

SIRENPUB00759DOC
15/09/2010

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pp 00759-00827

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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 WEDNESDAY 15 SEPTEMBER 2010

AT 10.25AM

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.

MR STEVENSON: Commissioner, before Mr Payne (not transcribable) this Commission, which I have and with your leave which I seek - - -

THE COMMISSIONER: Yes.

MR STEVENSON: - - - I wish to provide the Commission with a letter from Dr Kerry Schott, the Managing Director of Sydney Water in which some assurances are given to the Commission in relation to matters that I'll elaborate on in a moment, an undertaking is given and I seek the
10 opportunity to read that document on to the - - -

THE COMMISSIONER: Yes. That would be desirable, Mr Stevenson.

MR STEVENSON: Commissioner, it's a letter addressed to you and dated 14 September, 2010 from Dr Schott and Dr Schott says this, Dear Commissioner. In relation to those who have provided information to the Commission about the conduct which is currently under investigation or who have otherwise assisted the Commission, Sydney Water assures the
20 Commission that there will be no persecution or punishment of any of those individuals because of that assistance. Accordingly, Sydney Water gives an undertaking to the Commissioner as follows. Sydney Water undertakes to the ICAC that it will not take steps to revoke the accreditation of any constructors on the basis of any evidence given during the current inquiry into corruption at Sydney Water as to their involvement in any corrupt conduct at that inquiry. The only qualifications Sydney Water makes in respect of that undertaking, in respect of any witness that the Commission finds has given untruthful evidence to the Commission about that persons involvement in any corruption. In relation to constructors or accredited
30 plumbers whose work is currently subject to complaint or criticisms, Sydney Water will assess the evidence in relation to the work of those constructors carefully and will only take steps to remove the accreditation of those constructors where Sydney Water has formed the view that it is necessary to do so and a proper discharge of statutory duties and responsibilities to ensure that water and sewerage services are supplied to its customers safely and securely and in line with its public health obligations. In this regard no company will be treated any differently that any other accredited supplier or plumbing services. At the conclusion of the evidence before this inquiry and before any steps are taken to remove the accreditation from a constructor, Sydney Water is happy to discuss with the Commission its
40 proposed treatment of any accredited plumber that has appeared before the Commission or has assisted the Commission. Any party who has assisted in the exposure of fraud, dishonesty and corruption is to be congratulated.
Yours sincerely, Kerry Schott.

THE COMMISSIONER: Yes.

MR STEVENSON: Commissioner, I tender that letter (not transcribable) appropriate.

THE COMMISSIONER: Yes, thank you. The letter of the Managing Director of Sydney Water dated 14 September, 2010 will be Exhibit P93.

#EXHIBIT P93 - LETTER FROM DR KERRY SCHOTT, CEO OF SYDNEY WATER

10 THE COMMISSIONER: Mr Stevenson, the Commission accepts the undertaking. I commend Sydney Water for the attitude that it has taken. In opening this inquiry counsel assisting said this. The inquiry will examine steps apparently on foot to remove Aoun Constructions Pty Limited from Sydney Water's list of accredited constructors. In the light of the undertaking that has been given, that investigation will not take place.

Yes, Mr Payne.

20 MS WHITE: Commissioner, I wonder if I could just note something for the record.

THE COMMISSIONER: Yes.

MS WHITE: As you know I have your leave to appear for Mrs Funovski.

THE COMMISSIONER: Yes.

MS WHITE: I also seek leave to appear for Mr Robert Funovski.

30 THE COMMISSIONER: Yes. I just want to be assured that there's no conflict of interest there.

MS WHITE: I have spoken to them both and I'm assured there's no conflict.

THE COMMISSIONER: Yes, very well, you have leave.

40 MS WHITE: Thank you, Commissioner. Also certain matters have transpired overnight and Mr Funovski has made a statement. I wonder if at some appropriate time he might be permitted to read it on to the record.

THE COMMISSIONER: Well, why don't you just tender it?

MR PAYNE: I was proposing to go to it first thing, Commissioner.

MR WHITE: I've given a copy to (not transcribable)

THE COMMISSIONER: I beg your pardon, Mr Payne?

MR PAYNE: I was proposing to go to it straight away.

THE COMMISSIONER: Yes. Would it be satisfactory if it were tendered?

MS WHITE: I think that would be satisfactory.

THE COMMISSIONER: Very well. Mr Payne.

10

MR PAYNE: Thank you, Commissioner.

MR PAYNE: Mr Funovski, you've just heard the exchange. You've made a statement overnight which is as you understand it, your new legal representative has handed me this morning?---Correct.

10 Can I show you the document, please? Mr Funovski, is that your signature at the bottom of the page?---Yes, that's correct.

And it's dated today's date?---Correct.

Do you tell the Commission that the contents of this statement are true and correct?---That's correct.

I tender that statement with the Commission, please.

20 THE COMMISSIONER: Yes. The statement of Mr Funovski of 15 September, 2010 is P94.

#EXHIBIT P94 - STATEMENT OF MR FUNOVSKI DATED 15 SEPTEMBER 2010

MR PAYNE: Mr Funovski, just so we can clear the way at the outset. I put a number of matters to you yesterday and you've dealt with some of them in this statement?---Yes.

30 Do you tell the Commission in the time available that you haven't had a chance to deal with all of the matters we discussed yesterday and it may be that there are some additional matters you now wish to change your evidence in respect of?---I believe this is the only matter.

THE COMMISSIONER: I beg your pardon?---No, this is the only matter.

That's the only matter.

40 MR PAYNE: I do wish to give you every opportunity, Mr Funovski, so I'll draw some particular matters to your attention. But the first of the evidence given by Mr Desfontaines. Do you remember that?---I remember the evidence given by him, yes, that's correct.

And you remember being asked some questions by the Commissioner, in particular about that evidence yesterday?---No, I don't remember those questions, I'm sorry.

Well, I just ask you that question. You heard Mr Desfontaines give evidence, do you accept that essentially what Mr Desfontaines told this inquiry was true?---I don't know whether he's told the truth, no, I don't know that.

Well, so far as your involvement in the New College project is concerned do you accept that what Mr Desfontaines told this Commission is true?---I, I don't, I don't, I don't, I don't agree, I don't know what, I don't know if Mr Desfontaines has told you the truth, I don't remember being on that job.

10

Do you remember arranging a connection in respect of water for a fire hydrant at New College in effect off the books of Sydney Water for Planet Plumbing?---No, I don't remember doing that.

THE COMMISSIONER: Have you ever done that before on other occasions?---No, the process would come through the depot, it's a process you follow.

MR PAYNE: Well, Mr Funovski, we will come back to that topic in some detail. Do you agree that you provided assistance to Mr Molluso in respect of various jobs for Planet Plumbing when he Mr Molluso was a director of that company?---I had dealings with him at the time he was the field representative for that, for Planet Plumbing.

20

And just to use the neutral term to start with, we'll talk about the details shortly. Do you agree that you provided assistance to Mr Molluso in relation to jobs at Crown Street first of all in Sydney?---I don't believe so, I believe Crown Street job is, is still in progress or has been ongoing for a long time.

30

And I want to suggest to you that you provided assistance to Mr Molluso in his role at Planet Plumbing in relation to a job at Erskine Street in the city. Do you agree?---I may have, I don't remember.

And we'll come to the details. I want to suggest to you that you provided assistance to Mr Molluso in his capacity as a director of Planet Plumbing in relation to a job at Little Bay in Sydney. Do you agree?---I may have but I don't remember.

In relation to the questions and answers that you gave me yesterday about the cash payments you received from Mr Molluso, do you remember those questions and answers that we went through for some time yesterday afternoon?---Yeah, yeah, yeah.

40

Do you tell the Commission now having reflected on the matter that you did receive cash payments from Mr Molluso or are you changing that evidence?---No, I didn't, I didn't receive cash payments from Mr Molluso. I said that originally because I thought that by disclosing a small figure that

I'd be able to, by saying that I received smaller amounts of money that I'd be basically hiding receiving a bigger amount.

THE COMMISSIONER: I'm sorry, I beg your pardon, I didn't hear?---By, by, by admitting to receiving smaller amounts I thought that, that I could cover up receiving this amount here.

\$3,000?---Yeah.

10 MR PAYNE: Mr Funovski, just on the subject of the \$3,000 so that we're completely clear you know today and you've known since approximately 25 November, 2008 that you did receive \$3,000 from Mr Alafaci?---Yeah, that's correct.

And that all of the evidence you gave in the compulsory examination before this Commission on that topic was a lie?---That would probably be correct, yeah.

20 And that all of the evidence you gave yesterday to the Commissioner on that topic namely the \$3,000 payment was also a lie?---No, I disagree.

When I asked you - - ?---I just started remembering things and things happened in 2005, 2006, 2007 and 8, okay, it's been a while ago and I'm slowly starting to put some things back together that may have happened.

Well, just so we're clear, Mr Funovski, when I asked you yesterday whether you'd been paid \$3,000 by Mr Alafaci, you denied it. Do you remember denying that?---Um, if that's what I said yesterday ah, probably did, yeah.

30 Well, I'll turn up the reference for you. But that was a lie, wasn't it?---Um, maybe I didn't remember yesterday when I said that.

Mr Funovski- - ?---Yeah.

- - -I really want to give you every opportunity, if you've - - ?---Yeah, well, I'm trying too, you've got to understand.

40 I'm trying to give you every opportunity. I'd like you to listen to the question and please help me with it. When do you tell the Commission is the first time after the 25 November, 2008, that you remember being handed \$3,000 on or about that day by, by Mr Alafaci?---Sorry, I don't understand your question.

Well, I want to suggest to you that you've known, you knew on the day you got the \$3,000 plainly enough- - ?---Ah hmm.

- - -from Mr Alafaci that you'd been paid \$3,000 by him. Correct?---Yeah, yeah.

And that's what you say, if you just look at Exhibit P94, the statement that you made to your solicitor this morning- - -?---Yep.

- - -that's what you say. "The amount of money he handed me was \$3,000?"

---I believe it was that much.

10 And I want to suggest to you that you've been in no doubt at any time since that day that you were paid \$3,000 by Mr Alafaci. You agree with that, don't you?---No, I have been in doubt. I wasn't, I wasn't sure of the amount.

I see. You knew you were paid a very substantial sum by Mr Alafaci on that day but you tell the Commission that you weren't sure of the precise amount. Is that what you say?---I'm not sure if it was, no, I don't know, I'm not sure that it was. I can't remember.

20 Mr Alafaci, please help me with this. In paragraph 10- - -?---Mr Funovski.

Mr Funovski, I'm terribly sorry. Mr Funovski, in paragraph 10 you say this. "At that meeting with Mr Alafaci he told me he couldn't trust Vince and therefore he couldn't trust me either. He didn't want anything to do with me. He basically said, thanks for your help, here's a gift and go away. He got some money out of his drawer and handed it to me and said, 'This should cover it. Don't come back. Consider this like an early Christmas present.'" And then you say this. "The amount of money he handed me was \$3,000." Do you see that?---That's correct, yeah.

30 You told me this morning at the outset that the contents of this statement were true and correct. Do you remember saying that?---That's correct, yeah.

That evidence you tell the Commissioner is true and correct, do you?
---True, yes.

40 "And the amount of money he handed me was \$3,000." So when you signed the statement and when you answered the questions this morning, that's the amount you believe you received from Mr Alafaci on that day. Correct?---Correct, yeah.

What I'm asking you is this. What I'm suggesting to you is this. You've been in no doubt from the time you received the money to, to the time you signed the statement this morning and gave the evidence to me a little bit earlier today, you've been in no doubt, have you, that Mr Alafaci paid you \$3,000 on or about 25 November, 2008?---I don't know what the date was and there has been doubts in my mind.

Well, when were those doubts resolved do you say?---Well, when I, when I, when I left here yesterday afternoon I spoke with my, my, my new solicitor and she asked me to have a good think about what had happened and, and I, and I reconstructed things. I started putting things, what I believed happened back there and, and then that's how I came up with this statement this morning.

10 Yes. And what I'm, what I'm suggesting to you, Mr Funovski, is that proposition 1, when you gave evidence to the Commission in August this year, a few weeks ago- -?---Yes.

- - - you were asked many many questions about- -?---Yes, I was, yes.

- - -the payments?---Yes.

And that when you gave answers to the Commission on that occasion you were lying about- -?---Yes, I was, yes.

20 And when I asked you yesterday about this topic and you denied it, again you were lying to the Commission. Correct?---When you asked me yesterday?

I asked you yesterday whether you'd accepted a \$3,000 payment from Mr Alafaci and you denied it?---I didn't remember that yesterday.

Are you saying you don't remember being asked the question or you- -? ---No.

30 - - -didn't remember yesterday that you'd received \$3,000?---I didn't remember yesterday, no.

THE COMMISSIONER: Did you remember yesterday that you'd received a substantial amount of money?---I know that I, that I had received money, not a substantial amount, no.

Well, did you think that you might have received about \$100?---Um, no, I wasn't sure, but um, like, I, I, I just, I wasn't sure, I couldn't remember.

40 MR PAYNE: Mr Funovski, yesterday when I asked you about the smaller amounts of money, \$20 and \$50, you told me just a few moments ago that your answers to all of those questions were lies because you were trying to cover up a bigger amount of money. Do you remember telling me that? ---Yeah, yeah.

So yesterday you were lying about all of those matters because you were trying to hide the fact you'd received a much more substantial sum of money from Mr Alafaci?---Yes.

That's true, isn't it?---Yes, that's correct.

THE COMMISSIONER: So when you, when you gave that evidence about the smaller amounts of money you, you remembered that you'd received a far bigger sum of money from Mr Alafaci and were trying to conceal it?

---Yes.

But you happened to forget about that yesterday?---Yeah, I did, yeah.

10 That's pretty extraordinary, isn't it, Mr Funovski?---I don't know. I was, I was very confused in the afternoon. I just, I, I didn't know and then I, I, I walked away and then I, I, I realised that um, I should try and remember a little bit more better of what had happened and, and assist the Commission in the whole inquiry and- - -

So what triggered your memory again about, what made you remember about the \$3,000?---I don't know. I can't remember. I just remember that, well, all I've been hearing is that those amounts, this whole week, so I'm just assuming that's what it was.

20

MR PAYNE: Mr Funovski, have you received any other, other than the \$3,000, do you tell the Commissioner you've received any other cash payments from accredited constructors or plumbers in your time as an employee of Sydney Water?---Not really accredited constructors, no, just not even, like, like, not, not really money. Like, you know, you'd get, like I said, I, I, I admit to receiving gifts um, but I didn't, I didn't really have a, have um, relationships with um, with, with, with a lot of these constructors that are on the list. I hardly had anything to do with them. I had more of a relationship with the water service coordinator.

30

Well, if that evidence is true, Mr Funovski, having received \$3,000 from Mr Alafaci in cash- - -?---Yeah.

- - -must have stuck out in your memory like a beacon. Do you agree?

---No, I disagree.

\$3,000 in cash from Mr Alafaci didn't stick out in your memory like a beacon. Is that what you tell the Commissioner?---Well, it happened 2008. I can't remember.

40

Mr Alafaci, you knew that as an- - -?---Mr Funovski.

Mr Funovski. I'm terribly sorry. Mr Funovski, you knew in 2008, didn't you, that Sydney Water forbade you to accept any cash payments from accredited constructors like Mr Alafaci, didn't you?---I wasn't totally aware of Sydney Water's policies, no, I must admit.

Mr Funovski, do you tell the Commissioner that you thought receiving \$3,000 from Mr Alafaci in November 2008 was okay with Sydney Water? ---I just thought of it as a gift, that's all. I didn't think of any, of any other way.

Well, I'm asking you now, did you think it was okay with Sydney Water or didn't you think about them at all?---I didn't think about Sydney Water back then, no. I realise now after this whole thing that, that yes, it is, it has been wrong.

10

And you know today that it's quite wrong for an inspector or someone performing your inspection duties, don't you, to accept cash payments from accredited constructors?---Yeah, I believe so.

And you knew it was wrong then, didn't you?---No, I didn't.

Do you say that if you had received some training on this topic from Sydney Water you would have received, you would have rejected the money from Mr Alafaci in November 2008, do you?---Yeah, quite possibly, yeah.

20

And it just didn't occur to you that there might be anything wrong in accepting \$3,000 from an accredited constructor such as Mr Alafaci? ---Well, at the time he was just a plumber. I didn't think he was an accredited, I didn't know his qualifications.

Let's just go through the other parts of the statement because I want to understand the thought process you went through this morning and what it is you're actually telling the Commission now. Can we have a look at paragraphs 2 to 4 because you accept don't you obviously enough that there was a meeting between you and Mr Alafaci at the offices of Planet Plumbing in November 2008?---Yes.

30

You say, "I normally would've called in to Planet Plumbing for a social visit to see Vince but he was no longer there and I don't think I had his phone number at the time that was the reason why I went there at the time." I want to just take you up on that. You knew that Mr Vince Molluso had left Planet Plumbing in circumstances of some acrimony in mid October 2008 didn't you?---What happened is I had phone contact with him and when, when he must've left he must've handed his phone in and I had no contact for him after that period of time so - - -

40

I'm just taking you up on what you say in paragraph 4. You normally would've called in for a social visit but he was no longer there. Now, you knew he was no longer there. Correct?---I may have, yeah, I think I would've figured out by then he wasn't working there anymore, yeah.

So I'm just, my question to you is if Vince was your contact, he was the person that you knew and you knew he was no longer there what were you dropping in to see Mr Alafaci for?---To get his phone number.

I see. So you didn't know Planet Plumbing's telephone number in order to ring them up and ask them for Mr Molluso's number?---Well, what would I do that for, I just drive past there and have a cup of coffee, there's a fancy coffee machine in there, drop in and say hello.

10 Did you know Mr Alafaci before this date?---I'd met him once inside, yeah, just a brief introduction.

By Mr Molluso?---Yeah.

So, and the brief introduction was hello, how are you, this is my name?
---Yeah.

Was there any further discussion?---Basic introduction, yeah.

20 Was there any further discussion?---Prior to that?

Yes?---No.

So other than being introduced on one occasion you'd never spoken to Mr Alafaci?---Not that I can remember, no.

Well, you heard Mr Arena give evidence yesterday. What he said was correct wasn't it, there's a security door and he let you in on the morning of the meeting?---He may have, I'm not, I don't, I don't recall who let me in.

30 And you asked to see Mr Alafaci and were taken upstairs by Mr Arena. That's correct isn't it?---I don't recall, I don't know. There's a, there's a, there's a door at the front, you ring the doorbell, someone comes and answers it and you just go in.

My question is this, if you'd just come to get Mr Molluso's phone number why didn't you ask Mr Arena, why did you, why were you going upstairs to talk to the boss?---What would he know he's a truck driver isn't he?

40 I see. So you knew enough about the inner workings of Planet Plumbing to know that there was no point in asking for the phone number from Mr Arena?---No, I only figured out till the other day he was a truck driver.

I'm sorry?---I only realised when he gave his evidence that he was a truck driver.

I see. So I'll ask again, why didn't you ask him for Mr Molluso's phone number? He was obviously an employee of the company, that's all you

were there for you say?---No, he said, he said come, maybe he didn't know it, I don't know, he said, I said, I'm looking for Vince. He said, Go and see Anthony, he's got his phone number, I don't know. I can't remember.

All right. Well, let's then look at paragraph 5. Mr Alafaci at the meeting you say told you of some concerns he had with Vince. What did he say to you?---It says it there.

Well, it says that, "Vince is ripping me off." What else did he say to you?
10 ---That's all I can remember, that's what he said.

All right. And do you remember what you said to him in response to him telling you that, "Vince is ripping me off."?---No, I can't, I can't, look, I can't remember what I said back in 2008 in conversation if that's what you're trying to get at. I'm telling you the brief things that I remember from the day I was there and that's what's in my statement.

I see. Mr Funovski, I'm just trying to give you every opportunity, I want to understand why it is you say, at least as you understood it, Mr Alafaci paid
20 you \$3,000 after this conversation, I'm just trying to piece together?---Well, it says it down there if you read, if you read number 8 and that will explain it.

Right. All right. We'll come to it. You helped their business, you told Mr Alafaci that during the meeting did you?---Yeah.

So you said to him, "I have helped your business by providing technical support."?---No, he just wanted to know what it was, you know, what my
30 relationship with Vince was.

Well - - ?---And that's what I do I just go out on the jobs and I go and see what had to be done over there, if I could assist him in any way and that's what I do, that was my job.

Well, I want to ask you about this conversation. You say the only thing, you told me a moment ago the only thing you remembered was Vince ripping, "Vince is ripping me off." You now say that there was conversation along the lines of, from you identifying the assistance you've given at Planet Plumbing, did you volunteer that or did Mr Alafaci ask you
40 about it?---No, he, he asked me about it.

Doing the best you can how did that conversation go?---I don't recall, it's just what I've written here in my statement, that's the best that I can remember what happened on that date, Mr Payne.

So you don't know one way or the other who brought it up but somebody said, "What have you done for the business?" And you explained you had helped Planet Plumbing by providing technical support. You see that?

---Yeah, provide technical support.

And did you give, I suggest to you you gave Mr Alafaci a note of the jobs where you had provided technical support. Do you agree?---I disagree, no.

I suggest to you that that note contained at least the jobs at New College, Crown Street, Erskine Street and Little Bay. Do you agree?---I disagree.

10 I suggest to you that rather than this version of answer you've given you had telephoned Mr Alafaci prior to this Saturday meeting and told him that he Alafaci, you Funovski money for work that you'd done for Planet Plumbing?---How do I know this is on Saturday? You're saying this is on Saturday? I didn't say it's on Saturday.

20 Well, you tell me what day it happened?---I don't know what day it happened. You're saying that Vince is around November 2008. I don't know what date it happened on. You're making dates up, you're saying I went there on the Saturday and then I went there on the Tuesday or whatever Alafaci's saying, I don't know what date I was there.

Well, you heard both Mr Alafaci and Mr Arena say it was a Saturday, do you tell the Commissioner that your view is that that is incorrect or you don't know either way?---I don't know either way.

All right. So this meeting that you had that you agreed took place in November 2008 can we agree about that much?---Yes.

30 At that meeting I am suggesting to you that you gave Mr Alafaci a piece of paper and told him you had provided assistance to Planet Plumbing in relation to New College, Crown Street, Erskine Street and Little Bay. Now, that's true isn't it?---That's untrue.

And I want to suggest to you that prior to that meeting you had telephoned Mr Alafaci and insisted on a meeting because you told him that he Alafaci owed you Funovski money for work you'd done for Planet Plumbing. Correct?---I don't recall ringing Mr Alafaci.

That may have happened though may it?---I don't recall.

40 And you may have, as he says, arranged or demanded a meeting with him to discuss the matter. Do you agree?---I disagree that I arranged a meeting and demanded money ever from Mr Alafaci.

All right. Let's examine paragraph 8 again for a moment because I want to understand what you say is the technical support you provided to Planet Plumbing. Well, first of all please identify the jobs that you say you helped Planet Plumbing by providing technical support?---I couldn't remember, there's so many jobs that I've done in Sydney Water, connections and

disconnections and whatever, I can't remember back then what jobs they had going on. The ones that have been mentioned they, they, they probably were jobs that they've worked on but I can't remember what jobs I've discussed back there with him.

Well, I'm asking you about your paragraph 8 and you say, "I helped their business Planet Plumbing by providing technical support." I want to understand your evidence. Do you tell the Commissioner that, one at a time, in relation to New College that may have been one of the jobs where
10 you provided technical support to Planet Plumbing?---It may have been.

In relation to Crown Street, that may have been one of the jobs where you provided technical support?---It may have been. I don't know.

In relation to Erskine Street, is that one of the jobs where you provided technical support to Planet Plumbing?---I don't recall.

But it may have been?---It may have been.

20 It relation to Little Bay, was that one of the jobs where you assisted Planet Plumbing by providing technical support?---I don't remember a job at Little Bay.

But again - - -?---We done, we done, there's been major projects in that area, but I don't know if the company was involved in any of them. I can't remember.

Well, again I suggest to you, and tell me if your evidence is that you don't remember, but it may have been. I suggest to you in relation to Little Bay
30 that that was one of the jobs that you told Mr Alafaci that you had provided technical support to Planet Plumbing. Do you agree?---I don't remember, no.

But it may have been?---I don't know.

So just, just so we're clear you discussed all of these matters at the meeting on whatever day it was, I suggest a Saturday in November, 2008 between you and Mr Alafaci. Do you agree?---What's the question again?

40 At the meeting in November, 2008 do you tell the Commission, although you don't remember the precise details - - -?---Ah hmm.

- - - you did tell Mr Alafaci that you, Mr Funovski, had provided technical support on a number of Planet Plumbing jobs which could have included New College, Crown Street, Erskine Street and Little Bay. Is that your evidence?---I don't know. I disagree. I don't know, I can't remember exactly what I said in the conversation, what it was about. Like, you know -
- -

THE COMMISSIONER: Why did he give you \$3,000?---To go away.

Well why? What were you doing that he had to give you \$3,000 to make you go away?---Well, it says in there and I don't know if youse are reading this what it says in front of youse. I, I - - -

10 No, forget about what it says in there. Just tell me why did he make, pay you \$3,000 to make you go away?---He was grateful for the assistance that I provided him.

But why did that make, why did he want you to go away?---Because he didn't want, 'cause he thought I was, I was involved in something with his, with Vince. He didn't want anything to have to do - - -

How does that make him want you to go away and to pay you \$3,000 on top of it?---Maybe he didn't want me to tell anyone. I don't know.

20 Tell them what?---Tell anyone what was going on in his business.

Did you threaten to do so?---No.

Well, why would he want, why would he think that you were going to tell people about what was going on in his business?---Maybe he'd get in trouble. I don't know.

You don't know what you're talking about do you, Mr Funovski?---I can't remember. No, I don't.

30 No. You're just saying the first thing that comes into your head aren't you? ---Well, put on the stop, what am I - - -

Yes. Well, why don't you tell the truth?---I'm trying to remember what happened.

Well, just tell me again, why did Mr Alafaci pay you \$3,000 to make you go away? Those are your words?---That's my words, yeah.

40 Why did he want, why did he, well, 3,000, do you think \$3,000 is a lot of money?---Not for some people.

No. Is it for you?---The guy drives a Ferrari. He does \$25 million a year. I don't know, I didn't, I don't know, \$3,000 he pulled out, his drawer was full of cash. He's given me some money and I've gone.

Look why do you think he gave you \$3,000?---Because these jobs that were done here, right, what was happening, he was, he was, he was getting, he'd probably get a quote from Sydney Water to do the job. Okay. Now that

quote would be for whatever amount. Now, when we go and have a look at the job, there'd be already, possibly been already existing connections.

So he's paying you \$3,000 for work you've done for Planet Plumbing?
---No, no, no. I've done nothing, no work for Planet Plumbing.

Or for services you've rendered to Planet Plumbing?---No, I haven't, I haven't rendered, no, I haven't done anything.

10 Why are you telling me about all this stuff that, that you've done? If you haven't done it for Planet Plumbing - - -?---Yeah, I did not work for them. I just went out on site a few times.

You smoothed the way?---No. What do you mean smooth the way?

Those are your words? You mentioned them yesterday?---Smooth the way. I never said smooth the way.

20 Speed up the process?---Speed up the process, yeah.

Yes. That's what you did. So why did Mr, you still, Mr Funovski, you still do not tell me why you were paid \$3,000 to go away. It's a really easy question. Just give me the answer?---Look, I don't, the only, the only reason I can think why he gave me that money was, all right, was just to get me out of his hair for some reason.

Why were you in his hair? What were you doing that got into his hair?---I, I, look, I don't remember.

30 No, I'm sorry. I don't believe that. Are you trying, were you earlier trying to suggest that Mr Alafaci, in paying this payment of \$3,000 because you had given some help to Planet Plumbing?---Yeah.

How did he know that?---Because I told him in the meeting.

What did you tell him?---He asked me about - - -

40 No, I'm not asking you what he asked you. I'm asking you what you told him?---What I told him?

Yes?---How had I helped him?

Yes?---I told him that, the way that I had his business was by the way the connections, the way he could connect on to an existing service that was already in place in the ground. Okay. So rather than him going through the whole process of Sydney Water coming there and doing the job and doing all those type of works, right, what he could do was already, if there was an existing connection point, he could just connect straight on to it. Right.

But, I assume what he was doing, like I don't know what he was doing, but that's what the, that's the assistance that I'd given.

Why did you tell him that?---No, he asked me.

Why did you tell him that?---Why did I tell him that?

Yes. Why did you tell him that you provided this help?---He must've asked.

10 Why did he, where did he get the idea from to ask such a question?---Well, he was, he would've been asking about the jobs.

He would've been or he was?---He, he was probably asking about - - -

You're making this up. You don't even remember, you say?---I don't remember. I don't know.

20 So why are you making it up? Why don't you just tell the truth?---I'm just, I'm trying to reconstruct what happened over there on that day.

Why don't you just tell the truth, Mr Funovski?---Because from what I, from what I remember I'm just trying to piece it together.

You told Mr Alafaci that he owed you money?---No. I never - - -

Why else did he pay you?---Why else did he pay me money for?

Mmm?---For - - -

30 If you hadn't told him that he owed you money, why did he pay you money?---To go away.

So what were you doing that he thought that he better pay you \$3,000 to make you go away?---Probably not to disclose any information that, that's happened in his business.

Had you threatened to disclose information?---No.

40 So why would he pay you \$3,000 to stop you from disclosing information if you hadn't even threatened to do so?---I don't know.

Mr Funovski, why did you provide the Commission with this statement which is P94?---Because, like I said this morning, I, I wanted to assist the Commission in, in this inquiry and that I, I started remembering what, what had happened. And that's why I wanted to come forward and, and provide this document.

Did you tell Mr Alafaci anything about Mr Molluso?---No, I didn't. I didn't go into it. No, he, he made some accusations about him and I just said, look, I don't, I don't know. That's between yourselves, I said.

Why did he make accusations about Mr Molluso to you?---Well, because he knew I was, I still had a friendship with him I guess.

But did he say this sort of thing to all of Mr Molluso's friends, do you think?---I don't know.

10

He said it to you for some particular reason. Did he not tell you the reason? ---Yeah, well, it says in there he thought, he thought Vince was- - -

I'm not interested what it says in there?---He told me that he thought Vince was taking money from him, that's all.

Why would he tell you that?---Because he, he wanted to know if the money that had been taken were, were about these jobs, any of these jobs that had, that had happened.

20

How did he know you were involved in those jobs?---'Cause that was my area at the time and- - -

New College, was it?---No, all these, this, this, the jobs in that area fall under our depot. So he, he wasn't, he wasn't, he wasn't involved- - -

How did Mr Alafaci know that?---He wasn't involved in the field.

30

How did Mr Alafaci know that?---Well, he, he's probably dealt with Sydney Water in the past, he'd know what- - -

Did you tell him.---?- - -certain depot, where the jobs would be.

You didn't tell him?---I didn't tell him?

Where you were involved?---Well, he knew what area I was situated in.

40

You didn't tell him that you charged 7 or \$8,000 for work that you'd done for Mr Molluso and hadn't been paid and he paid you \$3,000 to get you out of his hair. Is that not what happened?---No.

Are you telling the truth?---I can't remember. I can't remember what happened back then.

MR PAYNE: Mr Molluso, can I just take you up on the- - -?---Mr Funovski.

Mr Funovski, can I take you up on those answers about Mr Molluso. When you went to the meeting with Mr Alafaci- - -?---Ah hmm.

- - -you told him, didn't you, that you were involved with Mr Molluso in New College, Crown Street, Erskine Street and Little Bay and that Planet Plumbing owed you money? That's true, isn't it?---That's untrue. I don't remember saying that.

10 Well, do you deny it or you just don't remember it?---I just don't remember.

So you may have said it?---I don't remember what I may have said.

So you may have said, you may have said to Mr Alafaci, I was involved in these jobs and Mr Molluso promised me I'd be paid and I haven't been, you owe me money. Do you agree you may have said that?---I, I, I don't recall.

But you might have?

20 THE COMMISSIONER: Mr Payne, I don't think there's a great deal of value in asking this witness any more questions unless you have some particular matters you wish to take up.

MR PAYNE: Commissioner, I'll just do one or two things. You told me a moment ago about mobile phones and that's the reason why you went to see Mr Alafaci. Do you remember that evidence?---Yes.

And you didn't have his mobile phone number in November when you went to see Mr Alafaci. Do you remember telling me that?---Yes, yeah.

30 And that that was the reason you went there?---I, I, the reason I rang him was, like, it's just socially I'd drop in.

Well, you told, you told me a long story less than half an hour ago about trying to get the mobile phone number. Do you remember that?---Yeah, yeah.

That was a lie, wasn't it?---Look, I can't remember.

40 Well, I'm asking you whether you lied to me less than half an hour ago. Do you agree with me or not?---It may have been the reason back then. I'm, I'm, I'm uncertain.

Have a look at this document. I apologise, Commissioner, yours doesn't have the colour marking that Mr Funovski's does. You'll see the colour mark, or first of all, on the left-hand side, 0-4-1-7-2-3-8-6-6-2. That's your mobile phone number?---Yeah, that's correct, yeah.

And 0-4-0-0-1-1-1-4-4-4, that's Mr Molluso's phone number, isn't it?

---Ah, I believe so, yeah.

And that shows calls from you to him right through this period of November, December et cetera. Correct?---Yeah, yeah.

And it shows calls between you right around this time when the money was paid. 13 November, 19 November, 24 November, 25 November. See all of that?---Mmm. I see them here.

10 I suggest to you that the evidence that you gave the Commission this morning about the reason you went to Mr Alafaci's business was a lie. Do you agree?---I agree.

So you were lying this morning and you were lying in this statement about that matter?---Look, I can't remember back then and like I said, I was trying to figure out reasons why I would have had to go there for.

20 Just so we're clear, I'll ask you a few questions and then we'll finish, Mr Funovski. So we're clear, I suggest to you that you rang Mr Alafaci and told him that he, Alafaci, owed you, Funovski, money for work you'd been doing for Molluso on Planet Plumbing jobs. Do you accept that?---Sorry, what was the question there?

Do you accept that in late November 2008, you rang Mr Alafaci and told him that he owed you money for services rendered by you for Planet Plumbing in relation to jobs at New College, Crown Street, Erskine Street and Little Bay?---I never asked Alafaci for money.

30 I suggest to you that you had a meeting on Saturday, 22 November, 2008 with Mr Alafaci where you produced a bit of paper and said, "I've been doing work for Mr Molluso in relation to New College, Crown Street, Erskine Street and Little Bay", and that, "You, Mr Alafaci, owe me 5 to \$6,000." That happened, didn't it?---I disagree.

I suggest to you that immediately, in the days immediately following, Mr Alafaci telephoned you and told you that he was willing to enter a compromise and pay you \$3,000. Now, that happened, didn't it?---Yeah, I did receive money, I've said that, yeah.

40 And that was arranged in a telephone call after this meeting, wasn't it?
---Telephone call?

Yes?---Between who, me and, me and Mr Alafaci?

You and Mr Alafaci?---I don't recall.

And then you went back to his offices on Tuesday, 25 November, 2008 and picked up \$3,000 in cash from him. Now, that happened, didn't it?---I don't

know the dates, okay, I'm not aware of the dates that all this happened, okay, all I'm saying is that I did go there and I did get that money.

And I suggest to you in relation to the New College job that prior to receiving this money, you had arranged an unauthorised water connection at the New College for Mr Molluso on behalf of Planet Plumbing. That's true, isn't it?---I disagree.

10 And that Mr Desfontaines, when he gave his evidence, was being truthful when he said that you had arranged a job in 2008 at New College to make the water connection. Correct?---I disagree.

And I suggest to you at the end of that job, well, first of all I suggest to you you never gave him a job number?---Look, at the time I don't even believe I was in the role of arranging those type of works, okay, so it could have been like I've told you before, there's up to three to four people in the depot, okay, that can arrange those type of jobs, okay. I'm not the sole person responsible to allocate work.

20 Well, you saw Mr Desfontaines give evidence. Do you tell the Commissioner on your oath that Mr Desfontaines was lying about your involvement in the New College job?---How do I know if Mr Desfontaines was, was lying?

THE COMMISSIONER: Just answer that question?---What was the question?

30 MR PAYNE: Do you tell the Commissioner on your oath, having seen him give evidence, that Mr Desfontaines was lying about your involvement in the New College job? Yes or no?---Do, do I agree if, if he was telling the truth?

About your involvement in the New College job?---I possibly could have been involved in it but I don't know, I don't know what, I can't remember back in there.

40 So you told him to go and pick up the gear and go out to New College. Correct?---Look, look, what happens in the day, those, those type of jobs, I don't know. I possibly could have been assisting crews getting out in the depot in the morning, getting materials, getting them in their trucks, get 'em out of the depot and go, go to do jobs. That's what happens.

THE COMMISSIONER: Did you tell him to lie about the job?---To lie?

Yeah?---No.

MR PAYNE: So you said to him, didn't you, when you go back to the yard, just tell them you were doing a trial shutdown for me. That's what you said, isn't it?---No.

And you didn't give him a job number because you were doing this off the books, weren't you?---I don't, I wasn't doing the role at that time, okay, and I wasn't programming and planning works for connections at that time, whenever this time is of this job.

10 See, I want to suggest to you, Mr Funovski, that you were doing that by arrangement with Mr Molluso for Planet Plumbing and they're the technical services that you say you provided to Planet Plumbing and they're the technical services that you discussed with Mr Alafaci when you went to his offices in November 2008 and demanded money?---I disagree with you, Mr Payne.

I take it Mr Molluso knows your family well?---Not that well.

20 He's met your wife Mrs Funovski?---Yeah.

In relation to the \$3,000 that you received from Mr Alafaci you gave that to your wife and it was banked into your Westpac banking account wasn't it? ---I disagree.

Well, I'll show you these documents. Do you recognise that as a statement from your joint bank account with you and your wife with the Westpac Bank?---Yeah, it's got my name on it and my wife's name, yeah.

30 Look at 1 December, 2008 which is the third entry from the bottom, deposit at Mortdale of \$3,000 cash?---Yep.

That was the money that you received - - -?---I disagree with that, okay, I did never bank \$3,000. I've said in this statement here I kept it at home.

Where is it now, is it still in a drawer at home?---I don't know. It happened in 2008.

40 Well, it was an extraordinary matter wasn't it to get \$3,000 in cash from Mr Alafaci?---No. No. I've received cash amounts before.

THE COMMISSIONER: Of that amount?---Huh?

Of that amount?---Yeah.

MR PAYNE: From accredited constructors?---No.

THE COMMISSIONER: From who?---From people I've done work for.

What, as a Sydney Water inspector?---I'm an electrician by trade I do jobs, I'm not - - -

Do you have permission to do secondary employment?---Secondary employment?

Yes?---No, no one's told me I can't do jobs.

10 MR PAYNE: I see. So whilst you've been employed at Sydney Water you're doing cash jobs as an electrician on the weekends are you?
---Everyone does.

I see. For how long have you been doing that?---Mate, I've had a trade, trade licence since I was, I don't know, the whole, I've been a tradesman since 12 years now maybe more, before I started at Sydney Water.

And you've continued that cash work right through have you?---No, not right through, no.

20 THE COMMISSIONER: When did you stop?---I do it from time to time when like, you know, I didn't get any overtime at work just to, to support my, my family and stuff, you know, I'd go out, I'd do some, some favours for some family and friends, I'd work on the weekend. I didn't know that was illegal.

MR PAYNE: And received cash payments for those things?---Sometimes cash, sometimes cheques.

30 THE COMMISSIONER: Did you declare that in your tax returns?---Yeah, I've got an ABN number.

MR PAYNE: And you'd give them receipts from this business you were conducting would you with the ABN number?---It wasn't a business, it was just, you know - - -

Well, ABN stands for Australian Business Number?---Okay. I didn't know that, all right.

40 THE COMMISSIONER: So it's not a business to go out and do work and receive more than \$3,000 a time? That's not a business?---Some businesses I don't know how much they make, I don't know, it wasn't like I was a big corporation or something.

Were you running a small business?---Yeah.

That Sydney Water didn't know about?---No.

For which you would earn amounts of up to or more than even \$3,000?---I don't know, I didn't - - -

What do you mean you don't know?---I didn't used to do big jobs, I'd just go and put a couple of down lights in or some ceilings fans or something like that.

You're saying it wasn't unusual for you to get \$3,000 cash?---Yeah, well, I've done a couple of big, big houses like duplexes and - - -

10

Well, who, tell us some people for whom you've done big jobs?---For family and friends.

Tell us the names?---I've done my mate's house around the corner.

Tell us the names?---His name is Lenny Tolevski.

And what did you pay him? What did he pay you?---What did I pay him?

20

What did he pay you?---He paid me money.

How much?---I can't remember.

When was this?---2007, 2008 I was doing his house.

Was it more than \$3,000?---Possibly, yeah.

When did you do this, over a weekend?---Yeah. Days off, RDOs.

30

What other names?---What other jobs have I done?

Yes?---I've done a job for, I'm currently doing a job at my, at my cousin's house.

No, I'm interested in jobs that you have done for which you have been paid amounts in the region of \$3,000?---Yeah, well, his job would've been one of those.

40

Which one?---The job I did at his address in Peakhurst.

Who?---The gentleman I just said Mr Tolevski.

Anyone else?---Prior to that I would've done a job in, in Mortdale, Broughton Street.

So for whom?---For my mate who was a builder at the time.

What's his name?---Dennis Tanevski.

Another Tolevski?---No, no, the first one was Tolevski this one's Tanevski.

And any jobs in November 2008?---Yeah, that probably would've been around the time I was finishing off Lenny's job or maybe would've got a part payment or something around there.

MR PAYNE: Commissioner, I'll tender that telephone record if I may.

10 THE COMMISSIONER: The telephone, the CCR results of Robert Funovski's work mobile 0-4-1-7-2-3-8-6-6-2 concerning calls to Mr Molluso is Exhibit P95.

#EXHIBIT P95 - CCR RESULTS OF ROBERT FUNOVSKI'S MOBILE CONCERNING CALLS TO MR MOLLUSO

MR PAYNE: Can I just complete the questions I was going to ask you
20 about this - - -

THE COMMISSIONER: Are you tendering the Westpac?

MR PAYNE: Yes, I'll tender that at the same time if the Commission pleases.

THE COMMISSIONER: P96 are extracts from Mr Funovski's Westpac bank account.

30

#EXHIBIT P96 - EXTRACTS FROM MR FUNOVSKI'S WESTPAC BANK RECORDS

MR PAYNE: Mr Funovski, can I ask you about this deposit of cash on 1 December, 2008?---Yep.

You denied a moment ago that that was the same money as you had been paid by Mr Alafaci, how are you in a position to do that?---Sorry, how am I
40 in a position to?

Deny it's the same amount of money? Do you remember it?---No, well, my wife's been called in obviously over the same inquiry for matters relating to this payment because she was, she, she controls all the finances and - - -

THE COMMISSIONER: Did she discuss it with you?---What?

The evidence that she gave about this?---No. Well, she's at home flicking through statements, well, I can't go and look at what she's doing, she's my wife.

MR PAYNE: Yes. And you discussed with her the evidence that she'd given to the Commission did you?---Sorry?

10 You discussed with her the evidence that she had given to the Commission did you?---I asked her what she was doing, okay, she told me, she goes, I'm looking for some statements. She goes, I've been called to the ICAC, and that was about it.

Well, nothing in that exchange you've just told me about tells me anything about this \$3,000 entry. What do you know about this \$3,000 deposit on 1 December, 2008?---Look, from what I told you, all right, if you look a little bit further up, Mr Payne, you'll see a withdrawal for \$3,000 on 20 November, okay. All right. This is back in 1 December there's a, so there's obviously \$3,000 going out and \$3,000 gone back in, okay. At the time here we were building, okay, and we believe that this money came out to, 20 for, for some materials to be cash on delivery, okay, and what happened is we got the materials, once we realised that they could be paid by credit the, the invoice was settled on the credit card and then the money had been returned back into the account.

THE COMMISSIONER: So when you said, "we believe" who's the we? --Me and my wife.

30 How do you know she believes this?---Because she was ransacking her brain trying to figure out what, what had happened in here.

When was she doing this?---At home.

When?---I don't know, after she'd been called in to the inquiry.

You and she discussed it then?---Well, she's my wife.

I know she's your wife. You and she discussed it then?---She's my wife I talk about everything about her.

40 Mr Funovski, you say you talked to her about it?---Yeah.

And she told you what she'd been asked?---Yes.

And it was important to find out what had happened to that \$3,000?---Yes.

And you and she worked out this answer?---She worked it out, I don't know, I, she, she went through the, through the statements trying to figure out what, what, what was not normal about this.

Did you ask your wife about her giving, telling you what happened at the inquiry?

MR PAYNE: Let me show you this document. This is the matter to which you refer that you worked out with your wife that you'd tell the inquiry the \$3,000 deposit related to is it?---Yes, that's correct.

I tender that bundle of documents, Commissioner.

10

THE COMMISSIONER: Yes. The bundle of documents, what's the name of this organisation? Something Bathroom Supplies?

MR PAYNE: Plumbing, Bathroom Supplies, I think. Plumbing and Bathroom Supplies Pty Limited.

THE COMMISSIONER: So the bundle of documents the first of which is Plumbing and Bathroom Supplies is Exhibit P97.

20

#EXHIBIT P97 - BUNDLE OF DOCUMENTS FROM BATHROOM & PLUMBING SUPPLIES

MR PAYNE: I want to ask you some questions about this Mr Funovski. So when did your wife draw this matter to your attention?---I don't remember.

In the last few days?---Maybe when she got, probably got called in.

30

THE COMMISSIONER: After that?---Probably, yeah.

MR PAYNE: And the two of you discussed what you should say if you were asked about this \$3,000?---I've got nothing to hide. I never banked \$3,000. There's nothing to hide. Why should I make up a story about that? You can ask her, you ask me whatever you want.

Well, Mr Funovski, you've been lying your head off about the \$3,000 for months haven't you?---That's because you're confusing me, mate, with your questions.

40

Mr Funovski, let's look at this, so it's dated 20 November, 2008, this invoice. Do you see that?---Yes, I see it, yeah.

And a copy of the, customer copy of the MasterCard is \$2,705 on 26 November, 2008. Do you see that? Look at the date and the time, half way down?---Dated the 26th, yeah, the 26th. I can see it, yeah.

That's your MasterCard isn't it?---I don't know. It's me wife's, I don't know which one it is.

Well, have a look over at this bundle that's been, that you discussed with your wife. Did you discuss this Westpac statement as well?---No, not really. We were just - - -

Well, have a look whose name the Westpac card is in?---It's mine, isn't it?

10 It's yours. Correct. And look down at the second last entry on that first page?---Yep.

26 November, Seven Days Plumbing and Bathroom, \$2, 705. Do you see that?---Yeah, yep, I can see it.

Mr Funovski, what if anything do you remember about this transaction?---Which transaction? This \$2,700?

20 Yes, this \$2,700 that you've told me about?---It's material 'cause I was building at the time. It's for materials. What's so hard to understand about that?

THE COMMISSIONER: Where were you building?---In Peakhurst.

I beg your pardon?---In Peakhurst.

Whose house is it?---It's my business.

30 Your business?---My wife runs a business. She's got a business. We were doing a development at the time.

MR PAYNE: This is the childcare centre is it?---Obviously you know about it. What are you asking me for then if you know?

THE COMMISSIONER: Just answer the question.

MR PAYNE: So this is a business expense of the childcare centre which had not yet opened is it?---Possibly, yeah, it looks like that, yeah.

40 So you don't remember this at all. You've been told by your wife what to say about this \$3,000 deposit haven't you?---Listen, mate, my wife does the banking and stuff. I've said that in my examination. Okay. If you want to ask her some questions she's sitting right over there, why don't you get her in here and ask her about them.

We'll do that Mr Funovski, but I'm asking you at the moment. This is your MasterCard?---Yeah.

And you told me, you denied on your oath a moment ago that this \$3,000 deposit on 1 December was the cash you'd received from Alafaci. And I'm seeking to understand whether you have the faintest idea whether that evidence is correct or whether you've just been told what to say by your wife?---I don't need to be told by my wife what to say.

Well, do you remember anything about this job?---I told you its materials that got delivered to the development site that got settled by a credit card.

10 I see. And you did that. What's that got to do with the \$3,000 cash deposit on 1 December, 2008, Mr Funovski?---Okay. Commissioner, this is what happened. My wife took (not transcribable) with building materials, right, plumbing supplies for the development. Okay. What happened was that the materials were to turn up on the day. Okay. I say to my wife, go and take out some cash, it's probably going to be cash on delivery. Right. So she's gone to the bank, she withdrew the money. All right. The materials turn up on site. Okay. Then we find out when they turn up on site, okay, you can pay by credit card. So she said, all right, well we won't pay by cash, use the credit card, okay, get the fly by points or whatever you get for, for, on your credit card. Okay. So we've paid for the materials on that date with the 20 credit card and then she's gone and deposited the money back into the account. What's so hard to understand about that, Mr Payne?

Between 20 November and 26 November, Mr Funovski, we now know that you received \$3,000 from Mr Alafaci though don't we?---I don't know what day I received that money. And I've said that.

30 We now know that you had \$3,000 in cash. Why didn't you use that to pay this business expense, Mr Funovski?---Why would I do that when I had, when I had a building account? Money for (not transcribable) and stuff.

If it's true what you say and you told your wife to put the cash back into the bank, why didn't you give her the \$3,000 that Alafaci had given you as well?---I didn't tell my wife what to do with the money.

Well - - -?---She took the money out, she would've had it in her bag. She's put it back in the bank. I told you I've kept the money at home. I admit I got it. I kept it at home.

40 And you're telling me about what your wife did because that's what she's told you recently she did are you?---Oh, mate, she couldn't even remember what was happening when we were trying to discuss what this, what was so abnormal about this money going in and going out. We couldn't figure it out, right.

You were putting your heads together to work out what you were going to tell this Commission, whether it was true or not weren't you?---I'm telling the truth. If you don't want to believe it, that's your problem.

Did you tell your wife about the \$3,000 you'd received from Mr Alafaci?
---No.

Why did you keep it from her?---I wouldn't want her to know what I, why I got money like that. It's got nothing to do with her.

Well, you knew it was quite wrong didn't you?---It was wrong, yeah.

10 THE COMMISSIONER: What's wrong about it?---Huh?

What was wrong about it?---Well, she'd probably say, well - - -

No. What is wrong about it?---It was wrong to receive money.

Why?---Well, I was working for Sydney Water, I probably shouldn't of been receiving money. Other than the money I was doing my jobs or whatever. I don't know.

20 MR PAYNE: Because you knew it was a payment from Mr Alafaci for services you'd done for Planet Plumbing which were not authorised by Sydney Water didn't you?---I disagree.

You knew that accepting money from Mr Alafaci compromised you as a Sydney Water employee. Correct?---Well, I do now.

You did then didn't you?---I didn't know then, no.

30 Well, why didn't you tell your wife about it? She looked after all the money as you've told me repeatedly, why didn't you say, darling, here's \$3,000. Isn't it terrific. It's a gift. Why didn't you tell her?---I don't have to tell my wife everything.

You told me not five questions ago you didn't tell her because you knew it was wrong. Correct? That's what you told me wasn't it?---Yeah.

You knew it was wrong?---No, I didn't know at the time it was wrong.

40 Well, I'll ask you again, why didn't you tell your wife who looked after all the money that you had \$3,000 which you'd put in a drawer, Mr Funovski?
---So, what's the big deal of having a bit of money on the side that I can, that I can spend for my own personal things? Is that a crime?

THE COMMISSIONER: Did you disclose this in your tax return?---
Which?

The \$3,000 that you got from Mr Alafaci?---I don't believe so, no.

MR PAYNE: It's not my practice to answer questions. But as you've asked me is it a crime, what you did in this case, I think the answer is yes, Mr Funovski. And you know that don't you?---I disagree.

What's this business name that you use to do these cash jobs on the side whilst you've been working at Sydney Water?---I don't have a name for it. I just - - -

Is it a company?---No. It's just an ABN number, that's all.

10

And the ABN number is in your name is it? So the invoices that you get say Robert Funovski and the ABN is Robert Funovski's ABN is it?---I guess so, yeah.

Well, do you know?---I don't know for certain because like I said I haven't, I haven't used it for a while. All I know it's just an ABN number that I had to get. It was something that I had to get at the time when I was contracting before I started at Sydney Water, it was an ABN. That's when that all, you know - - -

20

And just so we're clear you've never sought permission from Sydney Water to do any of these electrician or other jobs?---I honestly didn't believe I had to, no. It was in my own time. I'd do it on the weekends. I did it after hours, like I didn't believe it was a problem. It wasn't interfering with any of Sydney Water's time. I didn't think it was a problem.

Just excuse me one moment, Mr Funovski. I have nothing further for this witness, Commissioner.

30 THE COMMISSIONER: Yes. Mr Stojanovski, do you have any questions?

MR STOJANOVSKI: Yes, thank you, Commissioner. Mr Funovski, you said in an answer to a question put by Mr Payne, "Did you tell your wife about the \$3,000 that you received from Mr Alafaci?"---Yeah.

And your answer was, "Didn't want her to know how I got money like that?"---Yeah.

40 You then said because you were working for Sydney Water- - -?---Yep.

- - -it was wrong to receive the money. So you knew at the time that you received the money from Mr Alafaci that it was wrong. Is that right?

---Look, I, can you ask me the questions again, sorry?

You knew at the time that you received the money from Mr Alafaci that it was wrong because you were a Sydney Water employee?---Yeah, yeah.

And in fact the money was not a gift. I put it to you it was in payment for the services, the technical services that you suggest you helped Planet Plumbing undertake on various jobs in the Sydney area. Is that right? The services that you helped Planet Plumbing with?---That \$3,000- - -

Correct---?- - -was for services that they were, yeah, assisted.

So, so you accepted the money- - -?---Ah hmm.

10 - - -for the services that you assisted with?---Yeah, I accepted the money. I said I accepted it, yeah.

And it was as a result of a demand that you made on Mr Alafaci?---No, I disagree. I never, I never demanded money.

THE COMMISSIONER: Mr Stojanovski, I'm not going to allow you to travel over the same ground that Mr Payne has gone on.

20 MR STOJANOVSKI: Yeah, I- - -

THE COMMISSIONER: These matters have been raised many times with Mr Funovski. So I will allow you to ask him something new, but not the same stuff.

MR STOJANOVSKI: Okay. Thank you, Commissioner. I don't want to, I don't wish to traverse over matters that have been put and answered previously. Thank you for that. In that respect I don't have any further questions.

30 THE COMMISSIONER: Mr Purdy?

MR PURDY: Thank you, Commissioner. Mr Funovski, sorry, can Mr Funovski be provided with exhibit P89. Now, that's, that's your transcript of the evidence you gave earlier before the Commission on the 13 August. Is that right?---Yes.

Now, if you could turn to page 62 of that transcript?---Yep.

40 There begins at line, approximately 27, there is a question, "Have you ever had reason to meet Alafaci on his own at the Planet Plumbing office?" Do you see that?---Yes.

Now, what follows there is an account, is it not, of the meeting that you had with Mr Alafaci to which you referred in the statement that you provided to the Commission this morning, which is P94. It's the same meeting, isn't it? ---Um, is it that day? That's, yeah, that's probably, that's the one I guess. I don't know. Yeah.

And in, in the course of that meeting as you've described in the, in the transcript of your earlier evidence, there were, you had a conversation with Mr Alafaci- - -?---Ah hmm.

- - -about certain suspicions that Mr Alafaci had about Mr Molluso?---Yeah, that's correct, yeah.

As you said, he believed that Mr Molluso was ripping him off?---That's correct, yeah.

10

Now, can I take you now to the statement that you gave this morning- - -? ---Yeah.

- - -which is P94, and in particular to paragraph 8?---Yeah.

It's the long one there?---Yeah.

Now, the, that paragraph, can you describe in more detail what is, what you have outlined there in paragraph 8?---Okay. Well, basically that was it.

20

Like it's not like, like I was the one giving him approval to do it or anything, it's something that's already existing.

Approval to do what?---Connection, to connect onto it.

It's a connection onto a water main?---Yeah, yeah. It's existing. The job would have, would have had an approval from technical services and then there's just, they just connect onto an existing one.

30

And is what you're saying that that enabling or facilitating the connection onto that existing water main- - -?---Ah hmm.

- - -saved time and money- - -?---Yeah.

- - -on the job?---Yes, that's correct, yeah.

And that Mr Alafaci's company- - -?---Ah hmm.

- - -got the benefit of that saving of time and money?---Yeah, that's correct.

40

And you explained that to him?---Yes.

And what was his response to that?---Well, yeah, he was, he was um, he was unaware of, of how much time that that would actually save and um, yeah, 'cause he, he, he assumed the process would be, could take weeks, if not even months to do and um, he was um, he, he was ah, he never, never, I, I don't think he was, he knew that, that it could be done like that basically, yeah.

And having regard to what you've just said, that he was surprised that it could be done so quickly- - -?---Surprised, yes.

- - -what consequences did that have for his business?---Look, I assume it, it wouldn't delay things I guess. I don't know, like um, and um, and, and basically it, like um, yeah, if that was already there existing, like, he'd just be able to just, just connect on it straightaway.

10 His business did well out of it?---Oh, yeah, they would have, yeah. Well, I, like, I don't know what they did, but I'm assuming like they would have done the, they would have had that existing in the ground and they probably would have just charged the customer anyway, like, for a whole connection basically.

And, and did, is that the reason that you think he gave you the money?---I believe so, yeah.

Now, just going- - -

20 THE COMMISSIONER: Even though you didn't ask him?---I didn't ask him for money, no. But once he figured out, like I said that when Mr Purdy said, I think he was surprised that, of, of the um, actual shortcut and the process and, and all that.

It just came as a complete surprise to Mr Alafaci?---Yeah. It was basically (not transcribable)

30 He'd never heard of anything like this before and he was so overwhelmed by it that he decided to hand over \$3,000 to you out of the goodness of his heart?---I believe so, yeah.

MR PURDY: Mr Funovski, if I could just take you back to, well, take you onto a different topic?---Ah hmm.

In the days when Vince Molluso was working at Planet Plumbing- - -?
---Yes.

- - -their, their office was at Carlton. Is that right?---That's correct, yeah.

40 And that's just off the Princes Highway?---That's correct.

And you were living at Peakhurst?---Yeah, that's correct, yeah.

You still are. And at that time you were in the process of building a child care centre which is also in Peakhurst?---That's correct, yeah.

And that process began in, sometime during 2008?---Yeah, probably even late 2007 or so, yeah.

THE COMMISSIONER: What has this to do with Mr Molluso, Mr Purdy?

MR PURDY: I'll make it clear. And Mr Molluso provided some assistance to you in the construction of the child care centre?---Yes, yes, he was of great assistance, yes.

I'm sorry?---Yes, he was of great assistance.

10 And that, that assistance included putting you into contact with suppliers of materials, of plumbing materials that you needed for that, for the construction of that business?---That's correct, yeah.

And that saved you money?---That's correct, yes.

Pardon me, Commissioner. Now, there's been various references, some of them by you, some of them by others, to, in connection with your evidence about gifts to smooth things over?---Mmm.

20 Do you recall those?---Well, I don't remember saying it myself, smoothing things over, but- - -

To speed connections up?---To speed them up, yeah.

And you're aware, aren't you, that, that contractors, plumbing contractors frequently complain- - -?---Ah hmm.

- - -about being unable to get through to, to somebody at Sydney Water that can help them with their particular job when they have some kind of
30 inquiry?---That's correct, yeah.

And it therefore helps, it's useful to a contractor if one of the contractor's personnel knows personally one of the, the Sydney Water personnel who may have responsibility for some part of their job?---Basically, yeah.

Is that correct?---Yeah.

And is that what you may have meant by smoothing things over?---Yes.

40 Or speeding connections up?---Yes, possibly. It's like, it's a bit, it's like getting, ringing up a call centre and being put from one department to another department to a third department and this way it's just to direct you in the right place and that's where its got all happen.

Yes, thank you. And going back again to the days when Mr Molluso was at, at Planet Plumbing - - -?---Ah hmm.

- - - did you ever drop in at the office after working hours?---Yes.

And is it possible that on those occasions that you had, had a few beers there?---No, no.

You don't think so?---I don't think I would have had beers there, no.

Did you ever go to the Intersection Hotel at Ramsgate?---No, not that I can recall.

10 But you went there and had coffee?---Yeah, I've had a couple of coffees there, yeah.

And they had a nice machine there?---Nice machine, yeah.

Pardon me, Commissioner. I have no further questions.

THE COMMISSIONER: Mr Stephenson.

20 MR STEVENSON: I am the barrister for Sydney Water as I think you know?---Yes.

Looking at your statement from this morning, have you got it there in front of you?---Yes, I do now, yes.

You tell the Commissioner do you that the work you did as you describe in paragraph 8 you did for nothing, is that - - -?---Sorry, I did nothing?

30 Do you say that you did the work that you describe in paragraph 8 free, for nothing?---Technical support, yeah, I provided, we did provide that for basically everyone, part of our role.

Do you say that you supplied the work you refer to in paragraph 8 to Planet Plumbing free and for nothing do you?---Yes.

You didn't ask for money?---No.

And wasn't given any money till you got the \$3,000 you say?---That's correct.

40 And you say that that would save Planet Plumbing time and money?
---That's correct.

And that's because of, as I think you've said normally, someone like Planet Plumbing would have to pay Sydney Water to get the main closed down?
---Sorry, Planet - - -

Normally - - -?---Yeah, yeah, yeah.

- - - without this - - -?---Anyone, anyone would have to pay Sydney Water to get the main - - -

Without the assistance of someone like you, anyone like Planet Plumbing would have to pay Sydney Water to close down the meter, the main?---No, no. Anyone can close the main down, just get and key and bar and do it. It doesn't mean Sydney Water has to do it.

10 If a plumber was to have Sydney Water's main closed down - - -?---Yes.

- - - the proper procedure is for them to go to Sydney Water and ask for Sydney Water to arrange for the main to be closed down?---That's correct, yeah, processed through Reece.

Yes?---Yeah.

And the proper procedure that you know all about is that in that event Sydney Water would make a charge for closing down the main?---Correct.

20 And as an e-Developer you know precisely how much that charge would be, don't you?---No, that could vary, that could vary from, from job to job, depending on the size of the main, depending on the location, depending on the crews, I don't know, it just varies.

And it can be, can't it, thousands of dollars?---It can be.

30 And one of the occasions on which you arranged to turn off Sydney Water mains on the quiet was at New College at the University of New South Wales, wasn't it?---I disagree.

So you can, you've done it on quite a few occasions, haven't you?---Done what?

You don't understand the question?---Sorry?

Are you saying you don't understand what I'm talking about?---Can you repeat your question?

40 Yeah, I will?---Yeah.

You arranged, didn't you, to turn off Sydney Water's water mains on the quiet, off the record, on many occasions, didn't you?---I disagree.

How many occasions do you think, do you say you did it for Planet Plumbing?---Never.

Never. Don't you say in paragraph 8 that that's precisely what you did do?

---Paragraph 8, no, no, no, I'm talking about a connection point already existing. It doesn't need to be shut off. There's an isolating valve there, you just connect onto it, you don't have to shut anything off. It's already shut.

So you say that you've never ever for a plumber turned off Sydney Water mains to allow them to make a connection?---No. Personally like you mean
- - -

10 Yeah, personally?---Yeah, I've been on shutdowns, yeah, yeah, we go out on shutdowns, the crews go out there, yeah.

I don't mean when you're doing it officially, I'm asking you do you deny that you have arranged to turn off Sydney Water's mains for a plumber with a private arrangement whereby you were paid cash from a plumber to turn off the main?---I disagree with that.

20 So you deny do you then that you did just what I've suggested to you at the University of New South Wales New College?---Yeah, I deny that, yeah.

Sorry?---I deny that.

With Mr Desfontaines?---I deny that, yeah.

Do you know a Mr Sabina Nobrega, N-O-B-R-E-G-A?---Yeah, he works out that way, yeah.

He's a maintenance man, isn't he?---That's correct, yeah.

30 A gentleman in his 60s?---Correct.

A gentleman I think of Portuguese background?---That's correct.

He's an honest man so far as you know is he?---So far as I know.

40 Can you tell the Commissioner of any reason that you know of why Mr Nobrega would say that he was at the University of New South Wales New College with you when you arranged to turn off a Sydney Water main? Why would he say that?---I don't know why he'd say that, no, I don't know.
He was probably, was he working with Mr Desfontaines probably on the day.

He'd be wrong to say that, would he, you say?---Mr Sabino?

Yes, if Mr Nobrega said that he saw you at the University of New South Wales New College site arranging to turn off a water main with Mr Desfontaines he'd be wrong, would he?---I don't know, I don't know.

Well, you do know don't you? I mean, did he do it, were you out there with Mr Desfontaines and Mr Nobrega turning off a water main or not?---I don't remember, no.

Could have?---Well, I just don't remember when that, when that was.

And the reason you are hesitating is that you don't know, do you, whatever the Commission has in relation to what I'm putting to you?---Like, I just, I don't remember.

10

You don't know what's coming next so you're a bit cautious now aren't you about whether you will deny turning off Sydney Water mains on the site? ---Look, I don't remember the, what happened on that job that, that you're talking about.

Now in your statement you say on paragraph 11, "I took that money home and kept it in a drawer?"---Ah hmm.

20

You say you kept it in a drawer?---Yeah.

I didn't, I never banked it?---That's correct.

Mr Payne asked you this question but I don't think you answered it, is the money still there in the drawer?---I don't believe it is, no.

You've taken it out and spent it have you?---Over three years, yeah, well, two years.

30

If the money was still in the drawer the proper thing for you to do with it would be to give it to Sydney Water, wouldn't it?---If that's what I'd have to do with all my gifts, if I'd have to return all the gear and all the scotch and everything that I've ever received over that time, I guess I'd have to return that money as well.

You know you would, don't you?---No, I don't.

40

Because you know full well that Sydney Water's policy as long as you've been working at Sydney Water was to forbid the taking of gifts, especially cash?---Look, I'm aware that Sydney Water would have had a policy in place but I'm not fully aware of what the, what it was.

But you know full well that Sydney Water had a policy forbidding the taking by you of cash - - -?---Ah hmm.

- - - don't you?---I know they had a policy for receiving gifts.

And the policy was not, the policy was that you were forbidden to receive gifts?---Well, I can't say that I'd ever read their policy in relation to receiving gifts.

You knew full well that Sydney Water's policy forbade you taking \$3,000 in cash, don't you?---Well, like I said, it was like, it's just it was given as a gift, it's not like, I didn't know what their policies were in relation to accepting cash and gifts.

- 10 You don't suggest do you that you thought Sydney Water thought it was okay for you to take \$3,000 from Mr Alafaci?---Well, I realise now that no, it's not, it's not the case.

You always knew it was wrong didn't you?---I didn't, I didn't realise it was wrong.

- 20 One reason you knew it was wrong was because you've been to a lecture or a seminar put on by Sydney Water in 2008 which dealt with amongst other things whether you should take gifts?---2008?

Yes?---I don't recall. Maybe, they do have those type of things from time to time.

And over your time at Sydney Water you've been to lots of lectures and seminars haven't you, for example on confined space (not transcribable)?
---Yeah, that's confined space course, yeah.

Asbestos awareness, done a course on that?---No, not asbestos.

- 30 Haven't you?---I don't think so, no.

Oxy-acetylene and copper fabrication, done a course on that?---Yeah, yeah, yeah.

Traffic control?---Yeah, yeah.

Disinfection of reservoir and water mains, done a course on that?---Correct.

- 40 And you've done a course on appropriate workplace behaviour haven't you?---Possibly, yeah.

23 January, 2008?---I don't, yeah, I may have, Sydney Water holds these type - - -

And you know at that appropriate workplace behaviour lecture you were given a lecture on fraud awareness and ethics?---I know I may have attended the thing 'cause obviously I'm on the attendance sheet but I, I can't remember the content of the course that day, no.

And you were told in express terms on that day weren't you that the taking of gifts especially money was forbidden?---Like I said I've probably attended the course but I wouldn't be able to tell you, sit here and tell you what the content of the course was and whether it was brought up in the, in the, in the course all of that type of stuff, I don't know.

You regarded the \$3,000 as black money didn't you?---I guess so, yeah.

10 Went into your drawer?---Yep.

Used it to pay for expenses from time to time?---Yep.

And didn't put it in your tax return?---Correct.

And can I suggest this to you? You didn't need anyone from Sydney Water to tell you that it was wrong of you to take \$3,000 in cash from an accredited constructor did you?---Look, at the time I was unaware, I may have been a little bit reckless, it was a one-off situation and after that - - -

20

You were also fully aware weren't you that you weren't supposed to have jobs outside Sydney Water - - -?---That - - -

- - - without getting your manager's approval?---That, I'm being honest I don't agree with that, I, I, I never, never knew that that was not accepted, I've been practicing that from, from day one and other people I believe do the same and I just, I never knew that, that was the case that I needed approval for that.

30 Well, now that you do know will you stop?---Sorry?

Now that you do know will you stop?---Well, if I, if I get to keep my job, well, I guess I will.

Yes, thank you.

THE COMMISSIONER: Ms White?

MS WHITE: No questions, Commissioner.

40

THE COMMISSIONER: Yes. You may leave the witness box?---Thank you, Commissioner.

THE WITNESS EXCUSED

[12.03pm]

MR PAYNE: Commissioner, I call Mrs Funovski.

MR STEVENSON: Before that, Commissioner, might I tender a business report, an extract from Sydney Water's business records showing Mr Funovski's attendance at the appropriate Workplace Behaviour seminar on 23 January, 2008.

THE COMMISSIONER: Exhibit P98 is attendance record from Sydney Water showing Mr Funovski's attendance at a seminar on 23 January, 2008.

10

#EXHIBIT P98 - SYDNEY WATER LISTING OF MR FUNOVSKI'S ATTENDANCE AT SEMINARS

THE COMMISSIONER: Ms White, do you want me to make a section 38 order?

MS WHITE: Yes, Commissioner.

20

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Ms Funovski and all documents and things produced by her during the course of her evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for her to make objection in respect of any particular answer given or document or thing produced.

30

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

40

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

MRS FUNOVSKI: Affirm.

<BLAGA FUNOVSKI, affirmed

[12.04pm]

THE COMMISSIONER: Mr Payne.

MR PAYNE: Mrs Funovski, what's your full name?---Blaga Funovski.

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

10

Commissioner, there was a suppression order made on that day, I'd ask that be lifted save for Ms Funovski's address disclosed in that document.

THE COMMISSIONER: That suppression order is lifted to the extent sought.

THAT SUPPRESSION ORDER IS LIFTED TO THE EXTENT SOUGHT BY MR PAYNE

20

MR PAYNE: I hand a copy to you, Mrs Funovski.

THE COMMISSIONER: And you're tendering that?

MR PAYNE: Yes, I tender that document.

THE COMMISSIONER: The transcript of Ms Funovski's compulsory examination of 2 September, 2010 is Exhibit P99.

30

#EXHIBIT P99 - TRANSCRIPT OF MRS FUNOVSKI'S EVIDENCE GIVEN IN COMPULSORY EXAMINATION

MR PAYNE: Ms Funovski, can you turn over to the second last page, that's 117PT in the bottom right-hand corner? Tell me when you're there? ---Sorry, 117PT and what?

40

That's it, 117PT. Look down on the left-hand side there are line numbers? ---Yeah.

At about line 35 you'll see that the Commissioner said this to you?---Ah hmm.

"You're excused from the summons, Ms Funovski. You do understand that an order has been made you have to keep your evidence secret?" You said,

“Yeah.” “Not only your evidence but the kind of questions, the questions that were asked and the very fact that you gave evidence today, okay”?
---Ah hmm.

Yes?---Yes.

“That includes your husband, okay”?---Ah hmm.

10 Ms Funovski, you’ve heard what your husband said just a few moments ago, you did discuss your evidence with him didn’t you?---I didn’t discuss the evidence, I discussed what I was looking for.

You told him didn’t you that you’d been asked questions about the \$3,000 deposit to the Westpac account on 1 December, 2008 which is Exhibit P96?
---(NO AUDIBLE REPLY)

20 Might the witness be shown P96. Now, Ms Funovski, you discussed with your husband didn’t you that entry on 1 December, 2008 being the deposit for \$3,000 didn’t you?---I think he worked it out from what I was looking through that I was looking at those amounts ‘cause they were the highlighted amounts that I had.

And you told him about the questions you’d been asked about that matter before this Commission didn’t you?---Not the questions, no.

You told him what it is that you were going to say when asked about it in evidence and what he should say didn’t you?---No.

30 You deny on your oath that you discussed with him the topic of what he should say if he was asked about this cash deposit?---Sorry, what was the question again?

Do you deny on your oath that you told your husband what he should say in evidence before this Commission if he’s asked about this cash deposit on 1 December?---Yes, I deny.

40 Might the witness also be shown P97. That’s a document that you obtained from your records and you’ve had a discussion with your husband about it before he gave his evidence. Correct?---I didn’t discuss it with him, no, but yeah, this is what I’ve, I’ve come to find out, yes.

Well, did you show it to him before he gave his evidence?---No, he would’ve found it.

I understood though, Ms Funovski, that you were the person who did all the banking and kept all the records for the family, that’s your evidence isn’t it?---That’s right.

When you say he would've found it how did, how did he find it?---When I've had it together with all the paperwork at home, like with this copy, this, this \$3,000 I had that highlighted and I had gone through the night, I think of the Monday night and I went through all the box of stuff to find this receipt because on discussion with my barrister that that's, it must've been something around that time while we were building so I've gone through all the receipts and I've come up with that.

10 When you say he must've found it what, you left it out on a table did you?
---Yes.

And you're telling the Commissioner the truth, are you, that you had no discussion whatever with your husband about having found this receipt?---I didn't tell him that I had, what to say or what, that what I'd found, no.

Did you have any discussion with your husband about that matter before he gave his evidence, namely this receipt, P97?---No.

20 None at all?---No. This, this is a MasterCard that we have joint so it's not Robert, it's, it's myself, I've got a card as well, so I paid for all that over the phone and then they posted me out that invoice.

And you have a clear memory of all of that, do you?---Now I do, yes, 'cause it was strange, we don't usually put in money, withdraw money and then put it back in. So it was something I had to find in all the paperwork.

30 Do you tell the Commissioner on your oath that you have a memory of withdrawing \$3,000 and then depositing it again at the beginning of December 2008?---Yes, I do.

Mrs Funovski, when was the first time you learned that your husband had accepted \$3,000 in cash from a Mr Alafaci in November 2008?---Today, here.

You had never heard about it before?---No.

You've been in the Commission present while evidence was given by others, including Mr Alafaci. Correct?---Yes.

40 You heard his evidence at the time and nothing was ever said to you by anyone suggesting that what Mr Alafaci was saying about having paid \$3,000 to your husband was true?---Did I what, sorry?

Did you have a conversation with your husband about the subject of the allegation he had received \$3,000 from Mr Alafaci?---No, no.

Never discussed it?---No.

When he first received the summons, did you have any discussion about what the matter was about?---No.

Had you heard Mr Alafaci's name before Monday of this week?---No.

Have you ever asked your husband whether it was true that he had received a cash payment from a Sydney Water-accredited constructor?---No.

10 It never came up. Mrs Funovski, in the 2008/2009 year- - -?---Ah hmm.

- - -I want to suggest to you that in your taxation return you declared to the Commissioner a net taxable income of \$4,900. Do you agree?---That's right.

During that year it's true, isn't it, that you received payments in excess of \$57,000 from Legion Cabs to a bank account in your name, isn't it?---Yeah. That's to do with the taxi and my sister's running that.

20 Why didn't you declare that as income during that year?---That's all declared in the taxi, the, in under JOC Management.

So you receive money on behalf of a company, do you?---No.

Well, it goes into your personal account, this money, doesn't it?---Yeah, but it's all accounted for under that JOC Management. My sister does all that so- - -

30 Well, it goes into a personal account of yours and you spend the money, don't you?---No, it goes, it's all, all in, in the, in the business.

Well, have a look at these documents. This is a record of your cash investment account with the Commonwealth Bank at Liverpool, Liverpool, in your name. Correct?---Ah hmm.

And if we look down there, there are, on the first page, a deposit from Legion Cabs Trading?---Yes.

Look over the page. Regular deposits from Legion Cabs Trading?---Right.

40 Do you see that?---Yeah.

All the way through?---Ah hmm.

That's money, as you would understand it, in relation to taxi cabs where a company, JOC Trading, as you say- - -?---Yeah.

- - -is the proprietor?---Yes.

There are EFTPOS machines in cabs. When someone pays by EFTPOS in a cab, Legion is in effect the clearing house- - -?---Mmm.

- - -for the payments?---Yep.

And payments are then made to a designated account, and in the case of JOC Trading the account that they've designated is not a company account but it's your personal account. Do you agree?---I, it must be, yeah, it's a personal account, but it's all accounted in JOC Management.

10

Well, it's paid into your account, you withdraw money from it and spend it for your own purposes, don't you?---No. It's probably to do with repairs on the taxis, running costs. I don't know. I'll have to ask my sister about that. She handles all that.

Well, it's an account in your name. Surely you know what the withdrawals from that account are used for. You must conduct the withdrawals?---I would say repairs and ongoing costs, running costs with the taxi.

20 So you withdraw money and do what with it from this account?---Repairs on the taxis.

How do you arrange that?---I don't know, my sister does all that.

You're the account holder. Does your sister come to you and say, Blaga, we need to withdraw money from your personal account for the taxis?---I think she probably gets my, I don't know, my dad to help. I don't know.

30 Well, it's your account. I'm asking you, what, what's the arrangement with this account?---Um, I'm not sure.

See, this money is paid in by Legion Cabs Trading not to JOC Management but to you, isn't it?---Yeah, but it's all accounted in JOC Management.

How does that come about, Mrs Funovski?---I don't know. I give her all these um, all these statements and she goes and does whatever with them for the tax returns.

40 Can you give the Commission any reason why this money, if it is indeed JOC Management's income, is paid to your personal account?---I don't know why it's been set up like that. I, I, I would imagine um, I don't know, that it's, it's changed now. I don't know.

So add it up if you like. There's \$57,000 paid to this account in the year of income where you've returned only \$4,900 as income. Is it your evidence on your oath that no part of that money was for your personal use?---Yes.

And can you give the Commission any explanation for how it is that the money is paid into your personal account?---I don't know. That's how it's been set up. I don't know if it's been set up right. I don't know.

THE COMMISSIONER: Well, what have you done with the money?
---It's, it's probably on running costs and repairs. I don't know. I'll have, I don't know. Like I said- - -

But it's your bank account?---I know.

10

So surely you know what, what's happened to the money?---But it's, no, I don't know. It's, yeah, it's, I don't know.

MR PAYNE: I tender that.

THE COMMISSIONER: See, ordinarily you have to pay tax on money you receive?---Yeah. And it should be all accounted for under the business.

20

MR PAYNE: Commissioner, I tender that bundle of cash investment account statements.

THE COMMISSIONER: Yes, a bundle of cash investment account statements is Exhibit P100.

#EXHIBIT P100 - BUNDLE OF MRS FUNOVSKI'S FINANCIAL RECORDS

30

MR PAYNE: Mrs Funovski, I want to give you every opportunity about this. I'm going to show you the management accounts for a company during that period. Do you agree with me that's the financial statement for the company, JOC Management Services Pty Limited, that we were discussing a moment ago, the company that you say is involved with running the taxis?---It is, but I don't know any questions. Whatever you're going to ask me, I don't know, because my sister handles all that.

40

You're a director of that company?---Yes, but more of a silent, I don't, I don't know how she does all of that. I've got my own business that I concentrate on.

Do you know one way or the other whether that business, JOC Management Services Pty Limited, has a bank account?---I'd say so, yeah.

Well, you know it does, don't you?---I, I guess so. Well, the money's got to come in and out from somewhere, yeah.

Well, quite. Have a look at the second-last page, Mrs Funovski?---Yeah.

Notes to the financial statements. Note 5 on page 7, cash at bank. Do you see that?---Yeah, yeah.

So JOC Management Services Pty Limited has a bank account?---Right.

10 And in its financial return it is showing amongst other things they've made a substantial loss during the year we're talking about, the year end of 30 June, 2009. Do you agree?---I don't know. There's two taxis there, so there's one that my sister owns and the one that we own. Like I said, I don't know, that's probably why there's two accounts. You'd have to call her and ask her. I don't know.

Did anyone ever tell you that the money into your personal account at the Commonwealth Bank should not be returned by you as income?---I don't know. No.

20 You've never had a discussion with anyone about that?---No. I, I don't have, I don't know, I don't have much to do with it. And if you ask my accountant, I don't, I don't do any of this. My sister gets her own accountant to do all that. That's, that's the honest truth. I, my accountant doesn't even really know about this, this. I know that my sister's contacted him to try and see if it's been arranged right or whether it's working and we did that, I think August, 22. But I really honestly don't know. I can't answer any questions really to do with this.

30 So is what you're telling me that even your own accountant who does your tax return, he doesn't know about this arrangement with JOC Management Services. Is that what you're saying?---Yeah. He, he knows now.

He knows - - -?---He knows now because my sister's been a little bit confused about how to, to, how it worked. So I said I've got a really good accountant, come and ask him. And she came to that meeting where we discussed with John, my accountant to try and fix that all up. So I don't know.

That's 22 August, this year you say it was fixed up?---Yeah, yeah, just now. Yep.

40 And so far as you know prior to that time you've received a considerable income and not returned it as you should've done. Is that right?---I don't know. I don't know. I don't know.

And you certainly you hadn't arranged with your accountant who prepared your tax return, you hadn't told him anything about this cash investment account?---I thought my sister was putting it in under the JOC Management. That's what, that's what's happening.

I see.

THE COMMISSIONER: Who has signing power on your cheque?---My sister.

On this cash investment account?---Oh, the cash investment, probably me, just me, yeah.

Well, there are a lot of, a lot of withdrawals in that?---Yeah.

10

They must've been made by you? Who else could've made them?---Yeah, or like I say, I sometimes give the card to my dad and if some repairs need to be done, then - - -

Well, I mean, do you have it in front of you?---Have what?

The cash investment account?---Oh, no, it was taken away.

20 Can Mrs Funovski have that, please. If you just look for example at page 2?---2. Yeah.

There's a fifteen hundred dollars debit to your credit card?---Netbank, Netbank transfer.

Yes, 4 January?---Yep.

Credit card. What was that for?---No, it's not a credit card. It's a Netbank transfer. I think - - -

30 Yes. But it says on your credit card?---On my credit card?

Yes, (not transcribable) credit card, it's a Netbank transfer. What's that for?---I have no idea.

And, and these payments POB Australian Post, \$500 that seem to be made every couple of weeks or so, what's that for?---Yep. That, well that's where my father lives. So he's probably gone there and taken that out probably to do the repairs. The changeover is where the taxis held is at his address, so - - -

40

But this is not a, it's not, this seems to come from your credit card?---Credit card.

I don't know what the number is. Do you know how the \$500 is paid?---How the \$500 is taken out?

Yes?---Just at the post office.

By?---By a keycard, yeah.

By you?---A keycard. No, not by me.

Somebody can withdraw from your bank account?---Yeah.

Who's that?---My father.

10 What he has a, he has - - -?---A keycard, yep.

- - - a keycard does he?---Yeah.

All right. Well now if you can, if you go to 18 June?---18 June, yep.

\$8,000 - - -?---Right.

- - - withdrawal?---Yep.

20 Who did that?---Well, if it's a large amount it would've been me.

So what was that for?---It could be for like registration and insurance. I don't know whether it's at that time where that's, when it's due. Whether the registration is due at that time. So - - -

12 August?---12 August. Yep.

Withdrawal of \$46,000?---Yep. What, what year is, okay.

30 What's that, what's that for?---That was probably, well, I think you have a cab for six years and then you, after six years you have to buy a new one, so it was probably a withdrawal to purchase the new cab. 2008, I'm just trying to think. I was married in 2002. So we got the taxi just before I got married, 2001. So it's 2008, then, yeah, it would be about the changeover, we bought a new cab.

So you used the monies for your own benefit?---What monies? No.

40 The money that's in your cash investment account?---No. We bought a new cab for the business. A new taxi, you have to buy a new car. You can't use it after six years. I don't, I didn't use the money, I don't know what you're trying to, what, can you tell me what you're trying to, I'm telling you that's what it's for.

These documents - - -?---Right.

- - - suggest you received a great deal of money and you didn't pay tax on it?---Oh, okay. As far as I know - - -

And you're being asked questions to try and find out whether that's what's happened?---Oh, I don't imagine so because I think that's what that \$46,000 was for, to buy a new cab.

MR PAYNE: How do you know that JOC Management knew anything about what was going on in your personal cash investment account, Mrs Funovski?---How would I know?

Yes?---Because I would give her the statements.

10

You'd give your sister these statements would you?---Ah hmm. And the loan, and the loan ones that we've still got an existing loan that we bought the taxi plates for. They all go to her as well.

So if it doesn't turn up in JOC Management's accounts, you tell the Commissioner that's your sisters problem not yours do you?---It's probably my problem, but I sort of left it up to her, yeah.

20 Yes, Commissioner, I tender the JOC Management Services financial statements for 30 June, 2009.

THE COMMISSIONER: Yes. The JOC Management Services bank statements are P101. That is for 30 June, 2009.

#EXHIBIT P101 - JOC MANAGEMENT FINANCIAL STATEMENTS

30 THE COMMISSIONER: Did you examine these, have you examined these financial statements of JOC Management Services, Mrs Funovski?---Look, I, I haven't. But on this meeting that we had with John, I discussed with him, I said, look, I don't know what's happening, what my sister's doing. I think you should have more, we should find out more about it and try and make sure that it's been set up right, 'cause I know John's set up our business and, and stuff all correct. But this was set up a long time ago, before I guess, just as I was getting married, so - - -

40 And can you explain why it is that income obtained by the taxi business gets paid into your bank account and your bank account is used to buy a new taxi and JOC Management Services doesn't use its own bank account which it has?---There's two taxis though.

Yes, but - - -?---I don't know. I don't know. I honestly don't, I don't even know if it's been set up right. I don't know. Like I know that the preschool has been set up right. I don't know much about this. And you can confirm with my accountant that we've had a meeting to make sure that, that this is right, so - - -

Yes. All right.

MR PAYNE: In relation to the \$3,000 you heard, you say, for the first time about this morning. Your husband put it into a drawer. Is there a drawer where you keep cash in your house?---No.

10 So you were unaware were you of any amount of \$3,000 being in any drawers in your house at some time in the last years (not transcribable)?
---I'm not going to tell you where we keep our money, Mr Payne.

I'm not interested in where you keep your money?---Well, you're asking me whether I have them in a drawer. Well- - -

THE COMMISSIONER: Well, your husband has said that?---Okay.

You know that he said that?---Yeah.

20 You were sitting in court when he kept saying that?---Yeah, yeah. So what's, what's the question?

MR PAYNE: The question is, did you know that there was \$3,000 you husband had put sitting in a drawer in your home?---No, I didn't know.

I've got nothing further for this witness, Commissioner.

THE COMMISSIONER: Any questions for Mrs Funovski by anybody?

30 MS WHITE: I have some questions.

THE COMMISSIONER: Yes, Ms White.

MS WHITE: Mrs Funovski, do you have a copy of Exhibit P99 in front of you?---Thank you. Yes, I do.

Can you have a look at, 107PT is the page number down the bottom?
---Yeah.

40 At around about line 43 you're asked a question, "What do you mean by that?" And you answer, "The way we do it is we purchase things on our credit card for the centre and the centre then has to pay that credit card back so we do repayments on that?"---Yes.

Are you telling this Commission that that's what happened in relation to the Plumbing and Bathroom Supplies \$2,705 amount?---That's correct.

That's contained in Exhibit P97?---I don't have it, but I'm assuming, I've seen it so- - -

THE COMMISSIONER: Why did you take out the three, if you were going to pay by credit card and that was your practice- -?---No.

10 - - -why did you take the \$3,000 out in the beginning?---It was, it was cash on delivery. They were delivering it. And if I can remember correctly, I think they might have just left it. I don't know whether we were there on time, I know I went that day, I took out the money um, and then I rung them up and as you can see on that, some of the stuff I've highlighted or underlined were I've made sure that that money was only coming out of our account specifically to do with the building

MS WHITE: Could the witness just be shown Exhibit P97. So that's a copy of some documents, being an invoice, a tax invoice with a receipt stapled to it?---Ah hmm. Yeah.

And also as MasterCard statement?---Yes.

Do you have the original of those documents?---Yes, I do.

20 Would you produce those to the Commission?---(NO AUDIBLE REPLY)

THE COMMISSIONER: They've been tendered. It's exhibit P97.

MS WHITE: Yes. This is just a copy. I was just going to produce the originals.

30 THE COMMISSIONER: Very well?---Am I allowed to go get them from my bag?---You can hand them to counsel assisting the Commission when you've finished your evidence?---Oh, O.K.

MS WHITE: Thank you.

THE COMMISSIONER: So do you want that tendered as a separate exhibit?

MS WHITE: Yes, Commissioner.

40 THE COMMISSIONER: Yes. The original of Exhibit P97 will be Exhibit P101.

MS WHITE: I think it's - - -

THE COMMISSIONER: 102, I beg your pardon.

#EXHIBIT P102 - ORIGINAL OF P97 - RECEIPT FROM

MS WHITE: Thank you, Commissioner. And could you just have a look on Exhibit P99, which you have in front of you, at 110PT?---Yeah.

At around about line 13 you're asked some questions there about taxis?
---Yes, yes.

"You mentioned the taxis?"---Yes.

The answer is, "Yes?"---Yes.

10

The question is, "That you were involved in with your sister?" The answer is, "Yes?"---Yes.

"I don't have much to do with them, my sister pretty much runs all that?"
---Ah hmm.

And you're asked, "So what's the benefit to you of being involved in that business?" You answer, "I did the course to be a taxi operator and that's pretty much it?"---Yeah.

20

So do you say that that's the, that's your evidence then and it's the same as your evidence today?---That's correct.

And in terms of you receiving other amounts of money, if you, when you had your wedding, you were married to Mr Funovski in what year and month?---2002 ah, June.

And how many people attended your wedding?---Close to 500.

30

And what would be the average amount of money, it's the practice in your culture to give money at weddings. Is that right?---That's correct. No one brings a present. On average I'd say four, four fifty, \$400 in an envelope from a family.

From a family. And so would there have been 125 families or how many families would there have been?---I'd say if there's 500 you'd divide that by about 4 an average in a family. I don't know what that- - -

40

So you got quite a substantial amount of money at your wedding?---Yes, we did.

And that was used in relation to your mortgage?---That's correct.

I don't have anything further.

THE COMMISSIONER: Mrs Funovski, you're excused from the witness box and you may, the summons against you is discharged.

THE WITNESS WITHDREW

[12.35pm]

THE COMMISSIONER: Mr Payne?

MR PAYNE: Commissioner, I call Mr Molluso.

10 THE COMMISSIONER: Mr Purdy, do you want me to make a Section 38 order?

MR PURDY: Yes, Commissioner, thank you.

20 THE COMMISSIONER: Pursuant to Section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Mr Molluso and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for him to make objection in respect of any particular answer given or document or thing produced. Mr Molluso, do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MR MOLLUSO: An oath, please.

<VINCENZO MOLLUSO, sworn.

[12.36pm]

THE COMMISSIONER: Mr Payne?

MR PAYNE: Right. Mr Molluso, what's your full name?---Vincenzo Molluso.

And what's your occupation?---A plumber.

10

And you're associated with a company known as Smart Plumbing. Is that correct?--- Smart Plumbing Solutions, correct.

And during the period prior to 17 October, 2008, you were involved with a series of companies under the Planet Plumbing banner, if I could put it that way?---Yes, yeah.

And you were a director of Planet Plumbing NSW Pty Limited for some time?---Yes, that's correct.

20

And that ceased I think on 30 September, 2008?---Yes.

And you continued to work doing consultancy for Planet Plumbing for some weeks until you had a telephone conversation with your second cousin, Mr Alafaci, and your services with Planet Plumbing were then terminated? ---Yes.

You've participated in a confidential examination before the Commission on the 13 August, 2010?---Yes.

30

Commissioner, there is a confidentiality order that was made on that day and I'd ask that with the exception of Mr Molluso's address, that that be lifted. I hand the document and tender the document.

THE COMMISSIONER: Yes. An order lifting the suppression order to the extent sought by Mr Payne is made and the transcript of Mr Molluso's compulsory examination is Exhibit P103.

40 **AN ORDER LIFTING THE SUPPRESSION ORDER TO THE
EXTENT SOUGHT BY MR PAYNE IS MADE**

**#EXHIBIT P103 - TRANSCRIPT OF MR MALUSSO'S EVIDENCE
GIVEN IN COMPULSORY EXAMINATION**

MR PAYNE: Mr Molluso, you were present in court this morning?---Yes.

You heard Mr Funovski give evidence that he did receive \$3,000 from Mr Alafaci in about November 2008?---I heard it this morning, yes.

Did you, were you aware of that matter prior to this morning?---I was aware that Mr Alafaci had called me, like I've given evidence before and said that Robert had been to his office and that was the time when, after I was served from the Commission.

10 THE COMMISSIONER: I beg your pardon?---Mr Alafaci called me on the day that I was being served from the Commission. I got served in the afternoon. Mr Alafaci rang me oh, midday I'd say it was and he asked me or he told me that he had been raided by ICAC and the Federal Police and, you know, that Mr Funovski had come to his office and had said that I had dealings with him and he owed him money. And I said, "Well, I know nothing of this."

MR PAYNE: You got straight on the phone then to Mr Funovski, didn't you?---I rang him after, yes, 'cause, like, I wanted to see what this was about.
20

And asked him to come and visit your office or to ring you on another telephone?---No, I didn't ask him to ring me on another telephone, I asked him to come see me at the office because I felt that it was something that I have to ask him in person.

THE COMMISSIONER: But you said, "Give me a call." No, I said, to give me a call when, if you're coming, like, when you're coming, 'cause I go in and out of my office all day. I think you can even read the transcript there.
30

MR PAYNE: Well, let's have a look at P91 if the witness might be shown that. Take all the time you need to read but I'm going to ask you some questions about the exchange between you and Mr Funovski on the second page, so tell me when you've read the document and we'll come back to the questions I want to ask you.

THE COMMISSIONER: Is there any part that you wish Mr Molluso to read in particular, Mr Payne?
40

MR PAYNE: In particular the second page?---Okay.

After Mr Funovski says, "I've got to do one pier inspection" at about point 4 on the page down to about point 6 where you say "or come past the office?" ---Rightio. Yeah, he's said, I've said there, Yeah, I want to talk to you about something, yeah, give me a call. I haven't asked him to call him on another telephone, I've just asked him to give me a call when he's coming by because he said he's going to a pier inspection.

THE COMMISSIONER: That's not what it says, Mr Molluso. I mean, we do understand English?---Well - - -

It says, "So give me a call or come past the office," do one or the other?

---Yeah, well, if he's not going to come he'll give me a call.

So why couldn't you speak to him or asked him to give you a call - - -?---I felt that I had to (not transcribable) in person.

10

May I just finish?---Sorry. You asked Mr Funovski to give you a call or come past the office. Is that not right?---No, I've, I asked him to come past the office and then I've said to him yeah, or give me a call so obviously call me before he's coming.

Mr Molluso, I'll try again, the words are clear?---Yeah.

You say to him, "I want to talk to you about something," do you see that?

---Yes, that's right, yeah.

20

You then say, "So give me a call," you see that?---Yeah. But I - - -

Just a minute, and then you say "or come past the office." Do you see that?

---Yeah, I do see that.

So do you see that you said to him, "Give me a call or come past the office," one or the other?---Yes, okay.

Do you see that now?---Yes, I do see that but that's not what I intended to say.

30

Well, I'm not interested in what you intended to say, that's what you said?

---Okay, that's what I've said there, it's not what I meant.

I want to know why you asked him to give you a call when you were actually talking to him on the telephone call?---I meant for him to give me a call if he's not going to come past, I have to go in and out of my office all the time.

40

I see. So you said something you didn't mean?---Obviously, yes.

It's very simple language?---Yeah, I can read it, sir.

Very difficult to make a mistake in conveying what you intend by using those simple words isn't it?---Yes, I mean, look, that's what I meant for it and that's what it is.

No, no, what it is is its apparently according to you not what you mean. Is that not so?---(NO AUDIBLE REPLY)

This says, "Give me a call or come past the office?"---Yes, it is but it's not what I, what I - - -

That's not what you mean?--- - - - meant, yes.

10 So why did he have to give you a call?---Like I explained before, if I wasn't going to be there I don't want him to come past for nothing.

You had to tell him that, he couldn't work that out for himself?---I guess so, yes, I would have had to tell him that. I have to give someone courtesy if I'm not going to be there.

Do you think that we're idiots, Mr Molluso?---No, I don't.

Yes.

20 MR PAYNE: You see, Mr Molluso, you received this call from your second cousin Mr Alafaci and you were sufficiently concerned to get straight on the telephone to Mr Funovski, weren't you?---I'd like to know why my name was put in, but yes.

30 Well, we'll come to that in a moment but it's clear, isn't it, that when Mr Funovski arrived at your offices the thing you're talking about here in the middle of the page to talk to you about something, the thing you wanted to talk about was this ICAC investigation which you'd been told about by your second cousin Mr Alafaci some moments before this, correct?---Yes, that's correct, I had asked him what, what this was about he knew nothing of it.

Well, just take it step by step. The meeting that you had lasted for a little over an hour, do you agree?---I don't know how long it would take to tell you the truth so - - -

Well, do you deny that it took over an hour?---No, I don't deny it, I don't know how long it was.

40 And do you agree with me that at that meeting the critical subject matter, the thing that you wanted to know was all about this ICAC inquiry and what Mr Funovski knew or didn't know about it. Correct?---Yes, that's correct. I did want to ask that question what, why my name had been brought into this.

And Mr Funovski, to your observation, could have been in no doubt that that was a matter you wanted to discuss and you did discuss?---Sorry, I, I didn't understand you, sorry.

At that meeting - - -?---Yeah.

- - - that you had, given the conversation that you had with him, to your observation Mr Funovski could have been in no doubt that the thing you wanted to talk about was the ICAC inquiry, that's why you'd asked him to come out. Correct?---I'm not too sure how he interpreted what we were talking about.

10 Well, you were sufficiently concerned when you heard about it from Mr Alafaci to get straight on the phone and you had something you wanted to talk to him about. Correct?---Yes, that's correct, yeah.

And when he arrived you did talk about it didn't you?---Yes, we talked about that and then after that was, he wasn't concerned about it and we talked about everything else. Talked about my wife having the baby, he talked to other people in my office, he had, I assume he had a coffee that day like he usually does, yeah.

20 Mr Molluso, you've heard Mr Funovski come along this morning and admit he received \$3,000 from Mr Alafaci, you've heard that haven't you?---Yes, I have.

And it's clear isn't it that what you were telling him, the thing that you were asking him to come around about was that ICAC were investigating just that, whether he'd received money from Mr Alafaci. Correct?---No, I didn't know about the receiving money.

30 You didn't, it didn't cross your mind that what ICAC might be interested in were cash payments Mr Funovski had received?---To tell you the truth I didn't even know what ICAC was about until your officers came there and explained it to me. They actually ran me through who ICAC was.

So when your second cousin told you that he'd been raided by ICAC and the Federal - - -?---The Federal Police.

40 And the Federal Police you say you weren't troubled about that?---Well, the Federal Police concerns anyone don't they? I mean when you hear that that you've been raided and the Federal Police aren't they words that would, you know concern anyone to know that your name has been linked with that?

And he told you that the link that you had with it that you, so Mr Alafaci told you that you were involved with Mr Funovski in doing things you shouldn't in relation to Sydney Water assets. Correct?---He told me that Robert had come to his office about stuff for Sydney Water, that was it. We didn't talk for long, he was just, it was very unusual that he had even rang me.

He told you that Robert had come to his office and shaken him down for money for things that Robert said you'd done together for Planet Plumbing. Correct?---It could be, yeah.

Well - - -?---I'll say that he rang me and I, what he had said to me on that day, you know, I wasn't really taking that much in. The bit that got me concerned was that could my name involved with the Federal Police and an investigation.

10 And you understood, you just agreed with me a moment ago that that investigation involved you together with Mr Funovski - - -?---Also Planet Plumbing as well and Anthony Alafaci.

Correct, doing things that they shouldn't?---I guess so, yeah.

Payment of money changing hands to do things you shouldn't in relation to Sydney Water assets, you knew that didn't you?---Of what, of what ever Anthony Alafaci had told me, yes, that's the only way I knew anything.

20 And you say do you that when Mr Funovski arrived you had a discussion about all of those matters. Correct?---I asked him if he knew anything about it and he said he'd provide it, that was it.

You told me a moment ago that he wasn't concerned and didn't seem to you to want to talk about it yet we know now that he had received \$3,000 from Mr Alafaci don't we?---That's what we heard, yes.

Well, I'm going to suggest to you that you had a much more detailed conversation. Do you agree?---No.

30 Do you say on your oath that the first time you had any inkling that Mr Funovski had received money from Mr Alafaci was only this morning? ---Sorry, can you put that a different way for me?

Do you say on your oath that the first time you had any suspicion that Mr Funovski had received a cash payment from Mr Alafaci in relation to Planet Plumbing was when you sat here this morning and heard Mr Funovski admit that he received the money?---You're saying do I, do I believe that he was taken payment before?

40 Did you have any suspicion prior to this morning?---Prior to this, of course I had some reason to ring him asking what that was about, whether that's suspicion or what it is, it was, I was inquiring what it was about to have my name involved in it.

Well, that's just examine that for a moment. You were here weren't you, Mr Molluso, when Mr Alafaci gave his evidence?---Yes, I was.

Do you tell the Commissioner that you asked Mr Alafaci for cash to pay Mr Funovski in relation to Planet Plumbing work, yes or no?---No.

Absolutely no possibility that happened you tell - - -?---No possibility. Anthony was very tight to give money out.

Were you involved though, Mr Molluso, whilst at Planet Plumbing on a number of projects with Mr Funovski?---Involved in, in which way, sorry?

10 Well, in any way at all?---Well, Robert worked for Sydney Water and we did plumbing.

And he provided services at your direction for Planet Plumbing didn't he? ---If you rang him and asked him for some advice Robert would give it.

Well, what other involvement do you say you had with Mr Funovski whilst you were at Planet Plumbing?---Involvement, like social involvement?

20 Well, let's start with that, social involvement, yes?---Yeah, we were mates.

And professional involvement?---Yeah, I could ring up Sydney Water and talk to Robert, get some answers, sorry.

Well, do you remember working with him on the New College job?---No, not the New College job.

Do you deny it?---Sorry?

30 Do you deny working with Mr Funovski on the New College job?---I may have asked him something about it but that would be working together on it, yes, but I don't, I don't recall it. There was an existing connection on that property when I was at that place and I may have asked him about that but that, you know, that's as far as I know.

An existing connection, you were in the Commission weren't you when Mr Desfontaines gave his evidence weren't you?---Yes, I was, yeah.

40 He wasn't talking about connecting to an existing connection was he?---No, not that I could understand what he was talking about but also Des was there, assumably there at the time the building had almost been complete and I'd left by that stage.

Do you say on your oath that you had no knowledge prior to hearing Mr Desfontaines' evidence that the water had been turned off and that Sydney Water had in effect done a connection for Planet Plumbing off the books at New College?---I didn't know about it, no.

Do you say that you had no knowledge of Mr Funovski being involved in procuring Mr Desfontaines and his assistant to make that connection off the books?---I had no knowledge of it, no.

THE COMMISSIONER: What was your role in Planet Plumbing at the time?---I was a construction director, I had project managers on each site and the project managers had site foreman under them that looked after the site and then they had the site crew.

10 But if you needed favours done you would go direct to Mr Funovski wouldn't you?---If I needed advice from, of what to do for Sydney Water, yes, he would be the easiest guy to talk to.

And if you wanted things to hurry up you'd go to your mate Mr Funovski wouldn't you?---Hurry up in which way, sorry?

Get things done on the site quickly?---Why, he didn't do anything on the site.

20 Well, you needed permission, authorisation to do things, you needed him to come, you needed an inspector to come to the site from time to time, is that not right?---Robert doesn't inspect site works.

There's nothing he could do for you?---He could tell me that the existing valve would be okay or, you know, that kind of stuff.

He would do nothing to smooth the way for you?---Smooth the way, which way, sorry?

30 I think you understand, Mr - - -?---Molluso.

Molluso?---No, sorry.

You don't understand?---No.

There is nothing, he couldn't speed up the process for you?---There would be no need to speed up the process.

So your answer is - - -?---No.

40

No?---There'd be no need.

So there is no way in which Mr Funovski could be of any help to you?--Oh, yeah, he was - - -

Giving you advice?---Yeah, that's right. He's great to get advice from. He told me that that was okay. That was it.

I see.

MR PAYNE: Mr Molluso, I want to take you up on those answers. And I'm going to suggest to you that what you've just told the Commissioner is a lie. Do you understand that?---I understand you're calling me a liar, yes.

Yes. Existing connections, you just told the Commissioner a moment ago in relation to New College that you may have consulted Mr Funovski about an existing connection at New College?---Yeah, I may have.

10

So far as existing connections were concerned, your consultation would involve you getting Mr Funovski to come out and give you approval on behalf of Sydney Water to do something. Correct?---Once we would like to use it, yes.

Yes?---It wasn't established that we wanted to use that yet on the New College job.

20

So you could ring your mate, Mr Funovski and have him come out and exercise an official discretion on behalf of Sydney Water in your favour. Correct?---Yes, if we were up to that process.

It's plain as day that - - -?---Well, anyone from Sydney Water, you could do that with anyone. You could ring the office and ring up and ask for that same service from anyone else.

I see. I see?---To use an existing service.

30

Why were you ringing Mr Funovski then if anyone could do it?---You tried getting through to Sydney Water. You ring their depot for days and you might not get an answer.

So when he - - -?---Once you've established a relationship with someone, it's a lot easier to deal with them, so - - -

THE COMMISSIONER: So he could make things happen more quickly? ---Yeah, but that's - - -

40

So why did you say that he couldn't?---By answering the telephone, he's making it more quickly. They should have someone there to answer the telephone at all times anyway.

I'm not talking about Sydney Waters processes, I just simply asked you earlier whether he could make things happen more quickly for you and you said, no. Now I understand you to say yes?---Well - - -

Am I, is my understanding wrong?---In quicker in answering the telephone, yes. I was wrong there.

In getting things done?---Well - - -

Because you had you to speak to somebody to get something done. If you went through their ordinary procedure it would take you a long time. If you had a direct line to Mr Funovski, who would be prepared to go out and look at the site for you quickly, that would happen more quickly wouldn't it?

---Yes, it would then, yes.

10 So is that something that you did?---I had rung him on occasions and asked him advice about that. But I never got him to come to the site there at New College.

Anywhere?---Oh, I may have. I can't remember. We do a lot, we've done a lot of jobs at Planet and we do a lot in the city, and we may have.

You don't remember ever having asked Mr Funovski to come to any site to look at work you've done?---Yeah, I may have. I don't, I don't recall, I'm sorry.

20

And when he did that would he come in a way that was quicker than someone else?---I couldn't tell you 'cause I didn't deal with other people.

You only dealt with him?---Pretty much Robert, yes.

So he was your man at Sydney Water?---He was the guy I knew at Sydney Water, yes.

30 MR PAYNE: And just so we're clear, Mr Molluso, when you told the Commissioner that you didn't use Mr Funovski to speed things up or to smooth the way, those answers were untrue weren't they?---They were untrue because I didn't feel that he was saying that that was to speed it up. It was how he was putting it.

I see. Can I ask you about some other jobs? Did Mr Funovski speed things up or smooth the way in relation to a job Planet Plumbing was doing at Crown Street in Sydney?---I didn't have anything to do with Crown Street, only the very beginning and, no.

40 Do you deny having anything to do with Mr Funovski on behalf of Planet Plumbing, Mr Funovski on behalf of Sydney Water in relation to the Crown Street job?---Do I deny - - -

Do you deny it?---Working on the project or - - -

Well, take it step by step?---Yep.

I was actually asking you do you deny having any communication with Mr Funovski about that project. Do you deny it?---I don't know. I can't deny it because I don't know if I ever talked to him about it.

So you may well have had communication with Mr Funovski about Crown Street to speed things up. Is that what you say?---Not at all. There was nothing to speed up there. The job hadn't even started.

10 Did you have any communications with Mr Funovski about a job Planet Plumbing was doing at Little Bay?---Little Bay, I, I don't believe so.

Do you deny it?---I'm not going to deny it if I don't know.

Can I ask you about whether you had any communication with Mr Funovski to speed things up or smooth the way in relation to a job Planet Plumbing was doing at Erskine Street in the city?---Again, that was Craig Stanley, was the guy for Planet Plumbing working at the time. He was doing that project. So, I don't know whether I've spoken to him or not about that job.

20 You were the director responsible though weren't you for that project?---I was a director, yes.

And in that role you had occasion, I though you had told me earlier, to ring Mr Funovski and ask for advice and get him to speed the process. Correct?---Talked to him for advice, yes.

Get him to come out to sites and speed the process. Correct?---If I needed him to come to the site, yes.

30 And one of those sites could well have been Erskine Street. Correct?---It may well have been, but I don't recall it.

I see. How many times a week would you talk to Mr Funovski in his professional capacity whilst you were at Planet Plumbing, Mr Molluso?---I couldn't, I can't recall it.

Well, have a stab for me, how many times?---I don't know. Well, like I said we were mates as well and we would talk to each other.

40 So you'd talk to him nearly every day wouldn't you?---No, I don't talk to my friends every day.

On how many occasions do you tell the Commissioner during your period at Planet Plumbing you had Mr Funovski come out to a site and give you advice and approval in relation to what you described as an existing connection?---I don't remember.

Could it be more than 20 times?---We wouldn't of done that many jobs.

Could it be more than 10?---I don't believe so. I don't know.

Is your best estimate that it was somewhere between five and 10?---Look, I really don't know.

I notice the time, Commissioner. I'll be a little bit longer with this witness.

THE COMMISSIONER: Yes. We'll adjourn until 2.00pm.

10

LUNCHEON ADJOURNMENT

[1.02pm]