections and the amount of money that plumbers would give you?---Well, it was a very, oh, what's the word, closed, closed shop as it were because of the, because of the, where the Mountains is sort of the Great Western Highway being sort of like the, the backbone and then the suburbs up, right up to Mount Victoria, sort of like being the ribs of it - - -

Yes?---if I can use that as a terminology, there was plumbers in the mountains and that's, that's all they worked is the Mountains area. They very, very, very seldom did that group of guys ever come down to what they termed as the low lands, which is the, yeah, the Penrith, the Penrith location.
40 So yes, you would, you would meet them on a regular basis. You would talk to them on a, sometimes a day to day, every second day, every third day, but you would meet them on a very regular, regular basis.

And so I understand it, more so then the other areas of Sydney that you've worked in, you'd have - - -?Oh, yes.

- - - every few days you'd have contact with the same small group of, of plumbers working in the mountains area?---Yes. Oh, yes, yes. You could go in Sydney, you could go, you could go some months between seeing individuals. Sometimes you would only see them two or three times a year.

And in terms of the frequency of payment from this group that you were seeing more regularly was it the same, more or less than your experience in the other parts of Sydney?---It was less, it was less. They're a very, a very easy going bunch of guys, but also the, they seemed to be very
10 accommodating and if there was anything wrong on the job, you'd say, you know, look I need a bit more metal or just stick another eye, a cleaning eye, like what we call an (not transcribable) work, cleaning out this or, no, mate, look that's over distance, you're going to have to vent that. And that just seemed, those sorts of things just, yeah, it was less, it was lesser.

Forgive my ignorance, but plumbing work, as in many other areas of building work, is it cheaper to get plumbing jobs done as a developer in the mountains than it is in the eastern suburbs of Sydney for example, or does it cost you the same?---I would say the pricing structure over Sydney does differ. To, to what extent I can't, I don't have, I don't have sort of any ah,
20 data or intelligent backup on that.

Well, the import of my question really is from your perspective and these payment which are being made by licensed plumbers to you, typically were the payments at the same level right around Sydney- - -?---Oh- - -

- - -or were they greater in one area rather than another?---No, no. That, on that level it was across the board. There was a- - -

30 I see. And did Mr Martin eventually get his way, were you moved out of the mountains and was he moved back?---Yes, yes, he did. He did.

What year are we talking about, Mr Fayers?---Three, between three and four years ago, sir, approximately.

About 2008, is that what we're talking about, or do you think it's earlier than that?---No, it was, it was, to the best of my recollection, sir, it was around that, around that period. It was while I was located out at ah, ah, Rouse, yeah, out at Rouse Hill.

40 I see. And Mr Martin was moved back there to your knowledge after he's gone across to Fair Trading. Is that still his area?---I, I don't know the movements of the ah, of the inspectors in Fair Trading. I had very little contact with any, any of them for that matter, yeah.

Just the last question on that topic. Did you ever have any discussion, rather than what the plumbers had told you about what Mr Martin was up to, did

you ever have any discussion one-on-one with Mr Martin about his attempts to remove you from the Blue Mountains area and have him regain that spot? ---Yes, I did.

Can you tell the Commissioner the content of that discussion or those discussions? ---I had ah, ah, I had spoken to Russell on the phone in regard to a job that had, had been inspected ah, prior to me getting into the mountains, it was an owner/builder situation. I had contacted ah, Russell to confirm, the plumber had said, look, you know, Russell had seen the
10 drainage but ah, I couldn't find collaboration in documentation to that. So you would take the plumber on the word at first, yes, that it correct, but look, I'll just do a phone call, make a quick phone call and just confirm that. And during the course of the conversation I had just actually had my, my 50th birthday at the time and ah, I had become reasonably good friends with some of the plumbers in the mountains and that was when ah, I had been told by sort of, the comments had been passed by several individuals that I found out what Russell had ah, ah, been informing to these guys, that if he wasn't happy with what was going on, what to do. And I, I fronted him about that and I said, well, he said, "Oh no", he said, "That's a lot of BS."
20 And I said, "Russell, it's not, mate." And I said, "I can tell you it's not, because I had, I had some of these with their wives turn up, my wife invited them to my 50th birthday party, mate." And I said, I said, "What you have told them, my actions had proved to them that I wasn't the son of a bitch that you had made out what I was going to be when I moved into the area." Right. And he said, "Oh, well, ah, well, ah", I said, "Mate", I said, "A couple of them said they were", I sort of called his bluff, I said, "Well, Russell", I said, "A couple of them are prepared to get in their cars and come down and stand in front of Jackie and Steve and tell 'em." ---Well, he went into major panic mode. Major panic mode and I found out off Steve
30 Sharp he had, within 24 hours he had got into the main office and he had sort of indicated to Steve that he hadn't caused Richard any harm in the (not transcribable), he hadn't sort of done anything behind his back, he hadn't sort of tried to make my life a misery but by that time Steve had, he's an intelligent man, he'd seen the stress and the pressure that I was under and he'd put two and two together.

And just going to the beginning of all of this, the two occasions you've now explained to the Commissioner, in your mind at least you understood that on both of those occasions there was a link between the stress you were placed under and the cash payments which were made or available from licensed plumbers to inspectors, that was a motivation in both cases if what you're saying? ---My feeling is that that would have to, I'd have to be a 90 per cent on that, I'd have to say on, you know - - -
40

THE COMMISSIONER: Well, it was part of it? ---Yes, sir, yes, sir.

MR PAYNE: Can we go back to your - - -? ---May I have a - - -

Of course, help yourself?---May I have a drink of water.

THE COMMISSIONER: Yes, please, certainly?---Thank you.

MR PAYNE: And, Mr Fayers, if at any time you feel you need a break, just let me know. Okay?---Yeah, thank you.

Can I take you back to that first day because I want to explore with you, you called it the talk - - -?---Mmm.

10

- - - that you received at St Marys. Do you remember who was present for the purposes of the talk? Was it other inspectors or supervisors or just who was there?---Jim, Jim Scott, God rest his soul, he's passed away now. Ray, I think his name was Ray Lloyd, he was another long-standing inspector. Ray and, Ray and Jim were the chaps that were doing most of the talking. I think there was a chap there called Roberts, I think it was Ray Roberts, was his surname, Russell Martin was there, I think Sean, was it Sean Christen, no, Christenson, I remember his surname, I'm not sure of his Christian name, but Christenson. And there, there was, there would have been 20 another two or three other guys there but I can't recall their names, I'm sorry.

20

That's fine, they're all inspectors, P and D inspectors?---Yes, sir, of varying degrees of time in, in Sydney Water, yes.

30

And as I understand it, the two gentlemen you identified doing most of the talking were the most senior inspectors there in effect letting everyone else know in front of (not transcribable)?---Well, Jim Scott, he was, he was the manager out there at the office. Ray, Ray Lloyd was a bit of a larrikin, you know, a bit of a larrikin so he was, he was in, he was of the personality that, you know, one of those people that are in every conversation that you have.

And did you know this group of inspectors from your time as a licensed plumber?---Yes, I, I had, I had had interaction with, with a couple of them.

So you had made cash payments to some, some at least of those people?
---Yes, sir.

40

Was Mr Martin one of those people you'd made a cash payment to?---No, no, that was the first time I had, I had actually, I'd had any interaction with, with Russell.

And just in terms of, you described it as the talk, I take it you did that because you then heard it on subsequent occasions when new people that start as PIAS inspectors, is that what you were trying to convey? You'd heard the talk delivered by others to new inspectors in the same way that you'd got it on this first day at St Marys?---Ah - - -

THE COMMISSIONER: Is it a standard talk?---No. No, no, it's not like part of your sort of standard operating procedures sort of thing.

No, no, I mean, but it's the same talk. It's given over and over again?
---Yes. You hear it through, yeah, yes.

You hear it from others?---Yep.

10 You both had to listen to the same talk?---Yes, sir, I'd say that was correct.

MR PAYNE: Do you recall any other occasions when new inspectors as you were on this day at St Mary's where you were present when senior officers let them know that cash payments would be made, that the, I think you put it, plausible deniability and we take the money and everything will be fine, otherwise we're going to make your life difficult?---It, it was never as, it was never as - - -

20 THE COMMISSIONER: Candid?---Yes, thank you. It was never as candid as that. It was, you talked around, you know, when you can talk around a subject?

MR PAYNE: Yes?---Sort of inferring, suggesting, implying.

THE COMMISSIONER: A wink and a nod?---Yes, sir.

30 And who would be the people who would give the talk?---It was often over the following years it would just be something that would occasionally come up at morning tea tables (not transcribable) discussion. I mean it was, yeah, well, just you know, you know the talk, you know the, you know, you'd work there, you didn't touch it, you didn't see it, didn't taste it.

You'd brush your nose?---Kind of thing. Yeah.

MR PAYNE: And just to be clear, just to take you back to the transcript of the examination just for a moment, just back on page 164. To be clear throughout you understood that Sydney Water had a policy of not accepting cash payment or inspectors not accepting cash payments from licensed plumbers?---Yes, sir.

40 And indeed, I suppose what you're telling the Commissioner is that was the whole basis of the talk which is if somebody asks you deny it?---Yes, sir.

And that as you understood it was the reason for why you'd be instructed to deny it?---Yes, sir.

THE COMMISSIONER: You, you really told not to rock the boat and to accept the benefits?---Yes, sir.

MR PAYNE: I just want to pick up on another answer you gave me earlier. Having been a licensed plumber and being aware of the regularity of cash payments, I think what you said to me on that first day when you were sitting there at St Mary's is that you'd thought you'd made it because in part it was easy money to be made from licensed plumbers?---Well, no, no it wasn't the thought that, you know, I made it as an inspector to gain, wow, you know, now I'm an inspector I can become financially free. I've got a residual income over and above my wage. And I say that respectfully, I'm not trying to be a smart aleck there saying that, you know. To become an inspector was to reach the pinnacle as a plumber. I'd been, I'd been told that all my life. I'd been told that all my life.

10 I understand. Can I just take you up on something else that, that emerged in the, in the answers that you gave - - -?---Yep.

- - - the Commissioner about moving around and centralised scheduling which I think involves the issue of notebook computers in the form of a tablet were issued to you two or three years ago?---Yes, sir.

20 And as you understood it they were initiatives of Ms Hiddlestone who'd been brought in from outside the licensed plumbing world or at least she wasn't herself a licensed plumber and she'd been put in, put at the head of the management structure that you had with the PIAS inspectors?---Yes, sir.

What I really want to ask you is this, even though you moved around and even though there was centralised scheduling, the payments from licensed plumbers to you still continued didn't they?---To a lesser extent, to a lesser extent, yes.

30 Well, there were six or seven a week, doing your best before. How many a week after doing your best?---Two, two maybe three.

Right. And - - -?---It didn't, it didn't stop completely, Mr Payne.

And to your observation the reason that it decreased was, was what? Was it decreased frequency of dealing with particular plumbers?---I think that would be the logical answer, yes. Yes, I think that would be a pretty logical summation.

40 Was there ever during your time, so far as you're aware, was there ever information made available to licensed plumbers by Sydney Water about Sydney Water's view of cash payments to PIAS inspectors?---I can't recall ever hearing that management put anything out to, out to licensees, no.

Because, I've been using the term licensed plumbers just for his Honour's benefit, the, but the licensing at least in Sydney Water's area is done by Sydney Water itself, it licenses the plumbers to perform work?---No. The licensing, the licensing to obtain a license as a licensed plumber you, you

would, who do you inform, there was the Plumbers Licensing Board and then it was, and for a number of years now it's been Fair Trading has been the - - -

I see?--- - - - - issuer of the plumbing, plumbing and drainage license or plumbing, drainage, gas fitting, the whole scope.

And so this move to the inspectors going across there is, is, putting it all in the one place, the New South Wales Department of Fair Trading would both
10 issue the license and, and do the inspections?---Yes. My, to the best of my knowledge that's what they're, they're doing. They moved it, really of course there's sort of, whether there's agendas I don't know. But the, the talk was that Sydney Water had been deemed, external sources had said that Sydney Water could no longer be the regulator and the authority after 113 odd years, I think, 110, 113 odd years. The powers to be had deemed that that was a, a conflict. There may be a conflict of interest in being the regulator and the authority at the same time.

Yes?---Well, as I understand it.

20 Yes. And in terms of this centralised scheduling, just concentrating on that for a moment, how did that reduce the opportunities or the likelihood of cash payments being made, if at all?---Firstly that you would, well I, oh, no we didn't go to audit til some time, so the tablet came in and you were still doing your, you were still doing inspections as normal. One, you weren't doing as many. Where if I was in a designated area I could work a run, as it were, and I would coordinate the inspections for that area for in that area on that day, the scheduled scheduling the, the girls that were scheduling it would send you all over Sydney. You could be going from north to south,
30 east to west, so obviously you're not getting, you're not doing as many. Secondly, you're not running into chaps that, or you would actually run into chaps that you'd never even spoken to before. You've never seen before. ---Okay. So the, the fellas that did give you a drink, if I can use that term, 'cause that's, everyone now understands that ah, were generally the fellas that you knew, the fellas that you had done inspections for in the past that knew you.

40 Yes. So what you're conveying is centralised scheduling at least in part reduced the opportunities for payment, but certainly the less frequency of dealing with people that you knew well, but there's also, you were travelling more and you just did less inspections, is the other thing you're telling the Commissioner?---Yes.

I see. In all the time that you received cash payments, Mr Fayers, were they always received in the way you described your father showing you, namely in an envelope or folded in a piece of paper?---Well, actually the, the envelope, the thing in the envelope was something very very rare, it was generally at the time of the ah, external draining inspection where the

plumber would hand you, as you've heard, the plumber would hand you a Certificate of Compliance for the draining and at the same time he would have completed a Sewerage Service Diagram, an SSD.

Yes?---And more often than not it was wrapped up in one of those pieces of paper were wrapped up together.

I see?---Again, going back to our initial seven and a half years ago ah, that, the comment that if you were handed, you're handed paperwork that was
10 rolled up, you didn't unroll it on the job. You know, that was just ah, an adopted thing that, you know, don't, don't, don't undo paperwork, wait till you get back in the car.

And that was part of the talk that you were describing to His Honour- - -?--- Ah, yes, sir.

- - -at the outset. And in these subsequent talks that you had around the subject, was that invariably part of the topic, namely don't unwrap the paperwork until you get back in the car?---Yeah, you don't, don't unfold the
20 paperwork on the job.

Mr Fayers, it is important, and I'm not inviting you to speculate, I am inviting your recollections just for these questions?---Yes, sir.

Did you, have you, in your time as a PIAS inspector or subsequently, do you remember specific conversations with any other PIAS inspector on the subject of cash payments being made from licensed plumbers of the kind you described to me at the St Marys talk?---Not specifics, sir, no.

30 Do you remember discussions where this topic of not unrolling the paperwork et cetera was had and not rocking the boat, do you remember any specific occasions after the talk that you were given at St Marys?---Over a seven and a half year period, sir, I, I, I can't sit here and give you a, give you a time or a location or a individual that, I'm sorry, I can't.

No, no. I'm grateful for that. I only want your recollections of- - -?---Yeah.

- - -the conversations. You tell the Commissioner though that, that the talk, as you've described it, you've heard on many occasions after that first
40 occasion it was given to you?---Not as, not as ah, blatantly as it was for me on the very first day. As I said, the ah, you would be privy at different times to this discussion, it came up round the morning tea table or lunch, oh, sort of, you know, morning, lunch, tea tables at the different offices.

Yes. Can you have a look at page 165 of the transcript that I showed you, Mr Fayers? Have you got the page? 165 on the bottom- - -?---Yes, sir, I do have it. Sorry, Mr Payne.

And I just wanted to be not only fair to you but to others mentioned here. At line 40 you say you said, you heard or overheard individuals saying they'd received money from chaps too, chaps being licensed plumbers? ---Ah, yes.

- 10 And just at the bottom of that page you identify Mr Robert Rogers as one. You were present in court when his lawyer asked him whether he'd ever said that and he denied it. Can you tell the Commissioner whether you have any recollection of such a conversation with Mr Rogers or overhearing it or, or, or not?---The, the inference to that was a ah, in regard to ah, a time that I had bumped Rob on a roster at, at Pemulwuy in ah, ah, out near Greystanes there, and I shared a coffee with him at a coffee shop, Gloria Jean's, and he was telling me of a, an acquisition for his plane, a GPS that was a very very expensive piece of equipment to upgrade his plane. And ah, and I said, "Well, that's, that's going to cost you an arm and a leg." And ah, his inference was at the time he said, "Oh, well, you know, plumbers don't get it cheap these days." So the inference was from that that I took that he had ah, he had also received money as well from, from plumbers."
- 20 And you'll see over the page at 166 in that transcript you identify Mr Vecchio. I think you were present in court when Mr Vecchio gave his evidence?---Mmm.

Present before the Commission, I'm sorry. So it's the top of page 166 at about line 8, just above- - -?---Yes.

- 30 And do you recall any specific conversation with Mr Vecchio?---Ah, yes. I had heard ah, I had heard ah, from plumbers in the field that ah, ah, Tony, the words were ah, "Tony puts the bite, puts the bite on us, puts the bite on us harder than just about anyone else, him and, him and ah, Bob Harvey", who was another, he's a retired inspector.

And do you remember who had told you that?---I, it was a Lebanese chap from down Canterbury way.

Can I ask you about a number of specific licensed plumbers- - -?---Ah hmm.

- 40 - - -who have given evidence and just put to you some things that they've said for your agreement or disagreement. Do you know a Mr Mahmoud, Khaled Mahmoud, licensed plumber?---Ah, yes.

Do you accept that you've received cash payments from him in the course of your duties as a PIAS inspector?---Yes, sir.

Do you remember on how many occasions?---Three to maybe four occasions.

Did you keep any records of the payments, Mr Fayers?---No, Mr Payne.

Can I ask you about Mr Romanous, a licensed plumber, I think known as Ray. Do you know Mr Romanous?---He was the chap that was here the - - -

Yes?--- - - - the other day. I do recall his face, I don't recall meeting him on a, on, on site, on any particular site but if he, if he had said that he had, he had given me money I, I, I cannot actually sit here and say no, he didn't so I'd say that the answer is, you know, there is a better than even chance that he had.

10

You accept it's likely do you?---Yes, sir.

Can we come back to, we touched on this question of \$300 and Mr Aoun, Mr Khare Aoun?---Yes, sir.

Just so we can clear this away at the outset, you accept don't you that you received cash payments from Mr Aoun?---Yes, sir.

20

And I'll just take you forward to give you a chance to look at it but you've seen it before, from page 171 of this transcript, you remember that there was a job at First Avenue, Blacktown that he was, he was completing when you were the PIAS inspector?---Yes.

And I think in fairness you said at the time you didn't recall receiving the \$300 payment on that job but it is possible, that's at line 20, just at line 20 I'm drawing your attention to line 20 on 171?---Oh, right, yes.

Just to get the evidence clear about this, you didn't recall receiving the \$300 payment from Mr Aoun but you regarded it as possible?---Yes, sir.

30

And the Assistant Commissioner asks you, "Well, if that's possible, why don't you remember it?" and your reconstruction was that you thought you'd never received more than \$150 therefore you thought the 300 was unlikely?---Yes, sir.

And then have a look over at 172 and in fairness to you you're then taken through some document which again I'm happy to show you but I think you've had an opportunity to look at before your examination today and just at the bottom of that page, 172PT at about line 41, the Assistant

40

Commissioner asks, "You recall him giving you money." "Yes, yes, I remember him giving me some money. I don't remember how much." Do you see that?---Yes, sir.

And that's in relation to that First Avenue, Blacktown job we're talking about here. You have a recollection of that?---Yes, yes, I have a, a recollection of that job and I believe Mr Aoun is, his recollection is, is somewhat different from actually how the job went down.

Well - - -?---The process of the day.

- - - you heard him give that evidence I can put it to you but why don't we just at the outset tell the Commissioner what your recollection is of that job and how the payment such as it was came to be made?---My recollection of that, of that time, since then obviously I've been able to recall and think about the day. Mr Aoun had made a, had booked an inspection for a junction insertion into a main. I arrived, I arrived around about midday to the job. He didn't have the job completed, it wasn't ready. I was, I was
10 working in the Blacktown LGA at that time and I would generally say to the guys if they, the plumbers, if they weren't ready on the time when I got there I had no problem with spinning back later in the day or calling back through later in the afternoon on the way through, which I did, I remember coming back to the job, it was just on, it was just on dark at the time, we had a look at the work, we walked back to the vehicle and the reason why I do recall it so well is I do remember him saying, you know, jeez, I wish you'd been able to get back here a wee bit early, you know, we finished the work, we had nothing to do and we went and, we went and shot a couple of games of ten-pin bowling so I do recall him, I thought that was odd because when
20 I, I got back into my vehicle and I said, well, mate, I said, you got all your paperwork done, i.e. that he had to fill out the, he had to notate a Hydra with the position of the new junction and he had to fill out, I can't recall the name of the other sheet, where we had to put the details, the actual length and dimensions of where the junction was located on the main upstream or downstream of a manhole and he didn't have it ready and I remember, you know, this is probably what he deems as, as threatening, as a threatening gesture, I told him he was a bloody idiot, he'd been sitting on his arse playing ten pin bowling all afternoon and I got there, I've come back to look at the job and you still don't have your bloody paperwork ready, excuse the,
30 and so, I said look, I said all right, I said, look, I'm, I'm back in the area tomorrow. He said oh, look, I'll, I'll have me paperwork ready, I'll have it, I said fine, okay, no sweat, I said I'm back up through here, what time are you here, he said oh, the morning around 9.00ish, I said right, I said, there's a Macca's up round the corner, I said I'll meet you there, I'll get your paperwork off you so I, I can finish, I can pass it off. With that the right hand has come through the window of the car, I put my hand up to shake and there was, there was a number of notes, a number of notes in his hand that passed my hand when we shook hands, shook hands and, yeah, and that was it. I drove away. I recall there was a number of notes, I didn't look at
40 the amount, I put my hand down in my pocket and went home. The following morning I went to, around about 9.00ish I think it was, I called through, saw him at the Macca's, I think we shared a coffee. He always showed interest in the fact that I have a love for Harleys, Harley Davidson motorcycles, he always brought that up. We sat, I had, I had no, I had and have, and still have no axe to grind with Mr Aoun but I certainly, on the life of my five kids I can sit here and say to you that I never, ever asked him for money, ever. I have never said that to any plumber. I don't know if you'd

heard the terminology, Mr Payne, but you don't pick the fruit, I was told you don't pick the fruit from the tree.

I was going to ask you about that, that might be a convenient point, we'll come back to Mr Aoun. Who told you that?---That was in, that was in my first, my first day discussion.

That's another part of the talk, is it?---Yeah, you don't pick the fruit from the tree.

10

You let it fall into your lap, that's the - - -?---That's the inference, or the inference I think is - - -

Yes. And just to, that recollection obviously is, is much better than the one you had on 7 August, 2010 which is set out in the questions and answers that, that the Assistant Commissioner asked you on that day. Do you agree with that? The recollection you've just given me then?---Yes, sir.

20

I, I have also recollect something in reading this document, that when I was asked about, by Ms, Ms Colquhoun - - -

Yes?---- - - - about my income, I also, I've been involved in part-time TAFE teaching as well at Miller TAFE and Chullora TAFE, these were approved and okayed albeit only verbally but by, by Jackie Hiddlestone and Steve Sharp, they knew that I was, I got approval to, to do that. They felt that me as an inspector, there was a benefit, the fact that I could be in the role, in a teaching role as well as an inspector so that was a, in that compulsory I had, under the pressure of that I had forgot of that, I wanted to apologise.

30

That's, that's fine. Can I just finish this incident with Mr Aoun then?---Yeah.

I think, I think you told me you accept that at one point you got angry with him and he may have understood at that point that your anger was somehow related to a desire for a cash payment. Is that, that's what you're saying to the Commissioner?---Yes, I believe so.

And you heard Mr Aoun give evidence that his belief is that payment was at the McDonald's on the next day?---Ah hmm.

40

Can you say categorically one way or the other that that's incorrect?---That is incorrect, yeah.

And you're convinced are you that you were paid on that first day through the window, as you put it?---Ah hmm.

And as to the amount, you put it in your pocket, you didn't count it and you really don't know what it was. Is that what you say?---I don't recall the, I don't recall counting it out, no.

So it could've been \$300, you don't know?---Yes, yes, it could've been.

I see. And I think just to complete that picture, at some point you've said to Mr Aoun on the first day, We'll meet at McDonald's and you can fix me up there. That could've been said?---Can you just repeat what is in there?

10

On that first day when you come back and as you said you were pretty angry. As I think you accepted he may have misunderstood what you were putting, but you said to him, Look, there's a McDonald's up the road. We'll meet there tomorrow and you can fix me up there?---The words I remember I would've, I would've used and I did use with him was, We'll catch up at McDonald's. You can give me the paperwork and we'll share a coffee. Yeah.

Had you accepted cash payments from Mr Aoun prior to this occasion?

20

---Yes.

Do you accept that it was possible given you were angry and the other circumstances that he may have, may have understood that what you were doing was saying, I'll meet you there, I'll fix the paperwork up but it's going to cost you?---No. No.

You don't think he could've understood that or those circumstances?---

30

Well, I don't, I don't believe so. Every meeting that we had always started out quite, quite light, quite jovial. I, I have got, I got cross with him that afternoon, the fact that I had gone to the, I'd made the effort to go back to check on the job for him so he could back fill it while he had machines there and equipment there that evening before he went home and then to get back to the job and find out that the bugger had been over there playing ten pin bowling and he still didn't have his paperwork that he, that's what I had, was, was cross about.

Can I just say I'm not, I'm not seeking to, to contradict that that's what you were cross about?---Mmm.

40

But I think as you accepted earlier that anger in those circumstances, particularly given the good relationship you'd had with him in the past? ---Mmm.

Particularly given the fact that he'd made cash payments in the past, you accept that he could've understood that your anger was related to the desire for a cash payment?---Well, in hindsight now after sitting here for a number of days and hearing what other incidents had, were transpiring in and around

him at the time, I could understand now why he would, why he would perhaps think that, yes.

And you certainly met at McDonald's and you certainly did have a discussion about motorbikes, which by all accounts, including his, was an amicable one?---Oh, yes. Yeah.

And you did fix the paperwork up for him on that day?---And he had the two sheets, the paperwork there for me at the time.

10

Yes. And so as far as you were concerned the job was properly done, you filed the paperwork, you didn't issue any CARs in relation to this job did you?---I don't recall issuing a CAR on that, although I had been, I was shown a CAR, a copy of something - - -

We might clear that up now because that's P58, if the witness might be shown that?---Mmm. Yeah, that's the one.

20

Yes. I'll just, there are a few peculiarities. It looks like, so just going back, that the audit date, 15 April, 2005, that's the day you attended, we've spoken about where you went twice during the day. Correct?---Yes, that's correct.

And it looks as if a CAR was raised on the 22nd. Was it raised by you?---He raised that construction report, he gave me that, well you know what I would file there, for a start is restrict pedestrian access to the construction site. To my recollection the, I'm almost positive that the, the sewer main and the junction were well inside the construction site and nowhere near pedestrian access.

30

Yes?---Because I was able to put the vehicle on the site.

Yes?---He always had his safety issues and his safe work plan. He always had that. That other sort of paperwork that you needed prior to the inspection he always had that on site.

40

So that - - -?---Yeah, I don't, I don't recall raising, raising that. CARs are a terrible thing to have to raise. Terribly time consuming. It's far simpler to have the plumber or the constructor rectify it basically immediately. And there was never anything of a severity where, where you would, it was never of a severity where it would stop the job or slow the progress of a job.

Just so I understand to make sure I understand the points you've just been making to me. So point 1, an accurate workers constructed report, you got that from him didn't you?---Yes, the following morning.

Yes. So that's, cross that one out. Number 3, restrict pedestrian access, you think that's just got nothing to do with this job, as best you recall?---Mmm.

Because I do remember actually being, the vehicle was on, actually on site, actually like, what I mean on site, I mean off the road, actually in the construction site.

I understand. Yes. So that, that can't come from you anyway?---Mmm.

Number 4, safety issues and the safe work plan, as far as you were concerned to your memory and observation he always had that paperwork with him?---Yeah, he always had that at the beginning, that was something 10 that you had to look at prior to even looking at the work.

So again, whoever's, however this has got in the system it didn't come from you. That would be inconsistent - - -?---To the best, to the best of knowledge, no.

I'm just trying - - -?---I know I can see here it's got Tim. I don't know who that is. And then it's got an arrow and it says spoke to Richard Fayers.

THE COMMISSIONER: I think that's probably speak to - - -?---Oh, speak 20 to Richard Fayers is it? Is it?

MR PAYNE: Yes. I just wanted to ask you about number 2. Do you remember anything about this job that was left open when you signed the paperwork off on the next day at McDonald's, about placing (not transcribable) material prior to construction of the PCS?---I can be 99 per cent sure that I did the paperwork at the time. I ticked all the boxes, dated it, signed it so it was all done in the book.

Yes?---It was just a matter of getting that construction report and the, and 30 the marked up Hydra sketch the following morning.

Both of which you got and there was no problem as far as you were concerned?---Yeah.

I see. That's fine. You can return the (not transcribable) Can I ask you some questions about the time that was a period where I think it was Ms Hiddlestone who decided who was going across to Fair Trading and who would be redeployed or- - -?---Ah hmm.

40 - - -offered redundancy within Sydney Water at the end of 2009. Do you remember that period? I want to ask you about from then until the time you left Sydney Water?---Yes.

You were redeployed to the, to the Box Hill depot of Sydney Water?---Yes.

And you worked with a Mr John Buckley there?---No, no. Not, not with John, not with John Buckley.

He was based there or not?---I, I don't know. So up till a period of, it's within the last four, four weeks, is the first time I ever even heard the gentleman's name.

So as far as you know you hadn't met him prior to these proceedings at least, prior to this inquiry?---No, sir. When you say, are you referring, when you say Box Hill, are you referring to the, the Priority Sewerage Program, the PSP Program at Wilberforce?

- 10 Yes. That's where you were redeployed to?---Well, I was, I was working out there, yes, on a daily basis. I was still based at Liverpool- - -

I see.---?- - -but that was the last project.

I see?---That project that Steve, Steve Sharp and Jackie had had me involved in.

All right. So you travelled there each day?---Yes.

- 20 Can I ask you about the meeting that you talk about, it starts at 174PT and goes over to 175. I'll just, you say there that you know that Sydney Water is carrying out investigations into Aoun Constructions. Do you see that?
---Ah- - -

It's at the bottom of page 174, about line 43?---Yes.

And you're saying, "The division I'm working in at the moment, which is on water mains- - -?---Ah hmm.

- 30 - - -this chap works on sewer mains." So that's I think a reference back to Mr Buckley, Mr Aoun, I'm sorry?---Mmm.

- 40 And you say, "Several matters", and you set out those matters, and just over the page is what I want to ask you about. You say, "I don't know the actual individual details of it but I was privy at a meeting, a general meeting that we were having and his name came up in that they were investigating several matters with this individual." I want to ask you about that meeting. What was the occasion for this meeting?---It was a, it was a general meeting that was held with the group that I had been redeployed into which was the managers of ah, ah, Jim Price, Ian Barnes ah, Ray, I'm pretty sure that Ray Blinkhorne was there, and ah, Mr Aoun's name had come up. Mr Price had indicated that ah, there was outstanding CARs against Mr Aoun and ah, he had breached a couple of, a couple of jobs that he had done. Ah, the work that he'd carried out was pretty, how are you going, I think was the term that they used.

Mr Barnes is present at this meeting?---Yes, he, yeah.

But Mr Price is the one doing the talking, was he?---Ah, yes, Mr, Mr Price had mentioned it.

And Mr Blinkhorne's there as well?---I believe Ray was there, yeah.

Anybody else from that, Mr Purcell, was he there?---At that particular meeting I don't think I don't think Mr Purcell was there at that one.

I see. And did you contribute to the discussion at all about Mr Aoun?

- 10 ---I had said that I'd had dealings with him. Ah, what I found, I guess what I, what I'd found so, so strange is the period that I had, I had known him in the ah, sense of minor, minor works only, which was minor works sewer, insertion of junctions, apart from the odd occasion when he didn't have that hydrant done at the end ah, I had never, I had never had any problem with him. I'd never had any drama with him as a contractor, but apparently this group had had ah, had several, several incidents where ah, I believe developers, to the best of my knowledge, developers had made complaints about him to water service coordinators and then of course the water service coordinators had written, had written CARs on him and then the CARs had
- 20 returned to Sydney Water to be addressed, to the asset management team.

And do you remember, just going back to 174, what you've said out there about workmanship and falsifying documentation, is that something Mr Price said, is it?---174?

At the bottom of the page, I'm sorry. You're asked a question, "What sort of matters?" About Mr Aoun. "Problems onside, falsifying documentation et cetera."---Yes.

- 30 Were they things to the best of your recollection Mr Price said?---The incident that stuck in my mind was a, where there was meant to be a second, a second drilling. Now, this is, this is minor works now going from sewer to water.

Yes?---Okay. So we're talking about the connection into the Sydney Water main.

- 40 Ah hmm.---Where the water main was across the road from this particular property which had been subdivided and the requirement of the subdivision was that there was a second, a second water service to be supplied to it and instead of the, the WSC had, had realised when he'd gone out to the site and looked, where there was meant to be an excavation apparently and there hadn't been, that ah, he had excavated on the side of the road which is closest to the property, found the pipe, cut it, put a T in and teed off to the new property instead of actually doing a, having a separate, a separate drilling, individual drilling.

And do you remember Mr Price saying this was in relation to a job in Mosman in Sydney?---Unsure, the actual location of it.

THE COMMISSIONER: Sorry? I beg your pardon, Mr Fayers? Did you say, I'm sure or I'm unsure?---I'm sorry, sir. I said I'm unsure whether it would be- - -

Unsure?---Yeah, I'm unsure of the location of that job.

- 10 MR PAYNE: And that information you just gave me about across the road and the absence et cetera, was that Mr Price, the one who told the meeting about that, to the best of your recollection?---Yes.

And can you put a time around this meeting?---That was, that was actually when I came back from ah, I'd come back from holidays. I came back from holidays sort of ah, ah, June, end of June, July.

2010?---Yeah, not long prior to, yeah, yeah.

- 20 And by that time- - ?---That was after I had seen him at a ah, Carlingford ah, a job at Carlingford where he had a contractor drilling for him.

That's Mr Aoun?---Yes, we're talking about now, yeah.

Was any cash exchanged between Mr Aoun and you on that- - ?---No, sir.

- So if it helps you to place this meeting that you'd seen Mr Aoun in relation to the Carlingford job and then you had this conversation where Mr Price tells you the things we've just been talking about in June this year?---Sir, 30 you're getting a bit faint, I can't hear you.

I'm sorry. When was the Carlingford job compared to this meeting?---Ah, it was after the meeting.

The Carlingford job was after the meeting?---Yes, I believe it was after it.

At the meeting in June this year, did you say to Mr Price or anyone else what you've just said to me, that in your dealings with Mr Aoun you found him to be a capable constructor, at least of minor works?---Yes.

- 40 Did, did you know in June this year or did you suspect that Mr Aoun had made any complaint about the conduct of any Sydney Water employee including yourself?---No.

Had you, when did you first learn of the complaint made about you? ---Thursday night, it was a Thursday night, I think it was about three weeks ago when one of the ICA officers contacted me. Well, he said he was an ICA officer. I must admit I thought I was being, I thought I was being geed

up there for a bit, for a while by, by, by maybe a plumber or one of my mates.

Did you never think, Mr Fayers, given this long history of accepting cash payments that, that you knew Sydney Water didn't approve of, did you never think that the day might come when you'd have to answer for those actions?---It's a funny thing that the powers to be always seem to, always exact a cost on you to pay somewhere down the track, sir, following behaviour or misgivings so in the back of my mind, yeah, yes, I would have
10 thought there was always going to be, the day was going to come that it was going to come back and bite me on the backside, you know. I guess you always hope that it, hope that it isn't. You see, I made three really big mistakes here. The first was sitting at that lunch table believing and listening to that rhetoric and believing that I deserved whatever manna fell, fell from heaven. The second mistake was not handing back that first \$5 note that was wrapped up in paper. The third mistake was just letting it continue.

20 Commissioner, just excuse me for a moment. I have nothing further for Mr Fayers.

THE COMMISSIONER: Yes, thank you. Mr McIlwaine?

MR McILWAINE: I have some very short questions. Mr Fayers, I represent the interests of Mr Khare Aoun?---Yes, sir.

I want to put one very short matter to you. In regard to the incident at 24 First Avenue, Blacktown on or about (not transcribable)?---Yes, sir.

30 You've accepted you received money?---Yes, sir.

I want to suggest to you this, that as you've indicated you were upset by Mr Aoun's conduct on this particular day, correct?---Yes, sir.

You felt you'd gone out of your way to come back and he still didn't have all the material, the paperwork ready, correct?---Yes, that's correct.

You were upset about that, correct?---Yes, sir.

40 I think you told the Commission earlier that you have in your life had some problems from time to time with anger management, is that correct?
---That's correct.

In fact you've even sought counselling?---Yes, sir.

I want to suggest to you that in all those circumstances on this particular day you asked Mr Aoun for \$300?---No, sir.

Northing further, Commissioner.

THE COMMISSIONER: Mr Stevenson. I assume there's no one else. Ms McGlinchey. I'd be grateful that if people want to cross-examine if they'd let me know.

MS McGLINCHEY: Thank you, Commissioner, I'll be brief.

10 THE COMMISSIONER: Yes. Just explain to Mr Fayers who you represent.

MS McGLINCHEY: Mr Fayers, I represent Mr Rogers?---Yes, ma'am.

Mr Fayers, you've told the Commissioner about the, your induction meeting in which you were told that, and I'm just trying to paraphrase your words - - -?---Yes.

- - - that these are not exact, money will be provided, given to you by plumbers, you don't speak about it, you don't talk about it, is that correct?

20 ---They don't use the word money, ma'am. They say that you'll, you know, this, well, they refer to it as a, as what they call a drink. I think we've used that, you've probably heard that term here over the last couple of days.

Yes, I'm familiar with the term but - - -?---Yes, yeah.

- - - I just want to get your recollection of that particular question. Is that what they said to you, a drink?---Yeah, yes, ma'am.

So you may be given a drink from time to time by plumbers?---Yes.

30 You don't talk about it, you don't speak about it?---No, ma'am.

And this was at your induction meeting, is that correct?---Well, no, it wasn't an induction meeting, it was just a, the first morning tea.

Your first day in the job?---Yes, ma'am.

40 The job where your manager was telling you about the job, what you had to do and just setting out your duties, that sort of thing?---No, he had, he had already done that, Mr Scott had already done that and then this was just a, a casual, this was the morning tea that was being held, that's held every morning at the, at the, at that particular office before you rolled out for the day's work.

All right. So it was amongst your peers rather than your manager, your managers and your superiors is that correct?---Yes, it was a peer, it was a peer group, yes.

THE COMMISSIONER: So there were no managers there?---Yes, Mr Scott, Mr Scott was, Mr Scott was present there.

MS McGINCHEY: And Mr Scott didn't say anything during this conversation, he didn't try to contradict what was being told to you?---No, ma'am.

He would have heard the conversation that was going on?---It was seven and a half years ago but, yes, yeah, yeah.

10 So am I correct in assuming that the message you got was that this practice, this culture was a secret practice, it was not to be spoken of?---Not to be spoken of.

And so do I assume that as you went through your, your role and received the drinks that you didn't come back to the office and sit down with the others and say oh, I had a great day today, I got \$50 or - - -?---No, you never spoke of it like that.

20 All right. So you didn't speak of it like that?---No.

What about your co-workers, did they, do you recall that they would come back and say I had a great day today, I got \$50 or \$100?---No, no, as I said, they never spoke in, in a actual amount, it was always, it was a subject that was inferred, talked around.

And that's because it was a secret practice as we've agreed upon?---Yes, ma'am.

30 So you say that they didn't say money but did they come back and say I got a big drink today or I got a small drink today or was that, not even on that level?---Not even on that level.

And that's because as we've said it was secret?---Yeah.

You were keeping a secret and they were keeping a secret?---Mmm.

So when you, if others didn't saying anything to you you assumed that they were receiving money as well or receiving a drink, let's use that term seeing 40 you're more comfortable with that?---Yes, ma'am.

You assumed that others were receiving a drink whether they did. Is that correct?---Yes, ma'am.

But is it the case too that you didn't actually need to be told that when you started work at Sydney Water because you had effectively already been corrupt, hadn't you?---Yes, ma'am, I knew about it.

Because you - - -?---I'd been involved in it.

Because of your dad?---I had been involved in actually, yeah.

Since you were quite young?---Yes, ma'am.

You were involved in giving, witnessing your dad give a drink to inspectors?---Yes, ma'am.

10 So it wasn't news to you, what you heard?---No, it wasn't a shock.

All right. And you just assumed that this was the general practice because that's what you'd seen your father do?---This was going to, this was the culture, yes, ma'am.

All right. Now, the Werrington office where you had this first morning tea - - -?---Mmm.

20 That wasn't the only office where inspectors operated out of in Sydney, was it?---No, there was many other offices around the place at the time.

How many offices at that time?---Werrington, Beecroft, Werrington, Beecroft, where was the other main office, Five, I think Five Dock was, Five Dock was there at the time, there was an office up in the Blue Mountains and I can't recall whether there was one at Parramatta at the time, I think there might have been, it was Parramatta or Liverpool.

So at least five or six offices at the time?---Yes.

30 And you don't know what was being told to the new workers at those offices, do you?---Not the new workers, no.

THE COMMISSIONER: But you worked in those areas?---Yes, yes, I did.

And the same practice was followed there, as I understand your evidence?
---Yes.

MS McGINCHEY: The same secret practice?---The secret practice. Can you elaborate on what you mean there by that?

40 Is it the case that when you agree with the Commissioner that the same practice was adopted- - -?---Mmm.

- - -in other officers, was that you continued to take a drink- - -?---Yes.

- - -when it was offered?---Yes, ma'am.

And you've already told us you didn't ask for a drink but when it was offered you took it?---Yes, ma'am.

And you assumed that other people were doing the same?---Yes, ma'am.

But it wasn't spoken of?---What was, what was spoken of was what I, what I indicated, that with each office that you went to, if, if ah, in the course of conversation, in the course of a conversation around a lunch table it, it may be said to you, you know, you don't speak of that, you don't talk of that,
10 remember, you're a new bloke, you know, we don't speak about, we don't talk about it, it's just, you know.

THE COMMISSIONER: It just happens?---It just happens. Yes, sir.

MS McGINCHEY: So your understanding was, it just happens, but you would never have known of any particular details? Is that what- - -

THE COMMISSIONER: You wouldn't have known about the details of the money?---No, that's correct.

20 And you would have known about when, what particular dates money was given?---Yes, that's correct.

And I assume you wouldn't have known to whom money was given?
---That's also correct.

But you would have known from what everybody, what people were saying, that what was happening, what you'd experienced at other places was happening at this particular place?---That's, that's correct.

30 MS McGINCHEY: And is it correct that you also wouldn't have known if some inspectors were not in the habit of accepting a drink? Is that correct?--
-No. Well, of course I wouldn't have known.

Because it wasn't the case that bribes were never dealt with in a proper way, is it?---(NO AUDIBLE REPLY)

THE COMMISSIONER: What do you mean?---Yeah.

40 MS McGINCHEY: Can you, are you aware that there were times when inspectors were either offered a bribe or money was put in their van and they reported it as they were expected to do? In the course of your employment as an inspector are you aware of those, some cases?---No.

THE COMMISSIONER: Have you ever heard of an inspector having been reported for accepting bribes?---In the seven and a half years, no, sir.

And in your father's time, did he ever tell you about inspectors who'd reported a bribe?---No, sir.

MS McGINCHEY: Mr Fayers, were you working in the Liverpool office in 2007?---Yes, I was, I believe I was.

Was your manager there a Mr Rick Johannsen?---2007, I think Rick was still there, yes.

- 10 Were you aware, and you may not be aware, of a matter where an inspector, Mr Kim Thwaite, is that correct, a regional manager, sorry, an inspector called Mr Kim Thwaite?---Yes.

Are you aware of a time when money was passed to him inadvertently and he brought the money to the office and reported it in a proper way to Mr Johannsen?---No.

You're not aware of that?---No.

- 20 All right. And that it was dealt with in the proper money, the money was reported but it was written up in an appropriate way. You're not aware of that?---No, ma'am.

THE COMMISSIONER: Ms McGlinchey?

MS McGINCHEY: Yes?

THE COMMISSIONER: Do you have instructions to that effect?

- 30 MS McGINCHEY: Yes, I do, Commissioner.

THE COMMISSIONER: Well, I would have expected that you would have informed counsel assisting of that long before this.

MS McGINCHEY: Well, Commissioner, as I'm hearing Mr Fayers' evidence I'm taking instructions at the same time so I- - -

THE COMMISSIONER: Well, I still say, I still say- - -

- 40 MS McGINCHEY: Yes.

THE COMMISSIONER: - - -that information like that I would have expected- - -

MS McGINCHEY: Yeah.

THE COMMISSIONER: - - -the lawyers involved to have informed counsel assisting about, of that, of those kind of incidents long before this matter is put to witnesses.

MS McGINCHEY: Look, Commissioner, I hear what you're saying.

THE COMMISSIONER: No. I'm glad your hearing is in order. I don't know what that means.

- 10 MS McGINCHEY: Well, Commissioner, at what time would I have been expected to do that? I - - -

THE COMMISSIONER: As soon as you heard it.

MS McGINCHEY: That I should have come up to counsel assisting in the middle of his examination and passed him a note?

THE COMMISSIONER: Before you started.

- 20 MS McGINCHEY: Well- - -

THE COMMISSIONER: If you heard about it today, I don't know when you heard about it because you haven't told me.

MS McGINCHEY: I heard about it, I heard about it about five minutes ago, in response to Mr Fayers' evidence, instructions from my client.

THE COMMISSIONER: Your client being?

- 30 MS McGINCHEY: Mr Rogers. Commissioner, I'm sure Mr Rogers would be happy to pass on what he knows about this to counsel assisting. I'm sorry if I've handled it incorrectly but I wouldn't have thought it was appropriate to stop proceedings for me to interrupt counsel assisting.

THE COMMISSIONER: No, I accept that. I'm not suggesting that you should have. There was a time when counsel assisting had stopped and before you started. But I didn't appreciate that you only heard it five minutes ago, if that's what you're saying.

- 40 MS McGINCHEY: That's correct, Commissioner.

THE COMMISSIONER: Because it's the kind of information that I would have thought your client told you right at the beginning, if he was telling the truth. But anyway, I think you should proceed.

MS McGINCHEY: Mr Fayers, you've given some evidence of a conversation you've had with Mr Rogers at a Gloria Jean's restaurant/coffee shop?--Yes, ma'am.

On how many occasions have you met with Mr Rogers at a Gloria Jean's?
---At Pemulwuy it was just one occasion.

Just one occasion. Can you recall when the meeting was where you say you had this conversation with Mr Rogers?---The time, no, I can't recall the actual time.

- 10 Well, doing your best and just in terms of 2007, 2008, 2009, just take your time and have a think about when it might have been?---Probably towards the late, late 2008/early 2009.

Now, I'm just going to put to you my client's recollection of that conversation and you can tell me if you agree with it or not?---Yep.

Do you recall that it was a casual meeting, so it wasn't planned?---Oh, yes. No, it was only a, yeah.

A casual meeting?---A casual meeting.

- 20 And Mr Rogers came, arrived at Gloria Jean's on his motorbike?---Yes, that's correct.

He had his daughter with him?---I believe so, yeah.

He saw you and you sat down and had a conversation?---Yep, that was that.

And the conversation was largely about motorbikes?---Yes.

- 30 Right. Not about planes?---Yes. Rob was pretty excited about the fact that he had ah, he was ah, organising this ah, new system for his plane.

Right. Well, can I suggest to you that you, that there was no conversation about a plane at that meeting?---Ah hmm.

Could you be mistaken about that?---No, ma'am.

- 40 Could the conversation about the GPS for the plane be on another occasion, much later, say in 2010?---I remember having, having quite a conversation with Rob about his plane.

When did you first become aware that Mr Rogers had a plane?---Ah, probably not long after Rob had, Rob had started ah, Rob had started at PIAS. He was a, he was doing the Careflight. Actually, just before he started with PIAS ah, he'd been coming into the office at Liverpool with ah, Tony Vecchio and he was ah, I think he was fundraising or something at the time. He did a lot of the ah, those Careflight where they, he goes out west

and picks up sick kids and then brings them to the hospital and runs the families back and forth in his plane.

At his own expense?---Yes, yeah.

So you would assume that running a plane is a fairly expensive business?
---Mmm.

- 10 Do you, just on the conversation about the GPS, can I just suggest to you that Mr Rogers and yourself were working together doing health checks in relation to - - ?---Ah hmm.

- - -the PSP area?---Out at Wilberforce.

2020?---Yeah.

Right. And that Mr Rogers had a conversation with you then about being excited about buying a GPS for his plane?---I remember talking about the plane with Rob at that time, yes. The actual details I don't, I'm sorry.

- 20 And is it possible that you're mistaken about the conversation about the GPS?---No, ma'am. No.

You say that happened in 2008 and not in 2010?---No. I remember him talking about, I remember him talking about a, a new GPS system that he was putting in with the plan at that time. He was talking about - - -

Just so that - - -?--- - - -a new, a new system.

- 30 Just so we're clear - - -?---You know, back in, back in 2010, back at, back in 2010 he was talking about other, other upgrades he was making. Whether it was another GPS system, whether it was other, other systems he was planning, I can't tell you exactly what it was, I'm sorry.

Just so we're clear for the record, I'm suggesting to you that there was no conversation about a GPS in 2008. That that conversation happened in 2010?---No, I don't believe I was wrong.

- 40 You assumed that running a plane was a fairly extensive business, rightly, I would think?---Yes, it would be very expensive.

Did you know that Mr Rogers has had a part time job since 1995 working on the weekends at a factory, running maintenance and plumbing work?---Probably, yes I do know that he was plumbing on the weekend as well.

All right. It's a possible explanation for any comment about or any assumption on your part that extra funds were coming from that job and not

from - - -?---Oh, of course it's quite possible that this could be funds coming from that, yes.

Nothing further, Commissioner.

THE COMMISSIONER: Other then Mr Stevenson, is there anyone else who wishes to cross examine? Mr Stevenson.

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

Towards the end of his examination Mr Payne asked you about the meeting which you said was in June or July this year?---Yeah.

Attended by Messrs Barnes, Price and Blinkhorne. Do you remember that? ---Ah hmm.

And you gave evidence prior to the inquiry that Mr Aoun's name arose at the meeting?---He came (not transcribable).

20 My question is this, was it ever part of your responsibility as an employee of Sydney Water to play any role in the assessing of Mr Aoun's accreditation as a constructor?---Are you referring to like as in audit, like carrying out an audit on the work or actual assessing of Mr Aoun?

I don't mean, I'm not talking about your role as an inspector who from time to time inspected his work?---Yes.

30 I mean at a more formal and high level were you ever involved in any process of assessing the accreditation of any constructors, including Mr Aoun?---No.

Thank you. Now you mentioned Mr Steve Sharp, I think. Is this right, he was your supervisor for the whole that you were inspector?---Not the whole time. Rick Johannsen was, was my manager for, well, Jim Scott was the manager out at the Werrington, not the Werrington, the Dunheved, yeah, the Dunheved Werrington there.

I'm talking about who your supervisor was?---Rick Johannsen was the first one and then when Rick left it was Steve, Steve Sharp.

40 And did you understand that Mr Johannsen had himself been an inspector before he was your supervisor?---Yes.

But Mr Sharp I think was not at inspector as you understood it before he became your - - -?---No, Steve was an, Steve Sharp was an inspector, yes.

He was?---Yes.

All right. You gave some evidence about the the centralised scheduling changes that occurred, I think you said around the end of 2008?---Yes.

And do you recall Mr Payne asked you some questions about whether the amount of money you were taking - - -?---Could you speak up just a little bit please.

10 You remember Mr Payne asking you questions about the impact that the introduction of that centralised scheduling process had on the money you were taking?---Yes.

You remember those questions? And you said it went down and you gave some reasons why you thought that was so?---Yes, sir.

Did you understand that the, the various changes that were introduced as a part of the central, centralised scheduling procedures were aimed at people like you, taking money?---Yeah, yes, sir. Yes, I believe, it sounded logical.

So you saw those changes, and I'll go through - - -?---Yes.

20 - - - the detail of them in a moment with you. You saw those changes as being an attempt by your employer to try to stamp out - - -?---Corruption, yes, sir.

Yes. And including corruption by the likes of you?---Yes, sir.

And I'll just go through the, some changes and see if you recognise them or if you can make any comment that might assist the Commissioner about them, being the man on the ground who was, as you understood it, the object of these changes. Do you follow me?---Yes, sir.

Now one of the changes was that from the moment they came in, and these are the Hiddlestone changes. You understand that don't you?---Oh, yes, sir. Yes, sir, I remember them.

Formerly the plumber would ring you, an inspector, directly to arrange an inspection?---Yes, that's correct.

40 So you knew where and when you'd be meeting the plumber?---That's correct.

And he knew precisely who the inspector was going to be. Correct?---Yes, sir.

So he would know whether the inspector was on the take or not?---Yes, sir, he would know whether that inspector took a drink.

Now the new system is isn't it, as you experienced it, that now the plumber can't ring the inspector. The plumber has to ring a centralised 1-3-0-0 number or similar and arrange the inspection that way?---That's correct.

So the plumber doesn't know under the new system who the inspector is going to be that's appointed?---Yes.

Now formerly it was the inspector who made sure that relevant fees were paid before the inspection, that you, would make sure fees were paid before the inspection. Is that right?---No. It was the, it was the scheduling team. Because the, as I understand it, the plumber when he rang in, if he didn't have a reference number, the scheduler couldn't book him in.

That's under the old system you're talking about?---No, no, no, this is, I understand you're talking, Mr Stevenson, I understand you're talking about the centralised scheduling. Yes?

I am. But- - -?---Right. Okay. So under the - - -

20 But, Mr Fayers - - -?---I'm sorry, am I - - -

- - - (not transcribable) the subject matter, I'm asking you about what the situation was before centralised scheduling?---Oh, oh, sorry. Sorry.

I'll put it again?---Yep.

Under the old, I'll call it the old system, right. Under the old system - - -? ---Yes.

30 - - you as the inspector had the responsibility to get the relevant fees from the plumber before the inspection took place?---Yes. You would check, when the plumber rang in to book it in, you would ask for a reference number, which was the number that he had obtained from the (not transcribable) when he paid his fees and you would go into the system and check that it was correct, the property was correct and the right fees had been paid on the job.

That's the old system?---That's the old system, yes.

40 And now there's an auto check system which means that the plumber has to pay the fee before a booking can be made at all?---That's correct. I believe that was it, yeah.

Now under the old system, I'll speak about you, the plumber would negotiate with you the inspector, a time for the inspection?---Yes, that's correct.

And now under the new system the plumber has to tell the central booking system, the person who answers the phone at the central booking number when the work will be ready?---Yes, that was correct.

And the inspection is arranged - - -?---Accordingly.

- - - to fit in with that time if that's possible?---Yes.

10 Now in the old days there was a, a single inspector allocated to a geographical area?---Yes, that's correct.

And I think you mentioned earlier an LGA area?---Yes.

You meant a local government area?---Yep.

So you were for example the inspector in a particular municipality?---Yes, that's correct.

20 (not transcribable) municipality?---Yes, that, that municipality might take in several like suburbs as such. Yeah.

It would be a particular geographical - - -?---Geographical, yes.

- - - the boundaries of which you knew. Correct?---Yes, that's correct.

And you were the only, under the old system, you were the only inspector in that area?---Yes.

30 And that had the potential didn't it for relationships to form between you as the inspector and plumbers in that area?---Yes, I did, I did say that, sir, earlier.

And that's exactly what happened as I think you've explained?---Yes, sir.

But in the new area, is this right, the plumber can't be certain at all as to what inspector is going to turn up because there's a rotation system?---Yes, that's correct.

40 And you agree now don't you that in the old system the potential always existed for you and a plumber to make an informal arrangement about when an inspection would take place?---Yes.

And under the old system it was possible for you and a plumber to come to an arrangement whereby no inspection at all would take place?---Yes, sir, yes.

Did you ever do that? Did you ever come to an arrangement with a plumber where you'd, as it were, deem an inspection to be passed without actually

attending at the site?---Not without it being inspected. There was several occasions when, when plumbers would, plumbers would contact you back for whatever reason they weren't, they weren't going to be able to meet you on site but what they would do is they would leave the paperwork under a brick, on the corner of the slab or they'd put it in a plastic bag and sort of tape it to a riser, a pipe riser on the job.

But on, on those occasions do you say you actually went back to the work to make sure it was done properly?---Yes.

10

All right. Now under the old system if you found some non-compliant plumbing you could simply tell the plumber to fix it and it would be done and I think you said earlier that that's what sometimes happened?---Yeah.

Now that can't happen under the new system can it?---No, under the new system when you found an issue you would - - -

Put it into the computer?---You would put it into the computer, yes.

20

You've got to put it into that tablet I think you called it?---Yes.

And as you understood it whatever you put into the tablet was (not transcribable) - - -?---Once it's in - - -

And record it?---That's right.

So the informal wading through of work which looked okay couldn't happen, can't happen as you understand it - - -?---No.

30

- - - under the new system?---Yes.

Now, under the old system CARS or non-compliance paper was issued at your discretion as the inspector?---Yes, it was.

And under the new system, is this right, the computer dictates the circumstances in which warnings and non-compliance notices can be given? ---Yes, that's correct.

And then the system generates the particular notices, don't they?---Yes, sir.

40

So that level of discretion is taken out of the hands of the inspector under the new system?---Yes, sir.

And was it your assessment that when you were inspecting there was a lack of sufficient auditing of your work? Is that how you felt about it?---In my personal opinion?

Yes?---Auditing by management?

Yes. I'll put it another way. In your, in your day did managers ever make surprise visits to inspect your work?---I had visits to sites by managers, I had visits to sites by managers.

Surprise ones, that is, surprise ones? That is, not foreshadowed to you? ---No, you, you knew that they were coming out. They, they would, they would ask you where you were going to be at a certain time of the day so you were, you mightn't have known exactly which job they were going to meet you on but you were aware that they would meet you sometime during that day.

10 Well, that's not really a surprise is it, you're saying that they would ask - - -?---Well, no, that's - - -

- - - where, where you were working and you would know from that that you might get a visit?---Yes, that's correct.

20 So you'd take care on those occasions not to take money I'd expect?---Yes, you would.

And the new system is different, isn't it, because, because the inspections are centrally scheduled you as the inspector know that you might have a random visit from a manager at any time?---That's correct.

And is this right, that in the old days, so far as you understood it, there was little that management knew about where you were from time to time during the day?---Yes.

30 And now as you understand it the computer system enables those in management to monitor precisely where the inspector is, how long he stays at a job - - -?---Yes, that's correct.

- - - and everything like that. And in your day I think you've told the Commission inspectors were based at about half a dozen locations around Sydney Water's jurisdiction?---Approximately that, yes.

And now they all work at a single location so have less independence?
---(NO AUDIBLE REPLY)

40 They all work from a single, a single location, you understand?---Yes, they eventually, they, they closed offices one by one until they brought them back into a, a central office.

Now you tell us, or you told the Assistant commissioner in the private examination that you ceased working as a inspector last November?---Yeah.

Then you I think were redeployed?---Ah hmm.

As you've told us and you took redundancy a couple of weeks ago, didn't you?---Yes, that's correct.

Now, just before, sorry, you know that of the total number of PIAS inspectors that were in operation in November 2009 not all of them were chosen to go across to the Department of Fair Trading?---That's correct.

10 You were one of the ones that was for whatever reason not chosen?---That's correct.

And that do you recall just before you ceased to be an inspector you attended a fraud awareness training seminar?---(NO AUDIBLE REPLY)

If you don't recall I'll show you a document to remind you?---Yes, I, I recall a, a seminar in regard to that. I think that was back in, that was back in 2009, wasn't it, yeah, back in 2009 sometime.

(not transcribable)?---Yeah, I think it was in 2009.
20 I suggest your signature is fifth from the bottom?---Yes.

And that enables you to recall, doesn't it, that you attended a fraud awareness training seminar - - -?---Yeah.

- - - on (not transcribable) October '09?---Yes, that's, that's the one I recall.

About a month before you ceased to be an inspector?---Yes.

30 And you recall that amongst the things that was said at that seminar, amongst the things that was emphasised at that seminar was that employees of Sydney Water shouldn't accept gifts for benefits?---That's correct.

And do you recall that came as no surprise to you, did it?---No, sir, it did not.

You didn't need a formal lecture from anyone at Sydney Water to know that you shouldn't take money?---That's correct.

40 You didn't need a formal warning from anyone at Sydney Water to know that it was wrong to do so?---That's also correct.

THE COMMISSIONER: Ms Hughes?

MR PAYNE: Commissioner, I have two questions - - -

THE COMMISSIONER: Mr Payne, I'm sorry, Ms Hughes.

MS HUGHES: I have no further questions.

THE COMMISSIONER: Yes, Mr Payne.

MR PAYNE: Two questions arising out of some questions Mr Stevenson just asked you, Mr Fayers?---Yes, sir.

Just in relation to the new system and the possibility that a manager might turn up by surprise under the new system. Has that ever, did that ever
10 happen to you while you were an inspector?---By surprise, no, not by, not by surprise, yeah, because they had spoke to you, they, they said we'll be, we'll be visiting you sometime during the day, you know, the surprise would, I guess the, you know, if we're looking for the word surprise would, would be in the fact that you didn't know which job they were going to be at, I guess, that's the, does that make sense?

Yes. So that you'd know they were coming some time during that day - - -?
---Yeah.

20 - - - is what you're saying?---Yeah.

I see. And just in relation to the questions you were asked by Mr Rogers' lawyer?---Yeah.

And I think you said you were, Mr Sharp had been an inspector and was your supervisor for much of the period you were a PIAS inspector?---Mmm.

Did you have other supervisors other than Mr Sharp?---Yes, I have.

30 Was Mr Johansen one of them?---Yes.

Is Mr Johansen still with Sydney Water?---No, he's retired.

Have you at any time prior to about half an hour ago, heard of a Sydney Water inspector taking money and then reporting it up the line, as it were?--
-No, no. I have never heard of that.

I take it given what you told the Commissioner when I was asking you earlier, that would have been quite a noteworthy matter- - -?---Oh, yeah.
40 - - -among the inspectors?---Pardon?

It would have been a noteworthy matter amongst the inspectors. You would agree with me?---Mmm. Yes.

Yet it's something that you certainly never discussed with Mr Johannsen, Mr Sharp or anyone else because you'd never heard of it?---I have never heard of it. I'm not saying that ah, Mr Thwaite didn't do it or that

management didn't deal with it accordingly ah, under the appropriate, the appropriate protocols, but I personally have not heard of that, no.

Mr Thwaite is still an inspector, as you understand it, who's gone across to Fair Trading or not?---Yes, I believe so.

Yes. Well, we'll look into that. I have nothing further.

10 THE COMMISSIONER: Thank you, Mr Fayers?---Mr, Mr Commissioner, may I, may I say something, please, sir?

Yes?---Just short. There's, the inference has been made here ah, to me by the examination, the cross-examination, that it's a premeditated, is that the right word, a pre, like, premeditated actions?

Yeah. Carefully thought out beforehand?---Yes. So - - -

I don't know if that was suggested, but that's what you're trying to say?
---Yes. There was no premeditation in, in this.

20 I understand?---In any of this, sir, if I, if I might say that.

I think that throughout the course of the evidence of the inspectors in your position they've all said that the payments were not solicited?---Yes, thank you.

Is that it?---Yes, thank you.

Yes. Thank you for your evidence. You may be excused.

30

THE WITNESS EXCUSED

[12.12pm]

THE COMMISSIONER: Ms McGlinchey, on reflection my criticism of you was, in the light of the fact that you only received your instructions five minutes ago, whatever criticism I made was unwarranted and I'm sorry about that.

40 MS McGLINCHEY: Thank you, Commissioner.

MR PAYNE: Commissioner, I call Mr Kane.

MR HARRIS: Harris. I- - -

THE COMMISSIONER: Harris, Mr Harris, are you representing Mr Kane?

MR HARRIS: Yes. Just- - -

THE COMMISSIONER: Do you want, do you want the usual order?

MR HARRIS: Yes. Thank you very much.

THE COMMISSIONER: Pursuant to Section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Mr Kane 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 KANE AND ALL DOCUMENTS
AND THINGS PRODUCED BY HIM DURING THE COURSE OF
HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE
REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON
OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HIM
TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR
ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

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

MR KANE: Under oath.

30 THE COMMISSIONER: Will you swear Mr Kane in, please.

THE COMMISSIONER: Mr Payne?

MR PAYNE: All right. Mr Kane, what's your full name?---Bryan Mervyn Kane.

10 And you're employed by Sydney Water?---Yes.
In what position?---Production employee.

Production employee with responsibility in relation to The Hills District of Sydney?---I beg your pardon?

With responsibility for The Hills District of Sydney?---Yes.

20 MR HARRIS: I wonder could I just interrupt. Mr Kane doesn't enjoy the best of hearing and he's got, in fact he's got two hearing aids.
THE COMMISSIONER: I'm sure Mr Payne will take that into, thank you, Mr Harris.

MR PAYNE: Yes, thank you. Mr Kane, just, just taking that up, if, if at any time you don't hear a question from me or you don't understand something that I've said, can you please let me know?---Yes.

I don't want you to answer a question that you haven't heard or you haven't understood?---Yes.
30 You were just telling me a moment ago that your responsibility was for The Hills District. Correct?---Yes.

And you held the same position as you understand it as Mr Buckley had, although his responsibility was in relation to the inner west of Sydney. Correct?---Yes.

For how long were you a production employee with those responsibilities in relation to The Hills District?---Oh, since about 2002. Yes, 2002.
40 So eight years?---Yes, approximately.

Prior to that what role did you have within Sydney Water?---I used to look after the BOS section of Sydney Water.

Which means what?---Building over sewers, if they're putting a building over a sewer they, I go, they might have to encase it or they've got to pier it,

I've got to take the file down and check it's in order with Sydney Water's regulations.

Do you have an engineering background?---No.

When did you start with Sydney Water, at what age?---Ah, 17.

And it's been your sole employer since that time?---Pardon?

- 10 It's been your sole, the only job you've had is with different jobs within Sydney Water since then?---Oh, I had a previous job as a fitter for three months beforehand.

I see. But since age 17 you've been with Sydney Water right throughout?
---Yes.

And how old are you now?---55.

- 20 Yes. You participated in an examination before this Commission on 2 September, 2010?---Yes.

And you've had a chance to look at the transcript of, of that examination in recent times?---No.

I'll show it to you now. And I tender the document.

THE COMMISSIONER: The transcript of Mr Kane's compulsory examination of 2 September, 2010 is Exhibit P84.

30

#EXHIBIT P84 - TRANSCRIPT OF MR KANE'S EVIDENCE GIVEN IN COMPULSORY EXAMINATION

MR PAYNE: Mr Kane, can I take you first of all to page 346PT. The page numbers are in the bottom right-hand corner?---Yep.

- 40 And about halfway down the page you're asked at line 30, and you'll see the line numbers down the left-hand side of the page, you're asked this question. "The first time in your employment with Sydney Water that you accepted a payment of money?" And you say, "Probably a few years ago. I couldn't say when or who and that, I can't remember." Do you see that?
---Yes.

Having had an opportunity to reflect on that evidence, can you tell the Commissioner, doing your best, when you think the first occasion you accepted a cash payment from an accredited constructor was?---Oh, approximately about five years ago.

And just looking down the page, you're asked by the Commissioner, "Is this something that happens with most people in your position in Sydney Water?" And you say, "I can't answer for them, I can only answer for myself." Do you see that?---Yes.

And the next question and answer, "But isn't it well-known in Sydney Water that this kind of thing happens all the time?" And you say, "Oh, I'd say so, yes?"---Yes.

10

Okay. That answer was true?---Oh, that thing, yes.

So you regard it as well-known in Sydney Water that cash payments by constructors to people in your position as an inspector is well-known? ---Yes.

20

When did you first hear about it, having regard to the fact that you started in 2002 and think you took your first cash payment about five years ago?---Oh, probably around the same time, about five or six years ago, something like that.

And do you remember the circumstances in which you learned that cash payments from accredited constructors to inspectors were possible?---Where did I hear from?

Yes?---Oh, just through the depots.

So discussion amongst fellow Sydney Water employees?---Yes.

30

And do you remember who you discussed that topic with?---Oh, I can't recall at the time, no.

When you say through the depots, are you conveying to the Commissioner that the Sydney Water depots that you would work out of as a, as a, as a - - ?---Mainly my depots I work out of, yes.

And your depot as an inspector of these works was what?---The Hills.

40

And where is that depot?---It was at Leabons Lane at Seven Hills now it's at Powers Road at Seven Hills.

And so you tell the Commissioner that from discussions around that depot you came to understand that cash payments by credited constructors to people doing your job were not only, were taking place regularly?---I don't know about regularly but it was taking place.

And when first offered such a cash payment by an accredited constructor you accepted it did you?---Yes.

Do you remember who the person was that offered you that first payment?
---Not off-hand, no.

I take it when you accepted the first cash payment from an accredit
constructor you knew that that was against Sydney Water's policies?---Yes.

Nevertheless you took the money?---Yes.

- 10 You weren't at all worried about the repercussions for your career from
accepting that cash payment?---Probably no, at the time.

And why was that?---I honestly can't answer that.

Did you think Sydney Water did or didn't take these cash payments very
seriously?---No, I don't think that.

- 20 THE COMMISSIONER: What, you said you heard about these cash
payments in the depots, is that something that was discussion over tea?---It
was mentioned around like smoko and things like that, lunch I suppose, yes.

And was this ever discussed in the hearing of managers?---No, they were in
a separate room to what we are.

Did you get the impression that this payment of money was something that
had just started a few years ago or had it been going on for a long time?---I
can't, I suppose it's been going on for a long time.

- 30 Did that have anything to do with your attitude that you would keep doing
it?---I'd say yes to that.

And did it have anything to do with the fact that you thought, sorry, I
withdraw that. Did you think it is was probable that you wouldn't get into
trouble?---I could honestly say no, I couldn't no, couldn't yes that I
probably could get into trouble, I don't know.

But you would only get into trouble if you were caught?---Yes.

- 40 And did you think that you wouldn't be easily be caught?---No, I never
thought that.

So why is it that you kept doing it?---I honestly can't answer that one.

All right.

MR PAYNE: Just to try and mark out the four corners of this. You've had
a chance to reflect about these cash payments. How many cash payments
did you accept in your time as an inspector with – have you accepted in your

time as an inspector with Sydney Water, are you able to estimate that?---Oh, around fifteen to twenty times.

Did you keep any record of these cash payments?---No.

Can you tell the Commissioner the names of the constructors you recall receiving cash payments from?---I can't name them all because I can't remember all of them. I can mention the ones I do remember.

10 Yes, and who are they?---Cyril Corman.

Mr Cryan do you mean, his company I think is Corman.---Cyril Cryan, yep. What's his name Jo, Donohue I think he works for Green Civil.

Mr Joseph Doogue are you talking about?---Joseph who?

Doogue, did you hear him, did you see him give evidence here last Friday? ---Yes.

20 Mr Joseph Doogue, D-O-O-G-U-E?---Okay, yeah. If he works for Green Civil that's who it was, yes. I can't remember the last name but Mashallah I think it was, Joe.

Joseph Nasrallah, is that what you're saying?---Yeah, I think so. I mainly know them as their first names all along.

I see. Let me put a few specifics to you and see if you remember. You mentioned Mr Cryan and his company is called Corman, C-O-R-M-A-N, Pty Limited?---Yes.

30 That's one of the accredited constructors you've received payments from? ---Yes.

Do you recall that you had met Mr Cryan prior to your time as an inspector, in about 2000 you first met him I suggest to you?---Yes, around that.

And you met him again in 2004, 2005 after you'd become an inspector of accredited constructors' work?---Yes.

40 And just to be clear for the purposes of this evidence you principally inspected sewer connections rather than water corrections, correct?---Yes, my main background was sewer.

And as you understand it that was Mr Buckley's background as well?---I understand that, yes.

And just in relation then to Mr Cryan, do you remember in 2008 he was working at a site in Meehan Street, Parramatta doing concrete encasement and sewer diversion?---Yes, I do remember that job.

And you came out to that site a few times?---Yes.

And when the concrete was all poured Mr Cryan left a \$50 note in his folder for you, correct?---Yes.

- 10 And you took the \$50 note out of the folder and said to Mr Cryan, thank you, correct?---Yes.

And you passed that job?---Passed it?

Yeah, you, you, you completed the inspection and signed off on behalf of Sydney Water that it was all true and correct?---I didn't sign off on that day I don't think, no.

But ultimately you did?---In the end, yes.

- 20 And you accepted the money knowing I take it that it was prohibited by Sydney Water's policy?---Yes.

And you knew taking the money was quite wrong?---Yes.

Can I ask you about another job in January 2010, so that's January this year?---Yes.

- 30 You were working at a site, Mr Cryan was working at a site at Cross Street, Baulkham Hills diverting the sewer. Do you remember that job?---Yes.

The job went over a week and you came out for two inspections, one pre-connection and one final, do you agree?---Yes.

And at the pre-connection inspection when walking through the site Mr Cryan handed you a \$50 note and said words to the effect, Have a drink for the Christmas that is gone, that was said?---Yes.

- 40 Are they the only occasions upon which Mr Cryan has made a payment of cash to you?---Yes.

I suggest to you again in relation to this January 2010 payment that you knew it was wrong to accept the money. Do you agree?---Yes.

And you knew it was wrong in part because at this pre-inspection stage you still had work to do on behalf of your employer in inspecting and ultimately either approving or not approving the work that Mr Cryan was doing, you agree?---Well, meaning I had to go back there again?

Yes, you had to go back there and when you went back there you had to either say that's correct or its incorrect?---Yes.

And you were given a measure of discretion in how you performed your work, how strictly you made the accredited constructor comply with various aspects of the sewerage code and Sydney Water's requirements, you agree? ---That he had to apply by it?

- 10 Well, they had to, that the strict letter of Sydney Water's requirements could on occasion by you be modified if you thought it was sensible, do you agree?---Yes.

And one of the undesirable things about accepting money from accredited constructors you accept don't you, was that in this exercise of discretion by you once you'd accepted money, that you were compromised?---I suppose so, yes.

- 20 Can I ask you about Mr Joseph Doogue, one of the people you've identified. I suggest to you that earlier this year you accepted a cash payment of approximately \$300 from Mr Doogue. Do you agree?---Earlier this year?

Yes. A job at Schofields Road, section 32. Do you remember that?---That was probably about six weeks ago, not earlier this year.

I'm sorry, six weeks ago, by earlier this year I meant, some time prior to today during 2010, it was six weeks ago?---Yes.

- The incident is fresh in your memory is it?---Yes, it is.
30 And you remember accepting \$300 which was offered to you by Mr Doogue in relation to that job?---Yes.

I suggest to you that he was on site and had to do connection to a large sewer and there was storm water going over the top of the sewer. If he didn't do it, the storm water pipe couldn't be installed and the road couldn't be constructed, so he rang you and asked you to come out to the site. Do you remember all of that?---Yes.

- 40 And you did come out. He explained what was happening and you gave him permission to do it. Do you agree?---Yes, I did.

And he then in the course of that explanation, he gave you \$300 which you accepted?---Yes, I did.

So the sequence of events is you accepted \$300 from him in the course of his explanation and then you gave him the approval to go ahead. Correct?

---No, I give him approval to go ahead before I accepted the money or he offered the money.

Are you quite clear about that?---Yes.

How did he offer it to you?---How did he offer it to me?

10 Yes. What discussion was there between you about the \$300?---(not transcribable) had agreed to him, like I agreed with him that he can do the connection. He just come up to me and said, This, this is just in appreciation for, for helping me out on this job.

And again I suggest to you that you knew it was wrong to accept the money?---Yes.

One of the reasons it was wrong is that in relation to that job you still had work to do on behalf of Sydney Water in either approving or not approving Mr Doogue and his company's work. Correct?---Can you repeat that?

20 You still had, after you accepted the money you still had work to do in relation to approving or not approving the work that Mr Doogue's company was doing?---Yes.

And you agree with me don't you that in circumstances where you'd accepted \$300 from Mr Doogue, your ability to perform your work impartially on behalf of your employer was compromised?---I suppose so.

Can I ask you then about Mr Romanous? You know Mr Romanous I take it?---I have heard of Romanous, yes.

30 Well, Raymond John Romanous, were you present in this hearing when he gave evidence last Thursday?---I don't, I wasn't here for that one.

I see. And I suggest to you that you've accepted cash payments from Mr Romanous. Do you agree?---Yes.

The first one was at a job at Isabella Street in Parramatta. Do you agree? ---Yes.

40 The final inspection for that job was about two months ago so again earlier in 2010?---Yes.

And he paid you about \$100. Do you agree?---I can't remember the amount, but, yes.

Well, in terms of the amounts of money that you would accept from accredited constructors, we've just discussed a number of instances where you've accepted between 50 and \$300. Do you agree?---Yes.

What was the most you were ever paid by an accredited constructor?---Oh, probably around 500 I think it was.

Yes. I see. And was that \$500 payment in relation to a job at Devitt, D-E-V-I-T-T Street at Blacktown?---Yes.

And you were paid \$500 on that occasion in an envelope that Mr Romanous gave to you. Do you agree?---Yes.

- 10 And you'd pre-arranged that payment with a person Mr Romanous was subcontracting for, a Mr Brian O'Mara. Do you agree?---I never pre-arranged nothing.

You didn't pre-arrange it?---No.

You must've been surprised when you opened the envelope and saw \$500 then Mr Kane?---I was.

- 20 Did you ever take it up with anybody about what you were supposed to do for the \$500?---No.

Well, you knew didn't you that accepting the \$500 was quite wrong. Do you agree?---Yes.

And you agree that in accepting that money you compromised your ability to perform your role for your employer as an inspector. Do you agree with me?---I suppose so.

- 30 And in relation to this Devitt Street, Blacktown job where you received \$500, again that took place in 2010, maybe three or four months ago?---Probably around March, April, around that time I think. I can't remember the exact date.

Of 2010?---Yes.

Do you know Mr Brian O'Mara?---I do know a Brian O'Mara who was a contractor for Sydney Water many years ago and a project manager.

- 40 I see. And have you ever had any discussions whatever with Mr O'Mara about either Devitt Street or any other job and the payment of cash?---No. He rang me up, he did ring up about Devitt Street and about taking it over. And then I told him he had to go through his water service coordinator to arrange things like that, 'cause I deal with the water service coordinator over pre-connections.

When you say taking it over, you mean, you mean what? That you, you'd be - - -?---The final, taking over the job itself after connection.

So he was discussing with you your role in approving on behalf of Sydney Water that various steps that needed to be done in order for him to get his Section 73 Certificate?---Yes.

Do you agree?---Yes.

And had Mr Brian O'Mara ever made a cash payment to you in the past?
---No.

10 Had you done any work on sites where he was the accredited constructor prior to the, prior to this Devitt Street, Blacktown job?---Yes.

But you say, you tell the Commissioner on your oath that no cash was accepted by you from him prior to that time?---Yes.

Doing the best you can, Mr Kane, what explanation if any can you offer to the Commissioner for the \$500 payment in relation to the Devitt Street, Blacktown job?---What, the offer, why did I do it?

20 No, no, why was it so much money as you understood it?---I've got no idea why it was so much money.

Was it a rush job for insurance purposes?---I don't deal with that side. I never rushed it 'cause there was a few problems with that job. We had a sewer choke line, which is only a new line, so, and because the blokes from (not transcribable) come back and said, look, we had a problem here. They were allowed to connect up front for the diversion, like they made a new line and so I had to, had to (not transcribable) pre-connections (not transcribable) I said to them I wanted CCTV 'cause we've had numerous chokes here or two chokes I know of, blockages of the sewer.

30 And what role did you have in assisting either Mr O'Mara's company, the head contractor or the subcontractor, Mr Romanous in resolving those problems?---What role did I have?

Yes? Did you come out - - -?---I asked them to have it re-CCTV'd so, and rectify the problem. Sorry, I viewed the CCTV once they got it done.

40 Yes?---And I said, there's rubber protruding from the joints. They have to be rectified.

Did you provide any service in relation to the Devitt Street job above and beyond what you'd otherwise provide a Sydney Water accredited constructor?---No.

Well, I'm asking you again, it must have came as, come as a surprise to you when you opened the envelope and saw \$500 there?---Yes, it did.

And you never raised it with anyone?---No.

Mr Kane, do you agree with me that in 2010, we've just discussed a number of specific instances where you've accepted a cash payment- -?---Pardon?

- - -from a constructor? Do you agree with me that we've just discussed throughout the course of 2010 a number of occasions where you have received a cash payment from accredited constructors?---Yes.

10

I want to suggest to you it's likely that at that rate of accepting cash payments your estimate of fifteen only cash payments received over the time you've been an inspector is a gross underestimate. Is that possible? ---Oh, it's possible. I didn't keep records or a tab of exactly how many I got, but I, it would be round that figure.

I want to ask you some questions.

THE COMMISSIONER: Mr Payne, would you mind if we adjourned
20 earlier today? There are a few things that I have to do.

MR PAYNE: Of course, Commissioner.

THE COMMISSIONER: We'll adjourn till 2.15.

LUNCHEON ADJOURNMENT

[12.41pm]