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HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION SIREN

Reference: Operation E09/1228

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 13 SEPTEMBER 2010

AT 2.32PM

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

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

THE COMMISSIONER: Mr Payne.

MR PAYNE: If Mr Kane could come back to the witness box, Commissioner.

THE COMMISSIONER: Mr Kane.

<BRYAN MERVYN KANE, on former oath

[2.32pm]

10

MR PAYNE: All right. Mr Kane, do you still have in front of you the transcript P84?---No.

If it could be shown to you?---Can I just ask something before we go?

All right?---Just, you asked me a question about Brian O'Mara before we went in.

20

Yes?---That he paid me money, he hadn't paid me money, he has, I can reflect, given me some, a couple of bottles of spirits to me.

I see and was it, did you receive gifts of alcohol from accredited constructors on other occasions?---Yes.

How many occasions?---Oh, probably only about four.

30 I see. On the topic of Mr O'Mara and the \$500 you were paid by Mr Romanous, can you look at page 348 of this transcript at line 33, you see you were asked the question by Ms Colquhoun, "What's the most amount of money you've ever received from a constructor?" and this is on 2 September this year you were asked this question, you said, "Oh, probably \$100." I want to suggest to you that that answer was untrue and untrue to your knowledge at that time, do you agree?---Yes.

Because you knew you'd received the \$500 from Mr Romanous this year, 2010?---Yes.

40 Why, why did you lie to the Commission, Mr Kane?---Oh, I can't remember, I don't know.

You were trying to downplay the, the amount of money you'd received from constructors, weren't you?---I suppose so, only that one.

And to downplay the extent to which you'd been taking money from constructors over a number of years, that's true, isn't it?---I suppose so.

Mr Kane, when did you become aware of this present investigation?---Oh, Cyril Corman or Corman Plumbing had mentioned something, he was getting investigated by ICACs, were coming out to see him on a job or something and he, I think I mentioned that in here somewhere. Other than that the first time's when I got summons, other time was when I got a summons.

10 Did you take any cash payments from accredited constructors after you knew that this investigation had been commenced?---No, I can't recollect.

Well, when was the last cash payment you took, Mr Kane? Was it the one about six weeks ago we've discussed?---Yes. Yes.

That's the last one?---Yes.

Did you know about this investigation then?---Yes. I don't know about this, the contractor did mention that ICAC's going out to have a talk to him.

20 So the same contractor that paid you the money mentioned to you that ICAC were coming to have a talk to him?---Yes. That was said, but he never give me any money on that day, no.

I see. Who were your supervisors at the Hills district in relation to this work at the time from about 2004 to date? Was it the one supervisor?---No. I've had a couple of different supervisors.

And who were they?---Is it the manager or supervisor you want to know?

30 Well, you had a field supervisor I take it?---Yeah, that was Greg Hawkins. That's the last couple of years.

And prior to that who was your field supervisor?---There was probably a couple. There was probably a few supervisors who looked after me all in the one, but only until a couple of years ago we got, we got put into groups where we had one supervisor we, who was in charge of say like 10 people in the depot each.

And that's called a field supervisor is it?---Yeah.

40 A person who's in charge of 10 people each?---Approximately 10 people each, yes.

Well, in relation to your field supervisor, for the time it's been Mr Hawkins, you've been taking cash payments from constructors right through that two year period he's been your field supervisor. Correct?---Yes.

Has he ever actually been out in the field with you?---No.

So in terms of being your supervisor, what did he actually do to warrant that title, supervisor? Did he tell you anything about the way you should perform your job?---No.

Did you have any interaction with him at all about what you were going to do in the performance of your duties as an inspector for Sydney Water?
---What role I had to play?

Yes?---No.

10

Was there anybody within Sydney Water for the entire time you were doing these inspection jobs, so for the seven and a half years or so you told me about, was there anybody who came out in the field with you?---I can a couple of offsidiers every now and then.

Who were working for you rather than supervising you. Is that right?
---Yes. They give me a hand on the job.

20

But nobody in a supervisory role ever came out with you on the job?---No.

Did anybody in a supervisory role ever give you instructions about what you were to do on the job on behalf of Sydney Water?---What role I had to play?

Yes?---No.

So basically you learnt about it on the job as it were did you?---Oh, a training job many years ago from a Danny Wilson. I inherited the job from him.

30

He'd been the field supervisor before you had he in the Hills district?---He was doing the role I'm doing then.

I'm sorry, he was doing your role?---Yeah.

And so he showed you what, the ropes and what he did?---Yep.

Did you ever discuss the receipt of cash payments with Mr Wilson from constructors?---No.

40

It never came up?---No.

Did he tell you anything about Sydney Water's policy about accepting cash payments from constructors?---No. He hasn't, but we have had team briefs mention about policies of not accepting money and gifts and that.

And you remember receiving that instruction do you?---Yes.

And you remember taking a conscious decision to ignore it do you?---I suppose so.

And why was that Mr Kane? Was it because you thought it was unlikely you were going to be caught by Sydney Water was it?---Oh, I suppose so.

Are you aware, we spoke about culture in some of the answers you gave earlier on about what you understood to be the position with other inspectors receiving cash payments. You'd heard, I take it, about Mr
10 Buckley who did your job in the inner west area receiving cash payments?
---Oh, only what I've been reading in the transcripts.

Well, go back to, when you say read it in the transcript, the transcripts of your own evidence?---Well, no, what's been happening here.

Well, go back to page 347PT in Exhibit P84 just for a moment please and look at about line 20, the Commissioner asks you, "Have you heard other people talk about other people who accept payment?" and you say, "Oh, as I'd mentioned, from John Buckley from, yeah." The next question,
20 "Anyone else that you heard talk?" Answer, "Oh, I've heard from contractors saying about getting money to John Buckley and that." Do you see that?---Yes.

That was something that you had heard over time - - -?---Yes.

- - - in your role, hadn't you?---Yes.

And so you knew that the person doing your job in the inner west was taking money from contractors didn't you?---Yes.
30

For how long had you known that?---Oh, only when Cyril mentioned to me when I, about the ICAC thing, he mentioned then it was John Buckley.

So do you tell the Commissioner that until you heard some time earlier this year about the ICAC inquiry, as far as you knew you were the only inspector within Sydney Water receiving cash payments from constructors, is that what you say?---I was?

Yes?---No.
40

No. You knew there were others didn't you?---Yes.

And who were they?---Oh, well, John Buckley.

When did you first hear about Mr Buckley receiving cash payments? It was some time ago, wasn't it?---Yeah, oh, about four months ago, five months ago.

I suggest to you that you'd known for some time prior to that, do you agree?
---I suppose so.

Because constructors told you, didn't they?---Yes.

And that's what you were telling the Commissioner at that page 347 that I've just taken you to, that you'd known, you'd know for some time, for some years, was it?---Oh, I don't know about years but some time.

10 I have nothing further for this witness, Commissioner.

THE COMMISSIONER: Who wishes to cross-examine Mr Kane?
Mr Stevenson?

MR STEVENSON: No, Commissioner.

MR HARRIS: If I may.

THE COMMISSIONER: Mr - - -

20

MR HARRIS: Harris.

THE COMMISSIONER: Harris, I beg your pardon.

MR HARRIS: You've said today repeatedly you suppose accepting these payments did compromise you?---Yes.

Did you distinguish in any way between those who paid and those who didn't in terms of how you dealt with their work?---Can you repeat that?

30

Yeah. Did you distinguish in any way between those who paid you money and those who didn't - - -?---No.

- - - in terms of their work?---I don't fully understand the question.

What was the payment for in your opinion when you accepted money?
---Just for helping them out on the job.

Helping them out did you say?---Yeah.

40

Does it influence, did it influence the decisions you made?---No.

What the speed with which you were prepared to visit the job?---No.

Have you ever asked to be paid?---No.

Or told contractors that they would need to look after you?---No.

Nothing further, Commissioner.

THE COMMISSIONER: Yes, your, your evidence is concluded, Mr Kane. You may leave the witness box.

THE WITNESS EXCUSED

[2.44pm]

10 MR PAYNE: Commissioner, I call Mr Alafaci.

THE COMMISSIONER: Mr Alafaci, do you have legal representation?

MR ALAFACI: Yes, I do, Commissioner.

MR STOJANOVSKI: Stojanovski.

THE COMMISSIONER: Mr Stojanovski. I take it you're seeking leave to appear?

20

MR STOJANOVSKI: Yes.

THE COMMISSIONER: And I take it you wish the usual order under section 38 to be made?

MR STOJANOVSKI: That's correct.

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

40

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT I DECLARE THAT ALL ANSWERS GIVEN BY MR ALAFACI 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: Now, Mr Alafaci, do you wish to give evidence under oath or to affirm the truth of your evidence?

MR ALAFACI: Oh, either or, doesn't matter.

THE COMMISSIONER: You have to choose.

MR ALAFACI: Under oath is fine.

10 MR PURDY: Mr name is Purdy, P-U-R-D-Y.

THE COMMISSIONER: I beg your pardon? Sorry, I can't hear. Do you mind speaking louder?

MR PURDY: My name is Purdy, P-U-R-D-Y.

THE COMMISSIONER: Yes, Mr Purdy.

20 MR PURDY: I also seek leave to represent the witness (not transcribable) affected by (not transcribable)

THE COMMISSIONER: Yes. Who is the witness?

MR PURDY: Mr Vincent Molluso, M-O-L-L-U-S-O.

THE COMMISSIONER: Yeah. Yes, you have leave.

MR PURDY: And is this an appropriate time to seek a declaration?

30 THE COMMISSIONER: No. The appropriate time is when he gives evidence. I think if you could just make sure that when you do speak here that you speak a bit louder, Mr Purdy, because it's difficult to hear you from here.

MR PURDY: Yes, thank you, Commissioner.

THE COMMISSIONER: And also the transcript. Yes. Very well, you have leave.

40 MR LY: Commissioner, my name's Ly, spelt L-Y. My client is Mr Funovski and I'm seeking leave to appear for him.

THE COMMISSIONER: Yes, you have leave.

MR LY: (not transcribable) in the same position- - -

THE COMMISSIONER: Yes.

MR LY: (not transcribable)

THE COMMISSIONER: Yes.

MS WHITE: And, Commissioner, my name is White, appearing for Mrs Blaga Funovski.

THE COMMISSIONER: Is that White, W-H-I-T-E?

10 MS WHITE: Yes, Commissioner. I also seek leave to appear for Mrs Funovski.

THE COMMISSIONER: Yes, you have leave. Would you swear Mr Alafaci in, please.

MR PAYNE: Mr Alafaci, what's your full name?---Anthony Alafaci.

And what's your occupation?---I'm a plumber.

You're associated with a number of companies, including one which is an accredited constructor for Sydney Water?---That's correct.

10

And is that Planet Plumbing NSW Pty Limited at present?---Yes, it is.

And that has been the case, that corporate entity has been the accredited constructor for some little time now?---That's correct.

And prior to that there was another company, Planet Enterprises Pty Limited with which you are associated which was the accredited constructor for Sydney Water?---That's correct. Same company, just a name change under ASIC.

20

I see. And the name change is the same corporate entity?---That's correct.

I see. Now, Commissioner, there is a transcript of a compulsory examination of Mr Alafaci and I would request that the suppression order made on the day of that examination, namely 6 August, 2010, be lifted save for the address of this witness. And I tender that transcript.

THE COMMISSIONER: Yes. The suppression order relating to the compulsory examination of Mr Alafaci is lifted, save to the extent stated via counsel assisting and that transcript is Exhibit P85.

30

THE SUPPRESSION ORDER RELATING TO THE COMPULSORY EXAMINATION OF MR ALAFACI IS LIFTED, SAVE TO THE EXTENT STATED VIA COUNSEL ASSISTING AND THAT TRANSCRIPT IS EXHIBIT P85.

#EXHIBIT P85 - EVIDENCE GIVEN BY MR ALAFACI IN COMPULSORY EXAMINATION

40

MR PAYNE: Thank you, Commissioner. So, Mr Alafaci, you are a director of Planet Plumbing NSW Pty Limited?---Yes, I am.

Are you the sole proprietor of that company?---I am now, yes.

For a time was there another shareholder in that company?---There was no other shareholder but there was another director, yes.

And who was that?---Vince Molluso.

For what period was he a director?---I don't know exactly off the top of my head but I assume it was two to three years.

10 And I suggest that his tenure as a director came to an end towards the end of 2008. Do you agree?---That's correct.

What was the reason for that?---We decided to part ways.

And you as the sole proprietor of the company was the decision-maker, I take it, in that, or the moving party in that parting of the ways?---That's correct.

20 Can I take you to this transcript and just to orient you there are page numbers on the bottom right hand side?---Yep.

And you'll see that, so for example 5PT is the, is the first page of questions and answers that you're asked after the formal matters are dispensed with. And down the left hand side there are numbers depicting line numbers. So I'll take you to the page and the particular lines that I'm drawing your attention to?---Yep.

30 The corporate group that you own now conducts work in a number of states of Australia and there are separate entities established for that purpose, so for example Planet Plumbing Queensland Pty Limited, Planet Plumbing Victoria Pty Limited, et cetera?---That's correct.

You are principally however, involved in the New South Wales part of the operation?---I am.

Although you travel from time to time to the other companies and the work that they do?---Correct.

40 You're involved in, your company is involved in both sewerage and water connections?---Yes.

And as an accredited constructor, Planet Plumbing New South Wales doesn't distinguish between the two, will often on the same job do both the sewerage connection and the water connection?---That is correct. Yes.

And for that purpose there is any inspector appointed by Sydney Water. Sometimes a separate inspector for sewerage and water, sometimes the inspector does both parts of the job. Do you agree?---Yes.

For how long have you been involved with these various corporate entities as an accredited constructor?---Well, the only accredited constructor is Planet Plumbing New South Wales and I was the founder.

And its accreditation was issued in what year?---I think it was 1999. I'm not sure. I'd have to look, I'm sorry, I'd have to check or it could've been 2003.

That's all right?---It's around about there somewhere.

10

Can I show you a bundle of business records of Planet Plumbing New South Wales Pty Limited and I'll take you through those and ask you some questions about them. I think perhaps for convenience, Commissioner, I tender that bundle of business records at this stage.

THE COMMISSIONER: Thank you. The bundle of business records from Planet Plumbing is Exhibit P86.

20

#EXHIBIT P86 - BUNDLE OF PLANET PLUMBING RECORDS

MR PAYNE: Can I take you to the first document in that bundle and you'll see it has the number 25 on the top right hand corner?---Yes.

That's an email from you to a Maria Simpson. Do you see that?---Yes.

Who is Maria Simpson?---She was our financial controller at the time.

30

So on 25 November, 2008, she was the financial controller of the entity that we've been discussing, Planet Plumbing New South Wales Pty Limited? ---Yes.

And at the bottom of that email it says Anthony Alafaci, Group Managing Director et cetera, that's an electronic signature that appears on your emails is it?---Yes.

You'll see there it says, I need a three, three k, that's 3,000 - - -?---Yes.

40

- - - \$3,000 cheque to be cashed for Sydney Water. He is picking up the money today. Who's the "he" in that email?---Robert Funovski.

An inspector of Sydney Water?---Yes. Costings are as follows. And you see \$2,000 to and then a series of numbers are given. Are those numbers, do those numbers depict within the business records of Planet Plumbing New South Wales Pty Limited, a job you were doing at the University of New South Wales new college?---Yes.

And then you've said \$500 to another series of numbers. To what do those numbers refer?---That's to a project in Crown Street.

I see. Crown Street, Sydney?---Yes.

And then \$500 to another series of numbers. To what do those numbers refer?---Well, they, they were our miscellaneous job numbers. So I don't remember what job that was. But it was a job that we actually didn't have a standard job number, so it would've been a small minor works project.

10

So it's a miscellaneous category?---Yes.

And your intention in doing this was to ask the financial controller to draw the \$3,000 cheque to cash which you needed today for Mr Robert Funovski and for her to record the entry in that way in the books and records of, of Planet Plumbing?---Yes. To apply the payments to the jobs.

20

Well, we'll come in a moment to those records. But could you please tell the Commissioner why it is you were asking for a \$3,000 cheque to be cashed today to be picked up by Robert Funovski on 25 November, 2008? ---Because a payment was demanded.

Well, when you say payment was demanded, demanded by who?---By Robert. He came to my office on the Saturday prior.

So the Saturday prior to the 25th, so that would be what 22 November, 2008?---Yes, about that, yep.

30

And what was the conversation between you on that date?---Well there was a, there was a conversation before that that actually led to the meeting. So when, when Vince finished up with us, not long after, a couple of weeks later I got a phone call from Robert saying that he had some agreements with Vince that I owed him money. I think by memory it was roughly, he was chasing about \$6,000 for - - -

40

THE COMMISSIONER: Vince Molluso is it?---No, that was, yes, Vince Molluso. But Robert was chasing the money. It was about \$6,000 apparently by memory or 5,000, one or the other. And he wanted to see me about it. I responded along the lines of that, you know, whatever deals you had with Vince, that Vince doesn't work here anymore, to go and sort it out with Vince. But he wanted to see me so we made the time. He came and seen me on a Saturday and that's where the discussion took place.

MR PAYNE: So the discussion you've just been telling the Commissioner about is an initial telephone discussion is it?---Yes.

And just to recap he rings you and says he had financial arrangements with Mr Molluso and that Mr Molluso owed him \$6,000. Correct?---Yes.

THE COMMISSIONER: 5 to 6?---5 to 6,000.

MR PAYNE: 5 to 6,000?---I don't remember, yep.

And did he explain the nature of those financial arrangements during that telephone conversation?---Well, there was, apparently there were a couple of jobs that, that Rob was doing for us and, and yes, so that's what it was about.

10

But when you say a couple of jobs he was doing for you, he wasn't employed by Planet Plumbing?---No, he wasn't. No.

When you say, so he was involved as the inspector on behalf of Sydney Water and inspecting the work that Planet Plumbing was doing is what you're telling me?---That's correct.

20

Can you have a look at 14PT in this Exhibit P85. And I just want to ask you some background questions about the state of your knowledge about Mr Funovski and his relationship with Mr Molluso at the time of this initial telephone conversation prior to the meeting which we'll come to shortly? ---Yep.

You see three quarters of the way down of that page at about line 36, you're saying, 2007 and 2008 approximately, I think my cousin, Vince, who was a director of Planet Plumbing and Robbie were doing things that I wasn't fully aware of. Do you see that?---Yes.

30

Were you intending to convey by that answer that you knew there was something going on between Mr Molluso and Mr Funovski?---Yes.

What was that?---Well, Robbie was, was doing some work for us where in some instances where we couldn't get a, a connection done on time, where they would go and do a connection after hours and he'd get paid money for that.

40

And just, just focusing on that because the Commission's heard a lot of evidence about sewer connections. This is a water connection you're talking about?---Yes. That's correct.

And as I understand the position in relation to water connections, Sydney Water will identify a particular time when the water can be shut down so that work can be carried out on the water mains. Correct?---Yes.

And is what you're telling the Commission your understanding is that Mr Molluso and Mr Funovski had some separate arrangement for shut downs outside the period - - ?---Yes.

- - - originally identified by Sydney Water?---Yes.

How did you learn about that arrangement?---Look, I'd, being the managing director of the company I was across quite a few things so I, I did find out about it, yes.

So that's prior to this telephone conversation you'd known that there was - - -?---Yes.

10 - - -a relationship between Mr Molluso and Mr Funovski wherein Mr Funovski would shut down water supplies on an unauthorised basis for the benefit of Mr Molluso and his role in Planet Plumbing at the time?---Yes.

And you say, just reading on, if you go down after line 40 in this answer, the next thing I want to ask you about, you say, "Robbie would come in and shut the water main down and Vince would give him some money." Do you see that?---Yes.

20 Now, when Mr Funovski rang you on that occasion in late 2008 after Mr Molluso had left Planet Plumbing, did you know then that Mr Molluso had been paying Mr Funovski for these unauthorised shutdowns of water?
---Yes, I did, yes.

On how- - -?---Because I, I gave Vince the money to pay. Vince would ask from me the money, I'd give him and he would meet with Robbie and pay him.

30 I see. So Mr Molluso, during the, during this time had explained to you, had he, that he needed money from you to pay Mr Funovski?---Yes.

On how many occasions did he ask you for money to pay Mr Funovski?
---I can't remember exactly but there were a few occasions.

THE COMMISSIONER: Like how many?---Oh- - -

What, between five and ten?---Oh, less, I'd say less than five.

THE COMMISSIONER: More than three?---Approximately.

40 MR PAYNE: And do you remember how much money was involved that Mr Molluso asked you for and how much you gave him to pay Mr Funovski?---There were a couple of times so over the period it probably was 3 or \$4,000.

And when Mr Molluso would ask you, what was your practice in obtaining that money?---Oh, it just all depends. Sometimes we'd cash a cheque or we might have some money in petty cash, we use that.

And you would arrange for cash to be given. Would you give the cash to Mr Molluso or would you- -?---Yes.

- - -ask others to do it?---No, no. I would.

And did Mr Molluso report back to you that he had paid the money to Mr Funovski?---I never questioned it so he didn't physically report back but I assumed that, you know, if I'd given him money he would have passed it on so- - -

10

So can I just ask you about the, so these are these earlier occasions you knew about before the telephone call. So in that period in, I take it it's all in 2008 that these payments were made by you to Mr Molluso, you understood to be paid on to Mr Funovski. Correct?---Yes.

THE COMMISSIONER: Can I just ask you about those earlier payments. Have you finished with the earlier payments Mr- - -

MR PAYNE: Ask away, Commissioner.

20

THE COMMISSIONER: Sometimes you paid cash?---Yes.

Sorry, you just took the money out of petty cash rather?---Yes.

And at other times you drew a cheque?---Well, yes, yes.

I'm not talking about the- - -?---Yep.

30

- - -the occasion of the \$3,000, I'm talking about before then. And then what was the cheque, how was the cheque treated in your, in your accounts?---Well, it would have been just charge it back to a job. Same as this cheque here.

So you'd debit a job?---Yes.

You'd debit a job in effect falsely?---Well, not, not really falsely because at the end of the day, if we're paying money to a job, if we're paying money for a service to a job, we charge that against that job so- - -

40

I see. So you would debit the cost of bribing Mr Funovski against the job? ---Yes, I guess so.

And your, the job is for a developer?---Oh, usually, yes, or a builder.

So the builder would end up paying the bribe?---Well, it would come out of our costs.

The builder would end up paying the bribe?---I guess.

No one else?---That's true.

Would the builder be told?---No.

How did this develop, this system?---Well, there was a, oh, I was having a conversation with Mr Molluso once upon, once and apparently he had spoken to Robbie and Robbie, we had, we had mucked up some paperwork on a job and Robbie was going to be the person to sort it all out if we give
10 him X amount of dollars or whatever it was and, and that's what happened.

Did the builder know?---No.

So did that happen in each case before this \$3,000 where you wrote out a cheque, that the job in respect of which the money was paid would be debited?---Well, not, not all the time, Commissioner, because the amounts weren't, weren't very very large, so a couple of times- - -

It was petty cash?---It was petty cash.
20

Yes. But I mean when it wasn't petty cash?---Well, this is the only other time that it wasn't petty cash.

So only once it wasn't petty cash?---I assume so, yeah. I'd have to check 'cause it's a long time ago.

So why did you state, well, your evidence was when I've been asking you, let me start again. I asked you to explain what happened in regard to those instances where you didn't pay out of petty cash?---Yes.
30

And you explained that the job would be debited?---That's correct.

And I explained that this was in relation to matters other than, before the \$3,000 payment?---Yeah. Well, there was, there was a couple of times before that but I just don't- - -

All right?---I can't stand here, hand on heart, and swear of how the money was treated.

All right?---So- - -
40

But this is what you assume, is it?---Yes.

All right.---With all, with all due respect, I'll just make the point that there are four and a half thousand transactions that we do every money so I just can't remember all of them so I'm sorry.

But some of the amounts were too large for petty cash to be used?---Oh, yeah. We have a, we carry a float of petty cash anywhere between 500 and \$2,000 so- - -

But your evidence was that sometimes you'd use petty cash and sometimes you wouldn't?---Yes.

10 So sometimes the amount would be too large, more than \$2,000?---I don't, I, like I said, I don't remember 100 per cent but I don't think we paid him more than \$2,000 so- - -

All right. It would have had to be more than \$500?---Yes.

Yes.

20 MR PAYNE: Just some of those answers you were giving the Commissioner, can I just take up one thing with you, Mr Alafaci. The first occasion you recollect Mr Molluso coming to you and saying, I need some cash for Mr Funovski, was because what, the company had mucked up some paperwork. Is that what you said?---Well, yes, apparently so, yep.

What was Mr Molluso going to pay Mr Funovski to do, to re-do the paperwork or you or- - -No, insert a T into a water main.

So it was, it was more than a, it was more than a paperwork problem?---Yes.

Physically under Mr Molluso's watch at a job, a T hadn't been inserted into a water main when it warranted that one had been?---Yes.

30 And that would have been a problem, I take it, for Planet Plumbing?---Yes.

And what was Mr Funovski, what was his side of the deal on that first occasion that money was paid to him, do you know?---Oh, no, I don't.

Would it involve coming along and in an unauthorised way, turning the water off so that the job could be completed?---I believe so.

40 Because otherwise you'd have to go back to Sydney Water and I take it it's a reasonably significant thing to go back again and turn the water off at a job at a time other than Sydney Water has given you, the window Sydney Water has given you to turn the water off?---(NO AUDIBLE REPLY)

You're nodding. Do you agree?---Yes.

And that's because when you turn the water off, no doubt you're affecting the water supply for a whole lot of people around wherever the job is?
---Yes.

I take it that's regarded, as you understand it, as highly undesirable by Sydney Water other than for the purposes, the limited purposes of doing the job that you said you were going to do in the first place?---Yes.

So that what Mr Funovski was offering you was quite a valuable service on this first occasion in that you'd get both the water turned off without having to confess to Sydney Water that you'd mucked the paperwork up. Do you agree?---Yes.

10 Which may have resulted in the issue of CARs or other disciplinary-type notices being issued to your company?---Well, in these instances it had nothing to do with major works, it was just a standard connection.

So a standard water connection - - -?---Yes.

- - - in a domestic premises, was it?---Yes.

I see. So when you turn the water main off it would just involve the people in that street, would it?---Yes.

20

Unlike a major job where you might be turning water off for the entire suburb?---Yes.

I see. So that was the first occasion, the paperwork. What's the next occasion you recall that Mr Molluso came to you and said I need some cash for Mr Funovski?---Well, there were these, there occasions here so I actually thought this was all cleared up before Vince left so - - -

30

I see. So you had, you discussions, so when the telephone call comes through your state of mind is that you had thought you had given Mr Molluso money for Mr Funovski - - -?---Yes.

- - - to do various things for Planet Plumbing New South Wales Pty Limited but it turns out when he rings you on the phone Mr Funovski at least doesn't agree and says that he's owed five to \$6,000?---Exactly.

40

I see. As well as these unauthorised shut downs for the water system were you ever given to understand that Mr Funovski was organising for Planet Plumbing in effect free services from Sydney Water, namely that people would come out and do work alongside Planet Plumbing in relation to the water system and provide some Sydney Water materials for Planet Plumbing without charging you?---Sorry, can you ask that again, I just lost concentration for a sec.

Were you ever told that part of the service Mr Funovski was providing to Mr Molluso and Planet Plumbing was not only shutting down the water mains but also providing Sydney Water equipment and personnel to help out on jobs?---Well, I wasn't told but it was assumed.

And you assumed that was so why? Can you explain your thought process please?---Well, at the end of the day to do a connection you need materials and labour and there'd be people so I was assuming that he's not going to be in the hole by himself so - - -

10 I see. So you had assumed that for this payment Mr Funovski would organise some Sydney Water employees to come to the site and to do the things that ordinarily you would be paying Sydney Water to do but you'd be paying Mr Funovski directly?---That's correct.

I see. All right. Jumping forward then to the telephone conversation. You must have been surprised to hear that Mr Funovski thought he hadn't been paid given that you'd been paying Mr Molluso you thought to pay him to do these things for you up to that date?---That's correct.

Did you say that?---Yes, I did.

20 And what did Mr Funovski say?---Well, that Vince hadn't sorted anything out so, and that the money was owing to him and that he wanted to come and see me.

THE COMMISSIONER: Mr Alafaci, the things that you had paid Vince to pay Mr Funovski to do, had they been done?---I'm not sure, I assume so.

Is it the case that if they were not done you would have got complaints?
---Yes.

30 Did you get any complaints?---No.

MR PAYNE: Thank you, Commissioner. Do you remember any more about this telephone conversation before the visit on Saturday, 22 November, 2008?---The conversation wasn't very long so, he wanted to come and see us to go through it and, and he came and seen, he came and seen me and handed me a piece of paper with, with a few jobs that he had done that he suggested there was outstanding money on.

I see. Do you still have that piece of paper?---No.

40 What did you do with it?---Threw it out.

Can you tell the Commissioner what you remember about that conversation concerning the amounts Mr Funovski said that he was owed by your firm?
---Okay. On the telephone or when we were - - -

No, no, this is in the meeting?---In the meeting. Okay. Well, basically there was a list of, of jobs that apparently he had done for us and, you know, that all this money was owed and that if I knew about him and I said look, I

knew about a few of them, a couple I didn't know about so he basically demanded the money, wanted to be paid and suggested that, you know, our life was going to be difficult if we didn't, didn't sort it out so I got a little bit cranky and he left, he left the building and, and I thought about a few things and then we spoke on the Monday and organised him to come and pick up the money.

THE COMMISSIONER: Did you pay him what he asked or did you pay him, did you compromise his claim?---Yes.

10

What?---Compromised, I think it was 50 per cent.

MR PAYNE: Can I just ask you a few things about this conversation you had at the meeting and have a look at 14PT at the bottom of the page, you'll see it about line 47, you say, "A couple of weeks after that Robbie came to my office and he wanted to see me," so that's, you only had the one meeting with Mr Funovski I take it?---Yes.

20 I'm sorry, the one meeting where this was discussed prior to paying the money I should have said. Came to you office, "wanted to see me. The truck driver let him in." That's, is that Mr Arena?---Yes.

"He came up to my office, closed the door, basically told me, accused me of owing him," you say six or \$7,000?---Yes.

You said earlier five or six?---Well, it's around there somewhere.

30 "And I said to him, 'Okay, that's news to me, what have you got to prove it?' He's, you know, I'm doing things for Vince and Vince said you're going to pay me blah, blah and blah." Can I ask you, having reflected on the matter, this piece of paper that you were given, do you, other than the new college job, I take it that was, that was the principal job on the piece of paper?---Yeah, there was that one.

Yeah, what else?---And I think there was another project in, in Little Bay.

I see?---And some work that was done in Erskine Street, so I think all up there were approximately five jobs.

40 Erskine Street in, in the, in the CBD?---Yes.

The project at Little Bay, was that the redevelopment on the old hospital site out there was it?---Yes.

And again, as you understand it, we'll go through them one by one, what was the work that Mr Funovski was claiming that he'd done on the new college job on behalf of Planet Plumbing New South Wales?---I think they inserted a T into the water main for a fire hydrant connection.

And just so that I'm clear about it, that would involve Mr Funovski organising Sydney Water personnel to come out to the site, correct?---Yes.

With, with, using Sydney, Sydney Water equipment to actually cut into the main and providing Sydney Water materials to complete the job, that's all, that's all part of the service Mr Funovski was claiming that he'd organised for you?---Yes.

10 THE COMMISSIONER: How do you know he didn't use Planet Plumbing personnel and equipment?---I don't.

So what makes you say he used Sydney Water?---An assumption.

Did he tell you that or not?---No.

But why do you make the assumption?---Because if we would have used our men we would have been paying them overtime and I don't think we've paid anybody overtime to do that work so - - -

20

MR PAYNE: And you'd know about the equipment that you were using and you'd know about what actual physically was placed into the ground because you had the records which would show you that, correct?---Yes.

And indeed if Mr Funovski hadn't organised all of those things for you why would it have been worth this amount of money? Can you think of any reason?---If he hadn't organised it?

30 Yeah, if he hadn't, if you'd done all the work?---I would still have to pay a similar amount of money to Sydney Water anyway so really the, the main benefit was just time.

Because just, and just to take up the Commissioner's question, if you did this legitimately and you'd approached Sydney Water and said look, I know we've had this but we've missed our window, we need, we need to shut it down again and we need you to come out and actually do the job for us in the ordinary course Sydney Water would send two men and truck, they'd cut the T-junction, they'd provide all the materials and they'd send you a bill at the end, correct?---Or you'd pay upfront, yes.

40

Or you'd pay upfront?---Yeah.

But you'd pay Sydney Water - - -?---That's correct.

- - - and not to Mr Funovski?---That's correct.

And so what, as you understood was being said to you, was that Mr Funovski had organised these things off the books as it were and that

you were then obliged to pay him not Sydney Water, correct?---That's correct.

THE COMMISSIONER: Well, if you're correct that would mean that Sydney Water would not know that this work was being done?---Yes.

And, but Sydney Water's personnel would be used and would be paid by somebody else not Sydney Water for doing the work?---Yes.

10 And that someone else, it was somebody through Mr Funovski?---Yes.

MR PAYNE: And were you told anything about how if at all Sydney Water was deceived into providing these men and equipment to do this job at New College?---Sorry, say that again.

Were you told anything by Mr Funovski about how it was, just taking up the Commissioner's question, how it was that Sydney Water were deceived into providing these, this equipment and these men without you having paid them?---No.

20

In relation to the other two jobs you mentioned to me in relation to Little Bay, what did Mr Funovski say to you about that job?---Oh, well, I can't remember. I know that that was organised between Vince and, and Robbie. Unfortunately being in control of four states I wasn't across everything. So that was organised between them two and, and I coughed up some money for that, so - - -

30 Do you know in broad terms what it is Mr Funovski was claiming that he'd done on behalf of Planet Plumbing that was deserving of payment at Little Bay?---Well, I believe they did a fire hydrant connection there as well. The same as Little Bay.

I see. And again that would involve the unauthorised shut down of the Sydney Water system. And that was a major development wasn't it?---Yes.

So all the citizens of Little Bay did without water at Mr Funovski's request what he was indicating to you?---Yes.

40 Erskine Street in the CBD, what if anything did Mr Funovski say to you about the Erskine Street, CBD project?---He didn't. There was some issue with the water main, not across the whole job, so it was something that, I'm not sure.

Can I take you over to 15PT in this transcript, Exhibit P85. And just I'll ask you some questions about this continuing answer at the top from the first line to about the fifteenth line. And we'll discuss the, I've filled in the blanks with the blah, blah, blah. You say, Look, from what I know Vince has asked me for money and I've given Vince money and from what I know

and I've heard, Vince has actually given you money. Now that refers to what you told the Commissioner was in part petty cash and in part cash from cheques that you'd had cashed and you'd given to Mr Molluso over the preceding year, which you understood he was going to then give to Mr Funovski. Correct?---That's correct.

And in total what was the amount you think you gave Mr Molluso to be paid to Mr Funovski prior to him marching into your office in November, 2008? ---Oh, look I'd be guessing, probably \$5,000 all up.

10

And just dropping down two lines. You say, as Mr Funovski was leaving you say, basically what he said was, if we don't pay him he's got a position with Sydney Water he'll make sure that we have to do a Sydney Water connection (not transcribable) Sydney Water issue, that they'll lose our paperwork. What did you say to that?---Well, basically it was, it was made quite clear that our life would be made difficult if we wouldn't get this sorted out.

20

You told the Commissioner that you decided shortly after this conversation that nonetheless you would pay despite asking him to leave, you would pay Mr Funovski something. Correct?---Yes.

How did you come up with the figure of \$3,000?---It was just a negotiated thing, I guess. I didn't want to pay him, I think they were claiming \$6,000 or something, so I just wanted to get rid of him and get him out of our hair and that was that.

30

I understand. You've said a negotiated thing, I think you described it to the Commissioner as a, as a compromise?---Yep.

Did you have a discussion with Mr Funovski about that or did you just come up with the number yourself?---No, we had a discussion. I think after the Saturday we spoke on the Monday and, and we agreed on that.

I see?---And that was it.

I see. When you spoke on the Monday, was that in person or on the telephone?---On the phone.

40

And just before we leave Saturday, Giuseppe Arena, the man who'd let Mr Funovski into the office for that face to face meeting, was he still there somewhere in the office after the meeting?---He was in the office after the meeting, yes.

But he wasn't there when you spoke to Mr Funovski - - -?---No.

- - - and the piece of paper was put in front of you?---No.

Did you tell Mr Arena what had transpired between you and Mr Funovski?
---Yes, I did.

And to your recollection did you make any other record of the conversation with Mr Funovski that day or subsequently?---No.

I'm taking you to the Monday. You had a telephone conversation. Who telephoned who?---I don't know. I don't remember.

10 And doing the best you can what was said?---It was, it was basically a, a telephone discussion to come to a compromise just to get it out of the way.

Who suggested the figure of \$3,000?---I did.

And did he agree?---Yes.

And did you make an arrangement for him to come and collect the money?
---Yes.

20 And was it discussed how it was to be paid, namely cash, cheque, electronic funds transfer?---Oh, no. Look, I might've said, look all the other dealings were in cash so we weren't going to pay him by EFT, so we just organised the cash.

I see. So, so taking you back to that, that small bundle of documents and I'll take you through them now?---Yep.

30 Which is P86. So the day before you've had a telephone conversation with Mr Funovski and you've agreed that you're going to pay him \$3,000 and you think it was agreed in cash during that telephone conversation. Is that what you say?---Yes.

And, so you ask your financial controller to draw that cheque. Can we just look through the remainder of these documents, on page 26 of Exhibit P86 that's a, a payment preview. That's part of the business records of Planet Plumbing is it?---Yes.

40 And it's quite hard to read, but it's SYDWA, about half way down the page on the left and then that's Sydney Water in your system?---Yes.

Amount due, \$3,000 report total \$3,000. And that's something that's generated by your, your internal financial recording system when cash payments of this kind are, are authorised by you?---Yes.

Look over at page 27. Just on the right hand side it, the \$3,000 seems to be broken up into three amounts. One of 2,000 and two of 500. Do you see that?---Yes.

That reflects does it the instruction you'd given your financial controller back on page 25 and the email to break the \$3,000 down into three separate job numbers within Planet Plumbing?---Yes.

Look over at, at page 28. That's something in your internal finance system where a cheque is drawn allocating within the \$3,000 cheque that the three separate places were in the general ledger, those debits are to be placed?
---Yes.

- 10 And have a look over at page 29, a remittance advice is created. Is that created automatically by your finance system at the time do you know?
---Yes, it is.

And that's for the \$3,000, getting an invoice number. And then look over at page 38, there's then a cheque requisition which is part of your internal financial control at the time was a cheque requisition for an amount of \$3,000 would have to appear in your financial records. Correct?---Yes.

- 20 Is that your handwriting on the document or that of your financial controller?---That's Maria's.

Your financial controller's handwriting?---Yes, financial controller, yep.

And you'll see the cheque number there is 5-2-1 and then have a look over the page, somewhat confusingly now number 23 at the top, but this a statement of your St George bank account. And if you look at the last entry on that page, 25 November, you see cheque number 5-2-1 we saw a moment ago?---Yes.

- 30 A cheque for \$3,000. And then turn over the page, it says 224 on the top right-hand corner, Please pay cash, \$3,000, 25 November, 2008. That's a cheque signed by you, is it?---Yes.

And over the page, 225, customer receipt, cash cheque \$3,000, and then the remaining pages are general ledger entries from the financial records of Planet Plumbing NSW Pty Limited. I'll take you to the first one at 226. There's a little asterisk you'll see on the left-hand corner next to P165. If you follow that across, that's Sydwa, S-Y-D-W-A. Do you see that?---Yes.

- 40 And then the same cheque number, 5-2-1, cheque number 5-2-1, drawn, the date, the 25 November, 2008, transaction amount \$3,000?---Yes.

And then over the page, a general ledger detailed report. The three asterisks in the middle of the page, if you follow that across, that's the breakdown of the \$3,000 into 2000 and the two \$500 amounts that you've identified earlier?---Yes.

Then over the page at 228 you find where there's breakdowns in the detailed report, third from the bottom on page 228 you see the \$2,000 amount, page 229 the asterisk, it says for subcontractors, so I think the miscellaneous amount you were telling us about before, if you look across that's \$500?
---Yes.

10 And then 230 the asterisk, S-Y-D-W-A again and a job number. You think that's the Crown Street job for \$500 that you, appears in your detailed general ledger. Is that right?---It was actually the other way round, the one on page 229 is the Crown Street project.

I see. I see?---And the other one was our miscellaneous.

Miscellaneous?---Yes.

And you tell the Commissioner that the \$3,000 was obtained from your bank account on that day, Tuesday, the 25th, and given to you by your financial controller?---Ah, yeah. She didn't cash the cheque.

20 Who did?---Ah, Joe Arena.

And Mr Arena gave you the money?---Yes.

And then what did you do with it?---Gave it to Robert Funovski.

Who attended the office that afternoon again, did he?---Yes.

30 And after you made that payment, did you have any further dealings with Mr Funovski?---No.

Has he been the inspector again on any job where Planet Plumbing NSW has been involved since that time?---No. Or he may have been but I've never seen him.

40 Yes. I see. Can I ask you a few more questions just about the mechanics, and I'm going to concentrate on the New College job. So if you have a look at 17PT in the transcript I've given you, Exhibit P85. The New College project that University of New South Wales was a contract for both sewerage and water that Planet Plumbing was doing for a developer called Lipman Constructions. Is that right?---Yes.

And that contract was worth about 2.7 million dollars to you?---Yes.

So it was a significant matter?---Yes.

And that had been going for a year or so before this payment that you made in November 2008 to Mr Funovski?---Yes.

What was Mr Molluso's role in relation to that project prior to him leaving Planet Plumbing?---He was the project manager and a director.

So that would involved him, that's an intimate involvement with that project. Did you have an intimate involvement with that project while Mr Molluso was still with the company?---Oh, not as intimate, but I was involved in the project, yes. I attended meetings, we had some issues with some of the, with some design changes there so I was involved in parts.

10 And you said to me your understanding of what Mr Funovski was saying to you was that he'd arranged for the unauthorised shutdown and for a T junction to be put into the water system for the purposes of a fire hydrant. Is that what you're telling me?---Ah, yes.

And that was an important part of this project?---Yes.

About how long would it take for such a thing to be accomplished by a two-man Sydney Water crew in the ordinary course, or don't you know?---Oh, four hours.

20

And in the ordinary course, if you were to do this the authorised way, can you please tell me what steps would be involved? So assuming, leave Mr Funovski out of this, let's assume Mr Molluso has gone, paperwork hits your desk, we haven't got a T junction, we need it for fire purposes at New College. What would you have done to arrange that with Sydney Water and what are the steps in that process, including payment? If you could take me through them?---Okay. Well, I haven't been involved directly with a connection in probably four years or five years.

30 I see?---Our project managers do that.

Right?---So basically they go to Sydney Water or go to a Reece or a Sydney Water place where they can pay for a connection.

Yes?---Make an application, put in an application form, pay for the connection, the paperwork gets sent to the, the local branch there- - -

40 Yes.---?- - -that's responsible to, to do that job and then from there it gets put in a queue and they give you notice as to when it can be done and then you organise yourself around that notice. You dig a hole and then they'll come in and cut the T in.

So the advantage as you understood it of what Mr Molluso had arranged with Mr Funovski was that you cut out a whole lot of that delay and paperwork and you didn't have to make any report whatever to Sydney Water that you hadn't done the thing that you said you were going to do in your original allotted time. Is that, is that right?---Well, yeah. Basically at

the time of the project there we just didn't have our paperwork done on time so to push it along, that's, that's what happened, yes.

I see. So it was a payment you were making to Mr Funovski for I suppose two purposes, one was the favourable treatment and pushing the, pushing the project along and the ultimate payment made so as to avoid the consequences that he threatened you with, namely that your paperwork would go missing and there would be delays in any project you were involved with in the future?---Yes.

10

And I think in your transcript you describe that as a payment you regards yourself as having made under duress, at least the last one?---That's correct.

Although you were happy to make the earlier payments through Mr Molluso?---Well, I did close a blind eye, yes.

20

Can I ask you to look at 18PT and I just, I want to understand some answers you gave me early on. There was a parting of the ways between you and Mr Molluso. I take it from what you say at 18PT at about line 9, that there was a degree of acrimony involved in that parting. Do you agree?---Yes.

You say you, what, suspected or knew that he was stealing money from the business?---No, well, Vince was doing projects for himself in my time using our men and materials, which is something I found out.

I see. What, he had a separate corporate enterprise, did he, and was charging people for work using Planet Plumbing personnel and materials. Is that what you're saying?---Yes.

30

And that caused you what, to terminate his involvement in Planet Plumbing, did it?---Well, yeah. This, yes, at the end of the day, yes.

Mr Molluso I think is your second cousin?---Yes.

40

Nevertheless, it was a parting, angry words were exchanged?---Oh, look, when we agreed that we were going to, once all this came out we agreed we were going to go a particular way and then, yeah, I was overseas and we had a bit of a disagreement and I asked him just to, to pack up and drop his keys off and finish up.

Dropping down the page, you'll see at about line 30 that the Commissioner asks you a question and you say, "I'm accusing Vince of this but I believe some of the money I was giving him he was putting in his pocket and perhaps not passing on to Funovski." What's the basis of that belief? ---Well, for Funovski to come and ask me for the money, I assumed that Vince perhaps hasn't given him the money that I gave him before.

I see?---That's what Funovski told me on the Saturday.

Yes, I see. And just dropping the page, at the bottom of 18PT, what you told the Commissioner on that occasion, and that's I think consistent with what you were telling me earlier, is that before this telephone call you think there were three or four times where he had an issue, that's Vince had an issue, you give Vince some money and Vince would sort it out, get Sydney Water to go out there and do whatever they had to do, that's the payments you were telling me about - - -?---Yes.

10 - - - that may have amounted to \$5,000. You go to Mr Molluso, he told you, Mr Funovski to do the various things that we've discussed earlier today?
---Yes.

Mr Funovski was also the sewer inspector as well as the water inspector on the new college job wasn't he?---Now you're testing my memory. He may have been.

20 So far as you know was any part of any payment you made to him or any payment that Mr Molluso said he was going to make to him to do with sewer connection work at new college as distinct from water or was it all to do with water as we've been discussing?---Well, I distinctly remember Planet Plumbing cutting the sewer main junction in and installing the sewer side line so I would have to say that it was just for the water.

I see. So just going back to the questions the Commissioner was asking you earlier, you've got a recollection of actually Planet Plumbing personnel and materials being involved in the sewer connection?---Yes.

30 Whereas to the contrary with water, you have no such recollection of what Mr Funovski was telling you at least anyway was that he'd organised it and was due payment for having organised it?---Exactly.

40 Can I ask you just a few technical questions just so I'm completely clear about it but at 19PT, at about line 26, 27, just trying to clear up this question of who would actually do the work so far as water's concerned, you said on that occasion to the Commissioner, you say, "Depending on the size of the water main, sometimes we, I can only cut a 300ml water main. If the water main is greater in diameter than 300 mil we can't do it, Sydney Water has to do it." You say that's correct?---Yes.

So just bear with me. Do you know the size of the water main that was involved in the connection at the new college site?---Wouldn't have a clue.

Do you assume, however, from these answers that it was bigger than 300ml because it's something you couldn't do?---No.

All you know is that so far as you're aware Planet Plumbing didn't do it and Mr Funovski told you that Sydney Water did it, as far as you know it happened because there'd be a complaint if it hadn't happened?---Yes.

You say just completing this, and I think we've been through this at 19PT at about line 39, that you were paying Mr Funovski to do this because it's much quicker than the process you described to me of doing it through the front door if I can put it that way with Sydney Water?---Yes.

10 Because you'd have to go to, and tell me what's wrong about this, you'd go to Reece, they're a commercial enterprise but they act as agents for Sydney Water for sewer water connections as you understand it?---Yes.

And so you go to them and you tell them what you want to do and you pay them the money and they transfer it to Sydney Water so you pay up front and then you get a slot where Sydney Water come out and do the things that we discussed about connecting you to the water main?---Yes.

20 Any idea how long that takes in the usual course?---Like I said, I haven't been directly involved for quite a few years but back then it could have been anywhere up to two weeks. I'm not sure if it's changed now.

Can I take you over to 22PT and Mr Alafaci I want to ask you some more general questions now about payments to Sydney Water inspectors and other employees. Other than these payments we've been discussing in relation to Mr Funovski, have you ever made payments to any other Sydney Water employee?---Yes, I have.

30 On what sort of occasions?---Many years ago a Sydney Water inspector would come past and do a, an inspection.

Yes?---There was absolutely no favourable treatment whatever - - -

Yes?--- - - - but it was just the, the thing, you'd give someone \$5 to go and buy a beer or \$10, so it's happened many times before.

I see. So you're talking about you are a, were or are a licensed plumber?
---Yes.

40 So you're talking about licensed plumbing jobs in a domestic setting - - -?
---That's correct.

- - - in particular?---Yes.

And so these, these are P and D inspectors in effect?---That's right.

And they are the people who come out and check the work of a licensed plumber?---Yes.

And you would, what, on a universal basis make a payment of money to - -
-?---No, not on a universal basis but at times if, if an inspector would go out
of his way, like come and see you at, you know, like when he was supposed
to be at home at say quarter to 4.00 or something and go out of his way to
come and look at a job so you could backfill you'd give him \$50 to go and
buy himself a carton of beer. It was like, it's the way I see that is you go to
a restaurant and you have a good meal, you leave \$10 on the table, like it's
not, it was never for any favourable treatment.

10

I see. And for what period were you a licensed plumber and involved in
these payments that you've just been talking about?---I've been a licensed
plumber since 1996.

But you haven't done water connections for a while?---No.

I had assumed that was because you are now the head of a business empire
spanning states of Australia and you're more involved in the business side
of Planet Plumbing rather than the water connection side, am I correct - - -?

20

---That's correct.

- - - in that assumption?---Yes.

So for what period of time were you actually involved in the licensed
plumbing side of the business where you'd actually be interacting with these
P and D or PIAS inspectors?---It would have been up till mid 2000s.

So '96 to the mid 2000s?---Roughly, yeah.

30

Were you here in court earlier today when Mr Fayers was giving his
evidence, that he was a PIAS inspector?---Partially, yeah.

Do you know Mr Fayers?---No.

I think he described in his evidence that this practice of payments being
made and received by P and D inspectors, he called it endemic, is that
something you're telling me as well?---Endemic?

40

Yes?---Sorry, I don't understand what the word means.

THE COMMISSIONER: It's all over.

MR PAYNE: It happens all over the place?---Oh, yeah, it does, yeah.

Well known to everybody - - -?---Yeah.

- - - in the plumbing industry - - -?---Yes.

- - - for someone to, who'd been involved in P and D inspections to say they'd never heard of it would be a very surprising thing at least so far as you're concerned?---Very.

I see. So to return, other than these P and D or PIAS inspectors and the payments that you've described and the payment to Mr Funovski or the payments, sorry, plural, the ones that you've given to Mr Molluso you thought were for Mr Funovski and the ones you actually made yourself to Mr Funovski, other than those payments have you made any other payments to Sydney Water employees?---No, they're the only times.

So far as, and let's deal with major, major works, we'll leave the P and D and PIAS - - -?---Yeah.

- - - inspectors behind, so far as major works are concerned, has Planet Plumbing ever done any work in the inner west of Sydney?---Perhaps.

And in particular sewerage connections?---I, I don't know, I assume so, I can't remember, it's just been too many jobs.

Are you close enough to the detail to know who would be inspecting particular jobs that you'd be doing on behalf of Sydney Water?---Not at the moment, no.

And what, for the last four years I think you were telling me you wouldn't be close enough to, to follow that detail unless there was a particular issue as there was with Mr Funovski, is that - - -?---Yes.

So have you ever heard of Mr John Buckley?---Yeah, I have heard of John Buckley, yeah.

As far as you know has Planet Plumbing or any of its employees ever paid money to Mr Buckley?---Not that I'm aware.

Within the culture of Planet Plumbing and the way that you as the sole proprietor of the company run the business, is it like that you'd become aware of payments of this kind or not?---Usually I would but I can't say for sure.

Can I ask you just a few other questions about 22PT?---Yes.

Just dropping down the page. The Commissioner asked you there about whether you'd ever taken Sydney Water employees out and you said you'd taken them on the golf day but not to the football and you hadn't given them tickets, having reflected on those answers you're comfortable that that represents the true position?---Yeah, I don't ever remember taking Sydney Water inspectors to the football but like I said, we, we're in five states now

and I interact with hundreds of people a year so I couldn't remember 100 per cent but I don't, nothing stands out.

And so far as, in major developments so far as water inspectors and sewerage inspectors are concerned, do you tell the Commission that other than the payments that you authorised and ultimately made to Mr Funovski, do you say that you're not aware of any other payments being made by Planet Plumbing to Sydney Water inspectors?---We're talking major works now?

10

Yes?---No.

And you've highlighted for me the fact that you've told me about the P&D or PIAS inspectors where you'd made payments on a regular basis to - - -? ---I wouldn't say regular basis, but there have been in the past, yes.

Does Planet Plumbing still do domestic plumbing work that's supervised or inspected by these PIAS inspectors?---Yeah, yes. We don't do domestic plumbing any more. It's all multi storey and, and high density stuff.

20

I see?---But we still do every project in Sydney deals with a PIAS inspector.

And so far as you're aware the practice you described to me of the cash payments at the end of a job has that continued so far as Planet Plumbing is concerned?---No.

When did it stop?---Probably two years ago.

30 Do you remember why?---Oh, for no reason, just, like I said, we never actually made payments to get any, to get any benefit. So I'm not sure what you're exactly implying there, like there has been instances like I said in the past where you know, 10 years ago, someone would go out of their way to help you and you'd give them, you know, enough to go and buy a carton of beer. But it'd be nothing more than that.

40 Well you knew at least so far as Sydney Water was concerned that they have a policy forbidding the acceptance of cash payments by these P&D or PIAS inspectors didn't you?---Well, yeah, that's why they, I believe they changed the, the inspection booking system because this was a, it's been industry talk for as long as I can ever remember, so - - -

Yes. And how would the booking system to your understanding, how would it change the, the culture of payment?---Well, you can't directly contact an inspector. And I believe that what was happening in the past was that you'd have an inspector who looked after an area for 12, 18 months and you'd make a relationship and that's how they were getting looked after I believe. But, look I'm not a 100 per cent sure. It's just hearsay.

I see. Can I ask you just about, can you turn to 29PT in the transcript which is Exhibit P85. And I just want to ask you about an answer that you give the, you give to the Commissioner on page 29PT at about line 38. If you could tell me when you've turned that up?---Yes.

10 You were, perhaps in fairness to you, read, you're talking about a discussion you had with Mr Funovski on the Saturday before you organised the \$3,000 payment. And at the end you say, So I figured for 3,000 bucks when we're turning over 25 million, so that's the total turnover of Planet Plumbing empire is it?---At that time it was, yes.

Okay. I thought for him to go away it wasn't going to be a big deal. So I'm assuming it's a little bit bigger than this. And the Commissioner takes you up on that you, you see at line 38, When you say things bigger than this, do you think there must be a little business that Mr Funovski has generally? And you say, It sounds that way. What are you seeking by those answers to convey? That what you'd seen of Mr Funovski is a, is a small piece of, a little private business that he's got going on. Is that what you're trying to convey?---No. I just, I assumed that, that this investigation, I originally,
20 pardon my ignorance, when I made that, I assumed that I was the only person that ICAC were talking to, so it was just an assumption based on the fact that, that this ordeal is over something a little bit more than \$3,000.

I see?---So, it was just a, an off the cuff comment.

I see. And so when you go down the bottom when the Commissioner asks you about why you said it, Did he have, did have anything, did he say anything to you? Is this part of the industry? And you say, It's never happened to me before. And as you say over the page, you thought more
30 than \$3,000 was likely to be involved, but you had no direct knowledge. That's what you're intending to convey by those answers?---Yes.

Just excuse me, Commissioner one moment. I have nothing further for Mr Alafaci.

THE COMMISSIONER: Yes. Now Mr Ly do you have any questions?

MR LY: I do (not transcribable)

40 THE COMMISSIONER: Yes, proceed.

MR LY: Sir, do you agree with me that you've been somewhat inconsistent in regards to the answers you've given - - -

THE COMMISSIONER: No, I won't allow that.

MR LY: You've said in your, in your examination, compulsory examination that was around about, the figure in which you thought that was

owed or allegedly owed to Mr Funovski was approximately 6 or 7,000. Is that correct?---Like I said before, we process four and half thousand a month. Okay. In five different states. So trying to remember what I did two years ago is or the exact figures is a big ask. But it was approximately that amount of money.

Right. I'm just telling you what you said in your compulsory examination. Do you agree or not that you said it was 6 or \$7,000?---Yes.

10 Today you said it was a different figure. Is that correct?---Yes, between 5 and 6,000.

So it's the case would you say that your memory is not clear? That's the reason why - - -

THE COMMISSIONER: No, he's not saying that, Mr Ly?---I'm not saying that at all.

20 So if you want to put something to him, put it accurately?

MR LY: Yes (not transcribable). So you agree with me those two (not transcribable) are incorrect?---Sorry?

THE COMMISSIONER: I beg your pardon?

MR LY: You agree with me that what you said in the compulsory examination and what you said today is different. Is that correct?

30 THE COMMISSIONER: He's already said that. Can you really get to the point of the cross examination, please.

MR LY: Sir, you say that this is the only instance in which you, you have made payments to Sydney Water. Is that correct?---Yes.

There's been no other instances except for small gifts which (not transcribable) common in the industry. Is that correct?---Yes.

40 If this is the only incident, why is it that your memory or your memory is vague (not transcribable)

THE COMMISSIONER: Vague about what?

MR LY: About the amounts, Commissioner.

THE COMMISSIONER: Can you just move closer to the microphone, please. The transcription service is finding it difficult to pick up what you're saying. Can you move closer to the microphone, please.

MR LY: (not transcribable) You said you have about four and a half transactions per year. Is that correct?---Four and a half thousand transactions per month.

Per month?---Yes.

Okay. But this is the only instance you say that payments were made to Sydney Water. Correct?---Yes.

10 Would you agree with me then that you should remember - - -

THE COMMISSIONER: The only, I don't understand that answer. Was the only time out of all the four and a half thousand, these are the only, do you not have any legitimate payments that you made to Sydney Water? ---Oh, sorry, sorry, I misunderstood the question. Can you just say that again?

MR LY: So this is the only time in which a payment was made to Sydney Water illegitimately?---Yes.

20

So it's fair to say that that being the case, your memory of this particular transaction would be a good, good memory (not transcribable)?---Well, when someone's standing in my office demanding that they get paid, yeah, it's a very good memory.

Can I suggest to you, sir, that this is not the only instance in which you've given these types of payments to Sydney Water?---If you like.

30 What do you have to say about that?---I'd be interested.

THE COMMISSIONER: Interested in what?---To find out which other ones.

MR LY: I mean it's possible that this particular payment and these documents that's been produced before you today are for another transaction to someone, perhaps not Mr Funovski?---No.

No further questions.

40 THE COMMISSIONER: Yes, Ms White?

MS WHITE: Just briefly, can you, can you clarify, in the document which is the exhibit P86, page 2, it's describing a payment preview in relation to the Sydney Water cheque. Page, page 26, I apologise?---Yes.

Could you please just explain, what is the meaning of the dates there running across the line from where you see the Sydney Water then the next date is the 27th of the 11th, '08. Is that the invoice date?---Yes.

And the next date across there is the 11th of the 12th, '08?---Yes.

Is that the pay date?---No. What, what our system does is, it, once you put an, because we work on a 30-day terms, the system menu we set up so that whenever you enter an invoice from a supplier, that it brings the payment date 30 days later or a month later. So what that is, when our trial balances are printed off you can actually see when money's due. That's all that is.

10 So what, is there any record of when this money was actually paid, on what actual date?---No, but it was, only the record on the email and the date that the cash was, the cheque was cashed.

THE COMMISSIONER: Well, the bank statement shows the date on which the cheque was cashed?---Yeah, that's right. That's, that's what I said, there's a receipt there from the bank that actually shows when the cheque was cashed.

20 MS WHITE: I understand that, but when the cheque was cashed, the person who cashed the cheque brought the money back to your office?---Yes.

And then the money in your office was then you say handed to Mr Funovski?---Yes.

Is there any record of the date on which that happened?---No.

And in relation to the money that you gave your second cousin, you don't know whether he in fact passed that on or not, do you?---No.

30 No further questions.

THE COMMISSIONER: Yes, Mr Purdy?

MR PURDY: Yes. Thank you, Commissioner. Mr Alafaci, the meeting or the telephone call that you received from Mr Funovski prior to the meeting on the Saturday (not transcribable) November, you said that Mr Funovski outlined what the proposed meeting was about and gave you some indication on some of the jobs that the amount he said was owing related to?---Yes.

40 But you didn't get the full picture until the Saturday meeting?---That's correct.

In between the phone call and the Saturday meeting, did you not think of calling Mr Molluso to ascertain what it was all about?---No.

You're not backward in coming forward normally, are you?---No, I'm not, but we left on bad terms and up until this day we don't really communicate that much so - - -

You did telephone him about a month or so ago when you became aware of this investigation, didn't you?---Yes.

So you're still on speaking terms?---Well, okay.

I'd like to suggest to you that the terms between you were not quite as bad as you've made out- - -?---Okay.

- - -at the time, at the time (not transcribable)

10

THE COMMISSIONER: You must say whether you agree or you don't agree?---Well, I disagree.

MR PURDY: Mr Molluso ceased his tenure as a director ended I think on 30 September, 2008. Do you agree with that?---Yes.

And at that point the New College job was in progress?---Yeah, yes, I think it wasn't complete, yes.

20

Now, the, isn't it the case that he remained working on that job but in a subcontracting role rather than an employee role after 30 September, 2008? ---Now you're testing my memory. Look, I'm not sure. I'd have to go back and check some records.

You can't recall - - -?---No.

- - - him ceasing employment. You agree first of all that he was a PAYG employee?---No, he was on a salary.

30

Yes?---PAYG, yes, sorry.

And that his employer was MJ Supplies Pty Limited?---That's correct.

And at about the same time as his tenure as a director ceased his employment ceased, you stopped paying him a salary?---I don't remember the exact date but I was in China at the time and there was a, a heated conversation on the phone and I asked him to drop his keys off to Mr Walker in our office and finish up.

40

What, what date do you say roughly did that conversation take place? ---Well, it was, the date, when the Canton Fair was in China in 2008, so I'm assuming, I can't remember exactly but it would have been on or about October perhaps. I'd have to check my records, I've got a lot of things that go through my mind on a daily basis so I'm not sure.

What was it that prompted you to ring him from China, to ring him from the Canton Fair?---Because one of our, well, one of his relatives that was working for us at the time was stealing company information, they

downloaded our database with all our estimates on it and emailed it to Vince so - - -

THE COMMISSIONER: Sorry, emailed it to?---Vince, Mr Molluso. So basically Mr - - -

How did you find out?---Because I was tracing his emails.

From China?---Yes.

10

MR PURDY: There's no innocent explanation for that, Mr Alafaci?---Well, there could be but with the things that had happened prior to that occasion it was a fair enough assumption to say that I was being fLyced.

Well, look, I'd like to suggest to you it's not a fair assumption?---Okay, that's fine.

THE COMMISSIONER: Then you've got to say whether you agree or you don't agree?---I don't agree.

20

MR PURDY: At the time you had this conversation with Mr Molluso I'd like to suggest to you he was working as a subcontractor to Planet Plumbing?---The period, just before his employment finished we were going to start a new business together but because he now, we had a, basically he wasn't fulfilling his duties correctly, okay, in my opinion so we decided that we were going to transfer him from being the state manager, so, so if you want to put a title on it, or the director at the time, the construction director. We were going to get him back into a facilities maintenance role so we had agreed that we were actually going to start a separate business together which was a way because, being European, trying to keep all the families happy, we decided that we were going to start a separate business and, in the facilities maintenance sector of Planet Plumbing. So for a couple of weeks before his employment terminated, yes, you probably are correct, I'd have to check my records but we may have been paying him as a subcontractor but it wouldn't have been for a very long time I can assure you.

30

Mr Alafaci - - -

40 THE COMMISSIONER: Mr Purdy, how long will you be?

MR PURDY: I may be a little while longer, Commissioner.

THE COMMISSIONER: Well, the Commission will adjourn until 10.00am tomorrow.

THE WITNESS STOOD DOWN

[4.08pm]

AT 4.08pm THE MATTER WAS ADJOURNED ACCORDINGLY
[4.08pm]