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PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION PETRIE

Reference: Operation E11/0534

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 28 FEBRUARY 2012

AT 10.10AM

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

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

ASSISTANT COMMISSIONER: Thank you. Please be seated. Yes, Mr Watson.

MR WATSON: Thank you, Commissioner. I call Phillip Potter.

ASSISTANT COMMISSIONER: Yes. Is Mr Potter here? Have a seat, Mr Potter.

MR POTTER: Thank you.

10

ASSISTANT COMMISSIONER: Mr Potter, you've been called here to give evidence and you are required to answer all of the questions asked of you. You may seek a declaration in respect of your evidence that nothing you say can be used against you in future proceedings. Do you wish to seek a declaration in those terms?

MR POTTER: Well, I don't know what that means but no, I don't really.

20

ASSISTANT COMMISSIONER: Well, I don't think in your, your evidence that you actually need it so - - -

MR POTTER: No.

ASSISTANT COMMISSIONER: - - - we'll keep that under review if it should come up.

MR POTTER: Okay, thank you.

30

ASSISTANT COMMISSIONER: Now, you're required to take an oath on the bible or make an affirmation to tell the truth.

MR POTTER: I'll make an affirmation if I may.

ASSISTANT COMMISSIONER: Yes. Could the witness be affirmed please.

MR WATSON: Is your name Phillip Potter?---It is.

Mr Potter, you've been unwell of late but previously you've been a real estate agent?---I still am a real estate agent, yes.

10 For many years you've been the director and licensee of a company called Coverdisk Pty Limited which trades as Whale Coast Realty?---Yes.

And Whale Coast Realty is based in 3 Field Street in Narooma?---Yes.

And as I say, you've been down there working in various places as a real estate agent, one aspect of which is to let our rental properties?---Yes.

20 Mr Potter, I'm going to show you a statement or at least a copy of a statement which you provided to some ICAC investigators and we'll see at the foot of each page there's a photocopy of your signature?---Yes, it is.

Do you remember giving this statement?---Yes, I do.

And do you remember giving it with some care, you were trying to get things right?---Yes.

And you signed it because you were satisfied that its contents were truthful and accurate?---Yes.

30 I want to draw your attention to some certain parts of it, Mr Potter. In paragraph 4 you refer to the fact that in 2005 you understood that Ken Foster came to your real estate agency?---Yes.

Now, Mr Foster actually originally approached one of your employees, Mr Nancarrow, N-A-N-C-A-R-R-O-W?---Yes.

Mr Nancarrow's passed away?---Yes.

40 But you remember some dealings that you had personally or directly with Mr Foster and people who came with Mr Foster?---Yes, I do.

And if you look for example at paragraph 5 you know from looking at records and what transpired that Mr Foster was able to rent what was described as a holiday unit property in Angle Street in Narooma?---Yes.

Now, the rent was agreed at \$220 with Mr Foster?---Yeah.

And in paragraph 6 you refer to an incident about the payment of the rent? ---Yes.

Now, I'm not sure whether it's because you had a pre-existing interest in boxing or whether you just knew of the family but when Mr Foster came into make arrangements about the rent you knew who Lucky Gattellari was?
---I did, yes, I did have an interest in boxing.

And you'd seen his brother, older brother Rocky - - -?---Yes.

10 - - - in his career and recognised Lucky as well - - -?---Yes.
- - - from his own career as a boxer?---Yes.

Well, in any event you remember three men came into the real estate agency?---Yes.

One was Mr Foster?---Yes.

One was Gattellari?---Yes.

20 And the third one you did not know at that time?---No.

The third one, I think at one stage he may have even been introduced to you but you didn't remember the name?---Yeah.

Now, that third person was male?---Yes.

30 And since these events have transpired you've seen photographs of a man who you believe was that third person who came into the agency?---I have, yes.

And who do you believe that third person was?---I, I thought it was Mr Medich.

Ron Medich?---Ron Medich, yes.

In any event, in your statement you describe how Mr Gattellari passed over cash to pay Mr Foster's rent?---Yes.

40 And Mr Medich, the third person, was there at that time?---Yes.

And that there were records kept of when rent was paid and for that matter when it wasn't paid and we can see next to your statement a ledger relating to payments of rent?---Yes. I must say that we don't have many records left of that first rental. Sometime after that first rental Mr Foster came and said that he wanted a house because he wanted to bring his, his family down and so he then rented a house from us and, and that ledger card relates to the house, not to the first rental.

Oh, I'm so sorry, I'm so sorry, that's of course the second rental?---Mmm.
Yep.

I was going to come to that. Mr Foster then changed properties, he moved out of the unit into the house as you've described?---He did, yes.

The house was at 3 Cove Court- - ?---Yes.

- - -in North Narooma?---Yes.

10

And there were some arrangements made there about payment of rent as well?---Yes.

And I think in the end, if I show you yet another document, you terminated Mr Foster's residency on the basis that no rent had been paid for some time? ---That, that is correct.

I think that might have been something of a futile gesture because he'd already left the premises?---He had left, he had left.

20

He'd, he'd left without notice?---Yes.

And he'd left without even dropping off the key?---That's right.

Commissioner, I tender the statement and that document, the termination notice that I've shown to Mr Potter.

ASSISTANT COMMISSIONER: Yes. The statement will be Exhibit 6 and the termination notice will be Exhibit 7.

30

#EXHIBIT 6 - STATEMENT OF PHILLIP POTTER

#EXHIBIT 7 - TERMINATION NOTICE

MR WATSON: Thank you, Mr Potter, that's the examination of Mr Potter, Commissioner.

40

ASSISTANT COMMISSIONER: Thank you. Does anyone seek to question Mr Potter?

MR TERRACINI: Yes, I do, Commissioner.

ASSISTANT COMMISSIONER: Yes, Mr Terracini?

MR TERRACINI: Mr Potter, have you got your statement in front of you?
---I have, yes.

Okay. Now, it was made in October last year for the- - -?---Yes, it was,
yeah.

And between May 2005 or thereabouts and 2011, did you have any reason
to turn your mind to the identity of these people?---Not, well, I certainly
remember the incident.

10

Yeah?---And I have thought about it occasionally over the, over the years,
yes, but they left owing, Mr Foster left owing a fair bit of money so- - -

Oh, yes. No, there's no doubt that you remember somebody in your
industry who didn't pay the rent?---Yes.

But in terms of the person who you saw in the newspapers- - -?---Yes.

20

- - -or on television, between 2005 and when you saw the person who you
were told by the media either on film or in the paper that it was Ron
Medich- - -?---Yes.

- - -did you see that man at all between 2005 and the person you thought
was the same fellow when you saw him in the media?---No, I didn't see him
after that date.

And up until you made your statement to the ICAC you couldn't remember
his name?---I, I couldn't remember his name but I was introduced to him.

30

Oh, no, I understand that?---Yeah.

I've got your statement as well?---Yeah.

So did you see how much money Gattellari handed Mr Foster?---I didn't see
exactly how much money but when you're going into a tenancy there would
be bond and there would be two weeks' rent and those sort of things.

40

Oh, of course. What I'm directing my question to you is do you actually
see, I know that he'd have to pay a bond and all that sort of thing?---Yeah.

But did you actually see how much money he gave?---No, I don't, I don't
recall that I actually saw how much.

And was it in the reception of your real estate agency or in an office or
what?---In the reception area.

Okay. And was it given to your accounts clerk or another real estate agent?

---Yes, it was. It was passed to Mr Foster and he passed it to the property manager.

And where was the other man then?---He was just standing in the reception area, just quite casually standing there talking, talking amongst themselves.

And did you hear any conversation along the lines, Oh well, Lucky's going to fix it up or don't worry about it or whatever or Lucky will cover it or anything to indicate that this was prearranged?---No, not at that time. I
10 don't recall any such conversation.

All right. And did you see Gattellari take the money from his pocket?
---Yes, yeah.

And where was the other man then?---Just standing at the back of the, back of the room.

And on his own?---Yes.

20 At one stage when Mr Gattellari does give Mr Foster a certain amount of money, they're quite close together?---Yes.

Your staff member is quite close to them because she takes the actual money from Mr Foster?---Yes.

But the other man is at the back or further back in the reception area is he?
---Yes, he is, but it's a small area.

Oh no, I'm not suggesting it's full stadium, but he's not right up close to
30 when this is taking place?---No.

And did you ever hear any conversation between him, that's the third man and the other two at all that you can remember anyway?---I can't remember any of that conversation. They did, they were talking, they did have a conversation. They also had a conversation with, with a Mr Nancarrow who was, who worked for me at that time and who appeared to know Mr Foster.

Yes?---They had a conversation. But I, I can't after this period of time can't
40 recall what that was about or - - -

All right?--- - - - what they discussed.

And by reference to the record payment, what's your best estimate as to when this took place?---When it took place?

Yes?---As I've said I, I don't have the records precisely of that period of time, but I would think it would be around about May or June of '05.

All right. And did you notice any difference in the person that you saw on TV or in photographs with his name under it or part of a caption known as Ron Medich in the Media, did you notice any difference in his hair between when you thought that he was the same man in 2005 to when you saw him in the media?---No, I can't say that I did, no.

All right. Anything to do with whether he was wearing glasses or not?
---No, I can't recall that he was wearing glasses.

10 I know this may sound a little bit pedantic, but he wasn't wearing glasses when you thought he was the man in the real estate office or not wearing glasses when you saw photographs of him in the media or you can't remember either?---I don't recall him wearing glasses when he was in the real estate office.

Right. And did you actually speak to him yourself?---I was introduced to him. I did say hello.

20 Was that the extent of it or - - -?---That was about the extent of my conversation with him, yes.

Okay. And so far as you're concerned you've got absolutely no doubts that it was Lucky Gattellari?---Yes, I have no doubt of that. He was introduced to me as such and I, I took a particular interest in him and I have seen him of course in the paper since that time.

30 But you knew from your own memory that what he fitted the description when you saw him in 2005 or - - -?---Yes, broadly speaking. I think he did, yes.

Did you, did you in fact talk about boxing at all?---No, we didn't.

Yes, thank you.

ASSISTANT COMMISSIONER: Thanks Mr Terracini. Anybody else?
No. Nothing else from you Mr Watson?

40 MR WATSON: I've got nothing else except to say this, I know Mr Potter has been unwell and he came up here, it's been quite a struggle for him, thank you Mr Potter?---Thank you.

ASSISTANT COMMISSIONER: Yes, thank you for your attendance. You are now excused?---Thank you very much.

THE WITNESS EXCUSED

[10:26am]

MR WATSON: Commissioner, I call Troy Stever, S-T-E-V-E-R.

ASSISTANT COMMISSIONER: Yes, take a seat Mr Stever. Is that how your name is pronounced?

MR STEVER: Stever.

ASSISTANT COMMISSIONER: Stever. You've been called to give evidence and you are required to answer all the questions asked of you.
10 You may seek a declaration the effect of which would be that nothing you say can be used against you in future proceedings.

MR McILWAINE: Yes, my client seeks a declaration.

ASSISTANT COMMISSIONER: Thank you Mr McIlwaine. Mr Stever, the effect of this declaration is that nothing you say can be used against you in any civil, criminal or disciplinary proceedings, however, it may be used if it's found that you've breached the Act by providing false or misleading information or in some other way. Do you understand the effect of the
20 order?

MR STEVER: Yep, I understand.

ASSISTANT COMMISSIONER: Mr Stever, could you try to keep your voice up.

MR STEVER: Yep. Sorry.

ASSISTANT COMMISSIONER: Your answers have to be recorded.
30 Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

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

ASSISTANT COMMISSIONER: Mr Stever, you're required to take an oath on the Bible or make an affirmation.

MR STEVER: An affirmation, ma'am.

ASSISTANT COMMISSIONER: Could the witness be affirmed, please.

<TROY STEVER, affirmed

[10:27am]

ASSISTANT COMMISSIONER: Yes, Mr Watson.

MR WATSON: Is your name Troy Stever?---Yes, sir.

You're from down in the Narooma area?---Yes (not transcribable)

10 And you've been a long term member of the Wagonga Local Aboriginal Land Council. Is that right?---Yes, yes, sir.

But you've also been from time to time on the Executive there, that is elected to various positions?---Yes, sir.

And from time to time you've been involved in some of the decisions which have related to the ordinary business of the Wagonga Council?---Yes, sir.

20 Both as a participating member and on other occasions as, wearing both hats as a member and a member of the Executive?---Yes, sir.

You do remember a time when the Wagonga Council was considering a number of agreements in the nature of joint ventures between Wagonga and a property development group sometimes called the Medich Group?---Yes, sir.

And while you were a member of Wagonga those matters occasionally came for consideration at meetings?---Yes, sir.

30 And some of these meetings you were present?---Yes, sir.

You didn't go to every single meeting, but you went to a lot. Is that right? ---Yes.

In terms of the nature of the joint venture, did it come to pass that you became concerned about the agreement because you hadn't seen the whole of the agreement?---That's correct, sir.

40 For example in the papers which had been circulated were you concerned that there were only ten pages of what was apparently a much, much larger document?---Yes, sir.

And did you start, I'm not saying you were stirring up trouble, but did you start raising a concern that the Council should be looking at the whole of the document. Is that right?---That's correct, yes.

And that also the Council should be taking some legal advice in terms of the whole of the document?---Correct, sir.

Now, at that time the Council had a solicitor, Mr Eddie Neumann, who claimed to have some expertise in the handling of Aboriginal Land Council issues?---That's correct, sir.

And was it your case that you were agitating to get first the whole document and secondly, appointments with Mr Neumann so that he could give advice about the implications of the joint venture?---That's correct, sir.

10 Now, I'm going to ask you if you'd look at a document. It's in what we call Exhibit 1 which is volume 1 and you'll see that it's numbered in the top right-hand corner and I'm going to go, ask you to go to page 169. Do you have that page, Mr Stever?---Yes.

Now, you'll see that on that page it's a kind of introductory page regarding a meeting of Wagonga, an extraordinary meeting which was to be held on 17 August, 2005 at 10.30am. Do you see that?---Yes, sir.

20 Now if I ask you just generally do you have any independent recollection of going to that meeting or any meeting at that time?---No, I don't have.

I might tell you we've got no record of who was present and who wasn't present and when we look at the few records provided we can't see your name anywhere as a person who moved a motion or seconded a motion or spoke to an issue so we don't know whether you were there or not but if I show you page 171, the second last motion on that page is that you repay \$600. Can you remember being present when such a motion was passed? ---No, sir.

30 I want you to focus now on the last motion on the page. You'll see that there's a reference to Ron Mason as chairman and Ken Foster as coordinator. You know both of those, those men?---Yes, sir, yes.

You know them very well, you've probably known Ron Mason for most of your life?---Oh, a good 15, 20 years.

And you'll see that they are authorised by the meeting to be delegates to deal with the representatives of the joint venture, you see that?---Yes, sir.

40 Can you remember a motion like this being passed it, obviously as you read on, affects you?---No, sir.

In any event, a motion was put and carried that you, Troy Stever, be told not to contact Gattellari or Medich, do you see that?---Yes, sir.

Can you now explain the circumstances in which a motion was put and passed that you be prevented from contacting Gattellari or Medich?---I have no explanation.

Thank you. That's the evidence of Mr Stever.

ASSISTANT COMMISSIONER: Yes. Does anybody wish to question this witness?

MR TERRACINI: Just briefly, Commissioner.

Mr Stever, do you know who the developer was going to be, potentially?---
Sorry, sir?

10

Do you know who the developer was going to be potentially, that is in a bid to develop some land associated with the Council?---Yes, sir.

And who told you that?---Ah - - -

Or did you read it or, or what?---I was at the initial meeting when Lucky and Ron presented to the Members.

20

And what did that involve? Was it some sort of - - -?---About a - - -

- - - a power display or whatever they call it?---No, very, very a quick brief over a, about a 10-page document that gave basics of what the development idea was.

And, and what was it?---To go into partnership with the Land Council in developing land.

30

And was that about the extent of what you knew about it?---At that stage, yes.

And did you learn any more as time passed?---Yes, I, I had attended a meeting here in Sydney with, with Ron Mason just basically getting this, the document looked over by a lawyer for the Land Council.

Mr Neumann?---Mr Neumann.

Craddock Murray and Neumann. Does that ring a bell?---Yeah, that's correct.

40

And did you speak to Mr Neumann yourself?---Yeah, we were in, in a boardroom type of situation going through what had been given to us.

And did you speak to Mr Neumann about whether it was something that was going to take off and succeed?---Our main concern was that the Land Council wasn't going to be, be left high and dry in a contract, so our main concern were points of the contract.

And to make sure that all of the legal I's were dotted and the T's crossed?

---That's correct.

All right?---At this stage Wagonga was under administration so- - -

Yes. And what, because the, it had basically gone bankrupt?---Well, I wouldn't say bankrupt but there was, a lot was changing, the Act was changing and Land Council were changing.

10 Right. But have you got any distinct memory, I'm not suggesting that Lucky Gattellari didn't attend the council, but have you got actually a distinct memory of Mr Medich ever doing that?---No, not, not attending a Land Council meeting, no, I don't.

No. Have you got him, have you got any distinct memory of him attending any meeting with anyone in your presence obviously in Narooma or any other place on the south coast?---Yes, we had met with Mr Medich.

20 Yep. And where was that?---My first, first meeting with Ron Medich was at the Whale Hotel.

Yep?---I was to pick him up and take himself, Lucky Gattellari and a couple of other people at a number of blocks of Wagonga Land Council land.

So you attended the hotel and you drove him and he had a look at basically some land?---That's correct.

30 And was that the extent of your dealings with him?---I had another meeting with Mr Medich in Narooma, at the, at a hotel which was close to the Land Council office where I basically put together a folder of the details of the, the lots that they were looking at.

Yes. And did you hand that to him?---Yes, sir.

And other than him saying thanks very much, that was about the extent of the dealings with him?---Yes, sir.

And you've got the two meetings of which you were part, you drive him to where the blocks are and he has a look?---Yes.

40 And then on another occasion you hand him a series of calculations or documents associated with the land?---More information on the lots, yes.

Yes. And that's the extent of your dealings with- - -?---Pretty much so.

Yes, thank you.

ASSISTANT COMMISSIONER: Thank you. Mr Stever- - -?---Yes, ma'am.

- - -you say you weren't aware of this motion being passed that you were not to have contact with Mr Gattellari and Mr Medich, but did anybody ever tell you that, that you weren't to contact them?---No, ma'am.

10 Nobody ever said you weren't to contact them?---No, ma'am. At this time, '05, just before, before this sort of all happened, I got bitten by a snake and was pretty crook and also our youngest was diagnosed with severe haemophilia, so I was trying to withdraw from the responsibility of the treasurer position in the Land Council but felt I had to sort of be there because a big changeover had happened from board members to directors and we'd done all the training and all that prior to all of this happening, so I was actually trying to pull back, if, if anything, yeah.

Yes. All right. Thanks for that. Yes, Mr Watson?

20 MR WATSON: I've got nothing further. Could I say Mr Stever also has been ill and he's come here today under considerable pressure. Thank you, Mr Stever, thank you for coming?---Okay. Thank you.

ASSISTANT COMMISSIONER: Yes. Mr Stever, thank you for your attendance. You're now excused from further attendance?---Thank you.

You may leave.

THE WITNESS EXCUSED

[10.40pm]

30 MR McILWAINE: Might I be excused as well?

ASSISTANT COMMISSIONER: Yes, Mr McIlwaine.

MR WATSON: Commissioner, I call Grant Lockley.

ASSISTANT COMMISSIONER: Yes. Mr Lockley, do you wish to take an oath on the Bible or be affirmed?

40 MR LOCKLEY: The oath.

ASSISTANT COMMISSIONER: Yes, could the witness be sworn, please.

MR WATSON: Is your name Grant Lockley?---That's correct.

Are you a forensic accountant?---That's correct.

Are you employed by the Independent Commission Against Corruption?---I am.

10

In that capacity were you asked to investigate matters relevant to what was described as Operation Petrie?---That's correct.

And in particular matters arising under the Wagonga Local Aboriginal Land Council and proposals put by certain developers to certain people within that Council?---That's correct.

Did you as a result of your examination of affairs acquire information from various sources?---I did.

20

Yes. Did you get information, for example, from banks?---Yes, from the banks.

Pursuant to summons did you acquire information from individuals?
---That's correct.

Did you get access to, for example, some records produced by Mr Gattellari which had been captured from his premises when a summons was executed against him?---That's correct.

30

And in due course did you compile and look at that information for the purposes of preparing a report?---I did, yes.

Did you prepare a report for the Commission and do you have a copy of it there in front of you now?---I do, yes.

The report itself is dated 23 February, 2012, is that so?---That's correct.

The text covers 33 pages?---Yes.

40

And there are numerous annexures to it?---That's right.

Now if I just deal with the text you've read and re-read the content of that text?---I have, yes.

The format is to set out some of your qualifications to speak?---That's right, that's right.

The inquiries you undertook?---Yes.

The result of those inquiries?---Yes.

And the conclusions which you drew given your expertise from those inquiries?---That's correct.

10 Now, subject to an alteration which you wish to make to paragraph 81 on page 32, now you're here and you're on your oath, do you say that the contents of the text of your report is true and correct?---I do. There were a number of changes due to the removal of annexure 14 as it did not relate to these proceedings due to the fact it affected another person.

As you understood the scope of this inquiry meant that certain matters which you had attached and in particular people will notice, no doubt, there's no annexure 14, that certain matters were removed from the report? ---That's correct.

20 But the effect has been that you need to make, do you, an alteration to paragraph 81 which is on page 32?---I do and also on page 9, paragraph 20.

I'm so sorry, we'll deal with that first?---Yeah, line 3.

Page 9?---Page 9.

Paragraph 20, line 3?---The new total, quantified amount there should be \$69,768.33.

30 Now, the difference being that records which related to one particular person were picked up and removed?---That's correct.

And, and they were, one can see by the difference, fairly trivial sums? ---That's right and also page 32, paragraph 81, line 3.

Thank you?---The new total there is \$22,720.00.

40 And the difference is explicable by the same fact, you've excluded numbers which related to one individual?---That's right. It was removed at the last moment before the hearing.

And that's the person who was covered by annexure 14?---That's correct.

Could I just go through the text of your report just very lightly?---Yes.

In paragraphs 1 through to 3 you set out some of your qualifications to speak?---I do.

If I just point out some of those. You are by training and qualification a Certified Professional Accountant?---Yes, that's correct.

And to qualify in that area you have a Master of Commerce degree?
---I have a Masters of Forensic Accounting.

And a master of Commerce in accounting as well? Or that's current stuff?
---I'm currently doing that at the moment.

10 And you've been working in this field for many many years?---Yeah, approximately 12 and a half years now.

And in fact been teaching in this area as well?---As well, I lecture at Wollongong University.

And then in paragraphs 5 and following you set out the scope of the inquiry?---Yes.

20 Page 4 you put in a table, and in paragraph 10 on page 5 you refer to the people who might be affected by your study?---I do, yes.

Now, in paragraph 11 you identify two individuals, Gattellari and Medich?
---That's correct.

And in respect of them and the people involved in your report on page 6 you list a number of accounts to which you've had access?---That's correct.

Some of them being accounts in the name of Mr Gattellari?---Yes.

30 One being an account in the name of Mr Medich?---That's correct.

Some company accounts and also individual accounts for Ron Mason, Vanessa Mason and Foster?---That's correct.

There's another company, Emandem- -?---Yes.

40 - - -which we've heard about in the proceedings. Now, when you refer there, you've been able to identify particular accounts with particular banks at particular branches which were associated with these people which are relevant to the transactions here. Is that so?---That's correct.

And then at page 7 you've set out in a tabular form deposits which were traceable into accounts owned by Ron Mason, Ken Foster and Vanessa Mason?---That's correct.

Now, those sums there, some of them aren't huge, they reflect only that part of any payments which were made which were traced into a bank account owned by one of those individuals?---Yeah, that's correct. That's from the

records supplied to us by Lucky Gattellari relating to the deposit slips and then we traced that back from the records, the banking records.

Well, I was going to come to the kind of records that you get when we get to the annexures. So that you have been able to trace this money into bank accounts owned by Ron Mason, Ken Foster and Vanessa Mason?---That's correct, operated by these people.

10 And where you get the input from was information which has been provided by Gattellari, meaning those documents in, if you need to see it, Exhibit 3. It's the various documents, handwritten documents of Mr Gattellari?
---Yeah, that's correct, deposit slips et cetera and diary entries.

Yes. If you look there- - -?---That's correct.

- - -Exhibit 3 is the document?---Yeah, that's right.

20 I think that might have been provided to you not by Mr Gattellari but rather by the New South Wales Police?---That's, it was supplied to other investigators at the ICAC by the New South Wales Police.

Now, in terms of the records to prove that these sums were paid into accounts owned by Ron Mason, Ken Foster and Vanessa Mason, did you have access to appropriate banking records showing deposits made on particular days into their account?---Yes. We issued a number of 22 Notices to the various banks which were identified through Lucky Gattellari's deposit slips.

30 For the uninitiated, a 22 Notice is a power that this Commission has to compel someone to produce documents?---That's correct, produce records.

And so in your investigations you suggested that Section 22 notices be issued compelling the production of certain documents?---That's right, that's correct.

40 Now, you also mentioned another document which is called a trace document. What is that?---A trace document is a record off the banking database which shows the, the account in which the money was deposited to or the money which funds were withdrawn from.

Now, if you go over to page 8 of your report there are two additional matters, being additional benefits to Ken Foster and additional benefits to Vanessa Mason which you also examined?---Yes, I did, and that was in relation to records which I obtained through examination of the information supplied by the New South Wales Police and tracing those records through the bank accounts as well, various bank accounts.

Now you've described the method of your investigation on page 10. Is that right?---That's correct.

And then on page 11 you get into the substance of it by dealing with the subject of deposits to Ron Mason's bank account?---That's correct, yes.

10 Now I just want to show those interested how this works. First of all under tab1, that's Annexure 1, you've got a spreadsheet which lists all of the payments into a bank account owned by Ron Mason which you've been able to track?---That's an extract of his, of the banking, I've recreated the banking records of Ron Mason.

So for example that there is a summary which runs from the first transaction on 18 March, 2005 right down to the last transaction on 9 January, 2009? ---That's correct.

20 And we can see that most of the action in terms of payments was over by 2006 or maybe 2007, and there were only very few payments in the later dates?---That's correct, yes.

Now if we just take for example transaction number 1, so we can see how you've worked this out. In paragraph 26 you say that on 18 March there was a deposit of \$2,000 in cash credited to the account of the Commonwealth Bank at Pagewood?---That's correct.

Now if you look at Annexure 2, we can see first of all a deposit slip which is identical to one which was shown up in, the document which I showed you what we call Exhibit 3?---That's correct, yes.

30 That you understood was one of Gattellari's records - - -?---That's correct.
- - - seized by the police?---Yes.

And then if you turn over the page you'll see that there is a record from the bank, I guess we've all seen these sorts of records from time to time, and you were able to show that on 18 March there was a deposit in that precise sum?---That's correct, for that bank account, yes.

40 And then the third page, what, what is that?---That's the trace record from the banks database showing where the deposit was made, which was made at Pagewood, New South Wales.

So if we link that back to the first document we can see on the face of the first document a very faint stamp, Commonwealth, 18 March, 2005, Pagewood, New South Wales?---That's correct.

So that enables us to know that these documents related to each other? ---That's right, yes.

If I pluck out one other, for example in the Ron Mason accounts. If you look at for example paragraph 31. This is a different kind of entry. You'll see that in your text you've said that examination of his account for 15 August, 2005 showed a deposit of \$5,000?---Yes, that's correct.

And that was credited at Commonwealth Bank at Moorebank?---That's correct.

10 And what you did in your report was work out where these branches were relevant to people and where they lived?---Yes, I did that, yes.

And Moorebank branch you found is only in the order of five kilometres from Mr Gattellari's place of work?---And also his residence.

You'll see there that you go on to describe Mr Gattellari as having identified Mason as the recipient of \$5,000 as a withdrawal on Mr Gattellari's Visa Card?---That's correct.

20 Now you've nominated Annexure 7, if we go there, here we've got four pages of records. The first is a deposit slip for \$5,000 for 15 August, 2005? ---Yes.

The stamp there is unintelligible so we can't tell which branch?---No.

But if we look at the next page there's the Visa Card entry to which reference was made?---That's correct.

30 And then this is identical to a document which was seized from Mr Gattellari?---That's correct.

And then the third page shows as the third entry on 15 August, a deposit into Ron Mason's account of \$5,000?---Yes.

And a withdrawal for that matter of most of it two days later. On the fourth page is the trace document to which you've referred?---Yes, that's right.

40 Now I could go on and bore everybody with the detail, Commissioner, but what I've tried to do is by picking out a couple of examples to show how it works, unless somebody insists I'm not going to go into detail of each and every transaction. And may I say this report of Mr Lockley was served on parties potentially affected last Friday. I haven't heard any clamour to labour it, so I'll move on. If I take you Mr Lockley, to page 16 of your report, you also conducted as best you could with the record you were able to acquire a financial examination of Ronald James Mason and you looked for example, in paragraph 38, at a property which he owns at 39 Maculata, M-A-C-U-L-A-T-A Circuit in Dalmeny?---That's correct.

And you looked at the documents which relate to the mortgage which Mr Mason took out - - -?---Yes, I did.

- - - with the Wagonga Local Aboriginal Land Council?---Yes.

And the mortgage he took out was for the full purchase price of the property on your, what you ascertained?---By examination of these records off the Land Titles Office that's, the exact amount was \$85,000.

10 So he just borrowed the full purchase price?---That's correct.

And the mortgage document has been able to be traced and you've been able to ascertain that the mortgage itself was at the attractive rate of interest free. Is that so?---It appears by these mortgage records that there is no interest on the, in it at all.

I'll just, the mortgage document itself is not attached to your report. I think that's so isn't it?---It's in Annexure 13.

20 I'm so sorry, I, I, I'm so sorry, well I won't labour by showing you the document that I just passed up to you?---That's all right.

The mortgage is there and the calculations can be made that it's an interest free loan. Is that so?---It appears that way, yes.

And you've made some inquiries about movement in property values in that area in recent times which show that medium house, house prices in a particular district have moved upwards, so to like between 230 and \$350,000?---Yeah, that's correct. That's from the RP data, database.

30 You also had a look at Mr Mason's sources of income and you were able, in paragraph 40 to find that his source of income was a Centrelink allowance? ---That's correct, apart from some other small paid income. That was about the main, the main source of income was the Centrelink.

And then you were able to calculate by reference to the amounts paid, as you've been able to work it out from the property developers what proportion of his income that, that was?---From the records we had available to us that that's the calculations that were made, it would be about 40 18 per cent between that period of '05 to '09 would be from Gattellari.

And if you go to page 18 you commence a similar kind of exercise in respect of Mr Foster?---That's correct.

And again unless I hear something to complain, I'm not going to labour the detail. You carried out much the same exercise and annexed much the same records?---That's exactly, exactly the same methodology.

And then on page 27 you've got the deposits into Vanessa Mason's personal bank account?---That's correct, yes.

Now there were only two payments into Vanessa Mason's personal bank account. You record the total in paragraph 67 as being a small sum, 2,420? ---That's correct.

10 And then you set out the two entries themselves and where they occur and that came from information that you'd acquired from the documents seized from Gattellari?---That's correct.

One of the payments was a cheque drawn on the bank account of RIV R-I-V Developments Pty Limited which records disclosed as being a company controlled by Gattellari?---That's correct, yes.

Now, but if you go to page 28 you deal with another much larger issue which are the deposits made to the bank account of a company called Emadem E-M-A-N-D-E-M Pty Limited?---That's correct, yes.

20 And you've been able to look at the records of that company and ascertain that there were substantial sums paid into it by either Gattellari directly or companies associated with him or by Ron Medich directly?---That's correct, yes.

And in paragraph 71 you calculate that those payments tallied \$126,000? ---That's correct, yes, it is. 126,427.16.

30 And if we go over, you've carried out a reconciliation with certain records which were made available in paragraph 73 to set out in table form where those payments came from and associating them with certain persons, is that right?---That's correct, yes. There were, there were other deposits made to this account but it did not relate to these, to what we were investigating at the time.

Well, these are substantial sums. There's 11 payments you say which tally in excess of \$125,000?---That's correct, yes.

40 Now, I want to focus just for the moment on a couple of them. There's one on 15 December, 2009 which seems to have been signed by Senad Kaminic?---That was a deposit slip that had been signed by Senad Kaminic at the, at the NAB at Leichhardt on the deposit form.

Right. So it wasn't the cheque?---No, it wasn't the cheque, no, it was actually a deposit slip which went with the cheque.

All right. And then you'll see that on 6 April, 2010 there's a deposit by Ron Medich?---That's correct.

And that's \$10,000?---Yes.

Now, could I take you to the records which support that. Would you go to tab 41. There are a number of pages behind tab 41 and they are unnumbered. This is the eighth page behind tab 41 and if we're looking at the same thing it's got a typed script on it and it's got handwriting at the bottom of it, Ronald Medich?---That's correct, yes.

10 Is the handwriting yours or where, where's - - -?---No, that, that's a trace record supplied by the bank and that's the handwriting of a bank officer.

All right. So this is a trace record which would suggest that on its face that a \$10,000 payment was made from an account owned by Mr Medich? ---That's correct. The first bank, on the bottom line there above the handwriting the first bank account number is the funds where, were the originating funds - - -

20 Yes?--- - - - of account and the second account number is the depositing account.

All right. If you turn over the page you'll see that there are the results of an order that the National Australia Bank produce an account in the name of Ronald Medich?---That's correct.

This is the first of the two accounts. This is the source of the payment that we saw on the trace document itself?---That's correct, yes.

30 And you'll see that on 6 April there were a number of entries, one was to Emandem Enterprises Pty Limited \$10,000?---That's correct.

That's the source of the money out of Mr Medich's account?---Yes.

And into Emandem?---That's correct.

And you'll see on - so that's the basis of your statement?---At page - at tab 40, annexure 40 are the bank statements of Emandem - - -

Yes?--- - - - which will show the corresponding deposits.

40 Mr Lockley, if you return to your report at page 29 you'll see that in paragraph 75 you refer to your analysis of the records of Emandem? ---That's correct, yes.

But one particular payment made by Gattellari of \$76,000 was used as the initial start up for Emandem?---That's what it appeared to be, yes.

Emandem started up and its first step was to buy a business owned by another person. Is that so?---That's correct.

So this business of Vanessa Mason's, that was to purchase a business owned by Ron Mason Junior, her brother?---Yeah, the records that we examined showed the, the purchase of the property and the - sorry, the business they purchased as owned by Ronald Mason Junior.

Now if one looks at paragraph 75 one can see how the sums were disbursed, that's the \$76,000, some of it payable to solicitors, some directly payable to Ron Mason Junior et cetera?---Yes.

10

The Indigenous Business Australia, what does that relate to?---They're an organisation that loan fund to indigenous persons who wish to start up businesses and also invest in property, et cetera, from what, from the records I examined this is a belief I've got from that.

20

And you were able to ascertain that at the time of this transaction when it went through Ron Mason Junior was in some financial trouble with Indigenous Business Australia?---Yeah. The records supplied to us by Indigenous Business Australia showed that there was a - a judgment had been made against Ronald Mason Junior for, for the non-payment of this mortgage, this particular loan.

So that there was a judgment against him and the payment here is to pay out the judgment which had been entered against him?---That's correct.

All right. Which related, related back to the original start when he purchased this, the business back in 2002 I should add.

30

All right. So that in the start up money it was principally used for that purpose?---It was principally used to pay out the debt of Ronald Mason Junior.

Now that accounts in paragraph 75 for some \$76,000 of the money paid into Emandem by Gattellari and Medich but there was a lot of other money, there was \$125,000 or so in total?---That's correct, yes.

What you did was you in paragraph 78 - - -?---Yes.

40

- - - were able to look at records to try and work out where the money which was paid into Emandem Pty Limited went?---That's correct.

And in paragraph 78 you were able to identify from records which you've annexed that there was \$26,000 spent or, sorry, taken from Emandem by Vanessa Mason over 118 withdrawals?---That's correct. I reconciled the bank accounts of Emandem with the general ledger account which had been supplied to us by the accountant for Emandem and on examination of the general ledger I examined the entries from the bank account to determine whether or not they're correctly recorded in the, the financial accounts of

Emandem. These, these transactions appeared to be ATM withdrawals, not, not related to any business activity of the business.

Well, that's what I was going to come to. I'm not sure but I suspect it may be said that these payments were all aboveboard in the sense that they were being paid by Gattellari or Medich into a business and not for the personal advantage of Vanessa Mason. But in paragraph 79 what you did was just look at where the \$26,000 had been withdrawn from, is that so?---That's correct, yes.

10

And you found that the \$26,000 had been mainly withdrawn from licensed premises, whether that be in Narooma or whether it was in Sydney?---That's correct and I took that from the bank statements of where the ATM withdrawals were made.

I tender the report of Mr Lockley comprising the text and the annexures, Commissioner.

20

ASSISTANT COMMISSIONER: Yes. Well, that report and annexures will be made Exhibit 8.

#EXHIBIT 8 - STATEMENT AND ANNEXURES OF MR LOCKLEY

MR WATSON: That's the examination of Mr Lockley, thank you.

30

ASSISTANT COMMISSIONER: Thank you. Yes. Does anybody seek to cross-examine Mr Lockley on his evidence? Yes, Mr Terracini.

MR TERRACINI: Sir, have you got a copy of the annexures or - - -?---Yes, I do, yes.

It seems the only payment that can be traced as it were to Ronald Medich is 6 April, 2005 payment. Is that right?---That's correct.

And you had available to you various legends, it should be tab 44 of the annexures?---Yes, that's correct.

40

Do you know whose handwriting is on that photocopy of that ledger?---That ledger was supplied to us by the accountant of Emandem under notice. Those, that handwriting appeared to be on the, on that, on that document when it was supplied under the 22 notice to us.

All right?---So I'm not aware if he would have written that text on there at all.

Well, I want you to assume that it's not Mr Medich's handwriting?---No.

But whoever has written on the document, it records these words, "Loans from RIV Developments." Do you see that?---Yes, I agree with that.

And you will see as we go down the page there is details of a \$10,000 amount?---That's correct.

Is that the amount that you think is the same figure that came from Mr Medich or one of Mr Medich's companies?---That would be, it corresponds with the date entered onto the ledger- - -

10

Yes---?- - -as with the bank statements.

And you know what Mr Gattellari's handwriting looks like?---No, I'm not aware, only from the diary records I've looked at, examined.

Well, somebody has also written in "Vanessa's old car"?---Yes. Which I believe was traded in on a new vehicle for the business.

20 Right. Now, this mortgage that we've been told about that was interest-free, was that to extend what, over 20-odd years?---Well, it appears from the records we examined, they're the only records we have, we don't have any other record, contracts or anything between the parties- - -

I understand, I'm only just doing the mental calculations?---Yes, it seems to be, it seems to be 23 years.

Of interest free?---That's what it appears by the records, yes.

30 That's a pretty good deal?---It would be. The payments are structured on the, onto the, under part B, Firstly, under the title, Firstly, where it says 280 instalments of \$303.34 per calendar month and one instalment of \$64.80.

But that's definitely not a mortgage that was defaulted on, it's another mortgage in relation to a different member of the Mason family?---This, that's correct, this relates to a property, a house, not related to the company.

Yes. Now, just finally, you're required in certain instances to assist the ICAC with conclusions, but- - -?---Yes, that's correct.

40 - - -if you go to page 32 under the (not transcribable) there conclusion? ---Yes.

If you wanted to, as it were, secrete or make secret these payments you'd hardly put them into somebody's bank account, would you?---No, you wouldn't.

No. I mean you know from your own training and experience down here and in other places that if you want to avoid, as a classic example, various

income taxes and things like that, that you just exchange the jack dash and there's no receipt and that's it?---That's correct.

But here they're actually putting it into these people's bank accounts, into their correct names?---Well, it's put into a business account, yes, that's correct.

10 I appreciate that people, the reason why they get caught sometimes is because they're not very good at criminal activity, but here it's actually being deposited into an account that's available for inspection very easily, isn't it?---That's correct, yes.

The reason why you came to the conclusions that the recipients of the money weren't spending it appropriately on business enterprises, because the withdrawals come from public houses and licensed premises and things like that?---That's correct, yes.

20 Yeah. But obviously there's no way on the records to determine what the intention was as opposed to what happened to it?---No, that's correct, yes.

Yes. And were you able to establish whether any legitimate business enterprise was actually used by these people with the money?---There may have been some small funds out of this initial deposit used for legitimate business, but it was only very minute, very minor, sorry, I should say. Most of the funds were spent as I've explained.

30 Now, apart from deposit slips that we've all used over the years, was there anything peculiar, unusual or different about how this money was deposited which alerted you to the fact that there was some big plan or master plan associated with it?---No, it was a fairly straightforward transaction. Are you talking about the \$10,000 transaction?

Yeah?---Yeah.

That's firstly?---That's, it was a just a normal transaction.

But then the cash, the cash payments- - -?---Yes.

40 - - -they're just normal payments aren't they, you go into the bank and you give them, you deposit the money and they stamp your deposit slip?---From the records, yes, that's correct.

Yeah. So no attempt in any way from your observation, based on your training, any subterfuge or concealment or- - -?---No, no.

All right. Yes, thank you.

ASSISTANT COMMISSIONER: Thank you. Does anyone else wish to examine Mr Lockley?

MR HARRIS: I do.

ASSISTANT COMMISSIONER: Yes. If you could just come forward and tell Mr Lockley whose interests you represent.

10 MR HARRIS: Mr Lockley, my name is Harris. I represent Vanessa Mason?---Yes.

I'll clarify something. There's reference in your, in your report- - -?---Ah
hmm.

- - -to paragraph 81, perhaps I should, if I may, just go firstly to paragraph 19. In the last sentence there on page 8 it's, "Additionally Vanessa Mason received a \$10,739.40 in director's loans from Emandem"?---That's correct.

20 You say, "Details at paragraph 81". If we go there just to paragraph 81?
---Right.

If you could assist us there, where that sum as the director's, total of director's loans appears in paragraph 81?---Are you talking about under the conclusions?

Well, yes?---In reference to the conclusions?

How does paragraph 19 link?---Link to- - -

30 Yeah, how, how, where are those details examined if you could assist us in paragraph 81?---Paragraph 81 refers to the total, the quantified amount there of the moneys that were traced directly to the deposits- - -

Yeah, yeah---?- - -made to the bank accounts of the three affected persons detailed. They don't relate to the payments, the additional payments received by Vanessa Mason.

40 All right. So, well, yeah?---That, that money in paragraph 19 relates to funds withdrawn from the company accounts.

Yes. They're not detailed?---As in director's loans or, yes.

All right. And you say that it's detailed in 81 but it- - -?---No, not in 81, no.

But it says that, doesn't it, "Details examined at paragraph 81?" I'm just reading to you?---Oh, sorry, that may have been a, due to the fact we removed an extra 14 it may have changed the paragraphing, sorry.

Could you assist us by- -?---Yes, I'll- - -

- - -flipping through and saying where those details might be found?
I mean, there's references then following in 82 but I don't know if that's to what you're referring?---Paragraph 77, a completed analysis there of the additional payments made to Emandem.

All right. So that reference to paragraph 81- -?---From there, yeah.

10 19, I'm sorry, should in fact not be 81, it should be 77?---77, 78 details that.

77 and 78?---Yeah.

Thank you?---And 79.

All right. Could I just ask you, you've said in your report, if I could, this is paragraph 80, Mr Lockley?---Yes.

20 "The cash payments by Gattellari to WLALC members- -?---Yes.

- - -were made by cash in an attempt to conceal the source of the funds."
That's your opinion?---Well, the cash, the, sorry?

That, well, I was just going to, I think it's following on from something Mr Terracini said?---Yes.

30 That they were never, these payments were nevertheless made into various accounts and are readily identifiable as being linked, if not by name, then for example in Emandem in another way to the recipient?---Well, I mean source, cash payments made to an account are a way of concealing where the money's come from rather than a direct transfer from one account to another.

All right. The use of, the deposit slips were only, the only reason we discovered this was because the deposit slips were made available to us by Mr Gattellari.

40 Yeah. But the amounts deposited, and I'm talking specifically Vanessa Mason and Emandem- -?---Right, yes.

- - -they appear in those relevant accounts, don't they?---Well, the deposits made to Emandem seem, appear on the face of it to be proper business transactions.

Yeah, and they appear in Emandem's account as- -?---That's correct, correctly recorded as business loans as detailed previously.

Yeah. Mr Lockley, the, could I just clarify, the sum of \$76,325.72 and in my folder it's behind tab 40?---Yes.

It shows a credit to Emandem Enterprises Pty Limited's account?---That's correct, yes.

10 And then it seems it was drawn in four bank cheques on the same day was it?---That's correct. That's what I've got tabled in my report where that money went to. That seems to be the initial capital injection into the business.

That's correct. As far as I read it. I'm asking you to confirm that in fact behind tab 43 there's a copy of a contract for sale of land?---That's correct, yes.

Where Emandem purchases from Ronald Gordon Mason - - -?---That's correct.

20 - - - the lease isn't it? And I note that it's not dated or signed but on that contract the balance payable after the deposit is 74,250?---That's what the document says, yes.

All right. And would it be your conclusion, reasonable to say that those funds withdrawn out of Emandem Enterprises account on 1 September relate to the completion of that purchase, the sums required to be paid on settlement?---That's correct, yes.

All right. Commissioner, thank you.

30 ASSISTANT COMMISSIONER: Yes, thank you Mr Harris. Does - - -

MR HALSTEAD: Commissioner, I have a couple of questions.

ASSISTANT COMMISSIONER: Yes.

MR HALSTEAD: Mr Lockley my name is Halstead. I'm acting for Mr Foster?---Ah hmm.

40 Commissioner, could we have volume 3, page 14 brought up on the screen?

ASSISTANT COMMISSIONER: Yes.

MR HALSTEAD: Mr Lockley, taking your statement at page 7, paragraph 15?---Yes.

In there you refer to the Gattellari diaries?---Yes, that's correct.

Is the document that's on the screen one of the diaries that you referred to in that paragraph?---That's correct. This would be one of the documents I refer to.

Thank you, Commissioner, I have no other questions.

ASSISTANT COMMISSIONER: Thank you. Yes, does anyone else wish to question Mr Lockley?

10 MR WATSON: Thank you. Might Mr Lockley be excused?

ASSISTANT COMMISSIONER: Yes, thank you Mr Lockley, you are now excused.

THE WITNESS EXCUSED

[11:22am]

20 MR WATSON: Commissioner, the next witness will be Mr Ronald James Mason, but I notice the time and I - - -

ASSISTANT COMMISSIONER: Yes, I think this is a convenient time. And we will resume at 11.45.

SHORT ADJOURNMENT

[11.22am]

30 ASSISTANT COMMISSIONER: Please be seated.

MR WATSON: Commissioner, I call Ronald James Mason.

ASSISTANT COMMISSIONER: Yes. Mr Mason, come forward please. Mr Mason, you have been called to give evidence here. You are required to answer all of the questions asked of you. You may see a declaration under our Act, the effect of which would be that nothing you say here could be used against you in future proceedings. Do you wish to seek such a declaration?

40 MR MASON: Yeah.

ASSISTANT COMMISSIONER: I intend to make a declaration under section 38 of the Act, the effect of which is that nothing, no evidence you give or no document or thing you produce can be used against you in any civil, criminal or disciplinary proceedings. However, this protection does not prevent the evidence being used if it's found that you've provided false or misleading information or breached the Act in some other ways. Do you understand the effect of the order I am about to make?

MR MASON: Yes.

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

10

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

20

ASSISTANT COMMISSIONER: Mr Mason , you're required to take an oath on the Bible or make an affirmation to tell the truth.

MR MASON: The affirmation.

ASSISTANT COMMISSIONER: Yes, could the witness be affirmed, please.

30

ASSISTANT COMMISSIONER: Yes, Mr Watson.

MR WATSON: Is your name Ronald James Mason?---That's right.

For many years you've been a member of the Wagonga Local Aboriginal Land Council?---Yes.

10

And for many years you were members of the Executive?---Yes.

In fact, you were the chairperson of the Wagonga Council for many years? ---Yes.

And when did you commence as chairperson?---I think 1986 I think it was, I'm not sure of the dates.

Sorry?---About 1986.

20

1986 and - - -?---Yeah.

- - - I think you stood down in 2006?---Yeah.

Mr Mason, you have many family connections within the membership of the Wagonga Council?---Yes.

And many family connections within the Executive and Management of Wagonga Council?---Yeah, I have a few there, yeah.

30

Your wife Vivienne Mason was at one time coordinator or CEO of the Wagonga Council?---Yes.

And she's currently the chairperson?---What, now?

Is she currently the chairperson?---Ah - - -

She has been the chairperson?---Yes.

40 Your daughter Vanessa has also been the chairperson?---Yes.

And also been the CEO?---Yes.

In fact, if I draw together a little timeline this is what I've been able to put together. You, Mr Mason, were chairperson at Wagonga, as you say, probably from 1986 until 24 March, 2006. Does that sound right?---Yeah, well, no, I, I've, I've been, I've been in and out of it a couple of times. If

you go through the, if you go through the books I've been about, about three times I think.

Your daughter Vanessa succeeded you on 24 March, 2006 and remained chairperson until 9 August, 2007?---Yeah.

And your wife, her mother, Vivienne, succeeded her as chairperson in 2007 and she remained in that position for some time?---Yes.

10 In terms of the position of the coordinator or CEO Vivienne was the coordinator until February 2005, is that right?---Yes, that'd be right.

And for how many years had she held that position?---Don't know, a few years.

She was replaced by KJ or Ken Foster in early 2005 and he remained until February 2006, is that right?---Yeah.

Are you related to Ken Foster?---Ah, yes.

20

An administrator was in place then for a while until Vanessa, your daughter, became the coordinator or CEO on 9 August, 2007, is that so?---Yes.

And she remains in that position today?---Yes.

There are records of the Council from time to time which show people attending meetings, minutes and the like, is that so?---Yes.

30 Were you here yesterday when Mr Gattellari said that you had at some time ceased to be a member of Wagonga?---Yes.

That was wrong, wasn't it, you're still a member?---A member, yeah, yeah, I'm still a member, yeah.

Could the witness be shown- - -?---But I think what he was saying was probably that I weren't- - -

He may have meant that you were- - -?---Yeah.

40 - - -no longer a member of the Executive?---Yeah.

Could the witness be shown volume 2, page 230. This is Exhibit 2, Commissioner. You'll see for example Mr Mason, that this is on the letterhead of Wagonga Local Aboriginal Land Council and it refers to an extraordinary meeting on 18 August, 2008. Do you see that?---Yep.

If you look at the volume it's probably easier than looking at the screen. If you go to page 231, the next page, you'll see that the motion to be put,

which is in very formal terms by Wagonga standards, relates to a long-term lease to Waterview Developments of the property which is called Lot 921 which is at Fullers Beach. Do you see that?---Yeah.

And do you see that it's got a record of who moved the motion, who seconded it and who voted for it and who voted against it? Do you see that? ---Yep.

10 And then if we look at motion 2 and motion 3 on the next two pages, they're two of the other properties referred to which were going to be the subject of long-term leases to Waterview?---Yes.

Waterview was a company that you knew was related to Gattellari?---Yes.

And did you understand it to be related to Medich?---Ah, yeah (not transcribable)

20 In any event, that meeting, if we go back to page 230, held on 18 August 2008 was a very critical one because it was going to mean that Wagonga would part long-term with these important real estate interests. Is that right? ---Yes.

I want to suggest to you before we go further that in effect your family, the Mason family, controlled Wagonga. Do you accept that?---No, not, no, I don't accept that.

Have a look at the people who were present at the meeting on 18 August, 2008. The first person is Vivienne Mason?---Yes.

30 Is she your wife?---Yes.

The second person is Gary Daley. Are you related to him?---No.

The third person is you?---Yes.

The fourth person is Wendy Williams. Is that your daughter?---Yes.

The fifth person is Doug Williams. Is that your son-in-law?---Yes.

40 The next person is Ursula Moore. Is that the partner of your daughter, Vanessa?---Yes.

A sort of daughter-in-law to you?---Yep.

She lives in your house, does she?---No.

Right. The next person is Vanessa Mason. That's your daughter. Is that right?---Yes.

The next person is Rachel Daley. Is she any relative of yours?---No.

The next person is Barton Mason. Is he related to you?---Yes.

What relation is he to you?---He's my son's son ah, me brother's son.

Your nephew?---Yeah.

10 The next person is Glenis Kelly. Is she related to you?---No.

The next person is Craig Mason. Is he related to you?---Yes.

What relation is he to you?---Grandson.

Then there's Vince Wenberg. Is he related to you?---No.

Jamie Colburn?---Yes.

20 What relation is he to you?---He's a nephew.

Kevin Mason?---Brother.

Lesley Campbell?---No relation.

Debbie Partlet?---No relation.

30 Most of the people present at that important meeting of Wagonga Land Council were a member of you family. Is that right?---Yes.

It was typical of the make-up of a meeting at the Wagonga Land Council that the majority of people voting on a motion would be members of your family. Is that right?---Well, it was, but I mean to say, you know, I couldn't go out and, we sent letters out to members to come to the meeting, I couldn't go out there and, you know, put their arm up, up their back and bring them into meetings.

40 You see, Mr Mason, I want to make it clear what I'm going to suggest to you during the course of this examination. I'm going to be suggesting to you that you in your position of control at Wagonga and in your position of dominance in the Mason family, effectively ran the Wagonga Local Aboriginal Land Council for your own advantage?---No.

Do you accept that?---No, I don't.

Have a look at volume 1, it's Exhibit 1, volume 1, page 330. Do you have page 330 open?---Not yet. Yes.

Do you see at the foot of that page there is record of a discussion amongst members about the employment of Julieanne Lyons?---Yes.

Is Julieanne Lyons related to you?---No.

There's discussion about the employment of Ursula Moore and Vivienne Mason, we know that they are related to you?---Yes.

10 Members were questioning the employment of Ursula and Vivienne. Do you see that?---Yeah.

There'd been a question over the employment of people who were either directly related to you or your in-laws from time to time at the Council. Is that so?---Say that again.

From time to time people, members of the Council would raise issues about the number of people in the Mason family who were employed by Wagonga. Is that right?---Yes.

20 Look over the page, it's recorded that somebody was complaining that it was unfair that Ursula, who was effectively established as your daughter-in-law was getting all the work. Do you see that?---Yes.

You'll see that further on page 331, further down the page there is a motion number 9, just have a look at it just above that, you'll see that there's this, V Mason, well that could be Vanessa or Vivienne, V Mason told members that a board of directors would be nominated and that the coordinator will become the CEO. The board would consist of eight elected members. And then it says applications for the coordinator have been received and
30 interviews for the position will be held. Now that person who was telling the meeting that V Mason - - -?---Yes.

- - - that was your daughter or your wife, we can't tell really. Do you know?---No.

The point is that there were applications received for the position of coordinator and interviews were going to be held. Is that right?---Yes, yes.

40 Did you participate in any of those interviews or - - -?---No.

- - - did you look at any of the applicants for the job?---No.

How many applicants were there?---I don't know.

How many interviews were held?---I don't know.

At this time, that is August 2007, your daughter Vanessa was the Chairperson?---Yes.

Who got the job as coordinator?---(NO AUDIBLE REPLY)

It was Vanessa wasn't it?---I'd say so, yeah.

Did you have a look at whether there were any applicants who might have had better experience or training than Vanessa?---I think I did, I'm not sure.

Well were there such people?---I don't think so in the community.

- 10 The position of CEO is the best paid position on the management side of Wagonga?---Well it's the only, it's the only paid position.

All right. I'm not accepting your answer, I'm afraid, but I won't pursue that with you, Mr Mason. Have a look at page 53 of that same volume if you wouldn't mind. Do you see there that there's minutes of a special meeting? ---Which one is it?

Page 53, it's numbered in the top left hand corner?---Oh, okay. Righto.

- 20 It's also on the screen which is immediately in front of you in the witness box and it may be easier?---Oh, right, right.

You'll see that there's a motion number 1. You'll see that the third line under motion number 1 refers to a particular lot being sold to Vanessa Mason, do you see that?---Where's that? There's Cheryl Colburn.

Have a look at line number 3, lot 241 be sold to Vanessa Mason, do you see that?---Yeah.

- 30 Could I just ask you something, who was E Moore?---Eddie Moore, Edward Moore.

Is he any relation to Ursula Moore?---No.

Mr Mason, have members of your family been able to buy properties off Wagonga over the years?---Ah, yes.

How many properties do you own?---One.

- 40 One?---Yes.

No blocks of land?---No.

Do you have another home in Maroubra?---No.

Is there a place you stay in Maroubra?---Yes.

Who, whose place is that?---Oh, me daughter's.

Right. Which daughter?---Wendy Williams.

Your daughter Wendy so you stay there from time to time. Have your other children been able to buy properties from Wagonga?---No.

What about Ron?---No.

10 Are you sure that he didn't buy a property from them at one stage, an oyster lease?---Oyster lease?

Yes?---No.

What about the Walkun Mara lease?---Oh, what do you mean? What do you mean by it?

Well, I'll come back to it. The property in which you reside - - -?---Yes.

20 - - - did you buy that off Wagonga?---Yes.

Did Wagonga get an independent market valuation before it sold it to you? ---Yes.

Were you the chairperson at the time you bought it?---Ah, I could have been, I'm not sure.

30 Did you buy it on the basis that Wagonga would provide all of the finance interest free?---Well, that's, that was everyone was doing in the, in the land council system.

Sorry, when you say everyone does who's on the Land Council, do you mean the Executive of the Land Council?---Yeah, well, they, well, they do, they done it at Ulladulla, Batemans Bay.

All right. So you, you would say that - - -?---You know, the other land councils sort of thing.

40 You would say that it's acceptable simply because others do it as well? ---Yeah.

Did you disclose anywhere in the records that you were purchasing the property from Wagonga?---Yeah, I think I did.

Do you know whether you did or didn't?---Don't know.

Don't know. Did you keep a copy of any independent valuation obtained by Wagonga in respect of the property you purchased?---I wouldn't know.

Did you disclose the fact that you were purchasing it interest free?---Yes.

Where did you disclose that, Mr Mason?---Oh, I just assumed that it was happening everywhere else.

You're just assuming?---Yeah.

Did you instruct solicitors to act on behalf of Wagonga?---Yes.

10 So you instructed solicitors to act on your own behalf and other solicitors to act on behalf of Wagonga?---Oh, I'm not sure it was that long ago. I can't remember.

Was any of the paperwork relating to the way in which you borrowed the money revealed or disclosed in the public records of Wagonga?---I don't remember.

20 Did you negotiate with anybody at Wagonga as to the terms of you mortgage?---I - - -

Or did you negotiate with yourself?---No, it was, I think it might have been at a meeting.

At a meeting?---Yeah.

Who was at the meeting?---Oh, I don't know.

30 You didn't make the payments on the property anyway did you? You defaulted on them for a long period of time, isn't that right?---What's that?

Sorry?---Defaulted on them?

You defaulted on it, didn't you?---No.

Didn't you have to, wasn't it necessary for Wagonga to write your letters to try and get you to make payments under the mortgage agreement?---Ah, I think I might have been about three payments behind or something.

40 Wasn't this a problem which was recognised at the level of the New South Wales Aboriginal Land Council and they insisted that Wagonga try and recover the payments from you, is that right?---I can't remember.

I asked you before about the Walkun Mara lease. Do you know anything about that?---Yes.

That was a lease over a very valuable piece of land at Fullers Beach?---Yes.

13 hectares?---Yes.

Is that right?---Yes.

And what happened was that the Wagonga Aboriginal Land Council entered into a long-term lease with a company, Walkun Mara Aquaculture Pty Limited?---Yeah.

Is that right?---Yes.

10 Were you a director of Walkun Mara Aquaculture Pty Limited?---Yes, yes.

Was your son, Ron Mason Junior, a shareholder and director of Walkun Mara Aquaculture Pty Limited?---Yes.

Was the lease for a period of 99 years?---I think so.

Have a look at Exhibit 1, that's volume 1 page 31, it'll be shown up on the screen if you'd prefer to look at it there. You'll see that there's a copy of the lease. Do you remember this document?---No.

20

You don't?---No.

At this time that Wagonga entered into the lease with Walkun Mara Aquaculture Pty Limited, you were the chairperson of Wagonga, weren't you?---Yep.

And you'll see that the term of the lease is said to be 33 years- -?---Yeah.

- - -and two options for a further 33 each?---Yes.

30

Do you see that? If we go to the next page, it will be shown on the screen, page 32 of the bundle, you'll see that the top part of it is executed on behalf of Wagonga Local Aboriginal Land Council. Do you see that?---Yes.

And do you see who signed it on behalf of Wagonga Local Aboriginal Land Council?---Yeah, Norm Patten.

Well, have a look at the left, Ronald- -?---Yeah.

40 - - -Mason, you?---Yes, it's Norm Patten on the other side.

Well, you signed it?---Yes.

You signed this lease on behalf- -?---Yes, yes.

And you were one of the lessees?---Yes.

Did you get on behalf of the Land Council an independent valuation as to the amount of rent which should be paid?---Can't remember.

Well, could you properly do you think discharge your duty as chairperson by signing a lease when the Land Council didn't know what the proper rent was?---Yeah, I should have.

Sorry, Mr Mason?---I should have I suppose, yeah.

10 Should have?---Yeah.

Is it the fact you didn't?---Yeah, it looks that way.

Look at page 34 of the bundle. It'll be on the screen. It's article 2.01 and it relates to rent. Do you see that a rent was fixed, a rent of \$6,240 per annum?---Yep.

20 Where was that figure got from?---I can't remember. I think most, most of this was done by me son.

All right. But you were a beneficiary of it, weren't you?---Yes.

At the same time that you were the chairperson of the council?---Yes.

Did you disclose that to the council at the time?---Well, I think, I think we had a meeting about it.

30 Right. In any event, no rent was ever paid by Walkun Mara Aquaculture Pty Limited, was it?---No.

You're agreeing with me, no rent was paid?---No rent, no.

Now, can you tell me if there had been a lease and rent had been agreed, can you tell me at this stage wearing your hat as a shareholder of Walkun Mara Aquaculture Pty Limited, why that was so? Why didn't you pay rent?---Oh, I think ah, because of ah, the shareholders, no one wanted to put a contribution towards it.

40 I didn't catch that. You said something about shareholders?---Yeah, yeah.

Shareholders what?---The shareholders didn't want to put any money in.

Well, you were one of them?---Yeah, I was one, yeah.

So were you one of the people who said you didn't want to put any money in?---No, I wanted to put money in but the others didn't want to.

Well, so you're telling the Commission that in respect of Walkun Mara Aquaculture Pty Limited, when it came time to pay the rent the company just decided not to pay it?---No, I don't think it was that way, I think it was just no one had any money to pay it, that's all.

Well, then tell me now if you put your hat on as the chairperson at Wagonga Local Aboriginal Land Council, what did you do to try and recover rent from Walkun Mara Aquaculture Pty Limited?---Nothing.

10 Why not?---I don't know.

This wasn't your money, was it, it was Wagonga Local Aboriginal Land Council's money?---Yes, it is.

Money which was supposed to be used by the Land Council for the benefit of Aboriginals. Is that right?---Yeah.

20 What did you do to try and get the money, to collect the money which then could be used for the benefit of Aboriginals?---Well, I tried to- - -

You tried to?---Just people didn't want to pay the money, they never had the money, that's all, the shareholders.

Well, did you, did you as a shareholder then put in your share?---Well, they didn't put their share in so I didn't put mine in, what's the- - -

Did you as a shareholder put in your share?---No, I didn't.

30 Right. Why not?---'Cause the other shareholders didn't put theirs in.

Well, why would that stop you from easing your conscience by paying the amount to Wagonga Local Aboriginal Land Council?---I don't know.

What do you mean, you don't know? You could have paid rent. You didn't have to, according to you, but you could have paid it if your conscience told you to, Mr Mason?---Yeah, well, I just didn't pay it, I don't know why.

40 You didn't pay it because you were just running the Land Council to your own advantage and for the advantage of your family, weren't you?---No, that's not right.

In the end there was a proposal put up by Gattellari that he would purchase that property at Fullers Beach and as part of it he would purchase the long-term lease held by Walkun Mara Aquaculture Pty Limited. Do you remember that?---No, I don't remember that. I think that what, what, what was proposed for Gattellari, Gattellari was going to fund the ah, fund the project out there.

That would have been to your personal financial advantage if that had occurred?---Oh, that would have been to everyone's advantage.

Well, not everyone, it wouldn't have been to my advantage for example because I wasn't a shareholder of- -?---Well, it would have been- - -

- - -Walkun Mara Aquaculture Pty Limited?---Well, all the shareholders, the shareholders?

10 Yes?---And most of the shareholders were all Wagonga Land Council members.

There were eight- -?---Yeah.

- - -shareholders?---Yeah.

Two at least were members of your family?---Yeah.

20 Was Doug Williams a shareholder?---Ah, yeah, I think he was, I'm just not sure.

So that proposal by Gattellari would have been to the immediate financial benefit of people who were members of the Land Council, just eight members. Is that right?---Yeah.

What about the rest?---Well, the eight members ah, what happened with the eight members, how we had eight members, because we had the majority of the families was living around the area.

30 But what about the people who were left out or the families who were left out?---Which ones?

Sorry?---Which ones are those?

Which ones?---Yeah.

Was Troy Stever's family represented?---I don't know, I don't think Troy was there at the time.

40 Right. Okay. Well, he missed out?---Yeah.

There's one. I'm asking you about the families that missed out. This thing was just being run for your benefit or the benefit of your family, wasn't it? ---No.

Well, if shares were going to be paid out by Gattellari, it sounds of eight, three were going to be paid to your family, one to Williams, one to Ron

Mason Junior and one to you. How do you explain the advantage that your family acquired?---Yeah, what about the other four?

Beg yours?---What about the other four families?

Could you have a look at volume 1, page 295. It might even be easier to look at page 293 first. Do you know somebody called Sandra Patten?
---Yes.

10 I'm sorry, I said eight, there were nine shareholders- - -?---Yeah.

- - -according to Sandra, Sandra Patten. And she was writing here to Lucky Gattellari. Do you see that she had become aware there'd been a discussion of the sale of the Walkun Mara lease? Do you see that?---Yep.

And the references to Ronald and Ronnie Mason are references to you and your son?---Yep.

20 Which one is which? Are you Ronald or Ronnie?---Ronald.

I'm mean she's interested in what would be the outcome of the discussions with Gattellari. Do you see that?---Yes.

What discussions were you having with Gattellari and your son regarding selling the Walkun Mara property and lease?---Well what we was trying to do was get them to fund it. It would have cost \$20 million to fund the project.

30 Right. So you felt Mr Gattellari would just come along with 20 million?
---He seemed to have money.

Well how much of that 20 million would you have got?---I don't know.

If you look at page 295 we can get a look at the Walkun Mara membership?---Yeah.

The first two are Sandra and Norman Patten. Are they related?---Yeah, distant relations, yep.

40 That's one family?---Yeah all those, they're all the same. They're all family, no one - - -

When you say the whole lot - - -?---Yeah.

- - - are you a member of the, the Patten family?---Yes.

Susan Haycock is a member of your family?---Yes.

Wally Stewart?---Yes.

Douglas Williams?---Yes.

We know about Kevin Mason, but the fact is that as opposed to helping a number of families, as I understand it now it's going to help one family, yours?---Well I can't help it if they're all related to me, mate. They're all related to me on the coast.

10 But I thought you were at pains before to say that you weren't related to some of the people who were listed at that meeting, for example the Daly's?---Yeah, the Daly's only just moved into town. Later, after all this, 20 years later or something.

So shall we take that the membership of Walkun Mara Aquaculture Pty Limited was made up exclusively of members of your family?---They were the only ones living in town at the time.

Oh really?---Yes.

20

Well about the people who moved in later, were they just going to have to suck on it as it were, they're going to get nothing? Tough luck?---What do you mean? If they're not there, well - - -

Ron Mason's in for a \$20 million deal and you're going to get nothing. Does that seem fair?---(NO AUDIBLE REPLY)

Let's put it this way Mr Mason, can you see in any of these transactions I've pointed out to you anything which might suggest a conflict of interest?---It probably would be, yes.

30

Yes, you'd agree there was?---I agree.

A very serious conflict of interest. And the conflict was that you were putting your interests ahead of the Land Council wasn't it?---No.

Well what's the conflict of interest that you see?---Oh, I should have thought of others I suppose.

40 You know Ron Binge?---Yes.

You know Gattellari?---Yes.

Did you ever meet Ron Medich?---Yes.

Where did you meet Ron Medich?---He came down to, down the south coast I believe.

How many times did you meet him?---I met him once when he came down the coast and I met him, I saw him, I went to his place once (not transcribable) I was doing a bit of work with Gattellari. And then I met him a couple of times when I seen Lucky down at Leichhardt.

All right.

Could you look at volume 1, page 47? Do you see that, it should be on the screen in front of you?---Yes.

10

It's a letter sent by the looks of it by your wife Vivienne. Do you see that? ---Yeah.

And at this time I want you to assume that the records we've disclosed that you were the Chairperson. What were the circumstances in which Gil Saunders was invited to attend a meeting at Wagonga?---Well he, I've known Gil for a long time from Sydney.

20 Right?---And they came down to Narooma with Ronnie Binge, I didn't know Ronnie at the time. I didn't know Lucky Gattellari at the time.

No, stop for a second, this is before Gattellari arrives. I want to know why the coordinator, your wife, of Wagonga was inviting Mr Saunders down to a meeting. What initiated the invitation?---Well, he was talking about he wanted to do, they were doing land deals up at, up at Campbelltown and needed to get some people was interested if we got any land down there. He wanted to come down.

30 So he was invited so he could introduce the property developers to you at Wagonga?---Yeah.

Is that right?---Yeah.

Now did you understand that that was one group of property developers? ---What do you mean by that?

Well, he wasn't coming down with 10 or 20 different firms of property developers, he was coming down with one group, the Medich Group? ---Yeah.

40

I want to ask you, you were, you were chairperson at the time of course, is that right?---Ah, yes, I think I was, yeah.

While you were the chairperson at Wagonga did you ever put an advertisement in a newspaper calling for expressions of interest in property development in Wagonga?---No.

Why not?---Well, we haven't done anything like this before, we didn't know the procedures, these people come and asked us to come down here, want to talk to us and all, all I said to them was, you know, we're, we're going to write this down and you, you do a presentation to the members.

I was asking you about putting advertisements in the paper calling for expressions of interest and you said that you were unfamiliar with the process?---Yeah.

- 10 While you were chairperson at Wagonga did you ever go to a person who might know about the process, for example, a local real estate agent and ask them what to do in terms of encouraging competition amongst property developers?---No, I didn't.

Why not?---Like I said I'm not familiar with it.

Well, you're unfamiliar, why didn't you go and see somebody who would be familiar?---Well, I thought they was only just coming down to talk to us.

- 20 Sorry. You own a property. If you're going to sell it would you just sell it to the first person who came in off the street and offered you a sum?---No, no, we weren't, we weren't selling it at all. He was, he was only talking to them. They were talking to us.

All right. Okay. But I'm going to press my question. You own a property? ---Yes.

Would you sell it to somebody who just walked in off the street and made you an offer?---Maybe.

- 30 Maybe?---Yeah.

What if you didn't know the price?---What do you mean? If I didn't know the price of it?

Yeah, you didn't know what your house was worth would you just sell it to the person for whatever they offered?---Well, I know how much me house is worth.

- 40 All right. Why didn't you go to the New South Wales Aboriginal Land Council for assistance if you did not know what you were doing?---We did.

You did?---We did after, yeah.

Well, sorry, don't talk about after. I'm talking about at the time, this is 2005. Why didn't you go then?---Well, well, I'm assuming we weren't familiar with it, how, how these things worked and you could go anywhere

in New South Wales, to any Aboriginal land council they was, they was the same.

But don't you see the opportunity for carpetbaggers to come along and take advantage of your ignorance?---Oh, it's been happening all the time, mate.

It's been happening for a long time?---Yeah, it's happened for a long time, yeah.

10 Yeah. Was there some reason why as chairperson if you were familiar that that had been happening for a long time you didn't try and stomp on it, try to stop it?---Oh, we was only, just, these people were only talking to, we weren't doing any deals with them.

Oh come on, Mr Mason, you know that within a couple of weeks there were documents signed. Why didn't you do something before documents were signed?---Well, we weren't familiar with it, how it worked.

20 Well, let's put a timeline on it. Have a look at page 51. I'm so sorry about this, I do this all the time. Have a look at page 48. You'll see that these are minutes of a meeting on 9 March, 2005 and you'll see if you go to page 51 at the foot of the page there's a heading, "Development Proposals" and there was an introduction of members of these people, Gattellari, Binge and Saunders?---Yeah.

And you'll see that at the foot of the page V Mason said that all transactions to be checked out by the New South Wales Aboriginal Land Council?---Yes.

30 Did that happen?---Yes.

But that happened much, much later didn't it, after you'd signed the agreements?---I don't know.

You don't know. You were Chairperson but you don't know?---Yeah.

40 Go over the page to page 52. Members had a private discussion and decided to go ahead. That's hardly mature or informed reflection. These people have arrived out of the blue on 9 March, the record of their discussion with you covers only seven pages in the minutes following which there's already a decision made to go ahead with them. Do you see that?---Well we thought it was a good deal.

You knew even then that Gattellari and his side were willing to pay you to get your assistance, you knew that?---No.

Really?---No.

Have a look at page 55. You see that that's dated 9 March, 2005. That may or may not be the date it was signed, but you see it's a signed document. Have a look at page 56. You signed that as Chairperson. It says it's signed on 9 March. Do you see that?---(NO AUDIBLE REPLY)

What advice did you get before you signed that?---I only got it from the meeting.

I beg yours?---I think the meeting endorsed it.

10

The meeting endorsed it?---Yeah.

I asked you a different question. What advice did you get?---From where?

Beg yours?---From where? Advice from where?

I'm asking you what advice did you get before you signed that document as Chairperson of Wagonga?---Well from the meeting.

20

That wasn't advice, that was a meeting which you were chairing wasn't it? ---Yeah.

What advice did you get, none?---That's the only advice I got is from what the members told me to do.

You've been here yesterday and today haven't you?---Yes.

You heard the evidence of Mr Gattellari?---Yes.

30

You heard the evidence of Mr Lockley, the accountant?---The accountant, yeah.

Do you see what Mr Lockley traced money which was being paid into your account by Gattellari?---Yes.

Did you see that Mr Lockley was able to trace a payment into your account from Gattellari as early as 18 March, 2005? Did you see that?---No, I didn't see it.

40

You didn't see it?---No.

You've been here today?---Yes.

You remember I asked Mr Lockley, the accountant questions?---Yes.

Commissioner, I want to refer to Exhibit 8, Mr Lockley's statement and the annexures. It's also available I believe on the screen. Did you turn off while I was asking Mr Lockley questions?

MR WILLIS: Commissioner, my apologies for interrupting Counsel (not transcribable) It's been brought to my attention that my client doesn't have his spectacles here.

MR WATSON: They are here.

MR WILLIS: (not transcribable) spectacles and I'm just not sure how well he can see the documents that are placed in front of him.

10

ASSISTANT COMMISSIONER: Yes. Are you able to see the documents at this time, Mr Mason?---Yeah, yes.

20

MR WATSON: All right. Well what I'd like you to look at is page 11 of Mr Lockley's statement, it's paragraph 26. We'll put it on the screen for you. What Mr Lockley says there I'm sorry you weren't perhaps concentrating when this evidence given earlier is that he looked at certain things. He looked at your personal bank account and he looked at a record which Mr Gattellari retained of a deposit slip and he looked at the deposit slip which said that \$2,000 cash was paid into your bank account on 18 March, 2005. He then looked at your bank account records and he saw that on 18 March, 2005 \$2,000 was deposited. He then went to the bank and got another document called a trace, which showed that the money which Mr Gattellari had deposited ended up in your bank account. Can you tell the Commissioner how that came about? Sorry, sorry, I should ask a previous question. You know Mr Mason that that occurred, Mr Gattellari put \$2,000 into your bank account on 18 March, 2005 don't you?---Yeah, I don't know.

30

No?---I think it was a loan, like, yeah.

A loan?---Yeah.

It doesn't matter whether it's a loan or a gift?---Yeah.

You accept, do you, Mr Gattellari put \$2,000 into your account?---Yeah, it was yeah.

Yeah?---I had a loan.

40

A loan?---I had quite a few loans.

So, so no doubt you paid him back?---Yes.

You did?---Yes.

Can you show us, because we've got your records here, with the assistance of your lawyers can you show us where you paid him back, the cheque butt,

the money withdrawn from the account, anything like that?---I, I, I done work for him.

Sorry?---I worked for him.

Oh, no, no, no, no. You said you repaid the loan. We're talking about that. Can you show us a document which would support the fact that you repaid this \$2,000 to Mr Gattellari?---No, I can't show you.

10 Why not?---Because I, I know that I used to work for Mr Gattellari, I worked for him.

No, I don't want to worry about work at the moment, I want to see the record, the cheque butt, the deduction from your bank account- - -?---No, I didn't do it, well, I can't show you.

- - -the record which would suggest you repaid even one cent to Mr Gattellari?---I, I, I, I can't, I can't show you that.

20 Why not?---Because I didn't pay him in a cheque.

Well, how did you pay him?---He took, he took it out of when I done work for him.

All right. I see. Then you do know that Mr Gattellari gave some evidence yesterday and suggests that a number of payments have been made to you - - -?---Yes.

- - -over a period of time?---Yes.

30 And you saw probably some of the documents up on the screen- - -?---Yes.

- - -which suggested that the total value of those payments was in the order of \$38,000?---Yeah, I refute some of that.

Sorry?---I refute some of that.

You refute some of it?---Yeah.

40 How much, Mr Mason?---Oh, there's, some there was ah, I think the, was it \$8,000 I think it was ah, the car, the car was \$12,000.

Did you get a car from Mr Gattellari?---Yes.

Right. Did you ever make any repayments to the lease company?---Yes.

You did?---Oh, not with the lease but I paid him money.

Right. You paid him money?---Yeah.

Okay. I'll ask my question?---I paid- - -

Did you make any repayments to the lease company?---No.

You said you paid Mr Gattellari some money?---Yes.

10 Can you show us the cheque butt?---No, I can't.

Can you show us any financial record- - -?---No.

- - -whatsoever to support your word? You can't?---I can't.

Why not?---Because he took it out of when I was working for him.

He took it out of your pay?---Yes.

20 At this time you must have been working full-time for him, were you?
---Not at this time but later when I left there I was.

Well, this is at this time. I want to know, were you working during this time full-time for Mr Gattellari?---No, not at this time.

All right. Well, what were you doing for Mr Gattellari on 18 March, 2005 which warranted him putting \$2,000 into your bank account?---I weren't working for him.

30 You were working for him?---No, I weren't working for him.

You weren't working for him?---No.

Okay. Well, I'll ask my question again. Why was he putting \$2,000 into your bank account on 18 March, 2005?---I asked him for a loan.

You asked him for a loan?---Yep.

A loan which you didn't repay?---Yes, I paid it.

40 You paid it?---Yes.

Right. How did you repay it?---I paid it when I had work.

Right. What did you do for him?---What did I do for him?

Yeah?---I worked at his factory for a while.

Right. Doing what?---Um, I decked out the factory for him.

You did what?---Decked it out for him.

What does that mean?---Well, that means putting shelves and, shelving and all that through a factory.

Okay. What were the shelves made out of?---They were steel.

10 Right. Where did you get the steel from?---Well, he had all the shelving there, we just put it together.

You just assembled a steel shelf?---Assembled, yeah.

Right. So what did that take you, a couple of hours?---No.

How long did it take you?---Well, took us about nearly a month.

A month?---Yeah.

20 Really, to put together a steel shelf?---Yes.

And who were you working with?---Ah, I had ah, one of me brother-in-laws.

You know full well that you've been here before and given evidence, don't you?---Yes.

30 And you know full well that I asked you in great detail about what you'd done for Mr Gattellari, don't you?---Yes, yes.

You never revealed any of this, did you?---Well, there was a lot of work I done, there was a lot of stuff I - -

You never revealed any of this, did you?---Well, there was a lot of work, there was a lot of stuff I never told you about when I used to work.

Why not?---I don't know, I didn't think it was necessary.

40 Are you lying now, Mr Mason?---I'm not lying now at all.

What was the name of your brother-in-law?---It's Bruce Ella.

Who?---Bruce Ella.

How do you spell that, E-L-L-A?---Yeah, that's right.

And he was working with you?---Yes.

And how did he get paid by Mr Gattellari?---Just paid him too, paid him in the hand.

You would have been working next to the bloke and he paid him, he paid Bruce Ella?---Yeah.

You saw the pay going into Mr Ella's hand or account?---Cash.

Cash?---Cash money.

10

All right. And when was this?---Oh, I don't know the dates.

Well, come on, let's give it a try?---I still can't, I don't, I don't know dates.

Where was the factory?---Chipping Norton.

How did you get there each day?---Jimmy and I'd drive.

From where?---From down in Maroubra.

20

From Narooma or Maroubra?---Maroubra.

Right. Staying with your, your daughter - - -?---Stayed at me daughter's place.

- - - and driving each day. So you had a car?---Yes.

And in terms of the factory, how big was it?---Oh, it was pretty big.

30

Well, that's very helpful, Mr Mason, but could you put some dimensions on it? Was it the size of a swimming pool, the size of a tennis court or the size of a football field?---Oh, it'd be half a football field.

All right. And did it face the street?---No.

Well, where did it face?---Well, it was out on a compound, other factories.

In a compound?---Yeah, with other factories.

40

And do you remember the street?---No, no.

Do you remember where the parking was for it?---Parking.

Yes?---The parking was inside the compound.

Inside the compound?---Yeah.

Do you remember when Ken Foster became CEO or coordinator?---Yeah.

Why was he picked?---Well, I think, thinking back with it now, I think what happened he was down there going for another job down there at the time at, at the medical centre.

At the medical centre?---Yes. He was going for the CEO job there.

10 All right. And so he just happened to be in the town and was appointed CEO?---No, no, he missed out on the one at ah, missed the one, missed out on the one there and - - -

Do you know whether he was receiving money from Gattellari?---I wouldn't know.

You wouldn't know?---No.

Was he ever working with you on the shelves?---No.

20 Were you ever working with Foster for Gattellari?---No.

You never overlapped in any job that you were doing?---No.

So you never saw him working for Gattellari?---No, I saw him working with Gattellari I think on the funeral fund I think.

So, so you did work for Gattellari?---No, I don't think he was, I think he was a, he was a company director I think it was a funeral company.

30 Did you see him at the premises?---Not at the factory.

Did you declare the income which Gattellari paid you?---No.

Did you continue to collect the dole over - - -?---Yes, yes.

So you knew you were cheating on the dole?---You could say that. Well, sorry, I want you to admit it?---Yeah, well I, yeah, I probably was, yeah.

40 You were a dole cheat?---You can call me that if you want to.

And were you a tax cheat?---Not a tax cheat I don't think.

Well, did you pay tax on the money that Gattellari was paying you?---No.

Then you're a tax cheat, is that right?---Must be.

A dole cheat?---Yes, if you say so.

You see, what I want to put to you is that in fact what was happening was pretty straightforward and that you were receiving payments on the side so that you would make decisions in favour of Gattellari and his band of developers. Do you accept that?---No.

Not at all?---No.

So do you think that the decisions that you made for Wagonga were good for Wagonga?---I thought so, yeah.

10

Yeah. Well, when you say you thought so did you take any advice on whether they were any good for Wagonga?---Well, we went and seen the, like Eddie Neumann, we had a solicitor involved with us.

On what?---Eddie Neumann.

Right?---The solicitor.

So you're saying you took his advice on, on the matters?---Yeah.

20

All right. You agreed to enter into joint ventures over four properties as chairperson of Wagonga?---Yeah, but ah, yeah, I think so, yeah, with, with the - - -

If you want to see it it's Exhibit 1, volume 1, page 66. Do you remember the joint venture?---(NO AUDIBLE REPLY)

Do you remember the joint venture?---The joint venture?

30

Yes?---No.

Well you see that that's a document between Ron Medich and others - - -? ---Oh, yeah.

- - - and Wagonga. Do you see that?---Yeah.

And if you look at page 105 and 106 you'll see that it's been executed?---Yes.

40

You'll see that you signed it as Chairman of Wagonga?---Yes.

Could you look at page 81 at 6.8? What advice did you take upon the amount agreed as the development management fee that would be paid to the Medich Group?---Well (not transcribable) was only from, I think - - -

Sorry?---There was a solicitor - - -

Well what advice did you take as to whether or not it was a commercial number or not?---I was only going on the advice of our solicitor.

Sorry, you spoke to the solicitor?---Yeah.

Did you take any advice on that figure of nine per cent?---I don't know. I can't remember now.

10 Why was it changed from eight per cent to nine per cent?---I don't know.

Have a look at page 82, clauses 8 and 9, do you see that they're headed by this statement, Preference Employment to Aboriginals?---(NO AUDIBLE REPLY)

What advice did you take about the amendment which was made at clause 8.1 that that would not occur if it increased the normal cost of the job?---I don't know.

20 Did you put that before the membership of the Wagonga Land Council before you agreed to the amendment?---I'm not sure.

Well why wouldn't you do it if you didn't - - -?---I'm not sure.

You're not sure?---Yeah.

30 Right. Are you saying that the membership had before them the fact that effectively the clause, which gave preference in employment to Aboriginals was being removed? Did you or didn't you place that before the membership for their consideration?---I thought I was doing the right thing, but - - -

You thought you were doing the right thing?---That's right, yes.

All right. Have a look at page 94 and look at clause 19.4. What advice did you take before that clause was removed?---I don't think it was, I was only going on the advice of Eddie Neumann I think at that time.

40 You didn't care really did you? You just signed it?---No, it was Eddie Neumann, I just, he was our legal bloke.

Have a look at clause 21 on page 96. There it doesn't look apparent but on another copy that whole clause has been taken out and that removes the ability of Wagonga to buy blocks of land at discounted values. Do you see that?---(NO AUDIBLE REPLY)

Did you place that before the membership of Wagonga?---Well as I said, I only took advice what the, our legal advice what I had at the time. And he was there and I, I don't know.

Mr Mason, as I understand it you're just saying you signed it, if the lawyer didn't tell you not to sign it, you just signed it?---No.

Was it because you'd been paid by Gattellari to favour the deal?---No, no.

You know one of the properties was at Fuller Lake don't you?---(NO AUDIBLE REPLY)

10 Do you know one of the properties was at Fullers Lake?---Yes.

Look at pages 170 to 171 of Exhibit 1. You'll see at page 170 that this is an extraordinary meeting of Wagonga on 17 August, 2005. Do you see that?
---Yes.

And if you go to page 171, I'm sorry, I've lost my note. I'll ask you something else. Did you know that the Wagonga Council put a motion and passed it saying that lot 921, that's the property at Fullers Lake - - -?
---Yeah.

20

- - - was a property of no cultural sensitivity. Did you know that?---Yeah.

But you would have known that that was wrong, wouldn't you, as chairperson you must have known that that was wrong?---It didn't have any significance.

Have a look at page 12 of Exhibit 1. Do you see that this, I can show you the whole report if you think you're at a disadvantage, is a report, and I want you to assume it's in respect of the property at Fullers Beach. Do you see the last paragraph?---Yes.

30

Well, that actually says that the property contained within it a sacred Aboriginal site which was a burial ground?---Yes.

Do you see that?---Yes.

So how was it that a motion was passed without reference to that fact, a motion that said the property was of no cultural sensitivity?---Well, we thought that when we built there that would be ah, because where the, the site was, it's on the beach and we thought that if we built, built something in front of it it would ah, you know, sort of save it sort of.

40

But, Mr Mason, that would suggest that you knew that the land held within it an area of some cultural sensitivity?---Yeah, on the beach.

How then was a motion passed that it was of no cultural sensitivity if you knew that fact?---It was on the beach though, it wasn't on the property at all.

Oh, I see. You see, that reference in that report to the dune forming the south-eastern boundary of the planned development, what does that suggest to you?---(NO AUDIBLE REPLY)

Look, Mr Mason, what I'm suggesting to you is this, is that once you've been paid by Gattellari and his crowd, you'd make any decision in their favour because that was how you got to receive money and keep the money that you'd received. Isn't that the truth of it?---No, it's not.

10 And you said that you did the right thing by the Council, the Land Council. Is that right?---Well, I thought I did, yeah.

Yeah. Well, have a look at page 152. Do you see that's the first page of a report by some property valuers?---Yeah.

And do you see that it's in respect of Lot 921, that's the Fullers Beach property?---Yep.

20 Did you ever read this report?---Yes, I think I did.

You read it?---Yeah, I think I have.

So what we have now is the fact that you as chairperson of the Council read this report and you based your decision upon it?---What do you mean by that?

30 Well, the decision was made to go ahead with a joint venture or to try to go ahead with a joint venture. You were the chairperson and you say you accept responsibility because you read what was in this report?---Yeah, well, what do you mean by it?

Did you read this report or not, Mr Mason?---Well, I think I did, I'm not sure.

All right. Well, if you think you did, you were chairperson, no doubt- -? ---Yeah.

40 - - -this was information which you used in trying to do the best for the Land Council. Is that right?---Yes.

Do you see the valuation is \$1.1 million as specified on the first page? ---Yes.

Could you then go to page 157. You'll see there that there's a section of the report where the valuer sets out his or her valuation. Do you see that? ---Yeah.

Did you read this?---I can't remember.

Well, do you think as chairperson trying to do your best for the Land Council that you should have read it?---Yeah, I'd say so.

Well, it's impossible to say otherwise. It would be quite terrible if you didn't bother reading the valuation of this valuable property. Don't you agree?---(NO AUDIBLE REPLY)

10 Is that right?---Yeah, well, when it was ah- - -

Let's just read it again now, do you see the second paragraph, did you read those words, "The value of the subject property is difficult to assess." Did you read that?---Yeah, I did, yeah.

Not now, did you read that at the time?---No I don't, I don't think I did.

Well, how could you not read it if you read this report? Did you or didn't you read this report?---I'm not sure.

20 Well, have a look at it now, the value of the subject property is difficult to assess, how then could you rely upon it and do the right thing by the Land Council?---I don't know.

Read on. The value of the property is difficult to assess given that most of the sales evidence does attract some limited potential for a dwelling, this advantage is therefore difficult to quantify in value terms as a high degree of subjectivity also exists. What would you have understood that to mean when you were reading this report, if you did, in 2005?---I don't know.

30 What he's saying is that it's not really possible to put a value on it, isn't it? ---I don't know.

Well, how could advise the Land Council as chair person whether to go ahead with the deal or not to go ahead with the deal?---Well, I, well I was only going by what the members told me to do, that's all.

You had no say in it, you were just the chair person.---That's right.

40 That's ridiculous, isn't it?---No it isn't.

You've been the chair person on and off at this stage for 19 years and you're saying that you just threw it over to the membership?---Well, that's what we normally do.

Who was the person in the membership who would have been qualified to give any opinion about this?---I don't know.

You're just making this up aren't you?---No I'm not.

Have a look at the next paragraph, he said, I find sale numbers at certain places of most assistance and determine the value at \$1.1 million. Do you see that?---Yes.

Turn over the page. Note, the basis of valuation is determined on the current zoning and does not reflect any potential value for re-zoning nor any claim which could arise for compensation by virtue of the aquaculture. Do you see that?---Yep.

10

Did you read this at the time Mr Mason?---No, I don't think I did I'm not sure - - -

If you'd read it at the time you would have said to the Land Council, hold on, don't sell this if this is re-zoned it could be worth a fortune, wouldn't you?---Yeah it may - - -

You see - - -?---I can't remember reading any of them.

20

Could I suggest this, if you read that carefully you would have known that you could at \$1.1 million be giving a gift to Gattellari and his people, isn't that right?---(NO AUDIBLE REPLY)

You're shaking your head, can you answer?---No.

Well, what do you mean? If it had been re-zoned millions and millions of dollars would have poured into their pockets, wouldn't it?---The thing was, it was, it was lease, they were going to lease it, that's what I thought it was, it was going to be leased by Gattellari.

30

Well, this was a joint, this is for the purpose of a joint venture at this stage, Mr Mason, didn't you even know that, did you think it was a lease?---Well, I thought it was going to lease.

Oh dear. You voted on this and voted in favour of it didn't you?---Yeah, the members did.

You did too.---I was at the meeting, yeah.

40

At the time, you were receiving payments, including the loan we've just spoken about from Gattellari, weren't you?---No.

Sorry, we've just, I can go through it in detail. On 18 March you received at \$2,000 loan, you've already said that.---Yeah, a loan, a loan.

Did you tell the people at the meeting, I want you to know incidentally, I received a \$2,000 loan from Gattellari on 18 March. Did you ever disclose that?--- No.

You've got to realise now that that placed you in a terrible position of conflict. Isn't that right?---I don't know.

Just think about it. The people who were doing, entering a dealing with the Land Council, you had received a private loan from one of them. Weren't you in a conflict of interest?---I didn't look at it that way.

10 If you had read that report of the Fullers Beach valuation, you would have known that to enter a transaction of \$1.1 million could be selling off something of great value to the Land Council?---I wouldn't have understood it.

I beg yours?---I wouldn't have understood what it meant.

And you were the chairperson?---Yes.

And you still voted in favour of personal- - -?---What's that?

20 Well, you voted in favour of the deal even though you didn't understand it? ---Yeah.

Is that a- - -?---You see, that's how gullible I am.

Yeah, yeah, I'm sure. I notice the time and I'm moving onto another property.

30 ASSISTANT COMMISSIONER: Yes. Before we adjourn I wanted to raise an issue with Mr Willis. I wonder could he come forward to one of the microphones. Mr Willis?

MR WILLIS: Yes, Commissioner?

40 ASSISTANT COMMISSIONER: Mr Willis, Mr Gattellari has been and gone. He gave detailed evidence about dealings with your client effectively to the effect that he provided a lot of benefits and money to your client and got nothing in return. I specifically asked you whether you wished to cross-examine Mr Gattellari in respect of that evidence and you said you did not. Your client has now given evidence in relation to one of those payments, raising issues as I understand it for the first time about working for Mr Gattellari, putting up shelves in a factory. It makes it very difficult to run an inquiry of this kind of information like that is not put to witnesses when they're here. We're now left in the situation where Mr Gattellari has gone and none of this has been put to him or raised with him before. Counsel Assisting of course can only raise facts of which he's aware that will be put. Now, I don't want to ask you about your client's instructions because, well, obviously legal professional privilege is not abrogated in these proceedings for the purpose of taking instructions for these proceedings, but I would like

to place on the record that it is expected, the rules of evidence don't apply but of course as a matter of fairness and commonsense it is expected that it will be put to witnesses where their evidence is disagreed with by clients. Do you understand that and the need for that to happen?

MR WILLIS: Obviously.

10 ASSISTANT COMMISSIONER: All right. Well, could I just note for the purposes of other counsel as well, it really is expected that conflicts of this, of important kinds on matters of credit, on conversations, on factual issues such as this, should be put to witnesses when they're here because otherwise we have to deal with it in some other way later, which is never as good.

Thank you. We will adjourn till 2 o'clock.

LUNCHEON ADJOURNMENT

[1.02pm]