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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 29 SEPTEMBER 2010

AT 9.05AM

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MR PAYNE: Commissioner, the first order of business, Commissioner, do you recall that you made a suppression order in relation to certain evidence yesterday, I'm instructed that Mr Gleeson has contacted the Commission and that he and his client, Mr Stafford, do not seek any continuation or permanent order and don't wish to be heard on the matter. They will make submissions in due course about whatever findings should be made. On the basis of that evidence ie, none, that they don't, they don't wish for the suppression order to be continued. I informed Mr Gordon of that last night and that he and his client didn't need to be present.

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THE COMMISSIONER: An order should now be made to the effect that that suppression order expires as from this moment.

MR PAYNE: Correct. Thank you, Commissioner.

MR STEVENSON: Commissioner, may I say something to you about Exhibit P194?

THE COMMISSIONER: Yes.

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MR STEVENSON: Commissioner, my instructions that the handwriting on that document are those of Mr Millar, who is a solicitor employed by Sydney Water. Mr Millar instructs me that he doesn't have a recollection of precisely what it was that motivated him to write those words on that document. However, it's evident from some correspondence that I would like to tender between Mallesons and the Commission that what was going on was that there was an apprehension that legal professional privilege mightn't apply to those documents. Section 24 - - -

30 THE COMMISSIONER: I've seen that correspondence.

MR STEVENSON: Yes.

THE COMMISSIONER: It's no excuse.

40 MR STEVENSON: Well, may I just, what the correspondence reveals is that it was hoped that a protocol could be agreed with the Commission whereby documents which were producible because of section 24, we understand section 24, but on the basis which so far as was possible, might preserve such privilege as did attach to the documents for the purpose of the civil proceedings. What ultimately happened as you know, was that the documents were produced "under protest" and on the basis where it was asserted that such privileges might otherwise attached to the documents wasn't waived. My instructions are that it's evident, although Mr Millar doesn't recall this precisely, that his notation, that your Honour, that you, Commissioner, you have seen, was to place temporarily those documents in a category which was to be the subject of that kind of dialogue with the Commission. I'm asked to give you this assurance, there was never any

question of not producing the documents. They have been produced and to the extent that that process has caused delay in their production, my instructions are to express the, Sydney Water's regret for that delay and to attend to his apology for that delay.

THE COMMISSIONER: Mr Stevenson, I have read the correspondence relating to the misguided claim for privilege that was advised by Sydney Water. I accept that the, that claim for privilege was made in good faith. But that notwithstanding, had proper procedure been followed in the
10 knowledge, or in the misguided belief that there was privilege, the appropriate way of dealing with the matter would've been for Sydney Water to say, we have these documents in our possession for which we claim privilege for the following reasons. That is the way in which that should have been dealt with. Not deciding these documents are privileged and therefore we are not going to tell the Commission about them, which is what happened. Because those documents were not disclosed, were not given to us until much later. So the, what happened was that there was a deliberate retention by Sydney Water of those documents in the misguided belief that they were privileged from production to, to the Commission. And a
20 deliberate decision was made not to tell the Commission of their existence. Now, I regard that as extremely serious and I have to say that before this inquiry commenced, very serious consideration was given as to whether this public inquiry should include as one its, as one of its formal objects and investigation into whether the ICAC Act had been breached and who had breached it by failing to comply with the section 22 notices. A decision was taken that the probabilities were, as I have indicated that it was due to a misguided view of privilege together with an improper concealment of the documents. And in the light of the breadth of the inquiry and what I regarded as probably a degree of excessive zeal attaching to the impropriety,
30 it wouldn't be worth, it wouldn't be appropriate to waste our time in dealing with it. But I did want to raise it because there is a tendency amongst certain government agencies to regard the ICAC as an adversarial party against whom the kind of litigation tricks that are customary between private parties can be played. It was very disappointing to see that this had happened being the agency of Sydney Water's legal department.

MR STEVENSON: Commissioner, the observations you have made are very serious and obviously I can't give evidence from the lectern here, but my instructions are that certainly so far as those who instruct me are
40 concerned, there was no deliberate decision made at all to withhold from the Commission documents.

THE COMMISSIONER: What is the explanation for the fact that the documents marked out were not handed to the Commission while the others were?

MR STEVENSON: Well, in those circumstances I would like to tender the correspondence, Commissioner.

THE COMMISSIONER: Yes.

MR STEVENSON: I tender a bundle of correspondence between Malleson Stephen Jaques and the Commission comprising Mallesons' letter to the Commission of 29 March, 2010 and the email exchange between Mr Keegan from Mallesons and Mr Broad from the Commission of 23 April, 2010 and Mallesons' letter of 27 April, 2010. Commissioner, as -
- -

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THE COMMISSIONER: What is it to which you wish to draw my attention?

MR STEVENSON: Commissioner, in the letter of 29 March, 2010 you will see that there is a reference by Mr Keegan to a previous discussion with Ms Law and what Mr Keegan says is, "As previously discussed, enclosed by way of part production are documents," its evident from that letter that there has been communication between those instructing me and the Commission about the process of production and there was no question that a production made on 29 March, 2010, which I understand did not include the documents which, with which, which are the subject of Mr Millar's annotations, I'll start again. As at 29 March, 2010 those instructing me made me clear to the Commission that what was being produced then was not all that was to be produced. There was delay, Commissioner, I must accept, for reasons which this correspondence doesn't explain but on 23 April, 2010 it is evident from Mr Keegan's email that he had had a discussion with Mr Broad the day before concerning compliance with the section 22 notice and discussion to the effect that it was asserted that the privilege attached to some documents that so far as Sydney Water was able to do it wished to maintain that claim for privilege and that of course was, Commissioner, vis-à-vis the Supreme Court proceedings.

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THE COMMISSIONER: They are perfectly entitled to maintain that attitude even if it was wrong, I have no complaint against them doing that. My complaint is receiving the documents from, in respect of which they were claiming privilege.

MR STEVENSON: I'm instructed to give you, Commissioner, an assurance that section 24 was not overlooked. We understand, those instructing me understood and we understand what section 24(3) says but as the concluding words of Mr Keegan's email reveals, "Our client does not intend to waive privilege in respect of the documents so marked." Mr Broad's response was to remind Sydney Water of the obligations that are imposed on the Commission by section (not transcribable) and the confidential nature of the treatment that the documents would be given and that was followed then by production on 27 April of the documents and, Commissioner, if you look at paragraph 2, a packet containing privileged documents in answer to paragraph 2, they are, they include the documents

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which are the subject of Exhibit P194 which deals with that paragraph. So -
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THE COMMISSIONER: I'm not sure that's right. Well, my understanding was that the documents this marked out were not, and that it was only when the Commission found Exhibit 124 it investigated whether we'd seen the documents that were being called for and were given to (not transcribable). Now, I may be wrong in that.

10 MR STEVENSON: They are not my instructions and if that were true I could understand the tone the Commissioner is adopting with me now. But my instructions are that the documents were produced then. I'll double-check that but my respectful submission is that the observations that you've made are a little harsh and that neither my client nor those instructing me have ever desired or intended to withhold from the Commission documents which are properly producible.

THE COMMISSIONER: Well, whatever happened when there was a claim made for privilege the documents which were thought to be subject to
20 privilege Sydney Water did not have to produce to the Commission were not identified, were they?

MR STEVENSON: This correspondence doesn't reveal any such identification but the correspondence shows that there was never, the correspondence shows that when the first tranche of documents were produced it was clear that they were just that, the first tranche.

THE COMMISSIONER: No, that's true.

30 MR STEVENSON: And ultimately the documents were on my instructions produced.

THE COMMISSIONER: Can we deal with it in this way and you can tell me whether this is satisfactory to you. In the light of what you, I will take at face value what you've said and I will make it clear that I accept the explanation given and I will accept that my understanding as I expressed to you may not be correct and I would, that's enough on that I think. But the purpose of raising this particularly in the light of the decision that the Commission made not to pursue it by way of a public inquiry is merely to
40 emphasise to Sydney Water and indeed to all other agencies that the Commission investigates that the obligation to actually produce every document in the possession of the agency that the Commission calls for is one which this Commission takes very seriously and it should be complied with. And a broad claim for privilege without disclosing the nature of each document said to be subject to privilege is not compliant with the statutory obligations of the particular agency once the notice to produce has been served on by the Commission. If we can leave it at that and I make it clear that I cast no aspersions on anyone.

MR STEVENSON: May I make this observation. Mr Keegan's note of 27 April, 2010 does clearly identify which documents are the subject of privilege, they were in separate packets so that was done, Commissioner.

THE COMMISSIONER: Yes, I know it was done. The documents were called on what date please? 17 March, 2000-and - - -

10 MR STEVENSON: Yes. I don't know the date but certainly on a date prior to 18 March. And, Commissioner, I respectfully say that it would be unfortunate if what was left on the public record in this Commission was some doubt as to whether Sydney Water did produce the documents as I've told you my instructions are.

THE COMMISSIONER: I said that I accept what you say.

MR STEVENSON: Thank you, Commissioner.

20 MR PAYNE: Commissioner, I call Mr Johanssen.

THE COMMISSIONER: Mr Johanssen, - - -

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

THE COMMISSIONER: Yes. Do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

30 MR JOHANSEN: Under oath.

MR PAYNE: Mr Johansen, what's your full name?---Richard James Johansen.

And you were an employee of Sydney Water for some time?---That's correct.

10 For how long?---25 years.

And you had retired at some time in the reasonably recent past?---That's correct.

When was that?---2, July 2, '07.

Prior to July 2007 you were a supervisor in the PIAS branch of Sydney Water?---That's correct.

20 For how long had you been a supervisor prior to your retirement in that period in 2007?---I was actually a supervisor from 1989.

And prior to that time were you yourself a P and D inspector?---(not transcribable), correct.

And prior to that time had you been a licensed plumber - - -?---I was.

- - - working outside Sydney Water?---Yes.

30 So 25 years with Sydney Water. How long were you a licensed plumber before you came to Sydney Water?---I'd say, I'd say 10 years, 12 years.

I see. Can I take you directly to a matter raised yesterday by a Mr Thwaite. You know Mr Thwaite?---I do.

You were his supervisor for a period of time?---That's correct.

For what period of time were you Mr Thwaite's supervisor within PIAS? ---I would say probably three to four years.

40

And was that the period immediately leading up to your retirement in 2007?---That's correct.

So we're talking about a period of from '03 or '04 to mid '07, you were the supervisor of Mr Thwaite?---That's correct.

And for the whole of that period was at the Beecroft depot or not?---I believe that he spent some time at Liverpool and I managed 28 inspectors in

four different locations. So they rotated around, but I would say at that time it would've been at Beecroft.

Where were you based while you were managing these four different locations?---I basically had an office in Liverpool and one at Beecroft.

I see. You were here yesterday in the Commission when Mr Thwaite gave evidence?---I was.

10 I want to ask you about the incident that he recalls and places in about 2006 involving the payment of \$1,000 by a plumber?---I was here.

You heard that evidence?---I did.

Can you tell the Commission what you recollect if anything about that incident?---I do recollect the incident with Mr Thwaite coming to me with an envelope. I was very cranky with the plumber and I arranged with Mr Thwaite to meet this plumber on the site to have a few words with him giving his envelope back.

20

What was the plumber's name?---I can't recall. I can't recall the date, the year or the plumber. But I know it was in - - -

You can't help us with whether the incident was in 2006?---I'm really not sure. It could've been in 2004. I just, I just can't recall the year. (not transcribable) I threw out all my diaries about 12 months ago.

You had a record of this incident in your diary did you?---I would have a record of every time I went out with anybody or anybody that I met.

30

I'll come back to some record keeping with you in a moment, but just concentrating on this incident. When Mr Thwaite came to see you was that in your Beecroft office?---I believe it was.

What did he say to you?---I can't recall.

Had anyone that you were supervising in the past ever come to you with \$1,000 in an envelope before Mr Johanssen?---Never.

40 Did he hand you the envelope?---I can't recall.

Do you remember looking inside the envelope at all?---No, I can't recall.

How did you know there was \$1,000 in it?---Because I heard the evidence of yesterday.

Prior to hearing the evidence yesterday, what do you believe was in the envelope?---Well I knew there was money there, but I didn't count it.

Was the figure of \$1,000 which emerged yesterday in evidence was that a surprise to you?---It certainly would've been. I can't recall.

Well, you were here yesterday, was it was surprise yesterday when you heard \$1,000?---It certainly was.

10 Why was that? Was it much more then you thought was involved?---I just couldn't see any reason for somebody to give anybody that amount of money or any amount of money. But it was just, like it was hard to believe. That's probably why I was so cranky.

Did Mr Thwaite tell you anything about travelling in a lift with this plumber?---I can't recall.

Did he say anything about being set up?---I can't recall.

20 You went to this plumber and you can't remember the plumbers name. Do you remember where you went?---I believe it was in Artarmon and we drove up a long driveway and it was in fact a storage facility. But I don't, I just can't recall the street.

What did you say to this person?---I can't, I can't remember what I said, but I really gave him a pasting.

What did you give the plumber?---I gave him back his envelope.

The entire envelope?---Absolutely.

30 You were here in court in the tribunal yesterday and heard Mr Thwaite say that in addition to money there was a number of papers concerning the job in the envelope?---My recollection of it was there was another envelope inside the large envelope. I didn't see the large envelope.

I see. So what, what, let's go back to the Beecroft office when Mr Thwaite comes in. You don't remember what he said to you, did he show you anything?---He showed me an envelope.

40 What size was the envelope?---A normal letter size I believe.

Sir, you're holding your fingers up, a letter size rather than the A4 size envelope - - -?---Yes, I can't - - -

- - - that Mr Thwaite described?---Yeah. I don't think it was an A4 that I seen.

Did you ever see an A4 envelope in connection with this incident?---No.

So you saw a small envelope, what was it that caused you to travel with Mr Thwaite to Artarmon to remonstrate with the plumber whose name you don't remember?---I wanted to have words with the plumber and give him his envelope back.

Why?---Because I didn't think it was right.

Didn't think what was right?---For him to offer any of my men money.

- 10 Was that the first time you had ever heard of any money being offered to a PIAS inspector?---That's correct.

Did you ever hear about money being offered to a PIAS inspector after this occasion?---No, I haven't.

You must have been very shocked when you realised there was a, if it was, if it was an ordinary size envelope, it had \$1,000 in it, it must have been bulging, Mr Johanssen?---I cannot recall.

- 20 If you were shocked having been made aware of this cash payment by the plumber, what steps did you take to report this matter to Sydney Water?
---There wasn't any process in place that I was advised of at the time to actually formalise it.

So you did nothing?---I did nothing except take the money back to the plumber or I cannot recall whether I'd actually taken it up to my next line manager and I don't know what year it is so I don't know who that was.

- 30 When you say you cannot recall whether you did that, you have no recollection as you sit there of having raised, raised this matter with any superior officer within Sydney Water do you?---I have no recollection, I might well have.

Mr Johanssen, to have been made aware that cash, did you have any sense that it was a large sum of money?---Oh, only by the thickness of the envelope I believed that there was, you know, there was money in there.

- 40 So it was thickness of the envelope that you thought that there was a considerable sum there?---Yes, I believe there was, yes.

And that was your state of mind at the time whenever it was in 2004 or 2006?---I wouldn't have cared how, how thick it was or how much it was, just whatever it was was going back.

Mr Johanssen I want to suggest to you that if this recollection that you've described for us is true you would have taken urgent steps to record in writing what had happened. Do you agree?---I would have had it in my diaries.

And at the very least your employer, Sydney Water, would have wanted to know that there was a plumber out there paying very large sums of money to PIAS inspectors, correct?---I agree.

I suggest to you that you made no written record of this matter, do you agree?---No, I don't, I did, I would have made a record in my diaries.

For yourself?---Well, for, for anybody that needed it.

10

Did you, well, did you pass it on to anyone?---I might well of, I cannot recall.

Was it your practice to show your diaries to anyone?---Well, we did use them in, in management meetings and wrote, wrote things in there, its not the sort of thing that you'd get somebody to look at and sign.

You were managing 28 inspectors. Did you ever raise this matter of the very large payment which had been made to Mr Thwaite with any other inspector?---No, I can't recall.

I suggest to you that if what you are telling the Commission was true you would have taken urgent steps to have raised with each of the inspectors this matter and particularly whether they'd had dealings with this plumber. Do you agree?---I might have, I do agree.

You didn't do that though, did you?---I can't recall.

Mr Johanssen, are you aware that evidence has been given in this Commission now by four PIAS inspectors in relation to a culture within Sydney Water of acceptance of cash payments from plumbers?---I am aware of that.

Were you ever the supervisor of a Mr Fayers?---I was.

Were you aware that he admits taking regular cash payments from plumbers over the entire time that he worked at Sydney Water?---I am now.

Do you say it comes as a shock to you that Mr Fayers ever accepted a cash payment?---It does, yes.

Were you ever the supervisor of Mr Vecchio?---I was.

Are you aware of evidence he's given at this Commission that he accepted cash payments from plumbers over many years?---I am.

Do you say that it came as a shock to you to learn that Mr Vecchio was accepting cash payments?---Yes.

You never heard a rumour about cash payments from plumbers the entire time you were involved in this industry. Is that what you tell the Commissioner?---That's exactly correct.

And when for the first time it comes to your knowledge that a very large sum of money is paid to Mr Thwaite you do nothing?---I did do something. I take it, I took it back to the plumber.

10 You didn't take any steps to make a record of it with your superiors in Sydney Water did you?---I, I might well have, it's a long time ago, I do not remember.

You took no steps to raise it with the other inspectors and to work out whether they'd been involved with this plumber did you?---I can't recall.

You can't even remember what the plumber's name is can you?---I cannot.

20 It is highly unlikely isn't it that you took any steps isn't it in circumstances where you can't even remember what this plumber's name is?---That's not correct.

Well, you never caused any inquiry to be made by Sydney Water about whether this plumber had done it the first time or whether he'd been doing it for years did you?---There was not any process in place in Sydney Water that I was aware of to report such a thing.

30 So the answer to my question is yes, you did nothing. Correct?---That's not correct.

Mr Johansen, whilst you were a plumber prior to coming to Sydney Water, a licensed plumber do you tell the Commissioner you never heard of plumbers providing cash payments or small amounts described as a drink to P and D inspectors?---I have not.

Never heard of it?---I didn't meet inspectors when I was a plumber so I have not.

40 And then in the time, the entire time that you were a P and D and PIAS inspector were you involved in training in any way of inspectors of what to do if they were offered cash payments?---No.

There was never any such training?---Not that I'm aware of.

You never had any training yourself relating to that topic?---No.

And you say do you that when Mr Thwaite came to you with this bulging envelope apparently full of cash other than take it back you thought that

nobody else within Sydney Water needed to know about it. Is that what you say?---No, it's not.

Well, please tell us what steps you took to have any investigation or this plumber undertaken?---There wasn't a process in place with Sydney Water that I was aware of to progress it.

So you did nothing in relation to any investigation in relation to this plumber's conduct?---Could you elaborate on what investigation?

10

Did you take any steps to tell anyone in Sydney Water that there was a plumber out there giving bulging envelopes full of cash to one of your inspectors?---I can't recall whether I'd spoken to my line manager or not.

Who was that?---I don't know, I don't know the date.

THE COMMISSIONER: Your loss of memory is extraordinary?
---Commissioner, I've been gone from Sydney Water for more than, at that time more than four years, it could've been five.

20

What we're talking about is something that I would've thought would be indelibly imprinted in your mind?---The incident is, Commissioner, but the, what I did about it, as I said I threw my diaries out, I had probably 20 diaries there from year to year and they just were no use anymore I thought so they went out.

I mean as I understand the evidence what you're really saying is that this incident was the only time in your whole career at Sydney Water that you discovered that anybody had been paid any money as a bribe?---Until this Commission and other incidents raised their head that's correct. I've been -
- -

30

So that was the only occasion, your failure to remember anything about it including anything that you might've done about it and any of the details concerning it other than the fact that Mr Thwaite was involved I find it really very surprising?---Well, as I say I've been office bound for more than, from 1989, I wasn't out there meeting people and that's the first I've heard of it.

40

MR PAYNE: But there was never any discussion with your managers about the possibility that cash payments were being offered to inspectors?---Not that I can recall.

Never a single discussion?---No, not that I can recall.

Mr Johanssen, when you were first asked about this matter a few weeks ago after a question had been asked in this Commission is it true that you said you have no recollection whatever of a bulging envelope full of cash?---I

think I said I don't, don't recall but I do remember could've been an incident in Artarmon. I was trying to relate between whether I actually went out there to adjudicate on something with another inspector and then I remembered.

You agreed with the Commissioner that if what you're saying is true about this being the only occasion you saw a bulging envelope full of cash it would be indelibly printed on your memory. Do you agree with that?---The, the incident?

10

Yes?---Well, it is now because it's, it's brought my memory back to it.

What, so until you heard Mr Thwaite yesterday you didn't actually remember it at all. Is that what you say?---Oh, I remember it when Mr Thwaite's said it.

You remembered it when Mr Thwaite's said it?---I remember before of an incident but I didn't know the address and all the details.

20 You still don't know the address. Correct?---I don't.

You still don't know how much was involved. Correct?---(not transcribable).

You still don't know who the plumber was. Correct?---Correct.

I'll put a proposition to you Mr Johanssen, I suggest to you that the evidence you have given about lack of knowledge, about cash payments at any time other than this one incident is not entirely candid. Do you agree?---It's not
30 entirely candid.

I'm suggesting to you that the evidence you are giving that this is the only time you've ever heard of a cash payment is not true. Do you agree?---This is the only time, oh, except for the other instances that have been brought up in the Commission.

Excuse me. I have nothing further for this witness, Commissioner.

40 MR STEVENSON: I have no questions, Commissioner.

THE COMMISSIONER: Yes, you may be excused Mr Johanssen?---Thank you.

THE WITNESS EXCUSED

[9.42am]

MR PAYNE: Commissioner, recall Mr Knowles.

MR STEVENSON: I seek leave to represent Mr Knowles. And no section 38 order should be made, Commissioner.

THE COMMISSIONER: Mr Knowles, you're still under the oath that you previously took.

<WARREN MURRAY KNOWLES, on former affirmation [9.42am]

MR PAYNE: Mr Knowles, you gave evidence in this Commission on 17 September, 2010?---Correct.

And at that time you'd conducted certain searches in relation to Lot 10 Day Avenue, Kensington, being the New College job?---Yes. That's right.

10 And the only material you had been able to locate was in relation to sewerage connections at that site. Correct?---That's correct.

Since that time it's been brought to your attention that there is some record, at least in relation to a possible water connection at the Day Avenue site? ---That's correct.

Can I show you a document, please. And, sorry, can I give you as well another document which is, yes, two documents each of two pages. And if we can look at them together. The first one I want to ask you about has got
20 at the top work order print detail 11/4-7-8-4-6-1?---Yes.

Do you have that?---Yep.

THE COMMISSIONER: I think they both have that.

One is 6-0 and one is 6-1, I hope Commissioner.

THE COMMISSIONER: I'm sorry, the ones I have are both 6-1.

30 MR PAYNE: I'm sorry, Commissioner, the ones you have are both 6-1. You need one with 6-0. Can I hand that up?

THE COMMISSIONER: Thank you.

MR PAYNE: Do you Mr Knowles, have in front of you one with 60 and one with 61?---Yes, I do.

Can I ask you firstly about the one ending in 6-1. Do you see that?---Yes.

40 Both of these documents were apparently printed out from the WAM system on 22 September, 2010 at 4.52 in the afternoon?---4.52 for one, 4.53.

You get that from the top left hand corner of the document?---Yes.

And then if you can work through the information under work order information. Just explain to us what that is in the document first of all ending in 61. You see there the description of the work order. It's a water main connection approval TN valve is the first line?---That's correct.

So it's a water connection rather than a sewer connection we're talking about?---That's correct.

Location details agent Reece, Rockdale. Now you gave some evidence before that the commercial operation Reece acts as an agent for Sydney Water and so that somebody seeking a water connection can go to Reece and make a payment and request a connection there?---That's correct.

10 Location the Centennial Park Water Supply zone and the address, Lot 10 Day A-V-E, Avenue, Kensington?---That's correct.

Just stopping there for a moment. Do you tell the Commissioner that you didn't bring this document to attention when you first gave evidence because your search was restricted to 10 Day Avenue, A-V-E-N-U-E, in the electronic search?---I'm not exactly sure what my original search criteria was, but that is one possibility of why I didn't detect this the first time.

20 Having had this matter drawn to your attention, have you conducted more extensive searches of the WAM database to see if there's anything else out there about New College?---Yes, I have.

What were those searches?---Rather than use the application, I've gone direct to the database and (not transcribable) using very broad criteria with wildcard search so that it would eliminate some of the detail avenue compared to A-V-E, et cetera.

30 And did you tell the Commissioner that having conducted those searches that these two documents, one ending in 6-1 and one ending 6-0 are the only electronic records within the WAM system concerning this New College, Day Avenue job that you've been able to locate?---That's correct.

Just if we can go back to the document ending in 6-1 just to understand what's there. The local government area is Randwick clearly enough. The service provider, that's the city east depot of Sydney Water is it?---That's correct.

Being Daceyville?---That's where the depot's based, yes.

40 The asset, a water main (not transcribable) reticulation. That's the Sydney Water asset that's involved in this job?---That's correct.

The product is water to distinguish it from sewerage?---Correct.

Reported by, it says, Planet. Do you understand that to be Planet Plumbing, Mr Alafaci and Mr, being Mr Molluso's company?---That was the detail passed to WAMs from the quick check system and I'm assuming it is the plumber.

Yes. It says reported date, it says 11/06/2008. Do you see that?---Yes.

What does that mean?---That is the time that, the date and time that the detail was passed from quick check to the WAM system to generate this work order.

10 And if we can look at the left, the right hand side of those columns. Client SW work plan. What does that mean?---It's a means of reporting activity, whether it was something that was included in our work plan or whether it was an external client or a non-work plan activity.

Then underneath that it says status C-A-N cancelled. What does that mean?---It means that the work order has been cancelled and that no work was performed against that order.

Who has the authority to cancel this work order?---There's a variety of groups within the system that would have that authority assigned to them.

20 Who are?---I couldn't give you the exact detail, but most of the civil maintenance depot staff would have that authority.

Thank you. And then underneath that, status date, 10 December, 2009, at what's that 7.00pm?---Yeah.

What does that mean? Is that the date it was, the word order was cancelled?---That's correct, it's the date that that status was applied to that order.

30 And having examined the work order in the WAM system are you able to enlighten us about how that status date came to be applied and the cancelled status entered into the system?---Yes, if you look towards the bottom of the form under Miscellaneous Details you'll see that the last modified was by RAS monitor and this a result of a scheduled or a nightly database job that runs across the system and monitors activity on work orders that have come from Quick Check and there was a business rule which says if there is no action on that work order for 18 months that it is changed, the status is changed to cancelled.

40 Can I just ask you about that. Retail and Ancillary Services, that's what RAS means, does it?---That's correct.

And that's a part of Sydney Water under your jurisdiction, is it?---It's a system that I support.

And so its an automatic electronic system, is it?---It's a, its our retain ancillary services where we used to have customers coming to our business

officers and request services, we now provide that function via plumbing supply stores.

And the RAS monitor, that's an automatic electronic check across the database, you say that happens every night?---That's correct, it's, it's a database job.

10 And when you said it's a business rule, that's something that is written into the software is it, to check, that's what a business rule means for the purpose of that answer?---That's correct.

So the RAS monitor has automatically checked, seen that no work is done and automatically cancelled the order?---That's correct.

Just looking at the rest of the form if you can help us. Under Job Details back up the page in the third of the headings, WC3D large service connect, disconnect, that's the task code?---That's correct.

20 Again its water and water failures, is that a generic code or is it, or does it tell you something about the job that was to be done?---That's automatically based on the product specified in the, in the top section of that form.

And if you go over to the second page of, of document 6-1 under Long Description if any work had been carried out pursuant to this work order that's where that would be filled in as we've seen in the other material or not?---No. This is a, this was on the other, the other forms. This is remarks that may have been made and in this case its showing that there was, there were no, no comments entered on this work order.

30 Is there any capacity on this form 6-1 to show whether any work was done by Sydney Water in relation to this job order?---This report has two options.

Yes?---It can either include costs or not. Now, I can't tell from, from this form whether the costs were included but I have printed that form myself with, including costs and its exactly the same so that would indicate to me there are no - - -

40 Can I see that document please. This is in relation to 6-1 we're talking about?---Yes, this is - - -

And the document you've just shown me, where were costs be printed? ---It's a double-sided print and it would normally appear before the Long Description Details.

I see. And so this is, I've handed you pages 1 and 2 in relation to this work order, you've printed out pages 3 and 4?---Sorry, I also have the other work order ending in 6-0.

With pages 3 and 4 as well?---Which is 1 and 2. I just - - -

I see. Can I have, can I see that document as well, please. I see. We'll come to that in just a moment if we will. Commissioner, I tender the document, the two-page document that I've handed up ending in 6-1.

THE COMMISSIONER: The work order and detailed prints 1-1-4-7-8-4-6-0 is Exhibit 195.

10 MR PAYNE: And for completeness, I don't have copies I'm sorry, Commissioner, but might I tender pages 3 and 4 handed to me just then by Mr Knowles and ask that the associate make some copies.

THE COMMISSIONER: Yes. 195 is pages 1 and 3 of that record, a detailed print 1-1-4-7-8-4-6-0 and are you tendering the document which is 6-1?

MR PAYNE: I'm sorry, Commissioner, the document that was 6-1 was the one I did intend to tender, that's the one we've been asking about. I'm now
20 going to ask about 6-0. I'm terribly sorry if I've misled you.

THE COMMISSIONER: 1-9-5 - - -

MR PAYNE: Yes.

THE COMMISSIONER: Its probably my fault, Mr Payne. This work order detailed print 1-1-4-7-8-4-6-1, pages 1 and 2.

30

#EXHIBIT P195 - WORK ORDER DETAILS PRINT ENDING IN 61

MR PAYNE: Thank you, Commissioner.

THE COMMISSIONER: And do you want me to, are you tendering another document now?

MR PAYNE: I will but your associate's now making some copies.
40

THE COMMISSIONER: Yes.

MR PAYNE: I hadn't seen it prior to Mr Knowles handing it to me and I'll do that in a moment.

THE COMMISSIONER: Yes.

MR PAYNE: I'm now going to ask some questions of Mr Knowles about the document 1-1-4-7-8-4-6-0, being the two pages that I handed him - - -

THE COMMISSIONER: If that could be tendered as work order detailed print 1-1-4-7-8-4-6-0 pages 1 and 2.

MR PAYNE: Yes, Commissioner. And would that be P196?

THE COMMISSIONER: That's P196.

10

#EXHIBIT P196 - WORK ORDER DETAILS PRINT ENDING IN 60

MR PAYNE: Thank you, Commissioner. Can I ask you some questions about that document, Mr Knowles. That's a different number to 6-1? ---That's correct.

20 And it appears to be created if we look under the first heading Work Order Information, at the same time and reported by Planet in relation to the same job and in fact all that information looks identical in the left-hand column? ---It is, yes.

The difference is in the right-hand column under Work Order Information, that shows that this job is cancelled or this job number is cancelled but not until 17 August, 2010 at 11.37?---That's correct.

30 What is the relationship between these two work orders?---When a request for work is passed from Quick Check to WAMs the process is to generate two work orders.

I see?---The first work order in this case is 1-1-4-7-8-4-6-0 and that is the request to prepare a quote for the work and you can see under job details it is a GPO8 prepared quote job.

I see?---The normal process is for a quote to be put together. On the second work order - - -

40 Which is 6-1, Exhibit P195, yeah?---The one in (not transcribable) and they, both work orders are generated at the same time.

I see. So just the one I'm asking about, ending in 6-0, that's to prepare a quote as we saw with the sewer WAMs orders that I asked you about when you were here on the last occasion, that would be the first thing that happens?---That's correct.

And there will be some time involved in doing that and then the second work order is actually to, the work order in respect of any work should it be done?---That's correct.

So your, just to be clear, in relation to 6-1 the automatic RAS monitor system cancelled out, back in December 2009 cancelled out the work order as it related to the work itself, being work order ending in 6-1?---That's correct.

- 10 And no work was ever done on that so far as revealed by the WAM system? ---That's correct.

And this is the first in time order which was to prepare a quote but it wasn't cancelled out until 17 August, 2010?---That's correct.

THE COMMISSIONER: When you say this you mean P196?

MR PAYNE: P196, yes, the work order ending in 6-0.

- 20 Can you just explain why there are two, Mr Knowles?---This is the, the process that we, we utilise. We create two work orders. The first one is, is approved to allow a quote to be prepared. Once that quote - - -

THE COMMISSIONER: That's the first one?---That's the 6-0 and the extent of the work involved in that work order is, is the preparation of a quote.

And that's where you see task code prepare quote?---That's correct.

- 30 Yes?---Now, once that quote is accepted within the Quick Check system by the plumber by, by making a payment a transaction is sent to WAMS for the second work order, 6-1 work order to be approved.

Sorry, just stop there for a moment. If I understand you correctly that the approved work order is only generated once payment has been made?---The first work order to prepare the quote is approved on creation so that's an approval to prepare the quote. The second work order is created in the system awaiting approval so it's not authorised to proceed until payment is made which means that the quote has been accepted.

40

I'm still lost. You've got the first work order which is 1-9-6, it's the one dated 6-0, that's the instruction to prepare a quote?---That's correct.

Then I take it somebody prepares the quote - - -?---Correct.

- - - and it's given to someone in Sydney Water?---No, it's given to the, the applicant, to the plumber that processed the work.

This is a quote given by Sydney Water to the plumber?---That's correct.
There is a report - - -

It's a quote to do what?---To do, in this case, a water main connection.

Right. And where do you see that? That's under Asset Water Main?---It would be under the description of the work order which is a water main connection approval greater than 80 millimetre.

10 I see that. So that's then given to the plumber and then the plumber accepts it or doesn't?

MR PAYNE: Can I interrupt just there, Commissioner. There was no quote ever prepared in relation to this was there?---There's no evidence in the system of a quote being prepared.

THE COMMISSIONER: Right. So this 1-9-5 has been generated, it cancels in effect the quote?---No. No, they, they are generated at the same time. The work order ending in 6-1 sits in the system.

20

MR PAYNE: Waiting for something to happen in relation to 6-0 which is the quote which never happened. So 6-1 is never enlivened. Is that what you're saying?---Correct.

THE COMMISSIONER: And 6-1, why does it say cancelled?---It was cancelled as one by the system because no activity had occurred for 18 months.

30 So when it's generated, what date is it, you said it generated at the same time as 6-0?---They were both generated on 11 June, 2008 at 8.54am.

MR PAYNE: You can pick that up in the first column, under the first heading, Commissioner.

THE COMMISSIONER: I see, yes.

MR PAYNE: That's the reported date for each.

40 THE COMMISSIONER: And then when are the words cancel, I mean cancelled inserted and status date on 10 December, 2009?---Or the - - -

On 1-9-5?

MR PAYNE: Yes.

THE WITNESS: Yes, that's correct.

THE COMMISSIONER: So 1-9-5 is generated at the same time as 1-9-6 but on 10 December, 2009 the words cancelled and the date and time are inserted?---That's correct.

And that's because nothing has happened?---That's correct.

That is, the quote has never been accepted?---Well, that can also be the case but in this case there is no record of a quote being prepared for that job.

10 I see. And where would you find that record, the record of that quote were it to have been created?---It doesn't appear on this report.

But where would you find it had it been created?---It would be on the status history of that work order. There would be an entry to say the quote had been printed and when it was done.

Would you have found it on a similar document to P196 or would you find it in a separate document?---It would be a separate document.

20 And you've looked for that?---I have.

And it doesn't exist?---That's correct.

MR PAYNE: So the real confusion here, Mr Knowles, is that the first in time activity namely the preparation of the quote stays in the system and isn't cancelled at the same time as 6-1, Exhibit P195 by the RAS monitor, can you offer an explanation for that?---That is work that's approved to go ahead regardless of the outcome of, of whether the quote is prepared or is accepted. So that, that work is not controlled by the RAS monitor process.

30 I see. So the business rule you spoke about doesn't apply to the document ending in 6-0 being P196 because that's to prepare a quote, the business rule doesn't automatically cancel that out, that needs to be done manually?
---That business process, that monitoring only looks at waiting approval work orders not approved work orders.

40 And is there some system within Sydney Water to review work orders such as 6-0, Exhibit P196 preparation of quote and manually cancel out ones where there's been no action for a period of time?---There is, I don't think there's any official documented process but I know that we do like to clean the system up and the business are responsible for issuing instructions.

And here the words cancelled and the status date of 17 August, 2010 that was apparently done manually by a GVS, you picked that up under miscellaneous details in Exhibit P196 the third last heading?---Correct.

That as you understand it is a Mr Stephenson the Workplace Coordinator at the Daceyville depot?---The Work Plan Coordinator, yes.

Work Plan Coordinator, I'm sorry. And he's cancelled that out. Now, again just to sum up in relation to P196 so I understand it you've searched and there is no record in the WAM system of any quote ever being prepared to this water work?---That's correct.

And in relation to P195, Exhibit P195, the document ending in 6-1 you have searched and there is no record of any work being done in relation to that work order by Sydney Water?---That's correct.

10

The two documents you showed me I'll hand them to you together and they are both, one's in relation to 6-0, one's in relation to 6-1, I'll just hand those to you just to make sure. Dealing first with the document that's got page 1 of 4 and on the back side 2 of 4 that's in relation to the document 6-0 which is Exhibit P196?---Correct.

20

That's another report within the WAM system is it?---This should be identical to P195 and P196. I ran those this morning to satisfy myself that the, they had been printed to show any costs or any transactions against that, those work orders.

Just dealing with the document which is pages 1 of 4 and 2 of 4 that I've just handed you that's about Exhibit P196 which is the work order detail ending in 6-0?---Correct.

Do you tell the Commissioner that if there were any work done on that in relation to preparation of a quote that would appear on this printout? ---That's correct.

30

Commissioner, I tender that document.

THE COMMISSIONER: Yes. Record of detailed print 1-1-4-7-8-4-6-0 page 1 of 4 is Exhibit 197.

**#EXHIBIT P197 - WORK ORDER PRINT DETAILS 11478461
PAGES 1 & 2**

40

MR PAYNE: Can I ask you about the other document I handed you which is headed pages 3 or 4 and on the back page 4 of 4 which is about work order detailing ending in 6-1 being Exhibit P195?---Yes.

That's a printout you caused to be made this morning from the WAM system again is it?---That's correct.

And do you tell the Commissioner that if any work were done by Sydney Water and recorded in the system in relation to this work order it would appear on this document?---That's correct.

Commissioner, I tender that document.

THE COMMISSIONER: Exhibit P198 is work order detailed print 1-1-4-7-8-4-6-1 page 3 of 4.

10

#EXHIBIT P198 - WORK ORDER PRINT DETAILS 11478461 PAGE 3 OF 4

MR PAYNE: And just to be entirely clear, Mr Knowles, I did ask you a number of questions on the last occasion about what the records of Sydney Water showed and at that time your genuine belief was that the only things in the WAM system were relating to the sewer connection that I asked you about on that occasion?---That's correct.

20

You've now had the opportunity to conduct searches on the WAM system, your attention having been drawn to this work order?---Yes.

Having conducted those searches do you tell the Commissioner that nonetheless there is, was and remains no record within Sydney Water's electronic systems of any work being done, conducted in relation to a water connection at New College at any time in 2008, 2009 or 2010?---Yes, that's my belief having conducted that search.

30

And to be clear, using your IT expertise, you've now conducted extensive searches which you didn't conduct on the last occasion because they didn't turn up these documents?---That's correct.

Can you think of any further searches that you can do that might turn up additional documents or have you, is this it, Mr Knowles?---I've also utilised our geographical information system which records the location of any work done to confirm that there are no other instances of work orders at that location.

40

Yes. Commissioner, I have nothing further for Mr Knowles.

THE COMMISSIONER: Mr Stevenson.

MR STEVENSON: I have no questions of Mr Knowles.

MS WHITE: Mr Knowles, my name is White, Ms White, and I appear for Mr Funovski. Can I just ask you a couple of questions?---Certainly.

The documents, P195 and 196, do you have those in front of you at all?
---Yes, I do.

And underneath Job Details on both of those documents, on the right it says “Work type” and it says “CR customer requested and funded?”---That’s correct.

10

What did that mean?---That’s a classification of work in our maintenance system. Its an indication that its come from, from Quick Check, that the customer has requested this work to be performed and is paying for it.

So, and has paid for it?

20

THE COMMISSIONER: Is paying for it?---No, and, and will pay for it if, if it proceeds. There was an application lodged which they pay an application fee and in this case it was to prepare a quote which will then present them with another amount if they wish to proceed with the work.

MS WHITE: I see. So the funded part is in relation to the application to prepare the quote?---Its an indication that its not being paid by Sydney Water, its being paid externally.

So what would the application fee be, do you know that?---I don’t know the, the exact amount of the fee, no, for that particular service.

30

THE COMMISSIONER: But that’s an application for a quote?---This is the application within the Quick Check system.

For a quote?---Effectively it would be, yes.

MS WHITE: So what I’m trying to find out is the words, the word Funded in there would mean that something has been paid, is that right?---It, I don’t think that’s the intention of that word in this document but in this it, it certainly was, an application fee was paid.

40

All right.

THE COMMISSIONER: How do you know that?---I have queried the, the Quick Check system.

And what was funded?---An application was lodged for a water main connection.

What was funded?---The preparation of the quote and other investigation work that’s required for this to happen.

MS WHITE: And how much would that have been?---I'm not sure of the exact amount.

And what records would be able to accessed to show what that fee was?
---There would be a report available from the Quick Check system which would show that amount and the, the location and date that that was performed.

10 And do you have that record?---I don't have that with me, no.

So in fact there are other documents relating to lot 10, Day Avenue, Kensington that are not here with you today?---That's correct, the, the only documents I have are from the WAM system.

And they are electronic documents that you're talking about?---That's correct.

20 And, right. So a fee was paid in relation to preparing a quote?---That's correct.

And we don't know how much that fee was?

THE COMMISSIONER: We've been through that?---No, not exactly, no.

MS WHITE: Thank you. And can you just explain, down the bottom underneath Miscellaneous Details over on the right it says "WO closure" on both documents?---Yes, I see that.

30 What does that mean?---That's a flagged field to indicate whether the work order can be closed.

THE COMMISSIONER: That what can be closed?---This is a generic form for all work order types. In this case it has, it has no relevance.

Because it's not been, there's nothing next to it?---There's no, it's a means that we use to, to close jobs off once, once work has been performed and once it meets the criteria for closure?

40 What does WO stand for?---Work order.

MS WHITE: So in the WAM system when you are searching for documents there are a number of filters, is that right?---That's correct.

And the filters that you put in determine what documents are obtained or provided by the system?---That's correct.

And so to, to get the documents that you obtained which were attached to your statement dated 16 September, 2010, what filters did you put in to get those documents?---I don't, don't recall the exact criteria I used for that search. It would have been the street number, the street name and the suburb. Its possible that I didn't override the default filter which is only current work orders, it doesn't include cancelled work and that is one reason why it may not have produced these records originally.

10 I see. And if you were looking for jobs to do with a large service you can put in a code for large service, is that correct?---The, the task code of WC3D is for large service connections, yes.

And you can then put in suburb?---That's correct.

And then you can also put in service provider which is City East Depot in this case?---That's correct.

20 I see. And then you also put in water as opposed to waste water, is there a choice on the dropdown menu there?---There is.

So in the previous reports that were attached to your statement did you put in waste, waste water?---I don't recall what criteria. I expect it would have only been the address.

30 I see. And in relation to Exhibit 196 which is the work order ending in 0, can you just explain why that would have been cancelled the person GBS, do you, do you have any knowledge about that?---I'm not aware of why he cancelled it. I can offer suggestions but I'm not sure that they would have been the reason.

What suggestion could there be?---One of the, we're currently going through a system upgrade so we're, we have requested that a lot of cleanups take place to remove unnecessary records, not to remove, to, to close off or cancel unnecessary records so that could have been a reason for this, this occurring.

So other documents might have been removed as well?---Not removed, have their status changed.

40 I see?---That, that would be the action, the clean up action would be to cancel it.

But that was on 17 August this year?---That's correct.

Just before this inquiry started?---Apparently, yes.

Yes. I have no further questions.

MR PAYNE: Can I clear one thing up with Mr Knowles before he goes. These Quick Check records, Mr Knowles, do they contain information about any work done in relation to the Day Avenue premises?
---They don't contain details of any work, they're details of the application submitted by the plumber for that job.

You have checked this morning have you the Quick Check system?---It was in the last few days.

10

And the only thing there you say is that some fee was paid as an application in order to prepare the quote?---That's correct.

If a quote was ever prepared is it possible it could be in the Quick Checks system and not in the WAM system?---No, the process is that the quote is prepared in the WAM system and automatically fed back to the Quick Check system.

20

Is any answer that you gave Ms White about the electronic records of Quick Check does that qualify in any way what you told me namely that there is no electronic record within Sydney Water of any quote being prepared to work being done at Day Avenue in relation to water?---Sir, my understanding of that was in the WAM system - - -

Well, is there any record anywhere electronically in Sydney Water or work being done by Sydney Water to prepare a quote or do work at the Day Avenue address in relation to water?---No, the only record in Quick Check is of a request for a quote not for the, not for the quote being prepared.

30

Thank you. I have nothing further for Mr Knowles.

40

MS WHITE: Can I just ask one more question. I just want to go back to a question and answer that you gave when you gave evidence here previously, Mr Knowles. It's that transcript 1005T at line 41. You were asked, "There's no, so what may happen is that there may be a job card and the team leader doesn't key it in." And you answered, "There wasn't a job card because I've searched the systems for jobs and locations so even if it was done on a piece of paper there's no record in the system of that job being requested." That answer doesn't in any way reflect on these Exhibits P195 and 196 does it?---I wasn't aware of those records of the time I made that, gave that evidence.

Thank you.

THE COMMISSIONER: So that answer has to be qualified by reference to P196?—Yes, that's correct.

MR PAYNE: Last question. So there could've been a job number but nothing was ever input in the system about anything done about it. Is that what you say?---That's correct, yes.

Thank you. I've got nothing further for Mr Knowles.

THE COMMISSIONER: You may be excused, Mr Knowles.

10 **THE WITNESS EXCUSED**

[10.23am]

MR PAYNE: Commissioner, just to clear up one matter I recall Mr Funovski.

MS WHITE: Commissioner, I seek leave to appear for Mr Funovski.

THE COMMISSIONER: Yes. The leave that you were originally given stands.

20

THE LEAVE THAT YOU WERE ORIGINALLY GIVEN STANDS

MS WHITE: Thank you.

THE COMMISSIONER: That's why no doubt you asked the questions that you did.

30 MS WHITE: Yes.

THE COMMISSIONER: Mr Funovski, you're still under the oath that was administered to you when you first gave evidence.

MR PAYNE: Mr Funovski, on 22 September, 2010 you were suspended by Sydney Water?---I believe so, that may have been the date, yeah.

Well, you were suspended prior to that date but on that date you were suspended. Correct?---On the 22nd - - -

10 THE COMMISSIONER: You were under suspension?

MR PAYNE: You were under suspension on that date?---Correct. I was suspended on full pay, correct.

On that day you caused somebody to interrogate the Sydney Water e-Developer system on your behalf didn't you?---To interrogate the system?

20 You caused somebody to make inquiries electronically of the e-Developer system on your behalf on that day didn't you?---No, of the WAM system.

Of the WAM system, I'm sorry. Who was that person?---I, I just rang someone up in the, in the contact centre.

What was the person's name?---I, I can't remember who I spoke to.

30 THE COMMISSIONER: I don't believe you, Mr Funovski?---Just, I just rang the inquiry number and I identified myself and I said, Would you be able to conduct a search in the WAM system, and that's how I, that's how I came up with the job numbers.

MR PAYNE: How did you get the documents from this unnamed person in the job centre, in the call centre, Mr Funovski?---The, once I obtained the job numbers I asked the friend if they could in fact produce the, the actual documents.

Who was that person?---I really don't want to get that person into trouble.

40 THE COMMISSIONER: Who is that person please?---It's just a friend of mine that - - -

Can you just name them?---I just, I don't want to, I don't want to - - -

You're obliged to give evidence, if you don't answer a question you're liable to have committed an offence for which you may, the sentence may be imprisonment for up to five years?---Yeah, I understand that but I just, I don't want to, I just don't want to implicate anyone.

Either you answer the question or you don't. And I've explained to you what the consequences are if you don't?---I just asked my neighbour who lives down the street, he also works at the Sydney Water.

What's his name?---His name is Robert.

Robert who?---I'm not sure of his surname.

10 Mr Funovski, tell us his surname?---I'm not, I'm not sure of his surname.

What do you think it is?---I just know him as Robert.

MR PAYNE: What's his address, Mr Funovski?---I, I don't know exactly what, what his - - -

Mr Funovski, please, you don't know his address?---No, I just, I don't know what his exact - - -

20 You just told me he lives down the road, come on?---He doesn't live down my road he lives one street behind me.

I see. What's the name of that street?---I believe it's Prospect.

Yes. And what's the street number?---I don't know what his, what his home address is, I don't know.

30 THE COMMISSIONER: What are the streets on either, that run at right angles, Prospect Street in between which (not transcribable)?---The cross street you referred to?

MR PAYNE: What's the nearest cross street, yes?---Baumans Road.

Spelt?---B-A-U-M-A-N-S.

And what suburb are we talking about?---Peakhurst.

40 What did you say to Robert of unidentified surname in order to get him to look at records for you?---Look, I just, I just, I gave him the two job numbers and I just asked him if he, if he'd be able to, to somehow just get them printed off and just back to me.

THE COMMISSIONER: How long have you known Robert?---He's, I only became aware of him when he, when he started working at Sydney Water.

How long have you known Robert?---Maybe a year or so, year or two.

Do you speak to him often?---Occasionally, yeah.

Is he a social friend of yours?---Not really a close friend, no, just a work, work friend.

Does he come to your house?---Yeah, yeah, he pops around, he lives around the street.

And you go to his house?---I've been there once to his house, yeah.

For social occasions?---Ah - - -

10

Do you have a drink there?---Yeah, I may have from time to time.

Have a meal?---No.

He comes to see you socially not for work?---Well, partly, yeah, I'd say so, yeah.

And you go and see him socially?---Yeah.

20

He lives in the road behind you?---Yep.

And you don't know his surname?---Look, I, I, I believe it might be, there's a lot of people that work in our depot, I'm just not sure.

Have a guess, Mr Funovski. You said you believe it might be and then you stopped yourself. Why don't you complete that sentence?---I just, like I said I don't want to get anyone in trouble, what I've done I've done.

30

Well, you'll get yourself into trouble?---Well, I'll, I'll take that responsibility on my own because I, I, I asked in confidence like for these documents (not transcribable).

Mr Funovski, I'm going to adjourn for five minutes. Ms White, I expect that you should, that you will explain the law of contempt of the Commission to Mr Funovski, if you're not aware of it I'll ask my associate to provide the Act to you and you should look particularly at the section that deals with the failure to answer questions.

40

MS WHITE: (not transcribable)

THE COMMISSIONER: I'll adjourn for ten minutes.

SHORT ADJOURNMENT

[10.29am]

MR PAYNE: Commissioner, I understand that Ms White has an announcement to make.

THE COMMISSIONER: Yes, Ms White.

MS WHITE: Yes, Commissioner. I've spoken with my client, Mr Funovski.

THE COMMISSIONER: Yes.

10 MS WHITE: He has written the person's name down on a piece of paper which I have handed that piece of paper to counsel assisting. My client requests that the name not be made public at this inquiry, however he acknowledges that the name will be passed on to Sydney Water.

THE COMMISSIONER: Yes. That's acceptable.

MS WHITE: Thank you.

20 MR PAYNE: Commissioner, in those circumstances I have no further questions for Mr Funovski. I hand the name to Sydney Water's representative.

THE COMMISSIONER: Do you have any questions, Mr Stevenson?

MR STEVENSON: No, Commissioner.

THE COMMISSIONER: And you don't have any questions, Ms White?

MS WHITE: No.

30 THE COMMISSIONER: No. You are excused, Mr Funovski.

THE WITNESS EXCUSED

[10.40am]

MR PAYNE: Commissioner, I call Mr Gordon Stephenson.

40 MR STEVENSON: I seek leave to appear for Mr Stephenson. He does not require a Section 38 order.

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

MR STEPHENSON: Under oath.

THE COMMISSIONER: Could you swear Mr Stephenson in.

MR PAYNE: Mr Stephenson, can you tell the Commission your full name, please?---Gordon Stephenson, spelt P-H-E.

And you're an employee of Sydney Water?---Correct.

10 You are presently the work plan coordinator at the Daceyville depot in the maintenance department of Sydney Water?---Correct.

For how long have you occupied that position?---Two years.

And you've been a long-term employee of Sydney Water prior to that time? ----(NO AUDIBLE REPLY)

20 Can I show you Exhibit P196. This is a printout from the Workplace Management System known as WAMS within Sydney Water. Do you agree?---Correct.

It's a system you have regular access to?---Correct.

It relates to premises at Lot 10 Day Avenue, Kensington. Do you agree? ---Correct.

Known as New College at the University of New South Wales?---I'm not aware of this.

30 It is a workplace order in relation to the preparation of a quote for a water main connection at those premises?---Correct.

I want to ask you in particular about under miscellaneous details, which is the fifth heading on the first page of Exhibit P196. Do you see that? ---I do.

It says, "Last modified by GVS on 17 August, 2010 at 11.37?"---Correct.

That's, they're your initials?---No. They're my ID.

40 I see. You have no, you have no middle name so rather than X you use V. I see. Thank you?---That's, the system gave me that ID.

A present from the WAM system, the middle name?---Yes.

It identifies you though?---Correct.

It's something you did on that date at 11.37am?---Correct.

What was the thing that you did?---I searched the system for a certain number of outstanding aged work orders that had no action taken on them and was to cancel them under direction of my work plan manager.

Who is?---Sean Gardner.

And this direction, did it relate to this job in particular or was it a broader job you were doing?---Just all aged work orders.

10 And so your job was to manually sort through on the WAM system looking for aged work orders?---Aged work orders, yes.

We've heard some evidence from a Mr Knowles about an automatic system that cancels out orders. Are you familiar with that retail ancillary services monitor system?---I am indeed.

20 Can you offer any explanation why this work order, Exhibit P196 that's in front of you, wasn't cancelled by the RAS system?---Unfortunately, due to the system GPO8's don't get cancelled, only the actual WC3D's, that's all (not transcribable).

I see. You say GPO8. That's Sydney Water speak for preparing a quote? ---That's for quotes, yes.

Just for water or for sewerage is a GPO8?---Quotes, quotes for anything.

Quotes for anything is a GPO8?---Correct (not transcribable)

30 And you see GPO8 here under task code in the third heading down. So, so on that day, 17 August, 2010, do you remember how many GPO8's you had cause to cancel?---Not off the top of my head. There would probably be several dozen.

And that's because, is it, in the system this GPO8 preparation of a quote is created whenever a customer asks for one, but if the work isn't done, namely the quote isn't actually prepared, this just lives on electronically? ---Correct.

40 And there's no automatic mechanism to close it out?---Unfortunately, no.

And what your supervisor asked you to do was to manually check and to cancel those which had been outstanding for a period of time?---Aged work orders were to be cancelled (not transcribable) to reconcile them first to see if there's any times or costs put against them- - -

Yes.---?- - -and if there's no times or costs registered against that particular job number, I then cancel it.

And you searched in relation to this one and there were no time or costs?
---Searched in relation to customer-related jobs.

Yes?---This just happened to be one of them.

Customer-related jobs. Do you mean jobs in relation to Planet Plumbing?
---No, customer-related. Customer-related is a work item style. We have
six work items, one being reactive, one being corrective, one being
preventative, one being customer-related, one being operational and the last
10 one is (not transcribable) There are six classes of work and I progressively
went through all six.

I see. And that was under the direction of your supervisor to get rid of these
aged work orders?---Aged work orders, yeah.

And how old do they have to be to be aged?---We started back in April last
year when we agreed in our monthly meeting that we'd start with those that
were between five and ten years and we've progressively worked down to
now anything more than 12 months old.
20

I see. So you did the very very old ones first and then worked your way
though?---(not transcribable)

And that's a process you've been engaged in since April last year, 2009?
---Correct.

Just looking at the date that this was cancelled out, 17 August, 2010, was
there any connection between you cancelling this work order and anything
at all to do with this- -?---None whatsoever.
30

- - -investigation by this Commission?---None whatsoever.

Did you even know about this investigation by the Commission on 17
August, 2008?---No, I did not.

You first heard about it after that, you think. Can I ask you just some
questions about this job itself. You told me you didn't know that 10 Day
Avenue, Kensington was New College at the University of New South
Wales. To the best of your recollection, were you ever involved in any
40 Sydney Water either sewerage or water connection in relation to- -?
---None.

- - -that, that place? You know a Mr Desfontaines, I take it?---I do.

Are you aware of evidence that Mr Desfontaines has given in this inquiry
about a water connection?---I am now.

And you've read the transcript of his evidence, have you, prior to coming along today?---Prior, a couple of weeks ago, I mean.

Yes. You couldn't read it before he gave the evidence, but after he gave the evidence at some point, one of your legal representatives has shown you that evidence. Were you involved in any way in giving any instruction whatever to Mr Desfontaines or Mr Nobrega in relation to the New College water connection?---None whatsoever.

10 Are you absolutely clear about that?---Yes.

And has it come to your attention in any work that you have done for Sydney Water that there is any electronic record anywhere within Sydney Water of a water connection being conducted at the Day Avenue Kensington premises?---I've looked for, on the request of the manager for jobs relating to that particular area.

Yes?---And I haven't found any that actually come up with actual work being performed there.

20

And just looking at P196 for a moment, that record of Sydney Water tells you that there's no record of any quote ever having been prepared in relation to a water connection at that job, does it?---Yes. There's no record of a quote being prepared being put into the system against this job number.

Yes. And you've looked for, you've looked in the system to see whether there's any other quotes or other water jobs in relation to this premises. Is that what you're saying?---No, I haven't searched for other jobs.

30 You haven't searched, but you yourself weren't involved in any such job?
---No.

I have nothing further for Mr Stephenson, Commissioner.

MR STEVENSON: Mr Stephenson, you mentioned that the process of dealing with the aged work orders commenced in April of last year?

---Correct.

40 I'll show a document, there's two copies, could Mr Stephenson be given the one which has the green tab. This, Commissioner, is page 2 of 3. Does the, these are, these are minutes of a depot meeting southern that you attended with the other people named at the top of page 2?---Correct, yeah, fellow work plan coordinators.

And we find at the bottom of page 2 in the entry which commences with the words "Aged work orders," the genesis of the process that you've described to Mr Payne of culling the system of aged work orders?---Correct.

I tender that document.

THE COMMISSIONER: The agenda of the southern depot meeting of 24 April, 2009 and related documents is Exhibit P199.

#EXHIBIT P199 – AGENDA OF THE SOUTHERN DEPOT MEETING OF 24 APRIL 2009 AND RELATED DOCUMENTS

10

MR STEVENSON: Can I show you another document. These are the minutes of a similar meeting, the, an area southern meeting which occurred on 13 August, 2010?---Yes.

Yes. If you go to page 14, you'll find about half, you see about halfway down the page there is an entry which commences "Aged work orders"? ---Yes.

20

Does that represent the minute of a discussion as at 13 August, 2010 of the progress then made in relation to this process of culling the system of aged work orders?---Correct.

And of course it was I think four days after the date of this meeting that you in fact go to the aged work order that Mr Payne's been asking you about? ---Correct.

I tender those minutes.

30

THE COMMISSIONER: Yes, the agenda of the southern depot area meeting of 13 August, 2010 is Exhibit 200.

#EXHIBIT 200 - AGENDA OF THE SOUTHERN DEPOT AREA MEETING OF 13 AUGUST 2010

MR STEVENSON: Yes, thank you, Mr Stephenson, thank you, Commissioner.

40

THE COMMISSIONER: Ms White.

MS WHITE: Yes, just a couple of questions, Commissioner. My name is Ms White, I appear for Mr Funovski. If I can just ask you just, when you modified on P196 - - -

THE COMMISSIONER: Would you mind speaking louder, Ms White, I can't hear you.

MS WHITE: Sorry, Exhibit P196, I wonder if the witness could be shown that document, that's the work order ending with a 0?---Correct.

Down there where it says "last modified" under Miscellaneous Details, its got by GBS on 17 August, 2010, that's, that's you, GBS?---Correct.

When its modified that means its cancelled, is that right?---By saying modified means it's the last person who has actioned this particular job number in the system. It doesn't necessarily mean that it was cancelled.
10 You have to look at the status to determine whether its cancelled.

And the status up there does say it was cancelled?---Does say cancelled, yes.

And, and what happens then with this work once this is cancelled?
---There's, there's, there's no work.

There's no work?---No action's been taken or recorded against this particular job number, the reason why I cancelled is there was nothing there,
20 it becomes a cancelled status and stays in the background in the system. The next person who then goes into, types in that job number it will come up on the screen a certain colour with the word "cancelled" on it, so no further action can be put in against that particular job number.

All right. And up underneath Job Details where it says on the right, "work type CR customer requested and funded," we heard earlier that that would, the funded might mean in relation to payment of an application fee for a quote?---Correct.

30 And when you cancelled this work order what would happen to the money that the person had paid for the application fee?---Probably stays in Sydney Water's treasury.

Stays in the Sydney Water treasury?---Yeah.

And the work never gets done?---Not in this instance it doesn't appear.

And would any other request be made at some later time for the work to be done?---My impression is if further work was, if any work rather was
40 required for this particular job number or this address the applicant would have to go back to Reece Plumbing or Quick Check or whoever it is and reapply and my understanding would be he would have a receipt for his application fees, he should be able to show that he's paid moneys back in 2008 and he wants it, but he'd have to pay to get a new job number, work order number.

So the person who paid that money, in this case it appears Planet Plumbing -
- -?---Ah hmm.

- - - would they know that their order had been cancelled?---Not unless they were making inquiries using that job number. We're not obliged to inform them, you know, two years after they make application that that job number no longer exists.

I see. And how many of these work orders would you say would have been cancelled?

10 THE COMMISSIONER: Over what period?

MS WHITE: Over the period of the last 12 months?---Possibly could run into hundreds, not necessarily customer related but work orders in general.

I see?---I don't know because as I said they're split into six categories.

And are they for large connections or small?---If they're customer related they could be for small connections, large connections, manholes raised.

20 And does the application fee vary as to whether it's a large connection or a small connection?---I would imagine it would do, yes.

But you don't know?---I don't know for certain.

I have no further questions.

THE COMMISSIONER: Yes, thank you. Mr Stephenson, you may be excused, thank you?---Thank you.

30

THE WITNESS EXCUSED

[10.57am]

MR STEVENSON: Commissioner, I tender that bundle of correspondence that I handed you earlier, being the letters between Mallesons and the Commission between 29 March and 27 April, 2010.

40 THE COMMISSIONER: Yes. The, its incomplete Mr Stevenson and I really don't know whether you want to raise this. I have asked Ms Colquhoun to speak to you and point out to you certain anomalies in this. I just didn't think that its necessary having accepted your statement, I did not think that it was worthwhile taking it up in this public inquiry but I've asked Ms Colquhoun to show you documents which suggest anomalies which were a matter for concern to the Commission simply so that Sydney Water could be aware of what has caused us concern. If you're going to tender these documents on the basis, well (not transcribable) the purpose is because I have actually accepted what you had to say but they do not show

the full picture. And if you're going to tender all the documents well, I think - - -

MR STEVENSON: I don't mean to - - -

THE COMMISSIONER: I have - - -

MR STEVENSON: - - - propose an exhibit which is misleading, Commissioner.

10

MR PAYNE: Do you want to have five minutes and I'll show you the documents?

THE COMMISSIONER: Let us adjourn for five minutes and you'll be shown what I have in mind.

SHORT ADJOURNMENT

[10.59am]

20

MR STEVENSON: Commissioner, I don't wish to make any further submissions in regards to the matter we were discussing.

MR PAYNE: Commissioner, that completes the evidence in this inquiry.

THE COMMISSIONER: Yes, I think, sorry, Mr Payne, Mr Stevenson, I think unless you have any objection, I should make, the letter that the managing direct, that you gave me yesterday from Doctor Schott should be an Exhibit.

30

MR STEVENSON: Yes. I have no objection.

THE COMMISSIONER: Yes. That will be Exhibit P201, the letter to the Commission from Doctor Schott dated, I think it was yesterday, 28 September. Yes, thank you.

#EXHIBIT P201 - LETTER TO THE COMMISSIONER FROM DR SCHOTT DATED 28 SEPTEMBER 2010

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THE COMMISSIONER: Mr Payne.

MR PAYNE: Commissioner, that, that completes the evidence in this public inquiry. I have a proposal in relation to submissions, namely that my submissions as counsel assisting will be circulated to all relevant parties on 18 October and that all interested parties have until 1 November, namely 14 days to respond if that's acceptable.

MR STEVENSON: That's acceptable to us, Commissioner.

THE COMMISSIONER: Yes. Ms White, you're the only person here to be able to comment.

MS WHITE: That's very acceptable, Commissioner.

10 THE COMMISSIONER: Very acceptable. Well, I think that that will be the order that is made. It is custom of the Commission not to have oral solutions. They will be in writing. Mr Stevenson, the corruption procedure aspects I expect to be much more reduced than normal because of the letter that you handed to me yesterday. But you will see from Mr Payne's written solutions whatever we propose with which you may wish to deal, but my expectation is that much of your, most of your proposals will be simply be adopting, if not all.

MR STEVENSON: That's very welcome, yes, Commissioner.

20 THE COMMISSIONER: We will, the Commission will now adjourn.

AT 11.08am THE MATTER WAS ADJOURNED ACCORDINGLY
[11.08am]