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HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION SIREN

Reference: Operation E09/1228

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 17 SEPTEMBER 2010

AT 2.20PM

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THE COMMISSIONER: Mr Payne.

<DUSHKO PAUL BJAZEVICH, on former oath

[2.20pm]

MR PAYNE: Thank you, Commissioner.

10 Before the adjournment I was asking you some questions about knowing
what you know now about Mr Buckley and what was going on in
inspections and I accept only for a brief period because you only became the
manager as you pointed out to me in August 2009, but from that position
and knowing what you know now I was going to make some suggestions to
you about possibly ways in which the problems that you've now read about
with Mr Buckley and inspections might, might be avoided in the future for
your comment and tell me whether you agree or disagree and if you disagree
tell me why. One of the aspects of the matter seems to be that Mr Buckley
had been in the one place for a long time and had very entrenched
relationships with constructors and so on which, which facilitated the receipt
20 of cash payments. Do you agree that regular rotation of inspectors would be
a sensible move within Sydney Water?---I do.

Knowing what you know now it was, as I think you've indicated, you treat
it as a position of trust within Civil Delivery, do you think it is a sensible
suggestion that as Urban Growth are the people who receive the
development applications for sewer connections and the ones who have to
sign off on the end on behalf of Sydney Water and have a hierarchy of
people who are actually checking the work of constructors and water
services coordinators that it may be that the inspectors would be better
30 placed fitting into that hierarchy rather than maintenance where it is really
not a core function of the maintenance department to perform these
inspections during development work?---I agree with that.

Do you agree that it would be, knowing what you now know about
Mr Buckley, it would be, it would be sensible to have a system whereas
managers who are properly trained to do so as well as conducting random
audits of constructors and water services coordinators actually from time to
time conducted genuinely random audits of the work of inspectors to make
sure that so far as is possible opportunities for corruption were minimised?
40 ---I agree with that too.

Insofar as and for the period the inspections remain within Civil Delivery
when there are complaints or concerns about delays occasioned to various
projects by reason of the issue of Corrective Action reports of the kind that I
took you to in relation to the Revesby job, do you agree that steps should be
taken for a mechanism to resolve those quickly and to everyone's
satisfaction without leaving the discretion in the hands of the particular
inspector involved?---I agree with that.

And so far as you're away is there such a process as yet in place within Sydney Water?---Not at present, no.

And so far are there any steps toward that direction, they haven't been communicated at least at your level in the depot as yet?---We are working on that at the moment.

10 But nothing has yet commenced is what you're saying?---Interim measures have commenced in the inner west, commenced as of last Tuesday, we have a centralised area that does the bookings and its mainly through the emailing system of the developer process, we have two people go out at the field audits.

When you say the field audits, that's the Sydney Water construction staff, is it, that are actually performing work such as connecting fire and so on?
---That's the audits that we spoke about in this hearing about when Mr Buckley goes out, we'll have two people go out as from last Tuesday.

20 I see. So last Tuesday that started did it?---That's correct.

And as you understand it is that going to be the case throughout Sydney Water, that there'll be two inspectors performing this, this role in tandem? Is that the proposal?---At, it's at an early stage, they're completing the risk assessment at the moment. They're working with other groups within Sydney Water. That hasn't been decided as yet but in the interim I've put this into our depot, yes.

30 In the inner west?---That's correct.

So it's an initiative of yours to confront what you saw in the evidence about Mr Buckley, that at least in the interim you were going to have two people on the sites doing the inspections?---That is correct.

And that's for both water and sewer?---Correct.

40 And you said the risk assessment, that's being done by some other area within Sydney Water, is it?---It's being done within Civil Delivery and other areas of Sydney Water.

And you came up with the idea in the inner west and you've persuaded other managers at your level in other depots to do the same, is that what you're saying to the Commission?---At the moment I've just done with my area.

I see. And do you know one way or the other whether other areas have yet adopted this, the practice that you've put in as an interim measure or they're waiting to see what happens with the risk assessment?

---I'm not sure. I believe they might be waiting.

Thank you. You were in court earlier today when Mr Knowles, the IT expert within Sydney Water was talking about the WAMS system and the material recorded there. I just want to ask you one or two questions to clear up as a manager on the ground at one of the depots, and as I understand it - -
-

10 THE COMMISSIONER: Mr Payne, Ms White's not here.

MR PAYNE: Commissioner, you're quite right. I won't take that up with this witness then. I've got nothing further, Commissioner.

THE COMMISSIONER: Mr Stevenson.

MR STEVENSON: Just one thing, you know that I'm the barrister for Sydney Water?---Yes.

20 Just in relation to I think your initiative of having two inspectors go out on each occasion, is the idea behind that in your view is less likely that two people will behave dishonestly in each others presence then one person alone?---That was my opinion. That's correct. Just to reduce that risk.

I see. Thank you.

THE COMMISSIONER: Thank you Bjazevich. You're free to go. You're excused from the summons. Thank you.

30 **THE WITNESS EXCUSED** **[2.31pm]**

MR PAYNE: Commissioner, I call M Hammond.

THE COMMISSIONER: Again, Ms White is not here. Is Mr Hammond's evidence not relating to Mr Funovski?

MR PAYNE: No, no. He's an urban growth gentleman.

40 THE COMMISSIONER: I was thinking of Mr Hayward.

MR PAYNE: Mr Hayward can't be located, Commissioner. So there are no remaining Funovski witnesses. And I apologise.

THE COMMISSIONER: Yes, I see. No, that's fine. And are you the representing Mr Hammond, Mr Stevenson?

MR STEVENSON: Yes.

THE COMMISSIONER: And you don't want a Section 38?

MR STEVENSON: We don't. Would you excuse me one moment while I have a word to - - -

THE COMMISSIONER: Yes. Mr Stevenson, can we swear Mr Hammond? Mr Hammond, do you want to give your evidence under oath or - - -

10 MR HAMMOND: Under oath.

MR PAYNE: Mr Hammond, what's your full name?---Phillip Ernest Hammond.

And your occupation?---Development services representative at Sydney Water.

10 You've made a statement in this matter?---Yes.

I'll show you a document. That's a statement that you've made?---Yes.

I understand from something I've just been told that you wish to elaborate in relation to certain matters you've set out at paragraph 16 of that statement. And I'll give you an opportunity to do that in just a moment. But save, save for that elaboration, are there any corrections or, that you wish to make to this statement?---Oh, no, it's just a clarification to, to the statement, if that's what you mean.

20

I'm going to ask you about it in just a second. Is there anything in the statement that you regard as incorrect that we should deal with now?---No.

So it's an elaboration or clarification you wish to make in respect of paragraph 16 that Mr Stevenson's told me about?---Yes.

And please accept I'm going to give you a chance in just a moment to do that. But subject to that do you tell the Commissioner that the contents of the statement are true and correct to the best of your knowledge and belief?

30 ---I do.

Commissioner, I tender the statement.

THE COMMISSIONER: Yes. The statement of Mr Hammond is P123.

#EXHBIIT P123 - STATEMENT OF MR HAMMOND

40 MR PAYNE: Now Mr Hammond, let's go straight to paragraph 16 and the topic that we're there dealing or that you're there dealing with are the complaints that you heard about in relation to John Buckley over the years and matters you there set out. You'd like to clarify or elaborate upon that paragraph. Please do so?---Yes, okay. It's in relation to the statement expecting bribes (not transcribable)are an incentive to move the job on.

Yes?---At no stage was this mentioned what those incentives or bribes were.

Yes. I see. So, so just stopping you there for a moment. When you say there was an underlying theme that he was asking for, expecting bribes or an incentive to move the job along, you did not know then or you had no understanding of what, what comprised the bribe or gift. Is that what you're saying?---That's correct.

So it may have been physical property or cash you didn't know one way or the other?---That's correct.

10 But you expected it would be one of those two, there was no, or you tell me was there anything else that you had in mind other than a gift of the kind such as alcohol or something of value on the one hand and cash on the other?---No, nothing in my mind about that.

I see. Anything else that you wish to elaborate upon or explain in that paragraph?---No.

20 I see. Seeing as we're here let's look at, with that clarification or elaboration let's if we can examine this in the few paragraphs and I'll just ask you some questions about those because it's a central issue. Just the first sentence in paragraph 16 you say, "I have heard a number of complaints about John Buckley over the years most of these related to the pedantic nature of the way John reviewed the construction sites." And then you say, "And there was also an underlying theme that he was asking or expecting bribes or an incentive to move a job along." Are you able to estimate how many times complaints of this nature reached you?---No, I can't give you any estimated amount.

30 Was it a regular thing?---No, it wasn't, it just came up from time to time.

And can you recall any occasions when the complaints of the kind that you described were brought to your attention?---Yes.

Please do?---Okay. When I was in the audit group in about 2008 roughly it was brought to my attention that one of the team members in the audit group had receive a phone call from one of the Water Service Coordinators which related to a claim that John Buckley was requesting a bribe of some sort, the detail of that I don't really know.

40 I see. Is that the conversation you're talking about with Mr Price in paragraph 17 of this statement?---That's correct.

I see. So that's a particular matter that you've set out there. But perhaps before we get to that and perhaps to sketch some of the background you were until recently as I understand it although the name of the group has changed you were one of the auditors within Sydney Water whose job it was to audit the work of accredited constructors and Water Services Coordinators?---That's correct.

And you worked in a team with Mr Barnes who's given evidence before this inquiry previously?---Yes.

And Mr Price?---Yes.

And you ultimately reported to Mr Saxby and/or Mr Purcell who swapped over from time to time as the head of that group?---Not as the head of that group, they, they were a management level above.

10

I'm sorry. You're drawing a distinction but the group or the, the group in your mind or in Sydney Water organisational terms was you, Mr Price, Mr Barnes, anyone else?---Manager Phil Hammond at that time or Dave, Dave Young, I'm going over quite a few years there.

They'd be the manager of that team of three that you've described?
---Correct.

20

And then above, in the management level above that so reasonably senior within the Urban Growth division of department of Sydney Water was Mr Purcell and/or Mr Saxby who moved between roles but at the head if I can put it that way or at the next management level above, the one that you've described that you formed part of?---That's correct.

And as I understand it now Mr Purcell is the head and Mr Saxby's about to retire in the relevant part of Sydney Water but you've moved somewhere else?---I've move, still in Urban Growth, I've moved.

30

But out of this audit/compliance group?---That's right.

And when did you do that?---Around July 2009.

And you ultimately report up to Mr Purcell still or not?---No.

And you're not doing work involving accredited constructors and water service coordinators anymore?---No.

40

So just returning to paragraph 16, so as part of this group of you, Mr Barnes, Mr Price when you say, I've heard a number of complaints about John Buckley over the years" you're intending to convey that those complaints that you have heard have been over some much longer period of time than the 2008 complaint that you speak about in paragraph 17?---Correct.

Could they go back as far as ten years?---No, no.

I'll read it to you anyway and see whether, you were often involved in the external water council matters weren't you?---Yes.

And you'd often go to the meetings as a Sydney Water representative?
---Yes, that's correct.

I'll read you - - -?---Sorry, we're talking about the External Quality Council?

Quality Council I'm terribly sorry, yes. And I'll ask you some other questions about the water service coordinator group, you were right to pick me up. External Quality Council I'm talking about and you did often attend those meetings?---Yes.

Just look at what Mr Saxby has written for your comment and see whether you have a recollection of this one way or the other. He says, "I recall that some years ago probably between 2000 and 2002" so eight to ten years ago and he's talking about External Quality Council meetings, "two separate allegations were made about Mr Buckley requesting money or payment from accredited constructors to pass inspection." Now, in fair to you he says he remembers Mr Purcell being at the meeting, he doesn't expressly say you were there?---Ah hmm.

Do you remember such an occasion at an External Quality Council setting where two complaints were made about Mr Buckley requesting money or payment from constructors?---No, I wasn't part of the Quality Council in those years.

I see. When did you start?---About 2004.

And in all the time you were involved with the Quality Council do you remember, going back to your paragraph 16, whether any of the complaints you heard about Mr Buckley over the years were in the context of Quality Council meetings?---No.

You don't remember or you do remember and there were no such complaints?---No, I don't remember that there were any complaints in the Quality Council about John Buckley in that period.

In paragraph 16 when you talk about having heard a number of complaints were they from accredited constructors or water service coordinators as far as you remember?---Water service coordinator and the audit group people, people in the audit group.

I see. But dealing with them one at a time you said water service coordinator singular do you have a person in mind?---Only this call that came through to John, Jim Price from Phil Farrell, that's the water service coordinator I'm referring to.

I see. So, and that's the subject matter again of paragraph 17 of your statement. So that's Mr Farrell on the one part, Mr Price on the other and

we'll come to that in some detail but that's what you draw attention to. Then you say members of the audit group, that's the internal audit group within Sydney Water?---No, our Supply Performance Audit Group.

I see. And on what occasions did the Supply Performance Audit Group, on what occasions did you hear a number of complaints about Mr Buckley in relation to the Supply Performance Audit Group?---These were just comments between Jim Price, Ian Barnes and I just off-handed comments.

10 Can I take that up with you, Mr Hammond. Do you say over a number of years that the discussion of some kind between you, Mr Price and Mr Barnes about Mr Buckley and there being an underlying theme that he was asking or expecting bribes or an incentive to move the job along?---That's correct but they're not deep discussions they were just comments made that that's what, what the audit group, people in the audit group knew and that information was being passed on to me.

Can I just take you up about that for the moment. You do say in paragraph 16 in the first sentence, "I've heard a number of complaints about John
20 Buckley over the years", that's what you're talking about complaints?
---Yes.

And then you say second sentence, "Most of these complaints again related to the pedantic nature." And then you say in relation to the complaints that there was an underlying theme, he was asking for and expecting bribes. So is the Commission to understand when you say you heard those complaints they were complaints made to Mr Barnes and Mr Price which were relayed to you?---That's correct.

30 I see. And did Mr Price or Mr Barnes tell you who had made the complaint to them?---No, there was no detail in it.

When you say there was no detail, did they say a complaint has been made about Mr Buckley, the underlying theme of which is asking for or expecting bribes but I don't know anymore about it?---I just, I just didn't understand that, could you repeat it?

I'm just taking you up on, it's your language, Mr Hammond. We're talking about complaints that you have heard over the years, that's the subject
40 matter?---Yeah.

And what you're saying to me are you is that you have heard that complaints were made to Mr Price and Mr Barnes which they then relayed to you, that's what we're talking about?---That's right.

And those complaints had an underlying theme that Mr Buckley was looking for a gift or a bribe to move a job along and though you didn't know

what the precise gift or bribe was, that's what you understood the complaint to be?---That's correct.

Over what period did Mr Price and Mr Barnes report to you that they'd been receiving such complaints?---Probably from no sooner than 2005, that's why we joined up into the audit group - - -

Yes?--- - - - and we were working together in that group and just in discussion those things were brought up.

10

Yes, and that's between '05 and when you left in, what, mid-last year to go to another group?---Yes.

Mid '05 to mid '09, just to be clear?---Probably not to 2009, probably, those comments probably finished much sooner than 2009. It wasn't, it wasn't an ongoing discussion but the timeframe for those discussions wouldn't have started before 2005.

20 I see. Just, so the Commissioner should understand when you say in paragraph 16 that you've heard a number of complaints about John Buckley over the years, the years that you're talking about are '05 until '08, is that - - -?---Possibly, yeah, yes, that's right.

And other than the particular one in relation to Mr Price you deal with in paragraph 17 there were a number of such occasions when either Mr Barnes or Mr Price told you I have received a complaint about Mr Buckley, the underlying theme of which is his expecting a gift or a bribe to pass some work?---That's correct but - - -

30 Sorry, go on?---They're not current complaints or discussions going on from day to day, year to year, it's just, it's an overwhelming sort of comment that was made that, they weren't, they weren't ongoing comments or ongoing discussions.

THE COMMISSIONER: Why weren't they investigated?---I can't answer that.

40 Why can't you answer it?---I wasn't privy to that information, the detail of that information or the detail of any investigation prior to 2005.

Was it a matter of concern to the people who mentioned it to you?---I'm sorry?

Was it a matter of concern to the people who mentioned it to you?---Yes, yes it was.

Why do you say that?---Just the way it was brought up, that we had these ongoing issues with Corrective Actions being raised, the statement about

bribery was only sort of thrown in every now and again and the bribery is - -
-

Mr Hammond, sorry - - -?---The bribery yeah, is a major concern.

10 What I don't understand is that if this issue was mentioned at this committee more than once, in fact on a number of occasions, that is the issue of the underlying theme of bribery, how would it just have been left?---Well, I don't think it was left, I think, going back over this it was raised in earlier years and had been addressed by the audit group at that time or the supply and management team at that time.

But my impression from your evidence is that these theme continued to be played after it had been addressed?---Correct.

But you can cast no light on why people, although people kept mentioning it it didn't seem as if anyone had done anything about it?---It appears that way.

20 MR PAYNE: Mr Hammond, as you know this Commission has compulsory powers to obtain documentary evidence. Do you, and I'd ask you to accept from me that a request was made for all documents recording any complaint or investigation into a complaint in relation to Mr Buckley going back forever within Sydney Water and other then some emails from the wife of an accredited constructor, Mr Aoun in 2008, nothing was produced. Does that surprise you?---Yes.

30 Did you, were you asked to look for documents concerning any investigation as a result of the complaints that we've been discussing that you had been informed of by Mr Price and Mr Barnes?---No.

Did you ever make any record yourself, doing the best you can, any documentary record of conversations or complaints concerning bribery and Mr Buckley?---Well, I would have had a complaint come directly to me.

40 I see. And your, the point you're making is the complaint as you understand it had come directly to Mr Price or Mr Barnes, and you were just being told by them that they had received a complaint, the underlying theme of which was a bribe was being sought by Mr Buckley?---That's correct.

THE COMMISSIONER: So really you regarded it as a matter for them not for you?---Correct.

MR PAYNE: And in these discussions when they were reporting to you that they had received a complaint or that, in any of these discussions, because I think as you say there were a number of complaints, but you can't put a number on them now?---Ah hmm.

In relation to any of those complaints you were told about by Mr Price or Mr Barnes, did they discuss with you whether or not they had passed that complaint on to anybody?---No.

Do you remember suggesting to them that it might be a good idea that they do pass the complaint on to somebody who might investigate it?---Like these discussions, these complaints we're talking about happened before, before we formed a group. And to my understanding they had been dealt with.

10

Well, can I ask you about that? Who told you they'd been dealt with?---It was, this is an assumption by me, that these things were raised before we formed the group in 2005. They would've been managed by the supply management team.

You say you made an assumption?---Yes.

Did anyone tell that these complaints that were being reported to you, which had been received by Mr Barnes and Mr Price had been dealt with by anyone?---No.

20

Why did you assume they'd been dealt with, Mr Hammond?---I just, I just felt it had been dealt with that way, like, I've got no answer for it.

I do want to give you every opportunity of dealing with it. You agreed with the Commissioner five minutes or so ago that once you heard that bribery was part of the complaint that had been made to Mr Price and Mr Barnes, that was a major concern. That was your state of mind I take it when you heard about this?---Correct.

30

And I take it as a diligent Sydney Water employee the thought that inspectors from civil delivery were going out and extorting money from accredited constructors as part of their work would've horrified you?
---That's right, it did.

So I ask again, why didn't you do anything about it, Mr Hammond?---As I said before I assumed it had been taken up prior to me finding out about it.

Well, let's just look at paragraph 16 again. You say I have heard a number of complaints about Mr Buckley over the years. Most of those complaints related to the pedantic nature of the way that John reviewed the construction sites and there was also an underlying theme that he was asking for or expecting bribes or an incentive to move the job along. So you tell the Commission the first time you heard it, that Mr Price or Mr Barnes told you that a complaint had been made. Your immediate assumption was it's okay, it's been dealt with. Is that what you're saying?

40

---That's correct.

Help me Mr Hammond, what was there in what Mr Price or Mr Barnes told you about the fact that they had just received a complaint that Mr Buckley was asking for a bribe that made you think it had been dealt with?---Well, to me it's not as though they just received a complaint. This is a, an issue that had been dealt with before, had been approached in earlier years before we joined up, before it was passed on to me. It wasn't something that was just brought up on the spur of the moment except for this one in 2008.

Well, can we read on in paragraph 16, Mr Hammond?---Mmm.

10

I really do want to understand what you're telling me here. You're talking then, you said a number of the complaints you received, you're telling me that, that other than the one in 17 there were a number of them and Mr Price and Mr Barnes were the people who received them. Correct?---Yes, that's correct.

And they were conveying to you that a complaint had been, the underlying theme of which was Mr Buckley was asking for money. You're nodding. You agree with me?---I do. Yeah.

20

But we've tied down the date, they told you that sometime between '05 and '08. Correct?---Yes.

So they told you then that a complaint had been made to them that Mr Buckley was asking for money and or a gift?---Yeah.

Just reading on, you say those, sorry, these complaints would normally come from a WSC through one of our members or the External Quality Council. So you're identifying that, as you say, there were a number of such complaints. Correct?---Yes.

30

And that they would come through either the a water service coordinator or one of the Sydney Water people at these, at these Quality Council meetings?---Or a representative from the accredited suppliers or water service coordinators at the Aquatic Council.

Absolutely. They'd making the complaint to the senior men from Sydney Water who are there representing Sydney Water. Mr Hammond, what about that course of conduct and the report that there had been those complaints right through the '05 to '08 period made you think that the matter had been addressed in any way let alone resolved satisfactorily?---I would just, I suppose that's the attitude of Jim and Ian.

40

THE COMMISSIONER: Because they didn't seem to be very worried about it?---That's right. Gave me the impression that these had been dealt with prior and were just providing information to me.

MR PAYNE: So although you regarded the fact that a complaint had been made alleging bribery about Mr Buckley as a major concern you were given an indication were you by Mr Price and Mr Barnes that they didn't regard it as serious so you assumed it had been dealt with?---No, that's not right. I didn't say they didn't, they considered it not a serious matter.

10 Well, please help me. We'll take it one at a time. Mr Barnes told you between '05 and '08, from what you tell me that at least on one occasion, perhaps more, he'd received a complaint that John Buckley was expecting a bribe or an incentive to move a job along. Correct?---That's right.

What was it in the way he conveyed that information to you that made you think that despite it was a major concern in your mind, that you didn't need to worry and take any further steps?---Just the fact that this had happened prior to us forming that group. That it had been dealt with by the supply management team before it formed into supply performance audit group.

20 Who were the people who you thought in the Supply and Management Team who had dealt with these complaints?---Say Jim, Jim Price, Ian Barnes, Fred Mattern.

I see. So you thought that a group involving Mr Price and Mr Barnes but not you including Mr Mattern had investigated these complaints do you?---I made that assumption, yeah.

And I think you told me earlier nobody actually told you that?---No.

30 Can I ask again what was it about the way the information was conveyed to you by Mr Barnes or Mr Price that these complaints had been made and bribes were involved, what was it that made you think that although you were concerned you needn't be?---I can't really, really recall anything than what I've already explained to you that, that things had been sorted out prior to that and John probably had nothing to answer for.

Did they tell you that John had nothing to answer for?---I don't recall that.

40 THE COMMISSIONER: Mr Payne, I really don't think that Mr Hammond is going to be able to cast anymore light on this, I think we should just move on.

MR PAYNE: Thank you, your Honour. Can I ask about paragraph 17 and a specific thing you do remember about Mr Price?---Yes.

So you put this conversation I think from what you told me a moment ago in 2008?---Yes.

So in 2008 Mr Price was telling you about one of the complaints about John Buckley so I take it that was a complaint recently made?---Yes.

And again the underlying theme of that complaint was that Mr Buckley was asking or expecting bribes or an incentive to move the job along?---Yes, that's right.

And WSC got in touch with Mr Price, that's Mr Farrell I think you told me?---Yes, that's right.

10 And wanted something done about him, something done about Buckley. Correct?---That's correct.

And you say in relation to this complaint, "I know that Jim went to the managers and escalated this up the line." The managers you're talking about are either Mr Saxby or Mr Purcell?---That's correct.

And then you say, "I'm not sure what the result of the matter was."? ---That's correct.

20 Do you know whether there was ever any piece of paper created within Sydney Water about this complaint?---No, not aware of any, any document.

Was it ever reported to you by Mr Price what the outcome of his complaint was?---No, it wasn't.

30 Do you know who the identity of the, well, I'm sorry. Mr Farrell is the person who got in touch with Mr Price, did you know whether Mr Farrell was asserting that he'd received a bribe or it was an authorised or accredited constructor that paid a bribe?---(not transcribable) to do with an accredited supplier.

Do you know which one?---No.

Do you agree, Mr Hammond, that in doing your work of monitoring these accredited constructors and WSCs it would've been at the very least very useful for you to know if these CARs that you're looking at day after day issued by inspectors were motivated in any part by bribery or the absence thereof?---Yes, it would've been important.

40 Because one of the main things you did in monitoring accredited constructors was to look for CARs that were issued?---Correct.

It's a matter of serious concern, it would have been a matter of serious concern to you if the CAR had been issued because a constructor hadn't paid a bribe to Mr Buckley I'd suggest?---Yes.

Something you would've done something about had you known?---Yes, correct.

And you tell the Commission that you expected the people who Mr Price and Mr Barnes that we've spoken about to have done something about the matter?---In this instance Mr Price he did do something, he went to management, reported that to management so I'm told from, from Jim. To me that would be kept very confidential between the managers of the different areas, I wouldn't expect that I would be included in any of the investigations.

10 But surely it was relevant in your work to know one way or the other as you're looking at CARs all day everyday issued by Mr Buckley. Correct?
---Yes.

Surely it would be relevant for you to know that on the one hand it's okay, we've looked at him and there is no problem with his work, you can treat this CAR as on face value as genuine, there's one possibility or the other possibility being Mr Hammond, please be careful of dealing with any CAR to do with Mr Buckley because we think he's taking bribes. Surely you should've, you'd expect to be told the response to this complaint?---No, that came out later.

20

I see. When did that come out?---It definitely came out at the, one of the Quality Council meetings.

Well, which one?---It was in 2008, I haven't got a record of which Quality Council meeting that came out of.

30 I see. So turn to paragraph 22 to be completely fair to you in your statement Exhibit P123. That's the reference there when Mr Saxby comes to a Quality Control meeting and said that an investigation has been done and that John was squeaky clean. That's what you're just telling me about is it? Is it the same occasion or is it - - -?---No, that's correct.

I see. So that you say is the outcome of the complaint made by Mr Price that you refer to at paragraph 17 to the best of your understanding?---I assumed that at the time that, but since, since then I found out there were two investigations going on on John Buckley, one was the Phil Farrell, Jim Price bribe one and I believe there was an investigation going on regarding all the Corrective Actions that had been raised by John Buckley.

40 Who was conducting that investigation?---About the Corrective Actions?

Yes?---That was being conducted by Jim Price, Paul Saxby and Gary Sinclair from Civil Delivery.

And during what year was that investigation conducted?---I assume it was 2008 'cause it came out in the Quality Council around 2008.

And was the occasion for conducting that review of all the CARs issued by Mr Buckley that Mr Price and Mr Saxby carried out was the occasion one of the complaints that you've told me made namely that bribes were being solicited in relation to the issue of CARs?---I can't answer, I don't know.

And just so I'm clear if you look at paragraph, Mr Hammond, when Mr Saxby tells the Quality Council meeting that Mr Buckley is squeaky clean that's 2008 you're talking about?---Yes.

- 10 And as you understand it there were twin investigations, one conducted by persons unknown in relation to the bribery claim that Jim Price had passed up the line to his superiors. Correct?---Correct.

The other an investigation being conducted by Mr Price himself together with Mr Saxby into CARs. Correct?---Correct.

To your knowledge was the Internal Audit department of Sydney Water ever alerted to either investigation?---No, I can't, can't tell you that.

- 20 That you don't know or you don't think (not transcribable)?---No, I don't know, I don't know.

Certainly so far as you know no one from Internal Audit was at this Quality Council meeting when Mr Saxby announced Mr Buckley to be squeaky clean?---That's correct. Can I just clarify that for a minute?

Yes?---Those words squeaky clean are not Mr Saxby's, that's another issue with this statement, that term squeaky clean is my term.

- 30 I'm sorry. So we understand paragraph 22 you've put squeaky clean in inverted commas, I had assumed that meant that because you say this, "Paul Saxby during the Quality Council meeting said that the investigation had been done and that John was "squeaky clean" and you're saying that wasn't said by Mr Saxby?---That's correct.

What did he say?---That the investigation had been carried out and John, John had nothing to answer to. Words to that effect.

- 40 Did you ever receive a report from Mr Saxby or from anyone else in your team such as Mr Price about what the investigation had involved to reach the conclusion that Mr Buckley had nothing to answer for?---No, I never saw a report, just a verbal comment from Paul Saxby that an investigation had been carried out and John had no, nothing to answer to.

Is it your understanding of Sydney Water's policies between 2005 and 2008 that it was acceptable for a complaint that an inspector had been soliciting bribes in relation to their work to be investigated without referral to your internal audit group?---I would expect it to go to the internal audit group.

And is it your understanding of Sydney Water's policies at the time that the only investigations of bribery which would be investigated are those that were made in writing rather than verbally?---No.

So that if a verbal complaint in relation to Mr Buckley came in, so far as you're concerned that would be passed to internal audit and investigated?
---Yes, that's right.

10 And if a water service coordinator had rung you and said something that you were told by Mr Price and Mr Barnes had been said to them, namely that a bribe was being solicited by Mr Buckley in relation to a job, I'll read this to you and tell me whether you think this in accord with Sydney Water's policy or not, would you have said, This is a serious allegation. You have a responsibility as a water service coordinator to back up what you are saying and it's no good just making a verbal as a verbal is not going anywhere?---I wouldn't say that.

20 Would you regard that as consistent or inconsistent with Sydney Water's policies as you understood them in 2005 - - -?---Inconsistent.

- - - to 2008. And clearly so?---Yes.

30 Can I ask you about paragraph 18 of your statement. You say there from talking to constructors and water service coordinators that you're aware that those people are reluctant to proceed with complaints about inspectors such as Mr Buckley for fear of reprisals, that's something that was, was and is well understood by you, that the difficulty that people had in making complaints in effect to the organisation which employs the person who they're complaining about?---That's correct.

Do you, have, I suppose in fairness to you you say that if an oral complaint was made to you you at least would have done something about it because you regarded bribery as a very serious matter and you would have passed it straight to internal audit you say?---Not directly to internal audit, I'd take it to one of the area managers such as Paul Saxby or Steve Purcell to, for them to deal with and move it up to internal audit.

40 But it's your understanding, your recommendation at least is that, is that a complaint such as you understand had been received by Mr Price and Mr Barnes in '05 to '08, you would have recommended they'd go to internal audit I take it?---In the long term, yes, in the long run.

It being a verbal, ticking all the boxes, a verbal complaint, Sydney Water employee, bribery?---Yeah.

It had to go to internal audit as you understood the - - -?---Yes.

And if you had received such a complaint I take it you would have made a record of it so that those coming after you who had to consider CARs made by the gentleman concerned and perhaps another complaint would have known that there was a history of complaints from different people, agreed?
---Yes.

10 And you can give no explanation to the inquiry why, why there's not a single bit of paper about any of the complaints that we've been talking about up to and including the one where Mr Saxby announces that Mr Buckley is, in your words, squeaky clean?---I can't understand why there's no paperwork on it.

Have you ever seen any?---No, not that I recall.

Excuse me, Commissioner, one moment.

20 THE COMMISSIONER: Mr Hammond, Mr Buckley had been at Sydney Water for a long time. Was he friends with, was he a friend of yours?---No, he was a work colleague. I knew him from going out in the field, talking to him over the phone about Corrective Actions.

Did you regard him as a mate?---No.

Was he friends with the other members on the External Quality Council?---I can't answer that, I, I - - -

You don't know?---No.

30 Was he a friend of any of the supervisors?---I can't answer that either. I don't know.

MR PAYNE: Perhaps just finally, Mr Hammond, knowing that you do now about Mr Buckley and his admission of accepting cash payments over a decade or so, do you tell the Commission, looking back and in hindsight I accept that you would have done anything different in relation to the complaints that were reported to you that we've been discussing this afternoon?---I possibly would have followed up those earlier complaints that Jim Price and Ian Barnes brought up to me, in hindsight.

40 And have ensured that an investigation of some kind was carried out?
---Correct.

I have nothing further for this witness, Commissioner.

THE COMMISSIONER: Mr Lee, you're still here, do you want to ask some questions?---I do, Commissioner.

MR LEE: Mr Hammond, I represent Mr Buckley, do you understand that?

---Yes.

Am I right in saying that between the period 1994 to 2009 you were doing the audit work that you spoke of and Mr Payne was asking you questions?

---Yes.

10 And in that period of time if a dispute about a CAR arose between a constructor or a WSC on the one hand and a Sydney Water inspector on the other that needed to be resolved, that matter would have gone either to yourself, Jim Price or Ian Barnes, is that correct?---Correct.

And in that period of time, '94 to 2009, there's been no occasion where you've had to overturn a CAR issued by Mr Buckley, is that correct?---I've never overturned a CAR from John Buckley.

I have no further questions, Commissioner.

20 THE COMMISSIONER: Have you ever overturned a CAR from anyone else?---No.

You're quite a lenient inspector then? Do you think that these inspectors, sorry, inspector, do you think these inspectors never make mistakes?---Just reviewing John's CARs - - -

But I'm talking about others as well?---There weren't many CARs written by others.

30 Was he by far the most, did he issue the most CARs by far?---From the Civil Delivery area, yes.

THE COMMISSIONER: Mr Stevenson, do you wish to ask any questions?

MR STEVENSON: I have no questions, thank you.

THE COMMISSIONER: Yes, you're excused, thank you, Mr Hammond.

THE WITNESS EXCUSED

[3.19pm]

40 THE COMMISSIONER: I call Mr Price.

MR STEVENSON: I seek leave to appear for Mr Price and no section 38 order is required.

THE COMMISSIONER: No. Mr Price, do you wish to give evidence or do you wish to affirm the truth of your evidence?

MR PRICE: Under oath.

THE COMMISSIONER: Yes. Swear Mr Price in.

MR PAYNE: Mr Price, what's your full name?---James David Price.

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

Can I show you a document. Is that the statement you've made?---That's correct.

10

Now I understand from Mr Stevenson that in respect of paragraph 18 you wish to elaborate on what's set out there. Do you actually wish to correct it as well? Just take a moment to look it over?---No, that's fine. It's fine. No, I don't. We spoke to, Mr Stevenson spoke about it this morning and I'm quite with it. It stays as it is.

MR PAYNE: It stays as it is. Mr Stevenson wants to explain something to you, Commissioner and I don't object.

20

MR STEVENSON: Commissioner, I put certain matters to Mr Farrell that you would've heard which were specific and related to Mr Price. I think it'd be to Farrell if I were to ask Mr Price a question about that now to clear that up.

THE COMMISSIONER: Yes.

MR STEVENSON: Mr Price, you recall, you were in the room this morning when Mr Farrell was being examined?---That's right.

30

And you recall that I put to Mr Farrell some matters relating to your paragraph 18?---That's right. Yes.

And you recall Mr Farrell responded by, I'll be specific, I put to Mr Farrell that he had, I'll start again. I put to Mr Farrell that he had spoken to you in terms that you set out in paragraph 17 of your statement?---That's right.

And that then Mr Farrell rang you back - - -?---Yes.

40

- - -and said something to the effect, thanks very much for forwarding my complaint to management?---Yes.

Do you remember that?---Yes.

You heard Mr Farrell's response to that today?---I did.

And you recall he said he couldn't remember that?---Yes. Yes.

But that if he had called you back and been a bit cranky with you - - -?

---Yes.

-- -it could've been because of Mr Saxby's response to Mr Farrell's call. Do you remember Mr Farrell said that?---Yes, I do remember Mr Farrell saying that.

And is your case that, sorry, is your position that on reflection Mr Farrell may be correct in that regard?---Not really, no.

10 Sorry?---No. I think Mr Farrell, Mr Farrell's concern was that he was annoyed I think because basically that he was, he didn't want to be made the scapegoat that a complaint was - - -

Sorry, Mr Price, we have misunderstood each other?---Oh, sorry.

I'll sit down?---Sorry, sir, I - - -

MR PAYNE: We'll come to it Mr Price?---Okay.

20 We'll come to it. So there are no changes, you don't want to make any changes to the statement is what you're telling me?---I don't want to make any statements to that - - -

THE COMMISSIONER: Any changes?

MR PAYNE: Do you want to make any changes to the statement?---No, I don't want to make any changes.

30 Do you tell the Commissioner that the contents of this statement are true and correct to the best of your knowledge and belief?---Yes, I do. Yes, I do.

Commissioner, I tender the statement.

THE COMMISSIONER: Yes. The statement of Mr Price is Exhibit P124.

#EXHIBIT P124 - STATEMENT OF MR PRICE

40 MR PAYNE: Mr Price, you are a Sydney Water employee who work in the area which audits the work of accredited constructors, water service coordinators and designers. Correct?---That's correct.

You report, you're part of a group of people that, there's you and Mr Barnes at the same level?---That's correct.

Mr Hammond was a member of the team but has since gone elsewhere?
---That's right.

Is there anyone else in that team at the moment?---Yes, there is. There's a number of people in our team at the moment.

How many more?---We've probably got, I think there's about seven people in our group at the moment.

You and Mr Barnes are the most long standing members of that team?
---That's correct. That's correct.

10 And Mr Hammond before he left was also a long standing member of the team?---Yes.

The next layer of management up from you within urban growth included Mr Saxby, but he's about to retire having done consultancy elsewhere in Sydney Water for the last six to eight months. And Mr Purcell is now the head of your area of urban growth?---That's right. Yes. Mr Purcell is my boss, that's correct.

20 And is there any layer of management between Mr Purcell and you or is there - - -?---Yes, I have a boss by the name of Ray Blinkhorne.

And he's been there for how long?---He's probably been there probably six months.

Six months?---Prior to that I had Peter Gray as my boss and prior to that I had Phil Mallin who was my boss.

30 THE COMMISSIONER: How many of these people have ever been inspectors themselves before?---None of the three that I've just mentioned had been inspectors. The only inspector prior to those was Dave Young, who is now retired.

And you've never been an inspector?---I am an inspector at the moment.

You are one of the - - -?---Well, I am an auditor, yes.

MR PAYNE: Just to be clear what you're telling the Commissioner is you're an inspector or auditor within urban growth?---In urban growth.

40 And what you inspect or audit is the accredited constructors - - -?---That's correct.

- - - and the designers, WSC's et cetera?---That's correct.

The service providers to Sydney Water?---That's correct.

You're not an inspector and have never been an inspector of the kind that Mr Buckley was within civil delivery and maintenance?---In regards to the

providers and the accredited industry, no, I'm not an inspector for construction for the maintenance side of things, no.

And if I can put it this way just to shortcut things, when a development application is made for a sewer connection or a water connection for a new development it comes to urban growth, your department. Correct?---Yes.

You're responsible for the paperwork at the outset and for saying yah or nay?---That's correct.

10

There is then a process where the physical work is designed by a designer, a water service coordinator is appointed to do the work and an accredited constructor is appointed to actually build the thing?---That's correct.

At the end of the process, jumping ahead or throughout the process you randomly audit and you randomly inspect the work of the accredited constructors, designers et cetera - - -?---Yes, I do.

- - - on a random basis?---Yes, I do.

20

And at the end of the process all the paperwork comes back to urban growth, your department?---Yes.

And a Section 73 certificate is either granted or declined by your department?---That's correct.

In the middle of all of that there are various hold points in the job, pre-connection, connection, post-connection where somebody from a different department, namely maintenance - - -?---Yes.

30

- - - comes out and does an inspection?---That's correct. That's part of their agreement.

That's part of their, part of their work?---Yes.

And as you understand it Mr Buckley and Mr Funovski and Mr Kane are from that separate civil delivery department within Sydney Water?---That's right.

40

They don't report to you?---That's right.

You don't inspect their work?---That's correct.

Never looked at it as far as you know?---When I say never looked at it, no, I don't, it's not my responsibility to look at them. Whether I'm looking at the accreditation of the suppliers, the providers and, yes.

Well, we'll come back to perhaps suggestions in the future. But you've had a chance to look at the transcript and you've seen the evidence of the acceptance of cash payments by inspectors - - -?---Yes, I have.

- - - from civil delivery, at least the three people that have given evidence before this inquiry?---Yes, I have.

10 Do you think it would a sensible suggestion for the future that such inspectors who it seems are effectively not supervised within civil delivery, that they were to move to urban growth so that within that hierarchy where you've got the responsibility for issuing a Section 73 certificate, you take responsibility for what these people are doing?---Yes, I do. I put that, I tried to put that process in place years ago, so yes, I agree. Totally agree. That's my belief. I've always wanted that to happen.

And for whatever reason that didn't happen. It did not happen?---No. It never happened, no.

20 Is there any proposal to that effect within Sydney Water at the moment so far as you're aware?---Not at the moment, but I'd like to see further down the track that that's what happens and we get professional people to do this role.

Quite. I was going to put to you that the other striking thing perhaps about these inspectors is that whilst they (not transcribable) a great deal of on the job training and experience that they've gathered over the years - - -?---Yes.

30 - - - it would be sensible if people doing this work actually had a more vigorous series of training so that they were better equipped to perform the role?---Totally agree. If I can just say to you, in 2000 when they took this role on, I facilitated a training course for them. I asked the civil delivery for players to play the role, to do the inspection role and there I given injured workers. And so their, so their, so basically what we had to do was we had to start from the ground up to train these people. I did attempt to train them. We sent them to training workshops as far as learning how to read designs and learning how to read standards. Over the years they started to realise the importance of this job and we started to get people in there that started to do the job the way it should've been.

40 And I'll just take that up for a moment?---Yes.

They gave you injured workers, namely people incapable of performing the role of inspectors (not transcribable)?---I wouldn't say, I wouldn't say incapable. The problem that we had was civil delivery were more or less what you were saying before, a maintenance group.

Yes?---Their priority was repairing broken mains. And our process developer work inspections just wasn't treated as a high priority. It was a

low priority to them. That's why they, they come forward with injured workers until I got my point across that our process was just as important as what their process was. And over the years they, we built up a, a group of people that we could rely upon.

Are you involved in training of that group at the moment?---I'm not involved in training but I know that we do facilitate some training. We facilitate flow management that we have just recently, we facilitated e-Developer training, we've facilitated CAR training so there has been
10 ongoing training by our Urban Growth business.

You haven't been doing it, do you know who has been doing it?---No, I haven't, yes, members of my, my, my, my group have been training.

People that report to you?---No, they don't report to me.

People on the same level?---People in my, in Urban Growth business have different roles to play.

20 And going back to where we started surely it would be a much better process if within Urban Growth you were involved in actually checking their work and warranting its soundness given that you're responsible at the end for the section 73 certificate?---No, everyone's got different roles to play and if you got involved in every aspect you'd be pulling your hair out.

So you're happy that Urban Growth and Civil Delivery stay separate. Is that what you're saying?---No, I'm not, I'm not saying that, I'm saying to you that I, I agree that the, probably the Urban, the Civil Delivery should be, yeah, probably not have a role in, in, in the Urban, in the, inspections of the
30 Urban Growth.

I see. You in effect trained your own within Urban Growth and do it in-house as needs be rather than have this separate offshoot over in Maintenance?---Yes.

I understand. Can I go straight to the heart of the questions that I want to ask you about, Mr Price?---You certainly can. Yep.

40 And that's this question of complaints made about Mr Buckley and in particular that he was receiving cash payments to pass work or not pass work, bribes?---Yes.

You were present in court when Mr Hammond gave his evidence?---Yes.

Were there a number of occasions between 2005 and 2008 when complaints were made to you that Mr Buckley was soliciting bribes in order to pass work or not pass work?---I would not say there was a number of complaints, there was one complaint that I've just mentioned before that Mr Farrell had,

had brought to my attention and I followed the protocols and, and reacted to that straightaway. As far as the number of complaints go we were an audit team and we had our audit meetings and probably some of those discussions will have been discussed, out in the field you would hear that there were allegations and I underline allegations but you didn't have any hard evidence that Mr Buckley was on the take but we had, we had a duty of care and a responsibility to raise these issues and that's what we did.

10 THE COMMISSIONER: Mr Price, ordinarily with bribes it's really difficult to get evidence?---Yes, it is.

And usually one starts in the process of finding out about bribes when you receive allegations. It's very rare to be presented with evidence isn't it? Has that ever happened?---Well, well, I go back to when I was first trained in Sydney Water, we had an anti-bullying policy and it was that don't get involved in things that you know nothing about, you've got no evidence, don't stick your neck into things that, that if you've got no hard evidence and that's the way that we've, we've been trained is to don't get into conflict when you can't produce the goods. That's the way that - - -

20

So if someone says to you look, there's a very strong, that Mr X has a reputation for taking bribes and you say well, just give me instances and he said I can't but I can tell you that it's just generally accepted amongst contractors that he takes bribes, that's not something that you would, that's something you would just dismiss from your mind is it?---No, that's not right. I mean when, when Mr Farrell come to me with a verbal allegation I totally followed the protocol and knew my responsibility to report that so I would report, if someone came to me with an allegation like that most definitely I would have no hesitation in reporting that.

30

What do you mean by protocol?---Well, protocol, what I've been trained is that if someone's making, if someone's telling me that Joe Bloggs is, is, is getting a bribe or asking for money I'm not just going to sit there and let it, and not do anything about it. I've got a responsibility, a duty of care to, to report it which I have.

Who trained you in this protocol?---In my audit training that I've had.

40 And when did this take place?---It took place in the early 2000s.

And what precisely were you told?---I, I can't, I can't totally remember.

I'm not asking word for word but what's the gist of it?---Yep. The gist is that you've got a responsibility, you know, you've got to, you've got to have some integrity about yourself and when you're an auditor you've got a responsibility to report things and that's what I have.

What I at the moment don't understand is when is an oral allegation something that's not strong enough to report and when is an oral allegation strong enough to report?---That's a very difficult question because - - -

What's the protocol on that?---Well, that's very difficult. I've always wondered that. Can someone just say something about somebody and then you've got to report it, what evidence have you got?

10 Well, I'm asking?---Well, that's, that's what I'm saying I can't answer that, Commissioner, I, I've got no answer.

How do you react?---I would like to have some evidence, I would like to see some strong evidence of, of - - -

Before taking any action?---Certainly. I'd like to see somebody back-up their statement if they're going to make a statement or if they're going to say something I, I - - -

20 So if a person doesn't back-up the statement you'll ignore it?---You, you'd like to have some information that you could back-up to be able to - - -

I understand that?---Yes. Yes, so I - - -

If you didn't have it you'd ignore it?---Probably so. That's the way I've, I've, I've been trained, yes.

And have all the people in your position complained in that way?---I wouldn't, I couldn't speak on everyone's behalf, no.

30 But do you get different training or do you all get the same training?
---Depends on, our business changes from time to time and that anti-bullying policy is not in now so, so no, we don't get all this training.

How do you expect a contractor to provide you evidence of a bribe? What is evidence of a bribe, hard evidence that you're talking about, what is it?
---I would like to see him personally come forward to me and report those allegations directly to me and then I, then I would tell him to, to put in writing or I would then follow it up but not once has anybody come forward to me apart from Phil Farrell.

40 Would you tell him to put it in writing?---If he, well, again I will contradict what I'm saying, if he did come to me personally I would take it up on his behalf.

Why did you mention put it in writing?---Because, I told you before because that's how we were trained and unless you had strong evidence then you could be accused of, of, of something that's not true if you haven't got the strong evidence to back it up.

So strong evidence is something in writing is it?---I personally believe so.
Again - - -

So if you don't get something in writing you wouldn't take it further?---No,
that's not true. If I, like I said, Commissioner, if someone came to, if
someone come to me with a, with a, an allegation I would then take it up on
their behalf.

10 Now, Mr Price, is it the case that from time to time in your career in this
position you've received oral complaints about bribery not just Mr Buckley
but others, rumours?---No.

Nothing?---Nothing.

But you received a complaint about Mr Buckley?---I've received complaints
from Mr Farrell about Mr Buckley.

20 Is that all?---And I've received some, there's been hearsay out in the field
but no one has personally come to me. And then we've had audit meetings
to discuss that the word around is that Mr Buckley was taking bribes but no
one, no one verbally come forward or no one physically come forward to, to
report it.

What do you mean by hearsay out in the field?---Well, it's just, I mean I'm
out in the field and the word was around that - - -

30 I don't understand what that means. I mean, you're not, the word is around
- - -?---Yes.

I don't want to be frivolous but - - -?---Okay.

- - - but I mean the word - - -?---Yes.

- - - unless you're Joan of Arc - - -?---Yeah.

- - - someone has actually got to tell you?---Yeah, okay.

40 So, and I take it you're not Joan of Arc, someone has actually been telling
you things?---Well - - -

You're not hearing voices?---No, okay. I understand where you come from.
I was a member, I was a member of the, occasionally I frequently went to
the External Quality Council and those, those words were bandied around at
the meeting.

No, I'm talking about out in the field, Mr Price, you said you heard rumours
out in the field?---Yes, I did hear - - -

Now, what did, who told you things out in the field?---There were certain, certain WSCs, there were certain constructors but they never, never wanted to put a verbal complaint in or make a oral complaint to me, it was just a statement that they would make and it was never, sorry, specifically on a, on a - - -

All right, I understand, thank you?--- - - - on the constructor.

10 Yes, Mr Payne.

MR PAYNE: Mr Price, I think what you first said before the, as the Commissioner was asking you questions is that out in the field you would hear allegations - - -?---Yes.

- - - but there was no hard evidence and that you had a duty of care, I take it you regarded yourself as having a duty of care to Mr Buckley and his reputation?---No, no, no, no, no. I had a duty of care of the industry, of Sydney Water.

20

A duty of care to Sydney Water?---Well, when I say a duty of care I mean I had a, I had a responsibility and, yeah, and - - -

And you regarded reporting the allegations you'd heard to your superiors or to internal audit within Sydney Water as a breach of your duty of care to Sydney Water, is that what you say?---Yeah, I suppose so, yes.

30

And you understood that, that was your responsibility to Sydney Water as set out in the various protocols and manuals of Sydney Water?---If it was in writing, yes, if, yes.

If what was in writing?---If there was allegations or - - -

I'm asking you about the allegations you say you heard out in the field - - -? ---Yes.

- - - and the reason you didn't pass them on?---The reason I didn't pass them on because they weren't in writing.

40

I see. And you understood that the absence of writing to be a Sydney Water policy that you were giving effect to, namely you were performing your duty of care to Sydney Water in not passing them on?---No, no, no, not necessarily, no.

THE COMMISSIONER: I thought you said that was part of the protocol. Am I wrong? I may be wrong?---Well, okay, okay. As I was saying there is that we were trained initially to sort of, to say don't get involved in, in things that you've got no hard evidence to back up what you, what you - - -

And you regarded hard evidence as writing?---I certainly did.

MR PAYNE: Can I take up something else you told me. As I understood what you were putting, you understand Sydney Water's anti-bullying policy - - -?---Yes.

10 - - - to involve the proposition that unless you get the allegation of corruption in writing again you shouldn't report it to your superiors or internal audit because that would be bullying so far as Mr Buckley was concerned?---No, I didn't say that. I'm saying that if, if, what I'm saying is if, yeah, what I'm saying is that if we didn't have enough, if someone came to me and just made an off the cuff statement and I didn't have enough, yeah, I wasn't going to be willing to take it up because I didn't have enough evidence.

THE COMMISSIONER: Mr Price, there's something else, excuse me, Mr Payne. There's something else I wanted to ask you?---Okay.

20 As you've said you, you heard the word out in the field - - -?---Yes.

- - - about Mr Buckley?---Yes.

And for reasons that you've explained you did nothing about that?---No, that's not true, I, when Mr Farrell - - -

You did something about Mr Farrell - - -?---Yes, yes, I did.

30 - - - but on the other occasions you did nothing about it?---(NO AUDIBLE REPLY)

When you heard the word - - -?---No, that - - -

When you heard the word out in the field you didn't get anything in writing so you decided that really in accordance with how you'd been trained you should ignore it?---That's not, that's not true. That's not true.

40 Well, then I've misunderstood you. Perhaps you could just explain why it is that you did nothing about it when you heard the word out in the field?---It's not that I didn't do anything about it, I discussed it, we discussed it with our, at our audit team meetings and I took it to management and we decided to have a look at John's, John Buckley's CARs to, to follow it through to see if there was, what was happening.

But isn't it true that you received many complaints long before this?---Not, not many complaints.

But you received some complaints?---We did receive some complaints.

Long before this?---Yes, Commissioner, yes.

And you didn't do anything about those?---We investigated the CARs that John had raised.

Yes, all right. Then suddenly after a number of years of these kind of complaints being made a contractor's wife complained in detail and ICAC became involved?---Right.

10

Were you glad?---I was, I was certainly glad because - - -

You were really happy about that, were you?---Well, I wasn't, I wasn't happy about that, I was, I was, yeah, I wasn't privy to - - -

Why weren't you happy about it?---I wasn't privy of the, of the lady coming forward, I'm not aware of that.

20

But you knew who she was?---No, I'm not, I'm not privy to, to - - -

Did you know that Mr Aoun had complained?---I did know Mr Aoun had.

Were you happy that he complained?---No, I wasn't happy about it.

Were you angry with him that he complained?---No, I wasn't angry with him.

30

Well, what emotion did you have about his complaint?---I didn't really have, have an emotion.

You were absolutely neutral were you?---Well, I just wanted the, the, I just wanted the issue, the issue solved.

Are you glad this inquiry is taking place?---Yes, I am glad the inquiry is taking place.

40

You're glad that all of this has been exposed?---I'm not glad that it's exposed by, by what it's doing to Sydney Water but I'm glad that it's, it's got to this stage now, yes.

Do you approve of the contractors telling ICAC about all this bribery that's been going on?---Again, Commissioner, it's something that's been out there and it's something that, it probably should have been sorted out years ago and unfortunately it, it never has been.

No, so do you approve of them doing that, what they've done?---I certainly do not. Again - - -

I don't mean approve of them paying bribes?---Yes.

Approve of them, if I may use the colloquialism, spilling their guts?---Well, they've got a right to do that.

Do you approve of it?---I approve of them coming forward, yes.

All right. Yes, Mr Payne.

10 MR PAYNE: Can I ask you then Mr Price about paragraph 17 where you set out what you say to Mr Farrell when he raises an allegation about Mr Buckley - - -?---Yes.

- - - and you understood him to be raising that in cash payments, I take it?
---Yes, I do.

20 And what you said to him there about putting it in writing, that's a reflection of the policy of Sydney Water as you understood it about such allegations?
---Well, not so much a policy but it was, it was something that us as trained auditors had never really ever been trained in how to deal with corruption. It was just our understanding that put something in writing and then we'll follow it through.

Just taking you up about that?---Yes.

And no doubt Mr Stevenson can re-examine you if - - -?---Okay.

- - - there's something to the contrary but - - -?---Yes.

30 - - - is what you're saying that you've never had any training that actually helped you work out what to do about these oral allegations of corruption? Is that what you're saying?---That's, Mr Payne, that's totally correct. I mean, when you're dealing with corrupt, corrupt activity supposedly it's very difficult for me, I'm not a policeman or have been trained in that area of work, my role is to audit the work of the provider out there, not look at corrupt activity out there and it's never been my role.

THE COMMISSIONER: No, I understand that - - -?---Yeah.

40 - - - and that's an important issue?---It is an important issue.

Your job really is to deal with the, to audit the technical aspects of the work?---You're 100 per cent correct.

And your job so far has not been to look to see what quality of integrity has been shown by the people doing the work?---That's correct.

MR PAYNE: And what you were saying about put it in writing, that was doing your best with what you say was limited training or understanding of Sydney Water's policy to, to do your best by Sydney Water to make sure that only things that you regarded as fair dinkum went forward as a complaint?---No, no, no, not fair dinkum, you know, when, when I had a, when I had a colleague that was a WSC who was a respected member come to me with, with, with an allegation like that I told him that he had a responsibility to put it in writing and, and, and make a verbal complaint because what he was, what he, and that's, going back to Mr Stevenson
10 before, what Mr Farrell was trying to do was he wanted me to follow the complaint through on his behalf and I wasn't willing to do that, it was his responsibility to go with it.

Could I just take you up on that. It's the last part of that sentence I wanted to ask you about?---Yes.

You said to Mr Farrell, these are your words, it's no good just making it verbal, as verbal was not going anywhere. That was your state of mind about verbal complaints at that time?---Well, because it was only my word
20 against his. And so I, I wanted to make sure that I had something to back myself up when, if he, if he refuted my statement, that I had something in writing from him that I could then fall back on to say, there it is in black and white. I've got a statement from him to say that he did, that he did make the complaint. Otherwise, if verbal, if I turn around to him and said, well, you did say it and he says I didn't. Well, I've got nothing to back anything up.

You were worried about the repercussions to you within Sydney Water about being someone who'd blown the whistle about Mr Buckley were you?---That's not right. I've never had any problems with that. I've always
30 stood up for myself, I've always stood up for Sydney Water and if John did something wrong or someone did something wrong, I'd always go in there and, and issue a corrective action or, or take a stance that it was wrong. So no, I'm not worried about myself.

Well, what's your thought process about requiring Mr Buckley to put in, Mr Farrell to put it in writing about Mr Buckley? How could it possibly blow back on you if you were passing on something he told?---Because, okay, because I'll go, I'll go back to, I'll go back to when I said there was, out on
40 the field there was always rumours, there was all this innuendo. I wanted this to be in black and white so that we could go through and follow this through and, and get some action to happen on this issue. Because we weren't going anywhere with it. It was only all perceived allegations and we had nothing in black and white. I was hoping that this would be the, the instigator that would stop this supposedly John Buckley corruption thing escalating further. So I was hoping that this would start it off.

So your belief was at the time is that Mr Buckley was likely to be corrupt, but you wanted a bit of paper from Mr Farrell to take it further. Is that what

you're saying?---It would've been nice for him to, to have, you know, to have come forward. Mr Buckley, Phil was saying that he witnessed this happening, so I'm saying, if you're saying that you witnessed it happening, well back up your statement. I didn't witness anything happening out in the field there.

10 Well you know don't you that Mr Saxby told the External Quality Council that all of these people including Mr Farrell there in 2008, that he'd conducted some sort of investigation into Mr Buckley and that Mr Buckley had no case to answer. You knew that didn't you?---I did know that, yes, I did. Yes.

Well, were you involved in that investigation?---I was involved in part of the investigation.

20 Did you involve Sydney Water internal audit in that investigation?---I'm not too sure about the whole investigation. I was, I was asked by Mr Saxby and, and also going back on my new recruit, Mr Hammond, Gary Sinclair, who was at the time the civil delivery manager, he was involved in the, the auditing of the CARs process.

And so far as you were aware anyway - - -?---Yes.

- - - in the part of the investigation you were involved in it didn't involve internal audit or anyone who on your explanation had actually been trained in investigating corruption?---That's right.

30 And as you said a moment ago, you weren't trained in investigating corruption. You didn't feel yourself equipped to investigate corruption. Correct?---That's correct.

THE COMMISSIONER: You didn't think it was really part of your job. Your job was to, as far as you saw it was to look after the technical side of the work?---That's correct, Commissioner.

MR PAYNE: Looking back, Mr Price, it wasn't much of an investigation into Mr Buckley's alleged corrupt conduct was it?---Say that again, sorry?

40 Looking back - - -?---Yes.

- - - it wasn't much of an investigation into Mr Buckley's corrupt conduct so far as you were concerned was it?

MR STEVENSON: Commissioner, can I suggest again that whatever answer this witness gives to a question of that generality will not be of assistance. (not transcribable)

THE COMMISSIONER: Mr Stevenson, I understand. I don't think it matters.

MR PAYNE: I'll ask another question.

THE COMMISSIONER: I mean, I mean Sherlock Holmes was an approved - - -

10 MR PAYNE: (not transcribable) your Honour. Can I ask you about some evidence that Mr Barnes gave. Were you here when Mr Barnes gave his evidence?---Yes, I was.

Mr Barnes, you recall said that over the last 10 years he'd received two or three phone calls from different constructors who complained about Mr Buckley and his, what he understood they were telling him, although they didn't use those actual words, was that for a specified fee inspection results could be manipulated or streamlined. Do you remember hearing him say that?---Yes, I did hear him say that.

20 You had a discussion with him and Mr Mattern didn't you about those matters at some time between 2004 and 2008?---No, I did not. And, and, and I've got to put it on record here now that Ian walked out of here yesterday and apologised to me that, to say that he could not recollect me having a conversation with him and he apologised to me.

30 So when he wrote in his statement and swore to the truth of it that I also told Jim Price and some of the other audit guys about these phone calls, but the consensus was that without any further evidence it was hearsay and nothing further could be done about it, you say that was untrue?---That's correct.

THE COMMISSIONER: And you say that he told you after his evidence that it was untrue?---That's correct. That's correct.

I think we'll have to call Mr Barnes back.

40 MR PAYNE: I want to be quite clear about this, Mr Price, because this is a serious matter. You understand that he took an oath just like you did in hopping into the witness box? Do you say on your oath that Mr Barnes as he left yesterday came to you and told you that he had perjured himself?

MR STEVENSON: That's an unfair question.

THE COMMISSIONER: Yes.

MR PAYNE: It's a legal conclusion, don't answer it.

THE COMMISSIONER: You don't have to answer.

MR PAYNE: What do you say that he said to you?---He just said to me that he, if I, if he did not tell me that he apologises, he couldn't recollect whether he did or he didn't.

THE COMMISSIONER: Sorry, I don't follow that?---Well, - - -

Starting again and let's start from the beginning?---Yes.

10 You're sitting at the back, are you sitting outside or in the - - -?---No, I was sitting in here.

And he came, he finished his evidence and he came and sat next to you?
---No, he, he, I think we adjourned for lunch or, and he, he walked up to me and said, you know, basically that if I didn't say that I apologise to you.

20 Sorry? Use his words more or less?---Yes, he said to me that, If I didn't speak to you about the, the, the matters in relation to the bribes taking place out in the field I'm terribly sorry. And I said, Well, you never spoke to me about the, the incidents that people had come to you about bribes. And he said, I apologise.

MR PAYNE: That's all you remember about the conversation?---That's all I remember about the conversation.

And when he said, I apologise, that's what you, you took him to mean what?---Just that he had, had a memory lapse and that he couldn't remember whether he did or, or he didn't tell me.

30 So again do you say, this is a serious occasion, Mr Price?---Yes.

Do you say that you never had a conversation with Mr Barnes about phone calls he'd received about Mr Buckley where bribery was mentioned although not in those words?---When, when, I would've had, yeah, again, I would've had conversations as part of the audit team meetings with, with our group about, with Phil Hammond and with Ian Barnes and with our Dave Young about issues like that but the ones that where, where Ian had specifically said that people had come, came to him with allegations that this is happening no, Ian did not discuss that with me personally, no.

40 In these general discussions that you had was the topic of the complaints about Mr Buckley soliciting bribes mentioned?

THE COMMISSIONER: Sorry. Excuse me a moment. Mr Stevenson, I think you'll have to consider your position here. You may have a conflict of interest. You said you represented Mr Barnes?

MR STEVENSON: I represented both.

THE COMMISSIONER: And you're representing Mr - - -

MR STEVENSON: Yes. I need a resolution obviously of this difference.

THE COMMISSIONER: I frankly don't see how you can continue to represent Mr Price.

MR STEVENSON: That would mean he would be unrepresented from now on.

10

THE COMMISSIONER: Yes. I'm not, it may be that we'll have to adjourn, stop the questioning of Mr Price and so that he can, and it will continue on Monday and he can obtain fresh representation then. Do you accept what I say or do you - - -

MR STEVENSON: I'm just pondering its significance.

20

THE COMMISSIONER: And I think your instructing solicitors will have to withdraw as well. I don't mean from the whole thing, I just mean from representing Mr Price.

MR STEVENSON: Yes.

THE COMMISSIONER: I mean of course you may choose, I mean I'm not telling you to choose, you may choose to stop representing Mr Barnes but Mr Barnes will have to be recalled.

30

MR STEVENSON: Yes. You're quite right, Commissioner, I think the appropriate course is, if I might say so, that this examination cease now.

THE COMMISSIONER: Yes.

MR STEVENSON: And those behind me and I will give consideration to the appropriate representation of the two gentleman.

THE COMMISSIONER: And if that can be arranged so that Mr Barnes can appear first thing on Monday morning or some time on Monday morning.

40

MR PAYNE: Commissioner, just as to that timing if I can make an inquiry what you had in mind the Amati matter is due to start on - - -

THE COMMISSIONER: Well, we can't help that unless we adjourn this part of it till later.

MR PAYNE: I had intended that Wednesday be the day where we do all Siren, matters relating to this part of the inquiry.

THE COMMISSIONER: Very well, we'll adjourn this part of the inquiry until Wednesday and Mr Barnes should be here on Wednesday morning and so should Mr Price.

MR PAYNE: Thank you, Commissioner.

THE COMMISSIONER: Mr Price, you may leave the witness box?
---Thank you.

10

THE WITNESS WITHDREW [4.01pm]

THE COMMISSIONER: Are we finished our witnesses?

MR PAYNE: I respectfully suggest we adjourn, Commissioner.

THE COMMISSIONER: The Commission will adjourn. 10.00am.

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AT 4.02 THE MATTER WAS ADJOURNED ACCORDINGLY [4.02pm]