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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO, QC, COMMISSIONER

PUBLIC HEARING

OPERATION AVOCA

Reference: Operation E09/1825

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 31 MAY 2010

AT 10.00AM

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

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

THE COMMISSIONER: This public inquiry concerns investigations by the Commission into allegations that Don Gamage, also known as Sisira Kumara Kumaragamage Don or Don Kumara Gamage firstly offered \$15,000 to Stephen Blackadder, a person of service of a public authority, meaning the Woollahra Municipal Council, in order to secure employment as Director, Technical Services at the Council.

10 Secondly, falsified details of employment applications such as employment history and provide false references in order to secure employment with Brewarrina Shire Council, the Roads and Traffic Authority New South Wales, Cobar Shire Council and Coonamble Shire Council.

Thirdly, falsified details of employment applications in relation to applications for employment submitted to Lithgow City Council, Harden Shire Council, Goulburn Mulwaree Council, Bland Shire Council and Upper Lachlan Shire Council.

20 The general scope and purpose of this inquiry is to gather evidence relevant to the allegations being investigated for the purposes of determining the matters referred to in section 32 of the ICAC Act. Ms Davenport.

MS DAVENPORT: Thank you, Commissioner. In September 2009, Stephen Blackadder was engaged by Woollahra Council to conduct the recruitment process for the position of Director, Technical Services with the Council. Mr Blackadder was the director of Blackadder Associates, a company providing management consulting services to local governments. While carrying out this process he was a public official within the meaning of the ICAC Act.

30 As part of the process an advertisement was placed. In late October Mr Blackadder received a phone call from Don Gamage who was inquiring about the position. As a result of this conversation Mr Gamage emailed a copy of his resume and requested a meeting with Mr Blackadder on the upcoming weekend. Mr Blackadder sent him an email attaching the information package and inviting Mr Gamage to call him to discuss the position as he was not available on the weekend.

40 On the following Monday Mr Blackadder was phone by Mr Gamage. Mr Gamage told Mr Blackadder that he wanted him to act as his agent in getting the job and that he was prepared to pay him \$15,000 for this service. Mr Blackadder refused the offer and pointed out that this would amount to a bribe as he was being paid by Woollahra Council to find a person for the job. After terminating the call, Mr Blackadder made notes of the conversation. Over the next few days he drafted a letter to the ICAC reporting the matter.

On 23 December, 2009, Commission investigators interviewed Mr Gamage. In that interview he denied making an offer to Mr Blackadder and claimed

that in fact Mr Blackadder had offered to facilitate Mr Gamage's appointment to the position if he paid Mr Blackadder \$15,000. He also stated that he believed Mr Blackadder was a private consultant and that there was nothing wrong with the payment of money for assistance in the recruiting process. He stated that he would have paid the money if he had it.

10 This public inquiry will investigate the allegation made by Mr Blackadder and the counter allegation made by Mr Gamage. In addition, investigations revealed that employment details contained in the resume sent to Mr Blackadder contained falsehoods. Further investigations were carried out in relation to Mr Gamage's employment history. Those investigations revealed that Mr Gamage had falsified his history in a large number of applications to public authorities as well as providing references that he knew to be false. Some of the applications resulted in his appointments to positions within the New South Wales public sector and some of these public authorities have raised issues about his poor performance.

20 This inquiry will look at the recruit processes of public authorities and what corruption prevention processes are in place to ensure that references and work histories are true and correct as well as what processes are in place to identify applicants who have been sacked from previous public sector employment.

THE COMMISSIONER: Yes. We'll adjourn for five minutes.

SHORT ADJOURNMENT

[10.09am]

30 THE COMMISSIONER: Those who wish to apply for leave to represent various persons' involvements in this inquiry should make their application now.

MS DAVID: Yes, Mr Commissioner. I seek leave to appear for Don Gamage.

THE COMMISSIONER: Yes, you have that leave.

40 MS DAVID: I'm David, D-A-V-I-D. Thank you.

MR HARRIS: Mr Commissioner, my name is Harris. I'm seeking leave to appear for Don Perera and Smuttu Sivarasa.

THE COMMISSIONER: Yes. There is no conflict of interest between the two?

MR HARRIS: Not as far as I understand, they're not, no.

THE COMMISSIONER: No. Very well.

MR HARRIS: I don't think that's in dispute. Thank you.

MS DAVENPORT: No, there's no issue in relation to that.

MR HARRIS: Thank you.

THE COMMISSIONER: Ms Davenport.

10

MS DAVENPORT: Commissioner, I call Stephen Blackadder.

THE COMMISSIONER: Yes. Mr Blackadder, why don't you take a seat. Mr Blackadder, you have no, no one representing you this day?

MR BLACKADDER: No, I do not.

20

THE COMMISSIONER: No. I need to explain something to you, so if you would just listen carefully if you don't mind. As a witness appearing before the Commission, you are required to answer all relevant questions and produce any document or other thing which you are required to produce and you must do this even though your answer or production may incriminate you or attempt to incriminate you. However, if you object to answering any question or producing any document or thing, your answer or thing produced cannot be used against in any civil or criminal proceedings or in any disciplinary proceedings. However, this protection does not prevent you from being prosecuted for giving false or misleading evidence or for other offences under the Independent Commission Against Corruption Act. Do you understand what I have said?

30

MR BLACKADDER: Thank you, I do.

40

THE COMMISSIONER: Yes. This protection may be obtained by your objection to any particular question or production. Alternatively, you may make an application to me as the Commissioner to make a declaration that all answers which you may give and anything which you produce will be regarded as having been given or produced on objection. If you do this there's no need for you to take objection in respect of each particular answer, document or thing. Such a declaration may be convenient for you and saves time. It protects you against the possibility that you may forget to object to a question which you really should object to in your own interests. The question is whether you wish me to make such a declaration, if you do, so I'll make one now.

MR BLACKADDER: Thank you. Yeah.

THE COMMISSIONER: You wish me to make that declaration?

MR BLACKADDER: Yep.

THE COMMISSIONER: It will just simply give you the protection - - -

MR BLACKADDER: Yes, thank you.

THE COMMISSIONER: - - - that, that you will get by objecting to the testimony you propose to give.

10 MR BLACKADDER: Yes.

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

20

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR BLACKADDER AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS COMPULSORY, AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR MR BLACKADDER TO MAKE

30 **OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Now Mr Blackadder, do you wish to give your evidence under oath or do you wish to affirm the correctness of your evidence?

MR BLACKADDER: I'll affirm those, Commissioner.

THE COMMISSIONER: Yes.

40

THE COMMISSIONER: Ms Davenport.

MS DAVENPORT: Thank you, Commissioner. Could you please tell the Commission your full name?---My name is Stephen John Blackadder.

10 And Mr Blackadder, I understand you have a background in local government. Is that correct?---Yes. I have a 36 year career in local government, which finished three years ago and I then became a, a management consultant working with local government.

All right. And that management consultancy was called Blackadder Associates Pty Limited. Is that correct?---It is called Blackadder Associates.

20 Yes. And that, the work of that company was to provide management consulting services to local government. Is that correct?---Correct. To, to local government throughout Australia.

All right. Now in that, I think you started that business in 2007. Is that correct?---That's correct. After a 20 year or close to 20 year period of being a General Manager for, in local government. And I established that business in April, 2007.

30 All right. Now if I could take you please to September, 2009. In that month were you engaged by Woollahra Council to conduct an equipment process for the position of the Director of Technical Services?---I was.

And as part of your role in that process did you in fact prepare the advertisement that was to be placed in relation to that position?---Yes, I did.

And did you also prepare the information package that was to be given to prospective applicants?---Yes, I did.

And could you have a look please at this document on the screen. You'll see a screen in front of you actually?---Oh, thank you.

40 Is that the advertisement that you drafted which was placed in newspapers advertising the position?---That's the advertisement, yes.

All right. Now, part of your role in this recruitment process was to also seek out possible candidates from your wide range of people that you knew within the local government area, is that right?---Yes, that's correct. I mean, in, in recruiting for position you not only advertise, you try and seek out those people that you know might fill the criteria for the position and,

and I've got a fairly wide network of, of contacts in local governments so I pursue those networks in order to identify who might be suitable.

All right. And did you, once applications had closed, I notice on that advertisement there is no particular closing date, is that correct?---Yes, that's correct. Some are open, some are not. The open ones give me flexibility to seek out people. I, I was expecting this one to be a little bit difficult to attract a very strong field so I left it open.

10 All right. But when finally you had sufficient applicants or applicants of a sufficient seniority or experience, was it part of your role also to assist the General Manager in selecting a shortlist of persons for interview?---Yes. The process is that once I obtain responses to the key selection criteria outlined in the information package, and I obtain their CV, I then do a summary of all applications received. I report to the General Manager and we sit down and we go through and we select those who we consider might best fit the role and we select the shortlist for a shortlist interview.

20 And that having been done, would you then also sit on the selection panel, together with the General Manager and other persons?---Yes. I sit on the selection panel not as a voting member, I sit on the selection panel in order to guide the General Manager and those that he appoints to that panel and he constitutes a panel that meets antidiscrimination guidelines and the like so my role is to advise and support in that process.

30 And in terms, I notice, I note also that that advertisement doesn't have any salary nominated in it. Was it your, part of your role also to negotiate an appropriate salary with the successful applicant?---Yes. Well, not, not nominating a salary doesn't mean that it's disclosed. I, I obtain from the General Manager and indicative guideline and we leave it open in order to be able to negotiate some flexibility with an outstanding candidate so it, it is an open situation but I also advise the General Manager on what I regard as market conditions for, for salaries.

And in terms of that position, was, what was the market salary, do you recall?---It was in the order of around about 180 total package.

40 All right. Now, if I could take you please to, or perhaps, Commissioner, I will tender that document, the advertisement.

THE COMMISSIONER: Yes, the - - -

MS DAVENPORT: And I tender it as part of the position information package. Perhaps I could show it Mr Blackadder and he can affirm that that is the information package that he produced. Is that the information package?---Yes, yes, Commissioner, yes counsel, that's the package.

THE COMMISSIONER: Yes, the information package produced by Mr Blackadder is Exhibit 1.

#EXHIBIT 1 -INFORMATION PACKAGE PRODUCED BY MR BLACKADDER

MS DAVENPORT: Thank you. If I could take you now please to
10 25 October, 2009. I think it was a Sunday. Did you receive a telephone call from, on your mobile phone?---Yes, yes, I did.

And did that person introduce themselves as a Mr Don Gamage?---Yes, he did.

What did he tell you about himself in that telephone call?---Okay. It was, it was a phone call just to introduce himself, to indicate an interest in the position. I had a general conversation with him to describe the nature of the role and, and what the Council was expecting. I indicated to him that if he
20 could send me an email I would then be able to send him back an electronic copy of the information package so that he can make a judgment about his suitability for the role and then for him to give me a call to discuss.

All right. And on the following Monday, that is, 26 October, did you note that you'd received an email from Mr Gamage that had been sent at around 2.00am on that morning?---Yes, I, when I awoke that morning checked my emails. I'd received an email from Mr Gamage. I then forwarded an email back with the information package.

30 Right?---He had inquired in that email whether I would be available at the end of the week to meet with him and I indicated no, I had a very busy week and I would not be able to meet with him so I gave him the package and I invited him to give me a call to discuss.

All right, if you could have a look please at the document that is appearing on the screen in front of you, it's probably easier to read there, on the - - -? ---I'm sorry not there.

40 On the screen in front of you. Is that the email that you received from Mr Gamage in the morning of 26 October?---Yes, that's the one.

And did that have attached to it the copy, a copy of a resume of Mr Gamage?---It did. I, I normally invite prospective candidates to send me a CV so that I can be a little bit informed before I talk to them on the phone.

All right. If you could have a look please at, do you recognise that as - - -? ---Yes, that's my recollection - - -

The first page?---That's my recollection of the CV that he sent me.

All right. And you, I think you have said then emailed him back attaching the information package. Is that correct?---I did.

And could you have a look at that - - -

THE COMMISSIONER: Are you tendering this document?

10 MS DAVENPORT: I tender that, Commissioner, yes.

THE COMMISSIONER: So let's just, are you tendering the email?

MS DAVENPORT: The email and the attachments, yes. Now - - -

THE COMMISSIONER: Just a moment, please.

MS DAVENPORT: Sorry.

20 THE COMMISSIONER: Exhibit 2 is the email from Mr Gamage to Mr Blackadder of 26 October, 2009 and attachments.

**#EXHIBIT 2 - EMAIL FROM MR GAMAGE TO MR
BLACKADDER DATED 26/10/2009 WITH ATTACHMENTS**

THE COMMISSIONER: Yes.

30 MS DAVENPORT: Now, in response to that email, could you have a look please at the document that's now on your screen. Is that the email that you sent in response to Mr Gamage's email?---Yes. I sent that first thing in the morning.

And that attached a copy of the package that we've already seen exhibited in the Commission?---That's correct.

40 And it invited Mr Gamage to contact you at some later time?---Yes. As I mentioned earlier, he had asked whether I was available to meet with him in Sydney when he was in Sydney towards the end of the week and I indicated no, I was going to be out of Sydney and unable to meet him.

In fact later that same day, on 26 October, did you leave the Sydney area and drive to Tea Gardens in the Great Lakes Council area?---Yes. I was to be away most of that week. One of my other engagements was to work with the Great Lakes Council to develop a community strategic plan and I left Sydney that morning to drive to Tea Gardens for a, I think it was about a

1.30pm meeting with works staff and, and I also had a, a workshop that evening, a community workshop that evening at Tea Gardens.

THE COMMISSIONER: You're not tendering that email?

MS DAVENPORT: Sorry, Commissioner, I am tendering that email but the attachment to it, Commissioner has already been tendered, that is the - - -

10 THE COMMISSIONER: Exhibit 3 is the email from Mr Blackadder to Mr Gamage of 26 October, 2009.

#EXHIBIT 3 - EMAIL FROM MR BLACKADDER TO MR GAMAGE DATED 26/10/2009

MS DAVENPORT: What was your, what was your mobile telephone number that you used at the time?---My number is 0-4-1-2-2-5-5-1-4-9.

20 Right. Now, during the evening of 26 October did you receive a phone call on your mobile phone from Mr Gamage?---Yes. I'd, I'd arrived back from the evening workshop, I'd been to the supermarket to, to pick up some things before I went to my motel and I was driving down the ramp to the motel and received a phone call from Mr Gamage.

And did, did the number that showed up on your phone appear to be a mobile telephone number?---I, I could not recall that.

30 All right. In any event this was the first time that or sorry, the second time that you had spoken to Mr Gamage on the phone. Is that correct?---That's correct.

40 And can you tell the Commission please what was said by Mr Gamage and by you as best you can, using the direct speech, I said, he said, as best you can?---Mmm. Okay. Well, Mr Gamage introduced himself by saying, "Hi, this is Don Gamage from Coonamble Council. Thank you for the information package." And I said, "That's good Don. I'm happy to talk to you about the role and to discuss the scope of the role and it's challenges." He, he then, there may have been some small talk, but then he, he sort of hesitated and, and said, "I would like to, you to consider to be my agent to, to get the job. And I'd be prepared to pay you \$15,000 to do so." And having just received that, that conversation, I wasn't, I wasn't sure what to make of it. And I said, "Well, look, Don, you don't have to pay me to get a job. I can help you to get a job if you, if you wanted me to advise you on your CV or how you conduct an interview, I'd be more than happy to help you. I certainly don't need to be paid for that." And then he said, "No, Stephen, I want you to be my agent to get this job." And that sort of quickly registered that there was something wrong here. So I said, "Mr Gamage,

that constitutes a bribe and I'm paid very well by the Council to conduct this process, so I don't need to be paid any more." So I quickly hung up.

All right?---Counsel, I also take back to my local government days as a, as the principal officer with the ICAC, as a former General Manager and the guidelines clearly indicate that if you are offered a bribe, you quickly terminate the conversation and you then make some notes, which I did. I went to my hotel room straight away, made some notes and I can then tell you the, the following sequence of events if you like.

10

Well, if I could just take you to that. I think you returned to Sydney on Wednesday, 28 October. Is that right?---Yes. I was still doing community consultation up in the Great Lakes area, up into Forster. And I returned late Wednesday, the, what was it, the 28th, I think. And then very early morning that following morning one of my employees and I, we travelled to Singleton Council for another assignment and we were there until Friday. And we returned back to Sydney late Friday evening.

20

Now I think when you finally returned to Sydney you drafted a letter to the Independent Commission Against Corruption?---Yes, on the Saturday when I returned to my office, I drafted a letter.

And you arranged for - - -?---And a copy to Woollahra Council.

And you managed, you arranged for that to be sent to the Commission. Is that correct?---That's correct.

30

And could I show you please this document?---Yes, that's correct. That's my, my letter.

Yes, I tender that, Commissioner.

THE COMMISSIONER: Yes. The copy of a letter from Mr Blackadder to the ICAC of 31 October, 2009 is Exhibit 4?---And counsel, just, just to confirm with a copy to the General Manager of Woollahra Council.

40

#EXHIBIT 4 - COPY OF LETTER FROM MR BLACKADDER TO ICAC DATED 31/10/2009

MS DAVENPORT: Thank you. Now, was the next time you - - -

THE COMMISSIONER: I'd just like to read the letter. Can you just move that up.

MS DAVENPORT: I'm sorry, Commissioner.

It's probably easier to read the hard copy.

THE COMMISSIONER: Yes, thank you.

MS DAVENPORT: Was the next time that you heard anything from Mr Gamage 7 November, 2009?---Yes, would you like me to describe that?

10 Well, firstly I think there were on that day a number of missed calls that you saw on your telephone. Is that correct?---Yes. To put it into context in fact I was back at Great Lakes, on that Saturday I'd driven to, and that was Saturday, 7 November, I drove to Forster with my wife in fact in the car and we conducted a, a major workshop at Club Forster associated with the community strategic plan. It was a leadership forum which commenced at 9 o'clock . That concluded at 12.30 and when I concluded the workshop and to drive, drive back to Sydney I went to my car, I turned back my, my mobile and I discovered there were four missed calls.

20 And did two of those calls emanate from a mobile telephone number?
---Well, I think the four missed calls were from, from two numbers only.

And did one appear to be - - -?---One was a landline and one was a, a mobile phone.

There were no voice, voice messages left in relation to them?---No, there was no voice messages left, just the, the calls were registered on my mobile phone.

30 Did you at that stage have any idea who had, who those missed calls were from?---No, no.

Did you, using your mobile phone did you ring back the landline number?
---Well, I firstly rang back the landline number and, and Don Gamage answered and he asked me whether the, the position was still open and I indicated that, that no, I had reported to the General Manager on all of the applications received and we were currently developing up a shortlist for interview.

40 All right. And did Mr Gamage just thank you and that was the end of the call?---Yes, that's, that's all he said and then there was the second phone call to return which was a mobile number. I returned that call and, and it was Don's, Don Gamage's mobile number and he answered the phone and I said well, look, I'm sorry, I wasn't, I wasn't aware that you, you called and we then just quickly finished that conversation.

And at the time of making your statement to the Commission did you check you Telstra mobile phone account and note that the calls that you made on

that day were to two numbers, one being 0-2-6-8-7-7-7-0-8-4 - - -?---Yes, that - - -

That was the landline number?---That's correct.

And the mobile number was 0-4-2-7-2-7-1-9-0-5?---Yes, that's correct.

And that was the mobile?---Yes.

10 Thank you. Now, was there no more contact with Mr Gamage until 16 December?---That's correct.

And at that stage were, did you receive a, a phone call on your mobile phone from a, a different landline number?---Yes. Again it's on my records.

It was 0-2-6-8-2-2-1-2-5-2?---Yes.

20 Did you answer the phone?---Well, yes. It was, I was parking in a underground car park, a two, two-storey underground car park at Five Dock and it was a very poor reception and I could hear Don introduce himself and, and then the, the phone cut out.

Right?---I drove out of the car park and then received a phone call from Mr Gamage's mobile number.

Right. And in answering that did you have a conversation with Mr Gamage at that time?---Yes.

30 And what was that, what were the contents of that conversation?---He wanted to know what was the result of the, the appointment and I, I was able to indicate to him that Mr Tom O'Hanlon of Parramatta City Council had been appointed to the position.

And was that the entirety of that phone call?---Yes, he, we just concluded with that.

40 All right. Now, later that same day at approximately 1.56pm, did you receive another phone call on your mobile phone from Mr Gamage?---Yes, I did.

And was that from his, from a landline? Appears to have been from a landline?---Yes, I think so.

And what was the substance of that conversation?---Well, he, he, he called to say that he had received an approach from ICAC inquiring about our, our conversation about the, the \$15,000 and we, we, we were talking and I was, as we were talking a, a phone call came through. I could see it registered from the HR Manager at Wagga Wagga City Council and it was buzzing in

the background so I said to Mr Gamage, look, I've got this important phone call coming through, I'll have to call you back. So I concluded the, the telephone call and, and I called him back later on that evening.

All right. Now, in that first telephone conversation that the ICAC was mentioned, was there mention there of \$15,000 or was it merely about the, him having, he, Mr Gamage, having been contacted by - - -?--- Yeah, I don't think it, I don't think he mentioned the \$15,000. He just said that he had been contacted by ICAC and what did I know about it and I said, well, I, I
10 wouldn't know much, I said, I reported back to the General Manager of Woollahra and that, that he may have known something about it.

All right. Now, later that day at around 6.00pm, did you in fact ring Mr Gamage?--- Yes, well, I, I was very busy that day so I went back to my office. I was in my office and then I recalled, right, I've got to give Mr Gamage a call so I called him back.

And was that from your mobile phone to his mobile phone?--- Yes, from my mobile phone to, to his.
20

And can you tell the Commission please what the substance of that conversation was?--- Well, Mr Gamage again indicated that, that he'd been approached by ICAC and I indicated that that was a great concern to me because, you know, he had, he had offered this, this bribe and, and involved myself and that, that I was most concerned about it and he said, well, it really shouldn't be a problem because you're a private consultant, you refused the bribe so there shouldn't be any problem. And, and I said, well, no, that's not the, not the case. I mean, there's been an offer made, there's been an attempt at a bribe and, and that, that really concerned me so he, he
30 was quite indifferent to it and indicated that it really didn't concern him.

Did he have any conversation about what, what he would tell the ICAC investigators if he was asked about whether he'd offered you a bribe?--- Yes, well, he said that, look, he would not have a problem. He would tell him what he'd done and that that would be okay.

All right. And was that the last time you had any contact with Mr Gamage?--- Yes, that's, that's all.

40 Yes, that's the evidence of Mr Blackadder.

THE COMMISSIONER: Ms David?

MS DAVENPORT: Mr Commissioner, I seek leave to examine this witness.

THE COMMISSIONER: Yes.

MS DAVID: Thank you. Mr Blackadder, the payment, what are the fees that you would receive from recruitment work in a position like this? What, how is the, how is the fees calculated?---It varies, it varies depending upon the, the council concerned. A small council with a limited capacity to pay I offer a rate that I think might be competitive. For a large council with an important role with a package that is at a high level it would be a bit higher. For Woollahra the fee was around about \$25,000 which represents about, you know, it could be between 10 and 15 per cent of what the total remuneration package is.

10

And in this position you indicated before that there was approximately 180,000, the package was up to \$180,000?---Yes, thereabouts, I think.

And would that be for the, you know, a very, if I could say a, a very worthy candidate that you would, that would be a package that you would give to attract such a candidate?---It could be more. It would be negotiated depending upon the, the candidate that, that presents himself, how qualified they are, what experience they possess, particularly in terms of their leadership capability.

20

And would the, and perhaps a less experienced candidate would receive less than 180,000 a package, would that be correct?---I think most days today you are looking to appoint, the very, the very best candidate and invariably packages are offered probably perhaps somewhat higher than what, what the market might be in order to attract the, the very best candidate. It depends upon the field that, that, that does present themselves as well but today I think the market is, is very competitive and each council is looking to appoint the very best person.

30

All right. But the package in this case, if such, or, can you recall what amount you indicated to Mr Gamage at the time for a package?---No, I don't think I had that conversation with him.

Okay. Can you recall what you would have, what you stated to any other person who was interested in that particular position?---Yes, it would've been in the vicinity of 180, perhaps even through to 200.

When the, Mr Gamage didn't submit an application did he for the position in this case?---No, he did not.

40

All right. And in your, you said that you, when you initially had the conversation with him, as I understand it, on the 26th, you were driving up to Tea Gardens. You were going into the hotel at the time. So when did you actually take those notes? It was back in the room you indicated?---Yes, I just went straight to the motel room, made a couple of notes to myself. I didn't keep the notes. I just made the, the notes in order to confirm the conversation in my mind and, and then recorded the, the conversation later.

And did you provide a copy of those notes to ICAC?---No, I didn't keep those notes.

No, so you didn't keep those. Okay. Now, when you took a, you had a conversation on 16/12 as I understand was the last occasion, you had a number of conversations - - -?---Yes.

10 - - - during that day. Did you contact ICAC during, at any stage during that day after Mr Gamage had contacted you? Did you contact ICAC to tell them that he had called you?---Yes, I did.

And when did you do that?---Not long after the phone call in the morning.

And did you, in your, you, you said you had some experience, you had some involvement previously in terms of the, the, your obligations towards ICAC. And yet you didn't think it was prudent to make a complaint immediately to ICAC after the first conversation on 26 October?---No, I, I, I did not. I recorded my notes. I was very busy. I intended to do so as soon as I was able to get back to my computer, type a letter and then send it to ICAC.
20

Now, when you took the notes on, sorry, when you had the conversations with Mr Gamage on the, on, sorry, in December, did you take any notes of those conversations?---No, I did not.

So you didn't provide any of those notes. Obviously you didn't take any notes, so, and again you were driving at that time?---No, I, the first conversation was in the car park in Five Dock. I was out of the car at the time. In fact I was searching for a signal walking around the car park to try and get a signal and it was, was not available.
30

And so is it possible that when it was, or you said you used the word "bribe" to Mr Gamage, didn't you?---The initial phone call that I had on 26 October when he asked, when he indicated that he wanted me to be his agent and he said he would give me \$15,000 to be his agent to get the job, yes, I did. I replied to him, well, that's a bribe, Mr Gamage. I said, I, I'm paid very well by the Council to recruit this position and I don't need to be paid by anyone else.

40 And in your role as, at Blackadder Associates, you do get paid though for services that you provide for advice that you give. Is that correct?---Indeed, yes.

Yes. So, sorry, I'll withdraw that. Just in relation to, you're currently the General Manager of Burwood Council. Is that correct?---Well, yes, strange circumstances, I'm the Director of Blackadder Associates.

Yes?---I was recently approached, in fact if I take that back, the General Manager of Burwood Council was recently dismissed as a result of some

issues arising from an inquiry by this Commission in another place. And when I saw the dismissal reported in the local paper, I forwarded a submission to the Mayor of Burwood asking whether he would consider me to recruit a new General Manager for that Council. I subsequently received an approach from the lawyer representing Council in the ICAC hearing wanting to understand whether I would be prepared to take on the role of General Manager in a temporary capacity for about a four month period in order to, amongst other things do that recruitment, to undertake the recruitment of a new General Manager for Burwood Council. And that
10 approach was made to me. I considered that. I sought advice from different quarters, including the Department of Local Government and I was encouraged sufficiently to take on that role. So, as at today or as at last Wednesday, I am working for Burwood Council as their temporary General Manager for a four month period.

Thank you. Just going back to your, you still have the business, the Blackadder Associates business, I think that's what you said?---Yes, indeed.

20 Yes. The consultancy company. So if, you would agree that if somebody wanted some assistance from you to discuss their capacity or possibilities in terms of working in local government or for local government, you would provide that service wouldn't you?---Yes, most definitely. And, and if I, if I go to any candidate that or any person who makes an inquiry of me, sometimes I indicate to them perhaps their suitability or, or unsuitability for the role and then I provide them with some guidance and advice as to how they might be able to secure a position and I do so, I guess, just as a service. I like to see people get ahead and I'm more than happy to provide them with advice and counsel on how to obtain a position.

30 Okay. So, and you would, you charge for your services?---Not for that service. I'm more than happy to provide that for free. In fact I have a number of people who contact me after the fact and it's part of the service that I provide with every recruitment, every person who does not get the job, who is short-listed for interview, I give them complete feedback. I give them an indication why I believe they did not obtain the position. And in some cases it's very close, so I, I keep them and I try and look out for the next job that might be suitable to them. So I certainly provide advice and free advice to those people. But, but certainly my, my job is consulting and, and I'm paid for that, that service. But not for free advice.

40 Right. But, so during the course if you were working for the, for the local government as you were, doing a recruitment process, you wouldn't, you would, you would discuss wouldn't you, with that person, the possibilities for getting the job and in this case, I think you requested, did you not, that they give you some information about themselves prior to releasing or prior to giving them the position description?---Yes. The process is that I, I make a judgement on their suitability from two, three areas. Firstly they give me a CV.

Yes?---Then I give them an information package and within that information package as tabled today, there is key selection criteria. So there's a, I usually have around about ten. And I invite, I invite each person to respond to those key selection criteria. I get them to tell me how they do their job, not necessarily what they have done. And, and that allows me to make a judgement about how they would do their, their, the position on offer. I also obviously talk to them by phone and if I consider them a suitable candidate, I then arrange to meet with them personally, talk to them informally, make a valued judgement about their relative merits. And with, with their CV and with the key selection criteria response, with the telephone conversation and with a personal meeting, I then make a judgement and I report on all of the applications received to the client. In this case, if we use Woollahra, to the General Manager, and then there's a process involved in selecting a shortlist for interview.

And just in this particular, sorry, in relation to fees, if you were to assist somebody facilitate business with the Council you would be expected to, you would charge consultancy fees for that service would you not?---I, I don't work as an agent. I've never provided services to anyone who wanted me to introduce them to the Council. In fact that was a clear decision I made when I left local government in 2007, I had a choice where I would represent clients with Council's and I saw that as being something that, that I didn't aspire to. And so I established my own management consulting business where I, myself would provide the services to the Council. So I've never, I've never represented anyone to a Council for, for a fee.

Now just in relation to this particular position, this was a position that the General Manager would have the final say or would be part of that selection process and must approve of that position. Is that the case?---Well, the General Manager is the, is the Chief Executive Officer of the Council.

Yes?---And under the local government act, the General Manager has responsibility for all staff appointments. And the General Manager has the final say. Even though by way of the process you, you have a selection panel in order to interview the candidates, the shortlist candidates and come, come to a final decision. And I think it's fair to say that in the end, if there is any sort of doubt about who should be appointed, the General Manager has the final say.

There are some positions aren't there in local government council that they're declared positions that must be appointed by the Council. Is that correct?---Only one position.

Right. And which one is that?---That's the General Manager position.

Right. Are there other positions that can be declared by the Council that must be approved, sorry, that, that in some Council's some other senior

positions are positions that are also, that each Council can declare must be approved by Council (not transcribable)?---Yes. Under the local government act, the Council can declare in it's organisation structure certain positions that are classified as senior staff positions. And those positions must be engaged by way of a contract of employment. And the requirement is that the General Manager has to consult with the Council before the General Manager makes that final appointment to those positions. And those senior staff positions usually director level positions, the positions below the General Manager.

10

And so this, this was a director level position?---Yes.

Was this, did this fall into that particular category?---I think, I think it did.

So it would require Council's approval essentially or recommendation?
---No. No, that's incorrect. The, the act requires the General Manager to consult with the Council, not to obtain the Council's approval.

20

All right?---The consultation in fact is, is quite broad. It can range from reporting to the Council formally what the process is through to the Council say, well, look, you know, as long as the General Manager advises the Mayor of the process, that's okay. So it's up to each Council to determine what consulting means. But the final decision on, on a senior staff position is with the General Manager.

Excuse me. Nothing further.

THE COMMISSIONER: Mr Harris?

30

MR HARRIS: I have no questions, thank you, Commissioner.

THE COMMISSIONER: Ms Davenport, anything in reply?

MS DAVENPORT: I have no re-examination.

THE COMMISSIONER: Ms Davenport, Mr Blackadder may be discharged from the summons?

40

MS DAVENPORT: Yes, Commissioner.

THE COMMISSIONER: Yes, you're discharged from the summons and free to leave, Mr Blackadder?---Thank you, Commissioner.

Thank you for your help.

THE WITNESS EXCUSED

[11.00am]

MS DAVENPORT: Yes, Commissioner, I call Don Gamage.

THE COMMISSIONER: Yes, Mr Gamage. Ms David, do you wish me to make a section 38 order?

MS DAVID: Yes, sorry, yes, I do.

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

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

30 THE COMMISSIONER: Mr Gamage, do you wish to give your evidence under oath or do you wish to affirm your evidence?

MR GAMAGE: No, I don't.

THE COMMISSIONER: I beg your pardon?

MR GAMAGE: Sorry, under my affirmation.

THE COMMISSIONER: Ms Davenport.

MS DAVENPORT: Commissioner. Commissioner, there was a private hearing held in this matter on Friday, 28 May and a suppression order was made in relation to that hearing.

10 THE COMMISSIONER: Yes.

MS DAVENPORT: I wonder if, Commissioner, you would lift that suppression order for the purposes of my examination of Mr Gamage.

THE COMMISSIONER: Yes. No objection, Ms David?

MS DAVID: No, your Honour.

20 THE COMMISSIONER: The suppression order made in relation to Mr Gamage's evidence is lifted.

THE SUPPRESSION ORDER MADE IN RELATION TO MR GAMAGE'S EVIDENCE IS LIFTED.

MS DAVENPORT: Thank you, Commissioner.

30 Could you please tell the Commission your full name?---My name is Don Kumaragamage, K-U-M-A-R-A-G-A-M-A-G-E.

And you are, you use the name just Don Gamage. Is that correct?---Yes, that's correct.

And in relation to your background, I think you were born in Sri Lanka? ---That's true.

40 And you attended university in the former USSR in Kharkov, is that correct?---Those days it was institute, now it's called university, yes.

And you, what was the degree that you obtained there?---I obtained Master of Civil Engineering.

And how many, what years did you attend Kharkov Institute?---Kharkov Institute I attended, if I recall, from '77 to '83. Before that one year I studied in another town in USSR.

When you first - - -?---I studied on Russian language.

All right. So when you, you won a scholarship to that university or to that institute, is that correct?---That's correct.

Before you went to the USSR did you speak Russian?---No, I didn't.

So you spent one year learning the language and then you commenced your studies. Is that right?---That's correct.

10 After you had finished your degree did you return to Sri Lanka?---Yes.

Where did you work in Sri Lanka?---I, I was with a private company but I was placed in government organisations as project engineer, yes.

And who was the private company?---Bil Gilbert.

And was that a big company?---It was a small company.

20 And what sort of work did they do?---They did private consulting work for, for government companies.

And how long did you work for Bil Gilbert?---From '84, '86, sorry, '84, '83, '84 to '86, '87 mark, yes.

And in 1986 who did you work for?---I can't remember the particular year 1986 but I, I should have worked either for, either for the Department of Highways or the Municipal Council.

30 And you came to Australia in 1988. Is that correct?---That's true.

And was that under a skilled migration policy?---Yes.

At that stage were you married?---That stage, yes, I was.

Right. You came here with your wife?---Yes.

And what was the first job that you got when you came to Australia?---The, the Brewarrina Shire Council.

40 And what was your position with Brewarrina Shire Council?---I think it was senior engineer or, or project engineer. It was, I can't remember the position name.

How long did you work for Brewarrina Shire Council?---A few months.

Four months?---A few months, maybe more than that.

If I suggest that it was four months would you disagree with that?---I think I disagree with that, it would be more than that, by my recollection it will be more than that.

You see, if I, I suggest that you commenced work in November of 1988 and resigned as of 31 March 1989?---Mmm, I don't have facts to dispute that.

10 All right. If you could have a look please at this document which is a letter dated 5 June, 1989 from the Shire Clerk at Brewarrina Shire Council, 5 June. Could you have a look please at that document, it's a letter addressed to the Shire Clerk by you seeking your group certificate for the period during which you worked for the Council, being 14 November, 1988 to 31 March, 1989, so just over four months. Would you agree with that? ---I, I don't have reason to dispute it, no.

Yes, I tender that document, Commissioner.

20 THE COMMISSIONER: Exhibit 5 is a letter from, sorry, can I just have that back, please.

MS DAVENPORT: Brewarrina Shire Council.

THE COMMISSIONER: Is it a letter from the - - -

MS DAVENPORT: Mr Gamage to Brewarrina Shire Council.

THE COMMISSIONER: It's a letter from Mr Gamage to the Brewarrina Shire Council of 5 June, 1999.

30 MS DAVENPORT: 1989.

THE COMMISSIONER: Sorry, 1989, is it?

MS DAVENPORT: Thank you.

THE COMMISSIONER: Yes, thank you. That is Exhibit 5.

40 **#EXHIBIT 5 - LETTER FROM MR GAMAGE TO BREWARRINA SHIRE COUNCIL DATED 5/06/1989**

MS DAVENPORT: So you stayed in Brewarrina for four months, just over four months. Is that correct?---According to this letter, yes.

Yes. Now, could I ask you please to have a look at the document which is Exhibit 2, Commissioner, the resume of Mr Gamage to Woollahra Council. Mr Gamage, do you recognise that as the document that you sent as an

email attachment to Mr Blackadder at the Woollahra Council?---I don't have any facts, this could have been it but I - - -

THE COMMISSIONER: Mr Gamage, it's your document, surely you know whether it's yours or not?---It could be, yes.

MS DAVENPORT: But it is, isn't it, Mr Gamage, it's a, it's a resume that you emailed to Mr Blackadder at Woollahra Council?---I don't have any facts to say whether it is, whether this particular, this particular document or not but if you say - - -

You see the, the email - - -?---I don't have facts to dispute so yes, I will, I will accept it if you want me to.

Well, have a look at the email that is attached to it from Don Gamage, Don.gamage@yahoo.com.au. That is your email address, isn't it?---Yes.

To Stephen Blackadder Associates.com.au?---Yes.

20 Subject: Director, Woollahra Council?---Ah hmm.

Attachments: Resume, Don Gamage?---Yes.

And that - - -

THE COMMISSIONER: You sent the email, didn't you?---I did sent, yes.

And you produced, you sent the attachments to the email, didn't you?---Yes.

30 And this is an attachment to the email, isn't it?---I think maybe (not transcribable) I didn't send that, that long documents, that's my - - -

You sent the attachments to the email, didn't you?---Yes, I did.

This is an attachment to the email, isn't it?---According to this document, yes.

MS DAVENPORT: And on the front of it it has again your email address, Don.gamage@yahoo.com.au?---Yes.

40

It has the phone number for Coonamble Shire Council?---Yes.

And it has your mobile telephone number on it, doesn't it?---That's correct, yes, yes.

And it also has an address at Menai and that was an address where you lived in Sydney, wasn't it?

THE COMMISSIONER: New South Wales?

MS DAVENPORT: Menai, New South Wales?---Where is - - -

Under your email address?---Yes, yes.

It's got your present address in Coonamble, that was your address in Coonamble?---Yes.

10 And underneath that your home address in Sydney, being 10 Nevin Close, Menai?---Yes.

Now, are you still disputing, Mr Gamage, that this was the attachment that was sent with the email to Mr Blackadder?---I don't dispute it, no, I didn't, never disputed it.

All right. If I could take you, please, to the second page of that document - - -?---Yes.

20 - - - Work Experience. You stated firstly your present work experience which was the Director of Engineering Services at Coonamble Shire Council?---Yes.

Your second dot point under Work Experience states that between 2004 and 2008 you were the Operations Manager for Fremantle Project Managers? ---Yes.

In Perth, Western Australia?---Yes.

30 That wasn't true, was it?---No, it wasn't, it wasn't true, no.

And among other things you claimed that when you were in that position you managed projects worth one to \$20 million, is that right?---That's correct.

And all that was complete fabrication, wasn't it?---That's correct.

40 Your next dot point was between 2004, 2000 and 2004 you were the Manager (Civil Engineering) of Global Management and Engineering Solutions at Liverpool?---Yes.

Again, that was a complete fabrication, wasn't it?---Yes.

And you claimed that during that time you managed projects worth one to \$20 million?---Yes.

And that that company was involved in the construction of the M5 and M7 Motorways?---Yes.

And that it built bridges, buildings and roads and land development?---Yes.

And it didn't do any of those things, did it?---No.

In fact, Global Management and Engineering Solutions was just a business name?---Yes.

10 It never operated as an engineering company at all, did it?---It did (not transcribable) little, very, very little, yes.

Well, did it ever build any roads, bridges or develop any land?---No.

So that was a complete fabrication?---That's true.

20 The next dot point says that between 1996 and 2000 you were the Shire Engineer, Director of Technical Services for the Boonah Shire Council in Queensland? That again was a complete fabrication, wasn't it?---Yes. I, I, I have never been in Boonah actually.

I'm sorry?---I have never been in Boonah actually, yes.

Why did you pick Boonah as the shire council that you were going to nominate?---Why I picked Boonah? The Boonah is one of the abolished shire councils in Queensland in, as (not transcribable), sorry, 2007 amalgamation so that is one of the councils you can't easily verify so who worked, who, who worked, who didn't work there.

30 So you thought that you might get away with that lie because there was, be no-one who would be able to say whether you worked there or not?---I, yes, in fact I did, didn't I?

You did get away with it?---Yes, I did. So I'm here now but as, you know, but I used Boonah with another, another application which, which I applied to Coonamble Shire Council so - - -

Yes, we'll come to those, Mr Gamage?---Yes, yes.

40 The next dot point is, it states that between 1993 and 1996 that you were the Manager, Shire Services at the Yass Shire Council?---Yes, it's - - -

And that was again a lie?---It's mentioned here, yes.

You've never worked for Yass Shire Council?---No.

Why did you nominate Yass Shire Council?---Why I, well, this is something that has no particular reason for that.

It's not one that's been amalgamated with another council like Boonah?
---Yass Council, it is, today it is, it is a (not transcribable) amalgamation of
a couple of councils there. But that is not the, not the reason I, I, I chose.

All right. Your next dot point, between 1991 and '93 you say that you were
the Senior Engineering for Brewarrina Shire Council?---Yes.

And we've just shown you documents that show in fact that you were there
for a total period of about four and a half months, between 1988 and 1989?
10 ---Yes, according to the information you gave me, yes.

Yes, so that was at the very least a gross exaggeration of the time that you
spent at Brewarrina Shire Council, wasn't it?---That is true.

And then you have between 1988 and '91 that you were the Road
Construction and Maintenance Engineer for the Roads and Traffic Authority
at the Coonamble Dubbo Works Office. You did actually work for the
Roads and Traffic Authority in the Dubbo Coonamble area, didn't you?
---Yes, I did.
20

And in fact you worked there for a significantly longer period than just
between 1988 and '91?---Yes.

So why did you put the wrong time period for that occupation?---For that
particular period?

Yes?---There's no particular reason for that.

Well, in fact you worked for the Roads and Traffic Authority, I suggest,
30 between 3 April, 1989 until 7 January, 1994, so I suggest you worked for
them for about five, almost five years?---Yes.

Well, why was it that you nominated that particular period of time?---In fact
when I prepare a job application for a, for a, for an employer I always try to
view the experience what they demand so therefore I completely disregard
my past and I prepare a job application for them to have a good impression
of me - - -

So you cater or you fabricate your experience depending on what criteria
40 they're looking for, is that right?---That's, that's true, yes.

So you're Roads, Roads and Traffic Authority experience was not going to
account for much so you minimised it, is that right?---Yes, in this particular
case they would have regarded local government experience much so
therefore I increased the local government experience.

And minimised the - - -?---Minimised the - - -

- - - Roads and Traffic - - -?---- - - - Roads and Traffic Authority experience.
I did it for a very good reason.

10 What was the reason, Mr Gamage?---Because to my knowledge I have been
the, the, the best performing engineer or best performing director in local
government, according to my knowledge, so if I didn't do that, if I didn't
exaggerate or didn't tell (not transcribable), for like my, my, my job
application, I would have missed out and, and I wouldn't have, I wouldn't
have got the job and, and the people in New South Wales and those councils
where I worked would have missed the service and the benefit I had
delivered so therefore, for the benefit of the people of New South Wales
and, and for the benefit of myself, I think the tailoring job applications I did
in good faith and I, as a result of this I delivered a massive performance and
the massive benefit for the people of New South Wales. For that, for that
reason - - -

20 Mr Gamage, you've, you've been sacked from a number of positions
haven't you, because of your inadequacy in your job?---No. I dispute that.
I was sacked as a result of, I was sacked from Cobar as a result of fighting
with (not transcribable) the corruption in the Council.

You were sacked from Cobar because they found out that you had amongst
other things, given them a resume that contained falsehoods. That was one
of the reasons wasn't it?---That was the reason given, given in the letter.
But - - -

30 That was the real reason wasn't it?---No. That was not the real reason, no.
That is the reason in the letter, yes. But, but not the practical reason for the
termination.

And at one stage of course you were working for, in Fiji weren't you?
---Yes.

On a project that was funded by the World Bank?---Yes.

And at the end of that you were on secondment, as it were, from the Roads
and Traffic Authority?---Yes.

40 And at the end of that period of time, they didn't wish to renew your
contract. Is that correct?---Mmm.

The Fijian group that you were working for?---No. I, I completed the
contract.

And if I was to suggest to you that at the end of that contract you were
assessed as lazy, unresponsive, lacking in commitment?---No. I, I dispute
that.

Someone who could not manage resources, showed no initiative to know performance and direction of project. Had no negotiating skills?---No, that is, that's unproved.

Unproved?---That's unproved, yeah.

10 Commissioner, I tender documents in relation to Mr Gamage's employment with the, as a project management engineer with F-R-U-P-2. Now, I'm not sure what FRUP is an acronym for, Fijian Roads Upgrade Project, I am told, Commissioner, including a memorandum dated 3/11/95 as a performance assessment of Mr Don Kumaragamage, which was at the end of Mr Gamage's employment with that.

THE COMMISSIONER: All right. Is that a bundle, is that a bundle of - - -

20 MS DAVENPORT: It's a bundle of documents. That is the top document, your Honour, sorry, Commissioner. The second document is an internal memorandum from the project management engineer to the permanent secretary in relation to Mr Gamage's employment. It's a two page document. And that is dated 6 November, '95.

THE COMMISSIONER: Do they all emanate from this Fijian body?

MS DAVENPORT: They all emanate, your Honour, Commissioner, from this, the first - - -

THE COMMISSIONER: And what is the acronym?

30 MS DAVENPORT: F-R-U-P, Fijian Road Upgrade Project number 2.

THE COMMISSIONER: So the bundle, it's a bundle of documents from FRUP, the first of which is, is dated - - -

MS DAVENPORT: 3 November, '95. It's a performance assessment.

THE COMMISSIONER: 1995?

MS DAVENPORT: 1995, yes, Commissioner.

40 THE COMMISSIONER: And the last of which?

MS DAVENPORT: The last of which is a letter from, offering him the position, of offering Mr Gamage the position, which is dated 21 October, 1993. And annexed to that is the resume that Mr Gamage supplied when he applied for the position.

THE COMMISSIONER: Exhibit 6 is a bundle of documents from FRUP, the first of which is dated 3 November, 1995 and the last of which being a

letter from FURP (as said), is dated 21 October, 1993 and annexed to that letter is a resume from Gamage.

#EXHIBIT 6 - BUNDLE OF DOCUMENTS FROM FRUP, THE FIRST OF WHICH IS DATED 3 NOVEMBER 1995 AND THE LAST OF WHICH BEING A LETTER FROM FRUP DATED 21 OCTOBER 1993 AND ANNEXED RESUME FROM GAMAGE

10

THE COMMISSIONER: And Ms Davenport, is this a convenient stage just to adjourn for 15 minutes?

MS DAVENPORT: Yes, Commissioner.

THE COMMISSIONER: Yes, we'll adjourn for 15 minutes.

SHORT ADJOURNMENT

[11.25am]

20

THE COMMISSIONER: Yes, Ms Davenport.

MS DAVENPORT: Mr Gamage, when you returned from the Fijian project you were placed, you went back to your employment at the Roads and Traffic Authority. Is that correct?---Yes. Before, before you go ahead for public record I have to say that I had the benefit of, you did not put to me, the, the documents came from Fiji but I had the benefit of reading it from my counsel, for the public record I have to say that on the basis of my recollection I have to deny the authenticity of those documents.

30

You deny the authenticity of those documents?---Yes, I do.

All right. Commissioner, if I could tender - - -

THE COMMISSIONER: What do you mean you deny the authenticity, you deny what? What is it that you deny?---The divisional engineer signed, the person I have never heard of him and yes, those documents and information on, on those documents were never put to me and they are new to me so I - -

40

-
That's not, that doesn't mean that you didn't, that's not denying the authenticity of it?---Yeah, from my recollection, Commissioner, so - - -

Are you saying that what, what you're saying is that, that the information in the documents isn't true. Is that what you're saying?---That is one thing I'm saying.

Well, what else are you saying?---And, and the person who signed as divisional engineer is not, was not my divisional engineer, I had never heard of that name.

The person who signed what?---As divisional engineer of - - -

The - - -?---I had, I had never heard of that person.

10 You've never heard of the person who signed, signed what?---As the divisional engineer, divisional engineer.

Signed as divisional engineer?---Yes.

All right. Now, I understand that then. Yes, Ms Davenport.

MS DAVENPORT: When you came back to Australia from Fiji you went back to the Roads and Traffic Authority. Is that correct?---That's true.

20 And you were not given a substantive position, is that correct, you were placed on a, a list of persons who were not appointed to any substantive position?---(NO AUDIBLE REPLY)

You were made an ACT?---What's that?

30 Sorry, I'm sorry. You didn't come back to any position in the Roads and Traffic Authority, did you?---I, I was placed, when I came back there was no position left so RTA was going through restructuring, major restructuring within that time so the positions were very limited but they had to accommodate a position for me so therefore they put me in Yennora works office as a maintenance engineer.

And you applied for a position, a substantive position as the Contract Resources Engineer in Road Maintenance Services Section at Yennora Works in April of 1996 after you came back? Do you remember applying for that job?---Yes, that is, I think that was where I was.

Well, I'm suggesting that you applied for that job in April of 1996?---I can't, I can not recall.

40 And I suggest that you were not successful in getting that job?---I think I did get that job, didn't I?

Would you like to have a look please at this document. It's called Position Number 9-6-0-0-9-4 Contract Resources Engineer, Road and Maintenance Service Section and it's a report of an interview conducted with Mr Gamage on 11 April, 1996 in relation to your assessment of suitability for that position?---Yeah, I, yes, I did not get this job, yes.

You were acting in that job when you came back from Fiji and then you applied for it and you didn't get it, did you?---No, this is not the position I, I was acting. I think, according to my recollection, this is with the Bridge Section.

Let's put it this way, Mr Gamage. From the time you returned to Fiji until you were made redundant at the RTA, you never held a substantive position, did you? You were acting in positions?---That could be the case, I can't remember, yes.

10

And you applied for a number of positions and you were each time assessed as unsuitable?---That would be, I can't remember. I, I can not remember that, that position but on this situation I had , I had not successful for a position, yes.

You applied for a number of positions, didn't you, and you were all, in all, in relation to each of them assessed as unsuitable?---That is, that could be the, I can't remember.

20 And then finally you were offered voluntary redundancy, weren't you?
---Voluntary redundancy was offered to everyone - - -

Yes?--- - - - in RTA.

But you had no substantive position, did you?---After coming from Fiji?

Yes. Between 2 January, '96 until 4 July, '96, you had no substantive position in the RTA, did you?---I can't, I can't recall. I was with the Yennora Works Office.

30

You were acting in that position, weren't you?---I can't, I can't recall, I can't remember.

What I suggest to you is that you were acting in that position and that during that time in April, May of 1996, you applied for at least three substantive positions and you were assessed as unsuitable for each one of them?---That could be the case, I don't know, but yes, if you don't the position you applied, yes.

40 You didn't get any of them, did you?---I did get some.

So how does that fit with your assessment of yourself as being such a, a fantastic engineer that the people of New South Wales were in need of your services?---Yes, I am, I am confident about that but if, if my performance, it doesn't mean that every position you apply you get it. That, it, it depends on the criteria so a job criteria for the job - - -

THE COMMISSIONER: I think is, (not transcribable) Ms Davenport.

THE WITNESS: So if you, if you apply for a job in, in, in the Bridge Section, if you are (not transcribable) you wouldn't get it so that could have been the case but I, I don't know, I can't remember each and every case.

MS DAVENPORT: Commissioner, I tender documents, one document headed Assessment of Excess Staff Member dated 27 May, 1996 in relation to the position of Project Engineer in the Construction Services Section.

10 THE COMMISSIONER: What is it headed?

MS DAVENPORT: Assessment of Excess Staff Member, Mr D Kumaragamage dated 27 May, 1996.

THE COMMISSIONER: Exhibit 7 is a document dated 27 May, 1996, relating to the assessment of excess staff member and concerning and Mr Gamage.

20 **#EXHIBIT 7 - ASSESSMENT OF EXCESS STAFF DATED 27/05/1996 RELATING TO MR GAMAGE**

MS DAVENPORT: And that is a one page document. There's a second three page document headed Assessment of Excess Staff for Position in Relation to Mr Kumaragamage and that is dated 6 June, '96.

THE WITNESS: During that time I - - -

30 THE COMMISSIONER: Just a moment, just a moment please. The assessment of the, Exhibit 8 is the assessment of excess staff member dated 6/8, 1996.

MS DAVENPORT: 6 June.

THE COMMISSIONER: 6 June, 6 June, 1996 and relating to Mr Gamage.

40 **#EXHIBIT 8 - ASSESSMENT OF EXCESS STAFF MEMMBER DATED 6/06/1996 RELATING TO MR GAMAGE**

MS DAVENPORT: And the third is a document headed Assessment Report for Don Kumaragamage, Engineer Grade 2, Sydney Region Excess Officer dated 1 May, 1996.

THE COMMISSIONER: Exhibit 9 is an assessment report relating to Mr Gamage dated 1 May, 1996.

**#EXHIBIT 9 - ASSEMENT REPORT RELATING TO MR
GAMAGE DATED 1/05/1996**

MS DAVENPORT: After you left the RTA you applied for a number of positions, didn't you?---After I left - - -

10 After you were made redundant at the Roads and Traffic Authority you applied for a number of positions?---Within the RTA you mean?

No, outside the RTA. You, you were made redundant from the RTA, that was the end of your employment by them, wasn't it?---I, as I resigned from the RTA - - -

You were made redundant, weren't you?---I dispute that.

20 Well, you accepted redundancy?---I accepted, I accepted redundancy because redundancy was offered to everyone in the RTA in those days.

And you didn't have any position there and you'd applied for a number of jobs and hadn't got them, is that right?---Yes, or you can say that.

One of the places you then applied for a job with was a place called Davbridge Constructions in Queensland in Ormeau, Queensland?---Yeah.

Davbridge Constructions, Ormeau, Queensland?---Where is that?

30 Well, you worked there for a grand total of eight days, Mr Gamage, do you remember that?---Which date is that?

This is in 1996 between 16 October and 24 October, 2006, you applied for a job with Davbridge Constructions, do you remember that?---No, I can't.

And when you applied for that job with Davbridge Constructions you again, did you not, sent them a copy of your resume. Do you remember doing that?---No.

40 If I could show you please a copy of your resume that you sent to Davbridge Constructions?---What is the date of - - -

2006, so we're 10 years later?---10 years later, 2006. Could be, yes, yes.

You used a recruitment agency called Ballantyne Recruitment? Do you remember that?---No. I could have but I can't remember.

Could I show you please this document. Do you agree that that is a resume used by you to obtain a position with Davbridge Constructions?---Yeah.

And again as your employment summary, you have 1995 to the present, that is 2006, that you were the chief engineer, civil, with Global Management and Engineering Solutions, New South Wales?---Yeah.

And that, we've agreed, doesn't, didn't ever do any engineering work of any substance did it?---Yeah, that's correct.

10

'92 to '95 Yennora Works Office, Road and Traffic Authority?---Ah hmm.

As Construction Manager and 1986 to '92, Fiji Road Upgrading Project Team, and you have designated yourself the Project Manager?---Yes.

That wasn't true was it?---No.

20

And from 1983 to '86, you say that you were working for the Brewarrina Shire Council as a Civil Engineer. And in fact, we've worked out or you've agreed that you were only there four and a half months?---Yes.

So in terms of your resume that you submitted to Davbridge, it was with the exception of the Yennora Works Office, Roads and Traffic Authority, it was all, it was fact you know, so, but going on and on, but - - -

And as a result of that fictitious application you were employed by Davbridge weren't you?---I think I was there only one month.

30

How about eight days?---No, no.

You were there, I suggest from 16 October, 2006 until the 24th when you were sacked?---No, I was not sacked. I, I, after one month I left.

You left after eight days, Mr Kumaragamage, eight days because the, Mr Paul Stevens, who was the General Manager came to, it came to his knowledge that you lacked practical knowledge and experience and there was an obvious disparity between your stated experience and your actual experience?

40 THE COMMISSIONER: Is this relevant?

MS DAVENPORT: Well, your Honour, Commissioner, it goes to this issue of Mr Gamage's claim, which is the reason for telling lies in his resumes was because he was - - -

THE COMMISSIONER: I'm really not very interested in his reasons.

MS DAVENPORT: Well, Commissioner, just perhaps in - - -

THE COMMISSIONER: He's told, he's admitted that he's told lies.

MS DAVENPORT: Commissioner, perhaps I could tender a statement of Mr Paul Stevens, General Manager of Davbridge, Davbridge Properties together with the document that I have just shown Mr Gamage and I will not take it any further.

10 THE COMMISSIONER: All right. And the document you're tendering is, is what? A statement by - - -

MS DAVENPORT: It is a statement of Paul Stevens, General Manager, Davbridge Properties and Davbridge Constructions in Ormeau, O-R-M-E-A-U, Queensland.

THE COMMISSIONER: Does it have a date?

20 MS DAVENPORT: It's dated 11 March, 2010. And I tender with it, Commissioner, the document that is with Mr Gamage, which is the resume that he - - -

THE COMMISSIONER: Submitted.

MS DAVENPORT: - - - that he submitted and which he has just acknowledged as his resume.

30 THE COMMISSIONER: Exhibit 10 is a statement of Paul Stevens dated 11 March, 2010 and attached to that is, forming part of the Exhibit is Mr Gamage's resume in which he submitted to Davbridge Engineering and which was discussed in Mr Steven's statement.

**#EXHIBIT 10 - STATEMENT OF PAUL STEVENS DATED
11/03/2010 AND ATTACHED RESUME OF MR GAMAGE'S
SUBMITTED TO DAVBRIDGE CONSTRUCTIONS AS DISCUSSED
IN MR STEVENS' STATEMENT**

40 MS DAVENPORT: Now if I could take you back, Mr Gamage, to the conversations that you had with Mr Blackadder in relation to the Woollahra Council job. You have seen the advertisement which is Exhibit 1 in this hearing. You've seen that this morning on the screen?---Just one second I want to go through this.

THE COMMISSIONER: What, what is it that you're looking at now, Mr Gamage?---I want to go through this, Mr Davbridge's report.

No, I'm not going to wait for that. It's a matter of marginal relevance and I'm - - -

MS DAVENPORT: I'll give a copy to Mr Gamage's counsel, Commissioner.

THE COMMISSIONER: Your barrister will be able to look at it and make submissions on it. You're not going to be asked any more questions about it so there is no need at this stage for your to read it?---Okay.

10

During the lunch hour you will be able to read it and discuss it with Ms David and she can deal with it as she wishes.

MS DAVENPORT: So if I could take you back now to - - -

THE COMMISSIONER: I'm sorry, if she wishes to ask you questions about it she will, she's at liberty to do so but I do indicate that I do not regard that statement as being of much weight in the, to the relevance of what the Commission is dealing with in this inquiry?---I can hand this back for Ms Davenport.

20

Yes.

MS DAVENPORT: If I could take you back now, Mr Gamage, to your dealings with Mr Blackadder at the Woollahra Council. You have seen the document that was the advertisement. Is that, it's on your screen now. Is that the advertisement that you saw?---That would be right, yes.

There's no salary mentioned in that advertisement, is there?---No.

30

And there's no closing date mentioned in that advertisement, is there? ---That is true, yes, yes.

Now you, do you agree I think that you contacted Mr Blackadder by phoning him?---Yes.

So you've heard his evidence about the first contact, that is, you phoned him, you sent him an email attaching your resume?---Yes.

40

And then he sent you a, the package, the, the job description package? ---Yes. Something I find unusual - - -

THE COMMISSIONER: Just answer the question.

MS DAVENPORT: We're not interested in what you find unusual, Mr Gamage, I just want you to answer the questions. So you agree with that series of events that occurred, is that correct?---Okay, I agree.

And you agree that, do you, that you n fact rang him on 26 October in relation to having read the package, you rang him on the night of 26 October to speak about the job?---I can't remember the date but, yes, I did ring him, yes.

So after you had received the job description package you rang Mr Blackadder to speak to him about the job?---I could have, yes.

10 And you heard Mr Blackadder's evidence that it was in that conversation that you asked him to be his agent and offered him the sum of \$15,000 to act on your behalf to ensure that you got the job. Do you agree that that is what you said?---That's what he said or that's what I said?

That's what, do you agree that you said that to him?---No, I don't agree with that.

You didn't ever say that to him?---No, that is, the conversation was the other way around actually.

20 Well, what do you say the conversation was?---I remember, according to my recollection, that Mr Blackadder put to me that the successful applicant should, should pay him 10 per cent of the full package which, which should, which would be \$150,000 to \$180,000 in his words.

THE COMMISSIONER: Sorry, \$208,000?

MS DAVENPORT: No, no, 150 to 180 I think Mr Gamage - - -?---Between \$150,000 to \$180,000.

30 THE COMMISSIONER: Is that what he said to you?---Yes.

You have a, you have a good recollection of that?---Not good recollection but that is the crunch of the conversation.

That's the crunch of what he said to you?---Yes.

MS DAVENPORT: And - - -

40 THE COMMISSIONER: You don't remember, sorry, you don't remember the exact words but that's the essence of what he said?---That's the essence of his words, yes.

MS DAVENPORT: And you took that as a serious offer?---No, no, so that, that's, so he explained to me how he operates and, and I jokingly said to him that it's a, it is sort of a, you know, it's a big bribe and I think that was the end of the conversation and - - -

THE COMMISSIONER: Sorry, you said to him it was a big bribe?---Yes.

But he was offering you a big bribe?---No, he is asking me a big bribe.

He was asking you for a big bribe?---Yes.

MS DAVENPORT: So you used the word bribe did you?---Yes, I did.

And why did you consider it a bribe?---No, I did not consider it as a bribe.

10 Well why did you use the word bribe?---Oh, but jokingly I say it and laughed.

THE COMMISSIONER: But why did you use the word bribe if you didn't consider it a bribe?---Oh, it was a, it was a conversation of two professional men, but I think - - -

It doesn't answer the question. Why did you use the word bribe if you did not consider it a bribe?---There was no particular reason for using the word bribe.

20

Well you use words because you regard them as appropriate. You used the word bribe. Now unless you can explain why you used the word bribe, I shall infer that you intended, that you understood that Mr Blackadder was asking you for a bribe?---No, that is a wrong, wrong way to put it, Commissioner. I did not think that it was bribe. I did not think that he, actually in his words, so he ask me for a commission for his service.

But you said to him that's a big bribe?---Yes.

30 MS DAVENPORT: Why didn't you consider it to be a bribe?---I didn't consider it's a big bribe.

Well why not? He was asking you for money, accordingly to you, to ensure that you got a position above, above and beyond other people?---No, no. So he say, the successful person, in my recollection, the successful person should for him, for the service ten per cent of the package.

40 THE COMMISSIONER: Who, is that what he, I'm not sure what you're saying. Are you saying this is what he said to you or you said it to him or - - -?---No, he said to me.

The successful person has go to pay him - - -?---Ten per cent of the salary package.

Did you regard that as unusual?---Yes, I did. I, I did regard it as unusual.

Is that why you said it was a big bribe?---That would be the reason, because I (not transcribable) with other job agent.

He wasn't acting for you then? He was not acting as your agent when you were speaking to him?---No.

He was acting for the Council?---Yes, he was, for the - - -

So why should you, the only inference that one could draw, he asked you for money if you got the right, if you got the position was that he was asking for a bribe. Isn't that so?---No. So, he mainly - - -

10

Didn't you just say that, that a job agent acting for an employer can ask the employee to pay him personally, even when there is no contractual relationship between him and the candidate, and that's legitimate? Are you saying that?---No, I am not saying that it is legitimate.

So what are you saying? If you're saying it's not a bribe, what is it?
---Commissioner, that is not, I cannot answer that question, what it is, but I'm - - -

20 You regarded it as a bribe because that's what you told him?---Yes, it is unusual.

You regarded it as a bribe because that's what you told him?---I told him it's a bribe, but it doesn't necessarily mean that I regard it as a bribe. But

Right. So, because you customarily say things you do not mean. Is that what you're saying?---Yes, people, people do say - - -

30 You say, you customarily say things you do not mean?---Jokingly, I do say things I don't mean.

MS DAVENPORT: Now you've said today that what he said to you was that if you were successful you would have to pay him the ten per cent. Is that right?---Can you repeat again?

That is, what you have said today is that what Mr Blackadder said to you was that if you were successful, that is if you got the job, you would have to pay him ten per cent?---Yes.

40 Does that mean that you didn't have to pay the ten per cent until you got the job?---Yes.

It wasn't the case where he was saying, if you promise to pay me ten per cent, I will ensure that you get the job?---No.

Definitely not that?---I cannot interpret, interpret the conversation because -
- -

THE COMMISSIONER: No one's asking you to, we're asking you, counsel is asking you what was said, not to interpret the meaning of it, but what was said?---Yes, so can you ask, ask the question again?

MS DAVENPORT: Did Mr Blackadder say to you if you promise to pay me ten per cent of the salary, I will be able to make it happen for you, I will be able to make sure that you get the job?---The way he said, I remember him saying at one stage, I can make it happen. I can't, I can't remember or I can't interpret the conversation, but, yes, at one stage he (not transcribable) the words, I can make it happen, yes.

And you understood by that did you that he was asking you to pay him or to promise to pay him ten per cent of the salary in order for him to ensure that you were the successful applicant for the position. Is that what you understood?---No, I did not. I did not, I did not meaning at any stage I am going to be successful, no.

But didn't you, I'm asking you what you understood Mr Blackadder to be offering you in return for the payment of the ten per cent. What was he offering you in return?---No, he didn't offer me anything.

Didn't he - - -?---No.

Nothing? Didn't he, did he offer you for example or did he tell you that it might be hard for you to get the job at Woollahra Council?---I can't recall the conversation that way. But, in his words the conversation was, successful applicant should pay him ten per cent of the salary package. Successful applicant should pay to the agent, who is Mr Blackadder.

But he told you didn't he that for the payment of the \$15,000 to \$18,000 he would be able to make it happen for you, that is that he would be able to make you the successful applicant?---That is what I, what I understood when I, when I completed the telephone call. That was not the, that was not the essence of the telephone call I left with.

You were, attended the Independent Commission Against Corruption on 23 December last year didn't you, Mr Gamage?---I can't remember the date, but I did.

Yes. And that was closer to the time of these events, closer to October of '09?---I can't remember, so - - -

Well, October '09 was when you were having these conversations with Mr Blackadder?---Right.

You, you were interviewed by investigations officers in December of last year?---December, that would be, yes.

You came into the Commission and you were sat down and you were told that what you said would be recorded?---Yes.

Is that right?---Yes.

10 And I suggest that, see I suggest that you were asked by investigator Fox, so you were saying that he actually and then you were going to start saying that it was the other way around. So you're talking about the conversation with Mr Blackadder of 26 October. And your version then was, yeah, he, he offered me in case I would be successful I had to pay his commission of ten per cent of the salary, which is 15 to \$18,000, which, which I thought was just a ridiculous amount. When I did not, I told, I ask him, is there any chance of getting this job? He said, in your experience what you told me is going to be, it is going to be hard for you, but I will be able to make it happen for you if you promise me ten per cent of the salary. That was the version that you gave investigators of the Commission on 23 December last year?---Yes.

20 So you were telling the investigators that what Mr Blackadder had said was if you promise to pay me \$15,000 to \$18,000 I can make it happen for you. I can make sure that you get the job?---Yes, yes, he did, yes. I, I remember the word, "I can make it happen." I think this version of the conversation is, is correct.

That's correct?---Yes.

30 So that was what you told the Commission, that you understood that there was a direct relationship between the payment of \$15,000 to \$18,000 and the, you, you being assured of getting the position. Is that right?---Yes.

All right. Now, in terms of, how did you, and that wasn't a joke, was it? When you were telling the Commission on 23 December you weren't telling them that this was all done in a joking fashion, were you?---No.

No?---No, no.

40 So it wasn't, you didn't take it as, as being a joke, did you? You thought Mr Blackadder was quite serious in what he was saying to you?---No, Mr Blackadder did not joke, no, he was, he was - - -

He was serious?---Yeah, he was serious.

Not all done jokingly?---Sorry?

It wasn't all done jokingly?---I, I thought, sorry, I threw the word jokingly as a bribe, yes, the word bribe jokingly I threw.

And you, what did, what did you do when Mr Blackadder made this offer to you?---(NO AUDIBLE REPLY)

What did you say?---What did I say?

10 Yes. Don't look at the transcript. I want you to recall what you said, what did you tell him?---I think we went through this. I, I, I told, you know, I already, I already said that jokingly I said at one stage of the conversation I said this is, you are asking for a big bribe because, if the Commissioner let me I can explain why - - -

THE COMMISSIONER: Just tell us what you did.

MS DAVENPORT: What you said.

THE COMMISSIONER: The question is what you said?---What you said is - - -

20 In reply, what did you say to Mr Blackadder when he asked you for \$15,000 to make it happen? What did you say in reply? A simple question? ---According to my recollection I said that is a big bribe.

And that's all you said? You didn't agree or disagree?---(NO AUDIBLE REPLY)

You didn't accept his offer or reject it?---No.

30 MS DAVENPORT: You didn't accept it or reject it?---No, I did not, I did not accept it, no.

Well, but did you reject it? Did you say no, I'm not going to do that because it's a bribe?---I did not think that it is a bribe but I did not accept it for other reason, because - - -

Well, did you reject it?---Did I reject it?---I did not reject it particularly but I, I did not accept it in my, in my heart I did not want to go ahead.

40 You didn't say to him, for example, no, I, I, because I don't have that sort of money?---I can't remember. I can't remember the conversation. No, I can't remember.

Do you recall again when you were being interviewed by, at the Commission on 23 December when you were asked by Investigator Fox, "How did you react to that," you said "I outright rejected it, I said no because I don't have that money"?---If I said on that day I must have but I can't remember today.

And I suggest to you that at no time during that interview with the Commission officers did you ever mention the fact that you said that's a big bribe?---Didn't I? I must have.

I suggest to you that you never mentioned the word, that's, the words that's a big bribe in your recitation of this conversation with Mr Blackadder on 23 December?---Okay, if I have not said it, I have not said it.

10 All you said was, "I outright rejected it. I said no, because I don't have that money and I told him I know my limits but I don't think in any case this is for me but it's going to be an uphill battle for me and after that I did not apply"?---Yes, that is, that is true, yes.

And that's your reason you gave the Commission that it was too much money?---It was too much money, it is too much money.

So if it had been a lesser amount of money you would have paid him. Is that right?---(NO AUDIBLE REPLY)

20 You would have paid a little bribe but not a big bribe, is that what you're saying?---I would have paid, look, if he would have got the job for me, if I, if I applied, if I, and he, and he got the job for me I would have paid him commission but not \$15,000, no. That's true.

So it was too big a bribe?---Commission, not a bribe, commission.

But you used the word bribe according to you?---Yes, I did, I did use the bribe but I, and I, at the same time I said I did not mean that it's a bribe.

30 Well, he was at the, you knew he was working for the Council?---He's a, he's a private consultant. He was not working for the Council.

He was acting, he was acting as the agent of the Council?---No, he was not acting as the agent for the Council, he was, he was working for himself, he's a private businessman. He was, he's a private business man, he's working for Council, he was working for other companies, he is, you know, he is working for himself. He is a private businessman but he is providing a service to the Council by recruiting a person.

40 And that was something that you relied upon, wasn't it, that you wanted to make sure that he was not a Council employee, is that right?---He was not a, he was not a Council employee.

Yes, and that was one of the reasons you gave in terms of your interview when you, you told the Commission that I want to make sure that he is not a Council employee?---But I did not understand what you said (not transcribable).

All right. I'll take you to that. This is again on the interview that was conducted on 23 December?---Yes.

You said, page 9, line 30, "It was a private man advertised for a, I called him. I asked him to send me the position."

THE COMMISSIONER: Sorry, sorry, Ms Davenport, can we just get it first on the transcript.

10 MS DAVENPORT: Sorry, nine, page 9, line 30. "I asked him to send the position description, then he sent, then he, he, I spoke to him over the phone but he's not, not a Council employee." Fox says, "No." You say, "I want to make sure that he's not a Council employee, he's not a government servant or anyone." Is the reason you wanted to ensure that he wasn't a government employee because you intended offering him a bribe?---Can you, can you take me to the right - - -

THE COMMISSIONER: It's difficult to see on the screen.

20 MS DAVENPORT: I'll give Mr Gamage a copy, Commissioner. This is a copy of a 27 page interview. If you go to page 9, starting, you'll see at the side, on the far left-hand side there are numbers and they are the line numbers. So if you go to line 30 on page 9 you will see printed what I have just read out to you. Do you see that?---Page 9, line 30?

Yes, starting, "I, it was a private man advertised"?---But is not a Council employee, yes?

30 Is the reason you wanted to make sure he wasn't a Council employee because you intended offering him a bribe?---You, you are putting to me now?

Yes, I'm putting to you?---I reject it.

Well, why were you so concerned to ensure that in your mind Mr Blackadder wasn't a Council employee?---There's no reason to be certain but he was not a Council employee.

40 But I want to make sure, I want to make sure that he's not a Council employee. Why did you want to make sure?---Where, where, where is that?

Line 35?---"I want to make sure that is not a Council employee. He is, but not a government servant for anyone." Yes.

Why was it important to you to make sure that he was not a Council employee or a government servant?---So in, in this, in this paper I was answering, I was, I was giving the, the version of the conversation but I was making sure at that time when I was speaking to the, speaking to the ICAC

at the interview room that I, I want to make sure that I'm telling to the ICAC that I want to make sure that he is not a Council employee.

But you understand now that in fact he is a public official within the ICAC Act, don't you?---No. He is - - -

10 If I suggest to you that he is, Mr Gamage, because he was acting as the agent of the Council so he is within the ICAC Act a public official?---Yes, then if that's the case so he must have rung, he must have rung, he must have acted corrupt, not me.

But you were mistaken in your belief that he wasn't a public official, do you agree with that?---Say it again?

THE COMMISSIONER: That's a question of law. I think we can leave that.

20 MS DAVENPORT: All right. What I am suggesting to you is the reason that you were concerned to make sure that in your mind he wasn't a Council employee or a public official was because you intended to offer him a bribe?---I wanted to make sure that he was not a Council employee at the interview when I was giving to the ICAC, not at the conversation when I had the conversation with Mr Blackadder at that time.

Commissioner, I should tender a copy of that interview conducted at the Independent Commission Against Corruption on 23 December, 2009.

If I could take you now - - -

30 THE COMMISSIONER: Exhibit 11 - - -

MS DAVENPORT: I'm sorry, Commissioner.

THE COMMISSIONER: - - - is a transcript dated 23 December, 2009, of the interview between the ICAC investigators and Mr Gamage.

**#EXHIBIT 11 - RECORD OF INTERVIEW BETWEEN MR
GAMAGE AND ICAC DATED 23/12/2009**

40

MS DAVENPORT: You didn't apply for the job?---No, I didn't.

And you've heard Mr Blackadder's evidence that on 7 November he had a number of phone calls from you, do you agree with that? Firstly, firstly questioning him about who had, who had in fact got the position?---Yes.

And sorry, no, whether the position had closed, I think was the first, the first inquiry on 7 November. Do you remember that?---I can't remember that.

All right. The next time that you spoke to Mr Blackadder was on 16 December last year, is that correct?---Could be, I can't remember the date, no.

10 Well, do you remember, you remember the day that you were first contacted by officers of the Independent Commission Against Corruption?---Yes.

And that was by investigator Michael Riashi ?---Yes.

And he requested a meeting to discuss a matter with you?---Yes, yes.

Is that right?---Yes.

And I suggest at that time he did not mention anything about what the interview was to be about?---No.

20 Didn't mention Woollahra Council, didn't mention anything?---No.

You agree with that?---Yes.

All right. And on that same day I suggest that you contacted Mr Blackadder?---On the same day?

Same day as you, you received a phone call from investigator Riashi - - - - -
?---Mmm.

30 - - - you contacted Mr Blackadder?---Yes. I, I remember contacting but I can't remember the, the same day.

And you've heard his, his evidence that the first phone call he, you couldn't hear each other and then that he rang you back?---Mmm.

And on that first phone call where you spoke to each other, you asked him who'd been appointed to the position?---Could be, I can't remember, yeah.

40 And then later on that afternoon you rang Mr Blackadder, didn't you, informing him that you'd been contacted by the ICAC?---Could be, yes.

Well, you've heard his evidence. Do you deny that that is what you did, that you contacted him and told him - - -?---Yes.

- - - that you'd been contacted by the ICAC?---Yes, yes, I did, yes.

And what you said to him was that they had mentioned to you that it was something to do with Woollahra, didn't you?---I must have said it, yes.

But Mr Riashi had not said anything about Woollahra in his conversation, had he?---No.

So you jumped to the conclusion that it had something to do with Woollahra, is that right?---Yes.

And that telephone conversation was interrupted by another call that came through from Mr Blackadder, you agree with that?---I can't remember.

10

You can't remember. In any event do you agree that Mr Blackadder rang you back at around 6.00pm that evening?---Yes.

And he rang you on your mobile?---Maybe - - -

And in that telephone call did you not, did you tell him that Mr Riashi had contacted you and that you were required to have a meeting with ICAC investigators?---I can't remember what I said but I, I told him that ICAC contacted me, yes.

20

And I suggest that during that conversation you told him that when, if the ICAC investigators asked about his dealings, your dealings with Mr Blackadder, that you would admit that you had offered him \$15,000. That's what you said, didn't you?---What, what I say?

You told Mr Blackadder - - -?---Yes.

- - - that if you were asked by Commission investigators about your dealings with Mr Blackadder, that you would tell them and admit to them that you had offered him \$15,000 to assist you in getting the job?---No, I, I can't remember that.

30

Can't remember that?---No. I don't, I wouldn't have said it, no.

Didn't you tell, tell Mr Blackadder that you wouldn't lie to investigators, that you would admit that you had offered him \$15,000 because you didn't think there was anything wrong with that?---No, I told, I, I remembered telling him that I wouldn't lie to ICAC.

40

Yes, but you wouldn't lie and that you would admit that you had offered him \$15,000?---No, I didn't say that.

I want you to be very careful about what you're saying now, Mr Gamage. What I'm suggesting to you is, I will, if they ask about, that you said to them, "If they ask about my dealings" that is, the \$15,000, "I will tell them yes, I did. I can't see anything wrong with that." Do you remember using those words to Mr Blackadder?---No, I can't remember using those words.

Do you deny using those words?---I can't remember using those words.

Well, what do you say you had, what was the conversation with Mr Blackadder on the evening of 16 December last year? What was the, the conversation you had with him when he rang you back about, as a result of you telling him that you'd been contacted by ICAC?---I remember, what I remember from that, that conversation, that I told him that I'm not going to, I'm not going to lie to ICAC. Yes, so, that, that's about it and I, I, I remember telling, he telling me that, no, I had to be careful to something to that effect.

Didn't you say to him that you couldn't see anything wrong with what you had done by offering him a \$15,000 bribe?---Offering - - -

Mr Blackadder the \$15,000?---No, I can't remember. I, I can't, no, I, I wouldn't have said that.

THE COMMISSIONER: Because you say you didn't. You say you didn't offer him \$15,000?---No, I didn't.

So you couldn't have said to him on the telephone - - -?---No.

MS DAVENPORT: Why did you say I won't lie to ICAC?---Because I was not going to lie.

But that's what you did, didn't you, you came along and when you were interviewed on 23 December you lied?---No, I didn't.

THE COMMISSIONER: In what respect?

MS DAVENPORT: Would you like to listen, I'm sorry?

THE COMMISSIONER: In what respect?

MS DAVENPORT: Insofar as you lied when you told the Commission that you didn't offer a bribe of \$15,000 to Mr Blackadder?---No, that is not a lie.

Well, perhaps you'd like to listen to this telephone conversation.

40 TELEPHONE INTERCEPT PLAYED [12.41pm]

MS DAVENPORT: That's the phone call that you had with Mr Blackadder isn't it?---I reject that. This is not the telephone call I made. I think this is, this is some sort of a make up. No, this is, this is some sort of a make up, no. This is, this is very close to my voice, yeah, but this is not what I said.

So somebody was speaking on your telephone using a voice like youse saying those things. Is that right?---I, I never, I, so we discussed, but not in this detail, not in this length. Not this long. But I reject this.

Well, I suggest to you that that was a lawfully intercepted telephone call done under a warrant and that investigator Riashi was sitting beside Mr Blackadder when he made that telephone call to your number. Does that alter your evidence?---That thing, Mr, I have made a formal complaint against Mr Riashi as well, he has a conflict of interest.

10

Yes, well, apart from that does that alter your evidence as to the authenticity of that telephone call?---Say it again?

That fact that it was done under a warrant - - -?---Yes.

- - - that there was a recording of it and that it was to your number, your telephone number?---That, that may be, that may be the, what the document says, documents says - - -

20

Well, you've heard, you've heard it too. The document says what the recording has recorded doesn't it?---Yes. Everything is done according to, you know, to show that, you know, authenticity. But in today's world, you can do anything. The fact of the matter is Michael Riashi.

Yes, well, we don't want to hear about your version of Michael Riashi? ---Yes.

Are you saying that that is not an authentic recording of your telephone conversation?---That's what I'm saying, yes.

30

Yes, well, I tender the transcript, Commissioner.

THE COMMISSIONER: Exhibit 12 is a transcript of a telephone call - - -

MS DAVENPORT: And the recording, Commissioner.

THE COMMISSIONER: - - - between Mr Blackadder and Mr Gamage.

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**#EXHIBIT 12 - TRANSCRIPT OF LISTENING DEVICE
SWD15/2009 DATED 16/12/2009 (BLACKADDER/GAMAGE)**

THE COMMISSIONER: And Exhibit 13 is the audio recording of that telephone call.

MS DAVENPORT: It was just left electronically, Commission, I'm told there is no - - -

THE COMMISSIONER: So, so there's no, so - - -

MS DAVENPORT: There's no disc of it. It can be put, it can be put on disc.

THE COMMISSIONER: Can you, so you're only tendering the transcript?

MS DAVENPORT: The transcript, Commissioner?

10

THE COMMISSIONER: Yes, that's Exhibit 12.

MS DAVENPORT: And perhaps, Commissioner, that's a (not transcribable) adjournment.

THE COMMISSIONER: Yes. We'll adjourn until 2 o'clock.

LUNCHEON ADJOURNMENT

[12.55pm]