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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE THERESA HAMILTON
ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION CENTURION

Reference: Operation E09/1994

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 18 FEBRUARY 2010

AT 10.35 AM

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

ASSISTANT COMMISSIONER: Please be seated. This is a public inquiry being conducted by the Independent Commission Against Corruption for the purpose of investigating an allegation that David Pyo engaged in corrupt conduct by giving \$2,000 to David Backhouse, general manager of the Strathfield Municipal Council as an inducement to facilitate negotiations for a licence and the general scope and purpose of this inquiry is to gather evidence relevant to this allegation to determine whether any person has engaged in corrupt conduct. The investigation has been conducted for the purposes of determining the matters referred to in section 13 of the Act.

10 Mr Greg Farmer has been appointed as counsel assisting this inquiry and I would now ask Mr Farmer to make an opening statement in relation to the matter.

MR FARMER: Thank you, Commissioner. Commissioner, this public inquiry is being conducted for the purposes of an investigation of an allegation that David Pyo engaged in corrupt conduct in December 2009. At that time Mr Pyo was engaged in negotiations with officers of the Strathfield Municipal Council in relation to a licence agreement for Council property located at 26 Pomeroy Street, Homebush.

20

On 2 December, 2009 Mr Pyo met with Mr Michael Chau, the manager of community services for Strathfield Municipal Council. He handed Mr Chau an envelope and asked him to give it to Mr Backhouse. Mr Chau did that. Mr Backhouse later opened the envelope and discovered that the envelope contained a Christmas card, a handwritten note and \$2,000 in cash.

The purpose of the investigation is to determine whether Mr Pyo has engaged in corrupt conduct by giving money to Mr Backhouse as an inducement for facilitating ongoing negotiations between himself and the Council and/or in the expectation of receiving future benefits from the Council. The general scope and purpose of this public inquiry is to gather evidence relevant to this allegation to determine whether any person has engaged in corrupt conduct. This investigation is being conducted for the purpose of determining the matters referred to in section 13(2) of the ICAC Act.

30

By way of background, Commissioner, the Council owns the property at 26 Pomeroy Street, Homebush which was previously licensed to the former Homebush Bowling Club. The property has been vacant for a considerable time and Council had taken steps over the years to try and arrange for the premises to become re-occupied. On 8 January, 2008 the Council placed an advertisement in the Inner West Courier newspaper calling for expressions of interest in relation to the future use of the property.

40

From about 25 November, 2008 the Council sought more detailed proposals from those who had expressed an interest including the Pyo Family Trust. By 20 March, 2009 the Council had received more detailed expressions of interest from five organisations, one of whom was the Pyo Family Trust.

Council officers then determined that of the five proposals received only the uses proposed by the Pyo Family Trust and one other company satisfied the provisions of the Strathfield planning scheme ordinance and were consistent with the core objectives of the Local Government Act.

10 Council also sought legal advice regarding the permitted length of the licence agreement for the property. That advice was that a term exceeding five years may be granted only by tender unless it is granted to a non-profit organisation. Mr Robert Bourke, the director of operations for Strathfield Municipal Council, prepared a report on the project which was placed before a closed session of the Council on 7 July, 2009. The report to the Council recommended that Council give delegated authority to the general manager, Mr Backhouse, to enter into negotiations and establish a licence agreement with one of the two preferred parties for a period not exceeding five years. Council then established a formal evaluation panel to review the merits of the two remaining candidates. As part of that process Council engaged an independent chartered accountant to undertake due diligence and financial assessments of both candidates.

20 The chartered accountants report dated 27 July, 2009 recommended that Council adopt the ERI from the Pyo Family Trust. On 10 September, 2009, a meeting took place between Mr Pyo and his associates and Council officers where the licence fee was confirmed, I'm sorry, where the licence period was confirmed to be for five years.

30 On 3 November, 2009, Council unanimously voted to authorise the general manager to negotiate a licence agreement with the Pyo Family Trust with a licence fee to be commensurate with valuation advice obtained by Council and to endorse the lodgement of a DA by the Pyo Family Trust in relation to the use of the premises at 26 Pomeroy Street, Homebush.

40 Following that decision a number of meetings took place between representatives of the Council and Mr David Pyo and Mr Pyo's legal representative to negotiate the terms of the proposed licence agreement. On 12 November, 2009, a meeting to discuss the licence agreement and negotiations took place regarding the annual fee that Mr Pyo would pay Council in return for the licence. Mr Pyo offered to pay a fee of \$12,000 per annum. Mr Bourke, rejected that offer. Mr Bourke then invited Mr Pyo to write to Council confirming the discussions that had taken place.

By letter dated 16 November, 2009, Mr Pyo wrote to the Council confirming what had taken place at the meeting on 12 November, 2009. Included in that letter was the following. Licence period is to five years effective from the date. If Pyo Family Trust requests for period of licence, Council and Pyo Family Trust can review for extend licence six months before the date licence expires. As we had read about licence fee, we would offer \$16,000 per annum and an increment of four point five per cent every year.

Mr Bourke instructed James Ng, a legal officer at the Council to negotiate with Mr Pyo to try and achieve a licence fee of \$20,000 per annum with a five per cent annual increment. Mr Bourke also asked Mr Ng to negotiate some form of profit share on behalf of the Council. As at 2 December, 2009 the negotiations between Mr Pyo and the Council had not concluded. On 2 December, 2009, Mr Pyo telephoned Mr Chau and asked if he could meet him at the Council Chambers.

10 On 2 December, 2009, Mr Chau had met Mr Pyo and was handed an envelope which Mr Pyo asked to be given to Mr Backhouse. As stated earlier, Mr Backhouse later discovered that envelope contained cash. The following morning Mr Backhouse reported the matter. On 4 December, 2009, Mr Backhouse rang Mr Pyo. During the telephone conversation Mr Pyo confirmed that he had given the card and the money to Mr Chau to give to Mr Backhouse. Mr Pyo stated, is for the paperwork and then something which was not able to be understood, families, because long time helping me and my family everything. So do you spend for your family.

20 Commissioner, so far as the hearing is concerned, it is proposed to call evidence from Mr Bourke, who will outline the circumstances surrounding the expressions of interest and the negotiations between the Council staff and Mr Pyo. In the course of dealing with his evidence, it will be necessary to touch upon matters concerning the actual EOI process undertaken in relation to the lease of this site.

Those matters include the granting of extensions of time for the submission of EOI's and difficulties which may arise in an applicant is from a non-English speaking background.

30 It is also proposed to call Mr Michael Chau, the person to whom the envelope was handed. Other witnesses have made statements to investigators from the ICAC, it is not proposed to call them but their statements will be tendered in evidence and reference will be made to those statements during the course of the hearing. The significant witnesses in this regard include Mr Backhouse and Mr James Ng. Finally, evidence will be called from Mr Pyo with the view to eliciting information from him regarding the envelope and its contents, the circumstances in which it was handed to Mr Chau and his motive in giving Mr Backhouse \$2,000. Mr Pyo
40 was questioned at a compulsory examination on 23 December, 2009. It is proposed to tender the transcript of the examination. It is also proposed to play and tender the telephone call between Mr Backhouse and Mr Pyo which took place on 4 December, 2009.

Commissioner, as already noted the purpose of this inquiry is to determine whether corrupt conduct occurred and if it did to establish who was involved in the corrupt conduct. It is in the public interest to conduct a public inquiry in this matter as the issue of public officers being offered

gifts or cash by persons with whom they are dealing in an official capacity clearly remains prevalent and problematic in the community. In fact the Commission has conducted three public inquiries about cash being improperly provided or offered to public officers within the last year. Operation Capella and Operation Bauer related to the alleged payment of bribes to Council officers. In both matters the Commission was of the opinion that consideration should be given to obtaining the advice of the DPP with respect to the prosecution or criminal offences under section 249(b) of the Crimes Act.

10

Operation Bellin related to the alleged payment of bribes to a public school teacher. The Commission was also of the opinion in that matter that consideration should be given to obtaining the advice of the DPP with respect to prosecution for criminal offences under section 249(b) of the Crimes Act. A further indication of the prevalence of allocations of this sort is the fact that since 1 January, 2008 the Commission has received 183 section 11 reports where the allegations involved the giving or offering of a bribe or gift. In 44 of these cases public officials have reported members of the public offering a bribe or gift and 33 of those reports were made by

20 General Managers of Councils about bribes or gifts offered to themselves or Council staff.

20

Commissioner, while not all these matters were investigated or substantiated the figures suggest an acceptably high number of cases where public officials have formed the view that they are being offered inappropriate gifts or benefits by those with whom they are dealing. As such there are several reasons why it is important and in the public interest to conduct a public inquiry. One, to establish why Mr Pyo gave Mr Backhouse \$2,000. Two, to determine whether Mr Pyo or anyone else acted corruptly. Three, to

30 recognise and publicise the fact that the receipt of the money by the public official was immediately reported to the authorities. Four, to publicly expose what occurred in this case with a view to educating the public to deter others who might be minded to engage in such conduct. And five, to promote changes to procedures to ensure that parties dealing with authorities are dealt with equally and to ensure that people have access to relevant information in their first language. Thank you, Commissioner, that's the opening.

30

ASSISTANT COMMISSIONER: I'll take applications for leave to appear.

40

MR JONES: Yes, Commissioner, might I have leave to appear for Mr David Pyo. My name is Jones.

ASSISTANT COMMISSIONER: Yes, Mr Jones, you're given leave to appear for Mr Pyo.

MR GRIFFIN: Commissioner, my name is Griffin of counsel. I seek leave under section 33 to appear for Mr Michael Chau.

ASSISTANT COMMISSIONER: Yes, Mr Griffin, you're given leave to appear for Mr Chau. No other applications for leave? I might indicate that in this matter it's expected that the evidence will be of fairly short compass and I intend in those circumstances to ask for oral submissions at the end of the evidence unless anybody wishes to object to that course. All right. Yes, Mr Farmer.

10 MR FARMER: Yes. Thank you. I call Robert Joseph Bourke.

ASSISTANT COMMISSIONER: Your name is Robert Bourke?

MR BOURKE: It is.

ASSISTANT COMMISSIONER: Mr Bourke, you're not represented today.

MR BOURKE: I'm representing myself.

20 ASSISTANT COMMISSIONER: That's fine. Do you understand, are you seeking an order under section 38 of the Act?

MR BOURKE: I was just about to ask that. Yes, Commissioner, I am, a section 34, please.

ASSISTANT COMMISSIONER: All right. Section 38, you want a declaration that any evidence you give can't be used against you in future proceedings?

30 MR BOURKE: That's correct.

ASSISTANT COMMISSIONER: All right. Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by this witness and all documents and things produced by the witness during the course of the hearing are to be regarded as having been given or produced on objection. There is no need for the witness to make objection in respect of any particular answer given or document or thing produced. Mr Bourke, you're require to promise to tell to the truth by either taking an oath on the bible or making a declaration.

40

MR BOURKE: Declaration.

<ROBERT JOSEPH BOURKE, affirmed

[10.42am]

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Farmer.

MR FARMER: Yes, thank you.

Your full name is Robert Joseph Bourke, B-O-U-R-K-E. Is that right?
---Correct.

10

And your occupation?---Director of operations, Strathfield Council.

And Mr Bourke, on 14 January, 2010 did you make a statement to
investigators from the ICAC?---That's correct.

Yes. Would you just have a look at this document, please. Do you identify
that document as the statement that you made in this matter?---It is.

20

Yes. I tender the document and the annexures to it, thank you,
Commissioner.

ASSISTANT COMMISSIONER: Yes. Well, that will be Exhibit 1?
---Could I just clarify, on the declaration it's got occupation, my occupation
is director of operations not legal officer.

**#EXHIBIT 1 - STATEMENT OF ROBERT BOURKE DATED 14
JANUARY 2010**

30

ASSISTANT COMMISSIONER: Yes, of course?---Yeah.

We'll amend that.

MR FARMER: Yes, thank you.

That's covered in paragraph 3 of your statement. Is that right?---It is.

40

Yes, all right. Now, Mr Bourke, you were the director of operations, and
still are, for Strathfield Council since about March 2008. Is that right?
---That's correct.

And you are aware that the Council owns a property at 26 Pomeroy Street,
Homebush?---Correct.

And that it had previously been licensed to the former Homebush Bowling
Club?---Yes.

Now for some time the property had been vacant. Is that right?---That's correct, yes.

And Council had undertaken steps to arrange for the re-occupation of the property. Is that right?---Yes.

And in January, 2008 did the Council call for expressions, expressions of interest in relation to people who might want to take up occupancy of the property?---That's correct.

10

And prior to that time, that is January 2008, there had been earlier attempts by Council to have the property occupied?---Yes.

That had been done by way of calling for expressions of interest. Is that right?---That's correct.

But they had been unsuccessful?---Yes.

20

And the expression of interest is put out to, or the request for expressions of interest is put out to the public by way of advertising. Is that right?---That's right.

And do you recall do you then in this case an advertisement was placed in the Inner West Courier on or about 8 January, 2008?---Correct.

And that invited submissions up until Friday, 25 January, 2008. Do you recall that?---That's correct.

30

All right. Now so far as the cut off date is concerned, is your understanding that when dealing with expressions of interest or dealing with properties by way of calling for expressions of interest, although a cut off date is fixed, it is not something that has to remain fixed. Is that right?---That's correct.

And in this case as in other cases involving calls for expressions of interest, applications are expressions which are received subsequent to the cut off date may be taken into account by Council. Is that right?---That's correct.

40

And in that way do you say that Council acts fairly to all people who express an interest in the property?---Yes, it does.

And in circumstances such as this where it's in the community interest to have someone occupy the premises, and perhaps promote community activities through the occupation of the premises, you are as flexible as you can in terms of receiving applications and dealing with them?---Correct.

And as I understand your statement, submissions or as a number of expressions of interest were received and that some time after June, 2008,

you became involved in dealing with those expressions of interest. Is that right?---That's right.

And, now the expression of interest you indicated was firstly at advertisement in the newspaper. Is that right?---That's right.

And is it advertised or, in any other fashion apart from the newspaper?
---Media outlets and internet. It depends on the circumstances.

10 Mr Bourke's voice doesn't seem to be carrying.

ASSISTANT COMMISSIONER: Perhaps if you can speak up (not transcribable) will help?---Okay. Will do. Yeah.

MR FARMER: And can I just ask you to look at this document and confirm that that's the expression of the ad, the document calling for expressions of interest?---That's correct.

20 Just quickly, the document indicates what the expression of interest process involves. Is that right? Stage 1, 2 and 3?---Yes, it does.
Stage 1 calling for non-binding expressions of interest. Is that right?---It is.

And then stage 2, detailed and binding leasing or licensing proposals will be invited. Is that right?---That's right.

And then stage 3 is the actual entering into an agreement with the selected party. Is that right?---That's correct.

30 And the expression of interest also sets out what sort of uses the land can be put to within relevant Council planning ordinances and so on. Is that right?
---That's correct.

Now, on behalf of the Pyo Family Trust Mr David Pyo submitted an expression of interest. Is that right?---That's correct.

And by letter dated 6 August he wrote to the Council expressing an interest in participating. Is that right?---That's right.

40 And, Commissioner, I tender the letter dated 6 August, 2008 together with an annexure headed Project Pomeroy Street, Homebush dated August 2008, Pyo Family Trust.

ASSISTANT COMMISSIONER: Yes. That expression of interest and its annexure will be exhibit 2.

#EXHIBIT 2 - LETTER DATED 6 AUGUST 2008 FROM MR PYO TO GENERAL MANAGER SUBMITTING EXPRESSIONS OF INTEREST OF POMEROY STREET, HOMEBUSH

MR FARMER: Down the bottom of that letter there is some handwriting addressed to Neale N-E-A-L-E, is that Neale Redman?---That's correct.

10 He's one of the other directors at the Strathfield Council. Is that right?
---That's correct.

And this document was received after the close-off date. Is that right?---As far as I'm aware, yes.

As far as you're aware? Thank you. And on 12 August you're aware are you that Council replied to Mr Pyo?---As far as I'm aware, yes.

20 Now, you weren't directly involved in corresponding with Mr Pyo or anyone on his behalf at this time. Is that right?---That's correct.

All right. Now, as a result of the correspondence do you recall that a meeting was arranged between some Council officers and Mr Pyo for 28 August, 2008?---I can't recall that.

All right. Do you recall whether you attended a meeting and met with Mr Pyo on 28 August, 2008?---I can't recall that.

30 Commissioner, I tender a letter from the Council file being a draft letter dated 12 August, 2008 and can I also tender a letter dated 15 August, 2008 addressed to Mr Pyo at which in broad terms organised a meeting for 28 August, 2008 at the executive offices at Strathfield Council.

ASSISTANT COMMISSIONER: Yes. Those two letters will be exhibit 3.

#EXHIBIT 3 - DRAFT LETTER DATED 12 AUGUST 2008

40 MR JONES: If it be of assistance, Commissioner, I have no objection to my friend leading relevant information and getting to the point. I don't think any of the facts in this matter are going to be excused. So if it assists my friend and conduct of the inquiry from Mr Pyo's perspective the matters which go remiss on memory I have no objection of him leading.

ASSISTANT COMMISSIONER: Thank you for that.

MR FARMER: Thank you. And can I also tender a letter of 12 August, 2008 addressed to Mr Pyo which, as I understand it, Commissioner, was part of exhibit C1 in the hearing conducted on 23 December, 2009.

ASSISTANT COMMISSIONER: So is this the same - - -

MR FARMER: No, it's not the same, it's slightly different but it's a letter that Mr Pyo produced.

10 ASSISTANT COMMISSIONER: That appears to be one that was actually mailed.

MR FARMER: Yes, that's correct.

ASSISTANT COMMISSIONER: All right. The letter produced by Mr Pyo previously will be exhibit 4.

20 **#EXHIBIT 4 - LETTER TO MR PYO FROM STRATHFIELD
COUNCIL DATED 12 AUGUST 2008**

MR FARMER: Thank you. Mr Bourke, you don't recall meeting Mr Pyo at the Council chambers, in the executive chambers on 28 August, 2008? ---That's correct.

You don't dispute that it may have occurred, you just have no memory of it. Is that fair?---That's correct. That's correct.

30 All right. Now, by that time stage 1 had in effect been closed off, all the people who wanted to submit expressions of interest had done so. Is that right?---That's correct.

And the next stage was stage 2. Is that right?---That's correct.

And are you involved in stage 2?---I am.

In what way?---I am managing that, or this particular issue with Pomeroy Street.

40

Yes. All right. And are you aware that on 25 November, 2008 Council resolved to proceed to stage 2 of the EOI process?---I am.

And that involved Council seeking more detailed proposals from parties who had expressed an interest in stage 1 of the process?---That's correct.

And the interested parties had to submit their documents by 20 March, 2009. Is that right?---That's right.

And it's your evidence that by that time 20 March, 2009 five organisations had submitted more detailed expressions of interest. Is that right?---That's correct.

One of those was the Pyo Family Trust?---That's correct.

Another of the organisations was a Pty Limited company which had not submitted an expression of interest in stage 1. Do you understand that?
10 ---Which company was that?

Well, a company by the name of Jag, J-A-G, Promotions?---They were part of the process.

Yes, but just in terms of the records, can I ask you to accept that that company didn't lodge an application in stage 1 but came in somewhere between stage 1 and stage 2. Do you understand that?---That's correct.

Do you say that in accordance with Council policy about being fair and giving everyone a go Jag Promotions would've been allowed to proceed with their expression of interest on that same basis?---That's correct.
20

And part of stage 2 is to assess whether or not the expressions are applicable or relevant or in compliance with various Council ordinances governing the use of a land. Is that right?---That's right.

And you're aware and you give evidence of the five proposals received during stage 2 only that submitted by Jag Promotions Pty Limited and the Pyo Family Trust satisfied the provisions of the Strathfield Planning Scheme ordinance and was also consistent with the core objectives of the Local Government Act?---That's correct.
30

And you obtained legal advice from a legal officer at the Council to confirm that position. Is that right?---That's right.

The legal officer is James Ng, spelt N-G. Is that right?---Correct.

And you understood did you that a man by the name of Michael Chau was also assisting in that process?---Correct.
40

What was Mr Chau's position at the Council?---Manager of Community, or Acting Manager of Community Services.

Community Services. Thank you. And on 7 July, 2009, you, Mr Ng and Mr Chau prepared a report summarising the EOI process that had taken place and submitted it to Council. Is that right?---That's correct.

And you understand that Council resolved to delegate authority to the General Manager, Mr Backhouse to enter into negotiations to establish a license agreement with one of the two preferred interested parties, being The Pyo Family Trust and Jag Promotions?---That's correct.

And the delegation stipulated that the licence agreement was not to extend beyond five years?---That's correct.

10 And if the licence agreement did extend beyond five years it would require by law that Council call for tenders for the use of the premises. Is that right?---That's correct.

And if the tender process was adopted would Council be able to enter into an agreement with the relevant party or would somebody else have to do that?---No, we'd have to go to the public for, to run a formal tender process.

20 Yes. And the tender process itself is governed by its own policy and own guidelines?---In the (not transcribable) policy document under the act, we follow the local government tendering guidelines and principles. So that would trigger that to happen.

It's a much stricter process is it?---Very vigorous compared to an EI process.

All right. And once the Pyo Family Trust and Jag were identified as the only remaining applicants, meetings took place between their representatives and Council representatives. Is that right?---Between which representative?

30 Representatives of Pyo - - -?---Incorrect.

- - - Jag and officers of the Council?---With Pyo.

You recall being involved in meetings with Pyo. Is that right?---That's correct.

Now, David Pyo, I understand your evidence is that you can't recall when you first met him?---That's correct.

40 But you do recall meeting with him and his solicitor together with James Ng on 10 September, 2009?---Yes, that's correct.

And you in the normal course of the Council business arranged for minutes of that meeting to be prepared. Is that right?---That's correct.

And a copy of those minutes is an annexure to the statement that you made. Is that right?---That's correct.

All right. And on one occasion, some time after your last meeting with Mr Pyo do you recall that he spoke to you by the, on the telephone and asked you to have lunch with him?---That's correct.

And you declined?---That's correct.

Why?---Inappropriate.

You thought it was inappropriate did you?---Yeah.

10

And in dealing with Mr Pyo did you have difficulties conversing with him because English is not his first language?---That's correct. Mr Pyo generally had a translator there with him.

Right. Whether it was his solicitor or his son. Is that right?---That's correct.

All right. You, you also met with Mr Pyo on 12 November, 2009. Is that right?---That's correct.

20

And minutes of that meeting have been tendered as an annexure to your statement. Correct?---Yes.

At that meeting there was yourself, Michael Chau and James Ng from the Council side. Is that right?---Yes.

And Pyo and his solicitor, Mr Hong, H-O-N-G, were there was well. Is that right?---Yes.

30 You discussed the five year licence. Is that right?---Correct.

Capital investment?---Yes.

That Mr Pyo could not put a golf driving range in. Is that right?---That's correct.

And, and Mr Pyo, I think, offered \$12,000 per annum to - - -?---That's what I can recall.

40 And he was told that Council wanted a profit share or a licence fee. Council wanted \$75,000. Is that right?---\$75,000?

Yes?---No, I don't recall - - -

According to the minutes. Sorry? Do you want to have a look at them?
---Yeah, if I could quickly look at them.

Have you got a copy of the statement there?---What page is that on?

It's one of the annexures to your statement. You see there on the second page of the minute, Council wants profit share or licence fee. Council wants \$75K, need good return. Do you see that?---Yeah, that's correct.

So what's the \$75,000?---That's correct what you said. That was the licence fee.

10 For one year or five years?---Licence fee pre annum.

Per annum?---Yeah.

All right. So the parties were some distance apart at that time. Is that right?---That's correct.

All right.

20 ASSISTANT COMMISSIONER: Did this have to be a five year licence fee or does that include some profit share arrangements?---We were discussing both, Commissioner, both the profit share and - - -

But either way you at that stage wanted your return to be \$75,000?---Yes, under the valuation, yes.

Per annum?---Yes.

MR FARMER: Now following the meeting there was a letter received dated 16 November, 2009 from David Pyo?---That's correct.

30 Just have a look at this document which and just confirm that that's the case?---That's correct.
I tender that letter, Commissioner.

ASSISTANT COMMISSIONER: Yes. That will be Exhibit 5.

#EXHIBIT 5 - LETTER DATED 16 NOVEMBER 2009 FROM MR PYO TO COUNCIL

40

MR FARMER: Now Mr Bourke, is that your handwriting on the bottom right section of the page?---It is.

And in essence Mr Pyo wrote back confirming the discussions that had taken place. Is that right?---That's correct.

And confirming the five year period and he wanted to request more period of licence and review for extension of the licence before the licence expires. Is that right?---That's correct.

And he also wanted to, the Council to fix up the car park surface. Is that right?---That's correct.

10 And then in the next part of the letter her offered 16,000 per annum and an increment of four point five per cent every year. Do you see that?---Yes, I do.

Right. So that was a move up from his previous position of 12,000. Is that right?---Yes, it is.

And was also offering to pay four point five per cent of, what, his profits each year or is that a four point five percent of - - -?---No, that's on top, it was an increment on top of the licence annual fee.

20 All right. So 16,000 in the first year, 16,000 plus four and a half per cent the next?---Correct.

And you've written a note being James, being James Ng, is that right? ---That's correct.

To negotiate 20,000 per annum plus five per cent annually. Is that right? ---Correct.

30 And the second note is to Rob or, sorry, Rob would also like to negotiate profit share?---That's correct.

Who's Rob a reference to?---That's me.

That's you. Do you recall whether you met with Mr Pyo again after that meeting on 12 November, 2009?---If I could just refer back to my statement?

Yeah?---The final meeting I had, the last meeting I had I think was around that time. I'll just check my - - -

40 All right. Can you go to paragraph 29. You say that there was a meeting between Mr Pyo, Mr Hong, Mr Eric Pyo, he's the son of Mr Pyo, is that right?---That's correct.

James Ng, Michael Chau and yourself in early December?---That's correct.

But you haven't been able to locate minutes for that meeting?---That's correct.

You recall, however, that Mr Pyo was fixed on the offer of 16,000 per annum. Is that right?---That's correct.

And you indicated to him that Council wanted to negotiate further on the licence fee?---That's correct.

Including some form of profit sharing?---That's correct.

10 And you also said that Council might be prepared to set a lower level of capital investment in the property by Mr Pyo if that would enable him to pay an increased licence fee from that currently offered. Is that right?
---That's correct.

And the capital investment referred to was the amount that Mr Pyo had indicated in his expression of interest - - -?---That's correct.

- - - as being the amount of capital he was prepared to invest over the period of the licence agreement?---Correct.

20 What's your recollection as to the amount he said he was prepared to invest by way of capital?---It was around \$800,000.

All right. And while these negotiations were ongoing, Council having selected Mr Pyo as, or the Pyo Family Trust as the preferred party to enter into an agreement with, had written to him by letter dated 12 November, 2009 providing him with access to the property subject to terms. Is that right?---That's correct.

30 And your understanding is that Mr Pyo came into the chambers, Council chambers on 12 November, sorry, 16 November, 2009, signed that document and, and was given a key to access the premises. Is that right?
---That's correct.

If the witness could just quickly be shown this letter.

Sorry, it's dated 12 November, 2009. Is that right, Mr Bourke?---That's correct.

40 Your signature appears on the second page?---That's correct.

And what you believe to be the signature of Mr Pyo underneath your signature. Is that right?---Yes.

Yes, I tender that, Commissioner.

ASSISTANT COMMISSIONER: Yes. That letter to Mr Pyo dated 12 November, 2009 is Exhibit 6.

**#EXHIBIT 6 - LETTER FROM STRATHFIELD COUNCIL TO MR
PYO DATED 12 NOVEMBER 2009**

MR FARMER: Now, so the last time you saw Mr Pyo was in early December but you can't remember the exact date. Is that right?---That's correct.

10 And at that stage negotiations between you on behalf of the Council and Mr Pyo were ongoing. Is that right?---Continuing, yes, correct.

You understood, did you, that a draft licence agreement had been sent to his solicitors?---That's correct.

And in response a draft licence agreement with some amendments to the Council draft had been sent back by Mr Pyo - - -?---Correct.

20 - - - or on behalf of Mr Pyo. Is that right?---That's right.

Confirming his position at \$16,000 per annum?---To the best of my knowledge, yes.

All right. And, and seeking a contractual agreement with the Council about re-entering into a licence agreement on or before or at the time the five years came to an end. Is that your understanding?---Renegotiating, discussing, discussing before the licence agreement concluded.

30 All right. As at today, is it your understanding that no formal licence agreement has been signed by either the Council or Mr Pyo?---That's correct.

There is no formal agreement in that sense between the parties?---That's correct.

40 In order to pursue the verbal agreement Mr Pyo has been required to submit development applications to the Council. Is that right?---I'm aware that Mr Pyo and his reps had a meeting with Council officers regarding criteria in the DA, whether it triggered a DA was required and that's, to the best of my knowledge, that's occurred.

Right.

ASSISTANT COMMISSIONER: In respect of the meeting in early December, you don't have a diary entry (not transcribable)?---We have the date of the meeting but there was no minutes, we couldn't locate the minutes.

Well, I think the date of the meeting is, could be of interest. What, you can't tell us what the actual date was?---I can tell you what the date was but
- - -

Yes, could you?---That was in my statement, Commissioner.

Well, I think the date just says early December.

10 MR FARMER: Early December?---I can confirm that date but - - -

ASSISTANT COMMISSIONER: Can you confirm it now or do you need to go get your records?---Not at the moment, I'll have to check my calendar, I'll have to check my calendar.

All right.

MR FARMER: All right, thank you.

20 ASSISTANT COMMISSIONER: Perhaps Mr Chau will know.

MR FARMER: Yes.

Mr Bourke, I'm, I'm told that the meeting may in fact have been on the 27th of November, 2009?---The last meeting that occurred was around early, it would have been around that time, early December, late November to the best of my knowledge but I'd have to check my diary.

Yes, thank you.

30 Commissioner, could I tender draft licence agreement which was forwarded to Mr Pyo's solicitor on 2 December, 2009 and note, Commissioner - - -

ASSISTANT COMMISSIONER: The draft licence agreement, the draft licence agreement will be Exhibit 7.

#EXHIBIT 7 - DRAFT LICENCE AGREEMENT

40 MR FARMER: And can I just note that on page 3 of the document, clause 5, the licence fee in paragraph 5(a) has not been fixed.

And, Commissioner, can I tender an email from Mr Hong, H-O-N-G, to Mr James Ng at the Council dated 3 December, 2009 acknowledging receipt of the draft agreement and proposing amended terms.

ASSISTANT COMMISSIONER: Yes. The email dated 3 December will be exhibit 8.

**#EXHIBIT 8 - EMAIL FROM MR NG TO MR HONG DATED 3
DECEMBER 2009 ACKNOWLEDGING RECEIPT OF DRAFT
LICENCE AGREEMENT**

MR FARMER: Thank you. Yes, thank you, Commissioner, that's all I
have by way of questions for Mr Bourke at this stage.

10

ASSISTANT COMMISSIONER: Yes, thank you.

MR JONES: Yes, I do have some questions. Mr Bourke, I take it as the
Director of Operations you are given some level of responsibility within the
Council, Strathfield Council?---Correct.

And indeed that level of responsibility is that affected by others?---(NO
AUDIBLE REPLY)

20 Want me to clarify that?---Yeah.

You make your own assessment of matters. That's right?---That's correct.

Or your own views on matters. That's correct?---For Council I do.

For Council. Where you're authorised you sign-off on them otherwise you
give your recommendation to others?---Where I have delegation that's
correct.

30 And indeed I think it's common ground your memory of all these
negotiations is a little bit vague. Would that be right to say?---In terms of
the last meeting, yes.

Is there something funny about the last meeting? I notice you looked at Mr
Farmer?---The date of the last meeting I think he was referring to. The date
of the last meeting. I don't think anything is funny.

Well, let's go to - at least you've got some information or material before
you which might assist your memory of things. That's right?---Yes.

40

You've been shown some minutes of a meeting of 12 November, 2009.
That's right?---Correct.

And you've said from a reference to those minutes that at the very least as
you understand it Council wants \$75,000 per annum as a licence fee for this
property. That was your evidence a few minutes ago?---At that time. At
that time, yes.

And there is a written document here appears to be your handwriting on 16 November, 2009. Number one says, "James negotiate \$20,000 annually"?
---Correct.

So I take it from that Strathfield Council was that desperate to get Mr Pyo into this property they were willing to take a discount per annum of \$55,000 from the public purse to get him there?

MR FARMER: I object, your Honour.

10

MR JONES: He's given the evidence.

MR FARMER: Well, yes, but there may be different bases upon which \$75,000 is asked for and 20,000 is asked for.

ASSISTANT COMMISSIONER: Well, I must say the witness hasn't made it clear to me what basis - - -

THE WITNESS: I can answer that, Commissioner.

20

ASSISTANT COMMISSIONER: Well, all right.

THE WITNESS: The valuation that came back after we sought a due diligence and the accountant stated at that time the fee should be \$75,000 per annum. When we looked into the, the investment from Mr Pyo we took that into account, that's why the fee was lower, lowered.

ASSISTANT COMMISSIONER: Well, I'm sorry, I mean it's been put to you that your willingness to accept a much lower fee than had been recommended shows that you were very keen to enter into an agreement with Mr Pyo, that's what is being put to you. Do you understand that?---We wanted to negotiate further.

30

All right. I guess, why were you, if you're saying the independent accountant was it recommended that the licence fee should be 75,000 based on what he was willing to invest and what he expected to get back?---At first we looked at the nominal fee when we looked at our plan of management, he has a calculation that we put through. At the time it came out at 75,000 but after you look at the capital injection that Mr Pyo would invest and taking that into account the accountant's feedback that came back stated it was much lower, it was around 15,000 if I'm correct.

40

All right.

MR JONES: Where in these documents is that accountant's figure of \$15,000?---Well, Council has that documentation.

Have they produced it to the Independent Commission Against Corruption?

---We have.

If I could just take you back through some of the history of this so I can just understand at least in my mind who's responsible for what in this matter. As I understand it from your statement there is a first phase in respect of this expression of interest. That's right?---Correct.

And - - -

10 MR FARMER: Stage 1.

MR JONES: I'm kindly reminded by Mr Farmer it's stage 1 if you recall that. And that was responsible or assessed by Mira Sandre. That's right?---I'm unsure with that.

I'm only reading from your statement. If it be of some assistance you say, "It was after this that I became involved in the process. Stage 1 of the process resulted in Council receiving a number of EOIs which were assessed by Government Section?---I did mention this error.

20

ASSISTANT COMMISSIONER: Well, in fairness this paper says "possibly."

MR JONES: Possibly Mira Sandre. Who else was involved in this stage 1?---Well, the Government Section.

Government Section. Is that a section that's headed up by Mira Sandre? ---No, it's not.

30 Who is the Government Section handled by?---Neale Redman, he's the officer, the Director.

Neale Redman?---Neale Redman.

I take it he, like you, operates independently of others to your understanding?---He has his own accountability such as I have.

Yes. And he would've expressed his views about the relevant expressions of interest. That's right?---Expressions of interest to who?

40

You would've taken a view on the relevant expressions of interest?---When it was handed over to me I dealt with it from there.

All right. So prior to stage 1 completing or after stage 1 was completed? ---To my best of knowledge after stage 1 was finished, under way.

I'm just dealing with stage 1?---Yeah.

Prior to stage 1 being completed. Who is the Council officer responsible for selecting the relevant expressions of interest to go for?---That was through the Government Section.

The Government Section. Who's in charge of the Government Section?--- Neale Redman.

And I think as you've said that person like you operates independently?
---With his delegations, yes.

10

With his delegations, very important.

MR FARMER: I'm going to object to this. Mr Jones made the comment earlier on that we can go through all this fairly quickly but now it seems that he wants to go through it in much more detail than is relevant. The questions are not going to assist you, Commissioner, to come into any determination.

20

ASSISTANT COMMISSIONER: Well, he might be trying to make the point that there were other people in the Council who were going to control this process.

30

MR JONES: I correct that, Commissioner. It's alleged that Mr Pyo has made a \$2,000 payment corruptly, somehow deal with a particular person in Council being the General Manager. I think it will be common ground after I finish my cross-examination, I'll even say it in front of this witness that as I see it the General Manager has really had no input into the relevant decisions that are made in this matter but there are a couple of matters that I need to go through with this witness to deal with his statement. His statement has been tendered and I need to deal with it. I ask my friend not to intervene unless there be a relevant reason.

MR FARMER: Well, I only object for relevance and ask that if there is some point that it be arrived at quickly.

MR JONES: I'll do my best. Thank you, Mr Farmer.

40

We can go back, so therefore we know the government section happily signs on stage 1. That's right?---Council signs off, the general managers signs, has, sorry, I'll start again. The director deals with the general manager in terms of discussions. Yes, the director can make a recommendation.

Most certainly?---Yeah.

The director can say I think these two expressions of interest are good and these others are not and if the general manager wants to overrule that, he would have to have his relevant reasoning for it?---Yeah.

Because he's accountable also, isn't he?---That's, that's correct, yeah.

Well, so then we go past to stage 2 and I think it's at that point in time it's handed over to you and your team. That's right?---Correct.

And again in the same situation you are the person who takes the final view on it with the benefit of your team, that's correct?---A panel.

10 A panel, the benefit of a panel. And then you forward those views onto others for final approval?---I completed a review of the processes, look at formulating a report for Council, for the Council to consider my findings.

All right. And as I understand it, stage 2 is still incomplete until we get the final signed licence agreement. Is that right?---It's incomplete, yes.

20 Yeah. So if I can now take you to a couple of things in your statement. You say at paragraph 13, and it's not a memory test so I don't object if Madam Commissioner doesn't mind you looking at your statement, paragraph 13. Do you have it there?---That's, that's a different one.

Might the witness have a copy?---13 did you say?

At paragraph 13 you say there, "I prepared a report with some input from James and Michael which went before a closed session." I take it there's a reason for a closed session is because what's said in Council is effectively kept secret from the general public?---No, it's regarding commercial arrangements. We normally do that. We go through a closed session.

30 Yeah, for that reason?---Yeah, that's correct.

So the general public's not a party to it, it's very important that Council be able to consider it without anybody else knowing what their considerations are?---That's correct.

So most importantly Mr Pyo has no idea about this closed session of Council, does he?---Not as far as I know.

40 No. And indeed, as far as you know, nobody's told him about what's happened in the closed session of Council, have they?---I hope not, no.

And you know nothing about that so where it says then the report to Council recommended that Council give delegated authority to the general manager, he's got absolutely no idea of that, does he?---That's correct.

Indeed, the only people he knows about are stage 1, Mr Edmonds and his team and stage 2, yourself and your team?---I guess so, correct.

Yeah. So again, we go to paragraph 15, you say Council resolved by unanimous vote at the closed session to authorise the general manager, the same applies, Mr Pyo's got no idea about any of these closed session matters to your knowledge?---That's correct.

Nor should he ever have any idea?---That's correct.

10 And then you speak about the last two meetings. At stage 2 do you recall the meeting on 12 November, 2009 where you've got some minutes there?
---Could I see the minutes, please.

Oh, most certainly. I apologise. I'll borrow my friends there. Could a copy of the minutes be, did my friend provided a copy of the minutes of the 12 November meeting?

MR FARMER: I did. It's behind his statement.

20 MR JONES: It's behind your statement I'm told, the last couple of pages of it?---Yeah.

Do you have that document there?---I do.

So I take it Mr Pyo's attended there with his solicitor and do you recall his, I think his son being there, Eric, helping him translate on that day, do you recall that?---No, I can't recall Eric being there.

30 No. But at the very least his solicitor there was helping him translate and deal with the representatives from the Council there on that, on that occasion?---That's correct.

And that's yourself, Mr Chau and Mr James Ng, the legal, legal officer. That's right?---That's correct.

So, and it's you three that Mr Pyo's solicitor is negotiating the relevant licence agreement with. That's right, isn't it?---That's correct.

40 And it says points confirmed, it says there five year licence and Mr Pyo is there happy to stick with five years so I take it that it was confirmed at that point in time that there's going to be a five year licence?---That's correct.

That's right. And it goes, other points are confirmed there, capital investment the same as before and as I understand it that's an \$800,000 investment in the local Strathfield community. That, that's correct, isn't it?
---That's correct.

And the community access, so it's not going to be a matter, it's going to be for the whole Strathfield community this project?---Correct.

And it says fee there, \$12,000 but it take it, it says, is that confirmed or is that their offer?---That, that was, that was Mr Pyo's offer.

Yeah, so really that shouldn't, the word points confirmed doesn't apply to the \$12,000?---It confirmed there what was stated in the meeting.

Well, if you go by your minutes it's confirmed that the fee for the licence is going to be \$12,000 by my reading of that, it just says \$12,000?---That's what he offered.

10

It doesn't say that in the, in the, in your minutes, does it?---They're my minutes, yes, yes.

ASSISTANT COMMISSIONER: Mr Jones, it has a separate heading, fee.

MR JONES: Yes.

ASSISTANT COMMISSIONER: (not transcribable).

20 MR JONES: Yes, correct, I've got - - -

ASSISTANT COMMISSIONER: It clearly has not been confirmed.

MR JONES: Yeah, I don't cover that, I'm probably at cross-purposes but what I'm saying is, as I understand it, he was offering \$12,000 - - -?
---That's correct.

- - - and I, and I think as at 12 November the Council position was it wanted \$75,000.

30

MR FARMER: It's over the page, Greg.

MR JONES: I don't need to turn the page to mention the number?---It's on the next page, yes, \$75,000.

Yes. And then some conversation on opening hours on the next page?
---That's correct, yes.

40 ASSISTANT COMMISSIONER: Mr Jones, I am loath to interrupt your cross-examination, we normally take a short break at this time and I thought it might shorten things if the documents you're interested in can be located during that break so that you may (not transcribable) the witness.

MR JONES: Yes. Thank you, Commissioner.

ASSISTANT COMMISSIONER: So we'll have a short break at this time and we'll hopefully find the documents, thank you.

SHORT ADJOURNMENT

[11.39am]

ASSISTANT COMMISSIONER: Yes, yes, Mr Jones.

MR JONES: Yes. It might be appropriate if I, my friend produces or I call upon my relevant document that outlines the \$15,000 figure the witness referred to.

10

ASSISTANT COMMISSIONER: Do we have that Mr Farmer?

MR FARMER: Yes, I do. And I produce it. I'll give, a copy of that can go to Mr Jones. It was a legal officer or a solicitor here representing the Council, I'll just ask to confirm whether there is any claim over the document by Council. I've shown Mr Jones the relevant entry, so I understand he's satisfied with the valuation that was provided to Council and perhaps if it could just marked at this stage.

20

ASSISTANT COMMISSIONER: Well, do you want it to be tendered, Mr Jones?

MR JONES: No.

ASSISTANT COMMISSIONER: No. Do you - - -

MR JONES: But I won't elaborate further.

30

ASSISTANT COMMISSIONER: All right. Well, do you have sufficient (not transcribable)

MR JONES: It is our common ground be of assistance that the figure that the Council received as being appropriate numeration is \$15,150. Does that jog your memory? In accordance with the document, yes.

So if I can now just rehash 12 November, the relevant points stated there were confirmed for the licence agreement that reflected in your email of the, in your minutes of 12 November. That's right?---Could I have a copy of it again, please.

40

That's the one that's attached to the back of the statement at top?---That's the one that they took back, this is another copy.

Apologise?---12 November did you say?

Yes?---Yeah.

So for the, in respect of the licence those points have been confirmed however outstanding was still the fee for the licence that was proposed to be charged?---Correct.

12 November, you were a long way apart and they suggested some 12,000 and Council suggested \$75,000 per annum. That's right?---At that stage.

10 And then I take it soon there after that, probably the following day you went back to your accountants and said please review this situation and they provided you with a figure of 15,150 per annum as being an acceptable figure?---According to the documentation, yes.

And most certainly you would've taken that on board as being the person responsible for the stage 2 licence negotiations. That's right?---Correct. Correct.

20 And you had no other information upon which to judge the appropriate licence fee figure. That's right?---Only my experience in dealing with licence and leases for Council. Correct.

Most certainly and therefore using your experience and operating the best interests of the local community you sent a note over on 16 November, to James to see if he'd negotiate \$20,000. That's right?---Correct.

But you use the word negotiate because you definitely had a bottom line and the bottom line was that \$15,150 figure. That's right?---Correct.

30 So most certainly by the time the reply came on 16 November, 2009 from Mr Pyo, although he doesn't read or write English, so obviously somebody's drafted this for him, where he says they've offered 16,000 per annum, that is an amount in excess of what your bottom line is. That's correct, isn't it?---Which document are you referring to?

ASSISTANT COMMISSIONER: Exhibit 5.

MR JONES: Exhibit 5.

40 ASSISTANT COMMISSIONER: Does the witness have it? Perhaps he could be shown.

MR FARMER: It can be put on the screen.

ASSISTANT COMMISSIONER: It's on the screen for the witness if you'd like to look there?---Correct.

MR JONES: So really it'd be correct to say that when you use the word negotiate there because if they just stick to their \$16,000 the licence fee, the

amount of money that needs to be paid per annum, is done and dusted, there's no issue with it?---That was their offer.

Yeah. But if you can get more, good, but according to the material that you rely upon, \$16,000 will be good enough. That's right, isn't it?

MR FARMER: Well, I object. I mean, is it good enough in this man's view or not because, because - - -

10 MR JONES: Yeah, in this man's view, this man's in charge of stage 2.

ASSISTANT COMMISSIONER: Limit it to his view, I think.

MR FARMER: Yes, I think so because it's plain that Mr Backhouse is the one who has the delegation to sign off on the agreement.

MR JONES: But most certainly just following what Mr Farmer just said, Mr Pyo doesn't know Mr Backhouse signs it off, he doesn't know about these closed meetings of Council, does he?

20

MR FARMER: I object to that?---You'd have to ask Mr Pyo.

MR JONES: To your knowledge?---You'd have to ask Mr Pyo that.

But to your knowledge he doesn't know of any closed meetings of Council, does he?---I'm unaware, I don't know.

Well, you didn't leak him any information about closed meetings of Council did you?---No.

30

So to your knowledge he doesn't know of any of that, that's right?---I guess so, yes.

And so most certainly you're in charge of stage 2. That's right?---Correct, correct.

So he's negotiating with you, the person in charge. That's right?---That's correct.

40 ASSISTANT COMMISSIONER: Well, I think, Mr Jones, there are two issues here. One is whether he knew of any closed meetings, the second is whether he knew that eventually the general manager would be the one to sign off on this licence so I think you've bundled them up as the same thing to the witness which is probably a bit misleading.

MR FARMER: I agree.

MR JONES: We've dealt with closed meetings already, I won't go over that.

You, as you've said, I think right at the start of your evidence, you're responsible for your own decisions. That's right?---That's correct.

You're in charge of stage 2, the licence negotiations. That's right?
---Correct.

10 They are continuing?---Correct.

That's right. And they are totally in your domain. That's right?---Correct.

The matter has yet to go to Mr Backhouse - - -?---Correct.

- - - for his approval. But you base you decision making upon two things; one, forensic information you have from your accountants, that's right?
---Numerous sources of information, yes, one of those, yes.

20 And one of those is the forensic information and secondly is your experience doing these matters?---Correct.

And you're operating in the best interests of the people of the Strathfield community. That's right?---Correct.

And that's why you said see if you can negotiate a bit more in your, in your letter, in the handwriting of 16 November, that's right?---Correct.

30 But if they sit on \$16,000 unless you can indicate something else now in your mind that's an appropriate figure?---Negotiations were continuing.

They're continuing but there's a bottom line, isn't there?---In, in my, my assumption I would have liked to have seen Council gain more.

Most certainly but you have based your views upon forensic material. That's right, isn't it?---That's, that's right and the negotiations we have and they have not finished yet.

40 Okay?---Because we have a - - -

Yes, keep going, sir?---No, I'm finished.

And then following that meeting on 12 November you prepared a document for Mr Pyo. That's right?---Can you show me the document you're referring to, please?

The 12 November document.

MR FARMER: Exhibit 6.

MR JONES: Exhibit 6. Might the witness be shown Exhibit 6?---Is it here?

ASSISTANT COMMISSIONER: No, it's - - -

MR FARMER: Put it on the screen.

10 ASSISTANT COMMISSIONER: Can he be shown it on the screen or - - -

MR JONES: I've got two copies of it.

ASSISTANT COMMISSIONER: Is it on your screen?

MR JONES: It's just come up?---It is now, thank you.

20 Immediately following the meeting between yourself, with yourself and Mr Ng, the solicitor for Council, Mr Chau, Mr Pyo and his solicitor, you then have prepared this document. That's right for Mr Pyo?---Correct.

And, as I understand it, this was a document that Council had to receive a signed copy of and he, he then gets the keys to the premises, he's in there. That's right?---That's correct, as outlined in the letter.

And he attended the Council, I think he attended upon yourself. Is that right, on 12 November or soon after that?---Can you repeat that, please?

He attended to the Council himself personally?---To pick up the keys.

30 To pick up the keys, that's right?---I am aware of that.

Were you there when he attended?---No.

And I take it that it was just left at the counter downstairs?---No, there's a relevant department that looks after properties, they would have given the key to Mr Pyo or his representatives.

40 All right. Well, who do you know gave him the key?---As far as I know, I'm aware, Mr Chau.

Mr Chau. And it was the situation of sign this letter and here's the keys?---That's correct.

And you know he doesn't read or write English, that's right?---Well, he's always had someone with him so I would have assumed that he would have had someone with him. He signed the letter.

(not transcribable) that's right.

MR FARMER: Well, Mr Bourke wasn't there, he wasn't at the counter.

MR JONES: You weren't there. That's right?---That's right.

So best not to assume, just say I wasn't there, I don't know?---I said that I wasn't there.

10 Mr Farmer said that, I believe?---No, prior to that I said that Mr Chau presented him with the keys. I wasn't there.

But you've prepared this letter, that's right?---That's correct.

And Mr Pyo, he signs it, he gets the keys?---That letter would have been sent to him prior to him getting the keys.

20 Somebody's had to contact him somehow and say come here, sign this letter and you'll get the keys?---He would have receive the letter then came in to get or arrange to get the keys so it wasn't me.

Was the letter, well, do you know whether the letter was posted to him or whether he was contacted? What was the process?---Well, I assume the letter was posted to him.

Oh, again you assumed two minutes ago and you assumed wrongly. Do you want to withdraw that?

30 MR FARMER: I object to that. That's not correct?---To the best of my knowledge the letter was posted to him.

MR JONES: All right. Well, how can you confirm that? Is there some stamp from the Council?---It's irrelevant. He signed the letter and we got the letter back.

So there's no doubt that he attended the Council, he signed this and got a set of keys?---I, I repeat, the, as far as I am aware, the letter was sent out, it was returned signed then an officer was arranged to give the man the keys.

40 Right. If it was sent out it'd have a Council stamp on it saying posted this day or something like that?---Not on the letter.

Not on the letter?---On the, on the, on the outside of the envelope there would be.

Is there any record to say - - -

MR FARMER: Your Honour, I object to this. I mean, Mr Pyo can be asked - - -

ASSISTANT COMMISSIONER: I don't really see where any of this is getting us, Mr Jones and I, I also don't see how this witness would know anything about the envelope that was sent presumably to Mr Pyo, they would not have the envelope any more obviously at the Council because it was sent in a letter to Mr Pyo.

MR JONES: No, indeed, well made and I withdraw the line of questions.

10 I take it from your statement that at no point in time during any negotiations has Mr Pyo ever said to you I've given some money off to the general manager, there's a bit in there for you, thanks very much?---That's correct.

And I take it to your knowledge nobody else in the stage 2 team has ever said anything to the like. That's right?---That's correct.

And to your knowledge nobody in the stage 1 team has ever done anything of the like?---Correct.

Thank you.

20

ASSISTANT COMMISSIONER: Thank you, Mr Jones. Mr Griffin.

MR GRIFFIN: Commissioner, I have no questions.

ASSISTANT COMMISSIONER: Thank you. Mr Farmer.

MR FARMER: Just one matter, thank you. You were asked a number of questions about whether to your knowledge Mr Pyo knew certain things. Do you recall those series of questions?---In reference to my last question?

30

No, no. In reference to a number of things like closed meetings of the Council and - - -?---Oh, correct. Yeah. I wouldn't know. (not transcribable) they're confidential.

All right. The session itself in Council is confidential. Is that right? ---That's correct.

What if there is a resolution passed by Council at the closed session?---It goes out to the public after the minutes have been completed.

40

So the resolution that is passed becomes public after the closed session. Is that right?---That's correct.

The only outstanding matter was a copy of the expression of interest I think was handed up but it hasn't been marked. If that could take place.

ASSISTANT COMMISSIONER: Yes. That would be the original expression of the interest will be marked Exhibit 9.

#EXHIBIT 9 - ADVERTISEMENT OF EXPRESSIONS OF INTEREST

MR FARMER: Thank you. And I have nothing further for Mr Bourke. Might he be excused.

- 10 ASSISTANT COMMISSIONER: Yes. Mr Bourke, thank you. You are now excused from further attendance.

THE WITNESS EXCUSED [12.11]

MR FARMER: Thank you, Commissioner. Could I tender a statement of David Aubrey, A-U-B-R-E-Y Backhouse, dated 3 December, 2009.

- 20 ASSISTANT COMMISSIONER: Yes. That will be Exhibit 10.

#EXHIBIT 10 - STATEMENT OF DAVID AUBREY BACKHOUSE DATED 3 DECEMBER 2009

MR FARMER: And can I then tender a statement by James Ng, N-G, the legal officer for Strathfield Municipal Council dated 13 January, 2010.

- 30 ASSISTANT COMMISSIONER: Yes. The statement of Mr Ng will be Exhibit 11.

#EXHIBIT 11 - STATEMENT OF JAMES NG DATED 13 JANUARY 2010

- 40 MR FARMER: And can I include in the tender the annexures to Mr Ng's statement which include a copy of an advertisement from the newspaper and a further copy of the expression of interest.

ASSISTANT COMMISSIONER: Those attachments will form part of Exhibit 11.

MR FARMER: Thank you, Commissioner. Thank you, Commissioner. I call Michael Chau.

ASSISTANT COMMISSIONER: Is Mr Chau here?

MR FARMER: He's outside.

ASSISTANT COMMISSIONER: Oh, fine. All right. Well, can somebody get him.

MR GRIFFIN: (not transcribable) Commissioner, indicate for the record that I don't have (not transcribable) of any of the exhibits (not transcribable)

10 ASSISTANT COMMISSIONER: Yes, thank you, Mr Griffin. Yes, you're Mr Michael Chau?

MR CHAU: Yes.

ASSISTANT COMMISSIONER: Mr Chau, you've been called here to give evidence today. Mr Griffin, has Mr Chau had the provisions of section 38 discussed with him?

MR GRIFFIN: He has, but I ask if you could repeat (not transcribable)

20 ASSISTANT COMMISSIONER: Thank you. Yes, Mr Chau, take a seat. Mr Chau, this is an investigative inquiry. You are not permitted to refuse to answer questions on the basis of certain privileges that you could claim in a court of law. However, if you wish to refuse to answer any questions on the basis of privilege and are then directed to answer them, I can make a declaration that none of your answers can be used against you in any future criminal or civil or disciplinary proceedings. So, it's an avenue that's available to anyone who considers that any answers they give might for example tend to incriminate them or might involve some other privilege. So you can seek a declaration under that section, but it's up to you, you
30 certainly don't have to. Do you wish to seek a declaration?

MR CHAU: No, no. No, sorry.

MR GRIFFIN: Commissioner, I instruct that Mr Chau does seek a declaration.

ASSISTANT COMMISSIONER: He does?

40 MR GRIFFIN: Yes.

ASSISTANT COMMISSIONER: All right. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by the witness during the course of his evidence today are to be regarded as given or produced on objection and there is no need for the witness to make an objection in respect of any particular answer or document or thing. Mr Chau, you are required to promise to tell the truth here today by either

taking an oath on the bible or making a declaration. Do you wish to take an oath on the bible or make a declaration?

MR CHAU: Oh, I'll take an oath.

ASSISTANT COMMISSIONER: Could the witness be sworn please.

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

MR FARMER: Thank you, Commissioner. Your full name is Michael Chau, spelt C-H-A-U. Is that right?---Yes.

10 You are the manager of Community Services at Strathfield Council?---Yes.

And in answer to a summons or a notice to produce, did you provide a statement of information to the investigators of the Commission. Is that right?---I have provided a statement.

Will you just have a look at this document and confirm that that's a copy of your statement?---Yes, that's right. Just one correction.

20 All right. Your initial appears at the bottom right hand side of these pages. Is that right?---Yes.

And you have one correction?---It's the last paragraph on the first page.

Where it says I was member?---It should be I am.

All right. Thank you. And subject to that correction I tender the document.

30 ASSISTANT COMMISSIONER: Yes. The statement of Mr Chau will be Exhibit 12.

#EXHIBIT 12 - STATEMENT OF MICHAEL CHAU DATED 1 FEBRUARY 2010

MR FARMER: Mr Chau, you've had an opportunity to review the statement that you made. Is that right?---Yes.

40 And subject to the correction that you just indicated, what is contained within the statement is true and correct. Is that right?---Yes.

Mr Chau, would you go to page 4 of the document, in particular questions 14 and 15?---Yes.

You confirm there that you did not provide Mr Pyo with a copy of the market rental assessment which had been completed by Egan National Valuers?---No.

And that document was completed on 13 August, 2009. Is that right?---I can't recall, sorry.

All right. If you're, that's what you refer to in your statement that day?
---You mean the assessment?

Yes?--- Was completed on 13 of August?

Yes?---I'm not sure when it was completed.

10

Right. But you were involved subsequently with meetings with Mr Pyo?
---Yes.

And prior to those meetings which were focusing on settling the terms of the lease or the licence you were aware of the valuation provided by this company weren't you?---It was a report, yes.

Yes. And you didn't disclose the assessed market value to anyone did you?
--No.

20

Certainly not to Mr Pyo. Is that right?---Yes.

And then over the page on page 17, I'm sorry, question 17 you deal with receiving something from Mr Pyo. Do you remember that?---Yes, in my statement.

Yes. And you say that "A few days before Christmas Mr Pyo telephoned me and said that he was coming in to the Council premises." Do you recall that happening?---Yes, but he didn't say it like, he just said - - -

30

No, no, no, no, look, I just took you to something in your statement where you in general terms described an event?---In general terms, yes.

You recall that event. Is that right?---Yes.

Now Mr Pyo rang your mobile telephone to contact you didn't he?---I can't recall whether it was on the mobile phone or the landline, sorry.

All right. In the course of dealing with members of the public who had business with the Council did you provide your mobile telephone to them?
---It's on my business card.

40

It's on your business card. Thank you. Having spoken to Mr Pyo on the phone do you agree that you went somewhere in the Council chambers and met him?---On the roadside, on the kerb side, yes. On Homebush Road, yes.

Outside the Council chambers?---Yes.

And Mr Pyo approached you did he?---Yeah, he came, came up.

And he handed you a white envelope?---A white envelope, yes.

Did you notice anything unusual about the envelope?---No, I had too many things on my mind. I just said, How are you? Thank you. And walk away. Didn't notice anything.

10 And during the telephone call did he tell you that he had a Christmas card or something of that nature for Mr Backhouse?---He just said, Meet you? I said, Yeah, come, ten minutes, Homebush Road. And he said, Christmas card to Mr David Backhouse but, yeah, I don't know which race he is because I find it a bit hard to understand him sometimes.

All right?---So maybe he did mention Christmas card, I'm not sure.

So when, was Christmas card mentioned on the phone or when he met with you?---I'm not sure.

20

Okay?---But certainly when I met him he gave me a white envelope and he said, Christmas card for Mr David Backhouse, yes.

Do you recall whether he said anything else at that time?---No, our conversation was very limited.

I see. And did he say this is a gift for Mr Backhouse?---No.

Did he say this is money for Mr Backhouse?---No.

30

Did he way this is money for all the staff at Strathfield Council?---No.

Nothing like that?---No.

And as you say in your statement he never gave you a card?---No.

Or a gift of any kind?---No.

40 And in the months leading up to 2 December when he gave you the card you'd had a number of dealings with him. Is that right?---I met him at those social welfare agency meetings, yeah, about twice a year or something like that.

Over what period of time?---I wouldn't have recognised him before but he certainly would have recognised me. So maybe in 2007, 2008, 2009.

As part of your job as Community Services Manager at Strathfield Council you are from time to time invited to functions put on by members of the community. Is that right?---Not functions as such but certainly meetings.

Meetings?---And things like disability meetings, launching of disability services, annual general meetings of different welfare groups. They're very varied. Migrant resource centres, things like that.

10 All right. And one of the groups is the Australian Korean Welfare Association. Is that right?---Yes.

You say you've seen Mr Pyo at meetings involving that organisation?---Oh, yes.

Have you met him or seen him at any other meetings?---No.

Just the Australian Korean Welfare Association. Is that right?---Yes.

20 Yes, thank you, Commissioner.

ASSISTANT COMMISSIONER: Mr Chau, your statement says it was a few days before Christmas?---Yes.

But I notice Mr Backhouse's statement says he was given the card as I understand it on 2 December?---I have no, no recollection, your Honour, Commissioner.

30 So you don't recall the date?---No, no. I mean there was so many things happening like (not transcribable) 18 was closing down and I think a week later the Council bus that was carrying our aged, elderly broke down, yeah.

All right?---We're going from one thing to another.

All right. So have we actually got the card and the money? Is this witness going to produce it or we don't - - -

MR FARMER: I've seen copies of it.

40 ASSISTANT COMMISSIONER: All right. So we're not going to tender it?

MR FARMER: I am proposing to tender copies of it but I wasn't going to do it through Mr Chau, yes.

ASSISTANT COMMISSIONER: All right. That's fine. Mr Jones?

MR JONES: Yes, thank you, Commissioner. Just very briefly, if I understand you rightly you're involved in the Australian Korean Welfare Association?---I attend their meetings, yes. And we do work with them.

And you're Korean?---No.

No. Okay. I think you say in your statement you see Mr Pyo at the Australian Korean Welfare Association meetings. That's right?---Yes. About two or three times a year, maybe two.

10

Two or three times a year since about 2007?---I can't recall really exactly when. They start invited me to their meetings.

Would you say for a number of years you've seen him at those meetings? ---Yeah, yeah, I go to their meetings.

20

And as I understand it the Australian Korean Welfare Association is an association that does their best for Koreans here in Australia who need support and welfare. That's right?---Oh, yes, a premium organisation to help the elderly and the kids for the Koreans.

A premium organisation?---Yeah. Yeah, a premium, yeah. We regard, I, certainly in my view they do a lot for the Korean community.

And people such as Mr Pyo as you understand it dedicate their time and their resources and money to make that association a premium association? ---I don't know what its exact role is but certainly those people who are there are very dedicated, I know.

30

All right. Now, do you recall on 12 November, there or abouts, giving a set of keys to Mr Pyo for the premises of Pomeroy Street, Homebush?---Yeah, I, I can't recall the exact date, yes, he has a key to the premises, yes.

Has a key. How did he get the key off you, do you recall?---I must've gave it to him or something or I met him on the premises or something, I can't recall.

40

You can't recall. Did he go to the - could he have gone to the Council office and got it off you do you know?---I can't recall really. Could have.

Was he by himself or was he with his lawyer?---Really I can't remember.

Do you recall him, be of some assistance, do you recall him going to the council office by himself to get the key off you?---I just can't remember. I do know he has the keys, yes.

But most certainly he had to sign a document to get the key. Do you recall that?---Not by me, I don't think so but again I can't say for certain. Maybe I did, yeah.

If I show you a document, it's exhibit, the 12 November document, Commissioner.

10 ASSISTANT COMMISSIONER: It's on the screen I think. Do you need a hardcopy?---It's not on the screen (not transcribable). Yeah, yes, sorry, I just started to read it.

MR JONES: You'll see it says, second paragraph, "Once the Council receives a signed copy of this letter you'll be provided with the key." Do you recall Mr Pyo coming in and signing this letter in front of you?---No, not to my - - -

Do you recall what happened, how, did you receive the letter?---No, I don't have this letter, this, no.

20 You say you never, you, do you know, I withdraw that. Is it correct to say you can't recall the circumstances in which you gave him the keys. Is that right?---Yeah, I can't recall.

And you can't recall whether he signed this letter in front of you or how this letter came to be in existence?---No, if there's the letter, there's the letter, I mean, but I can't recall.

Yes, thank you?---What, what date was it?

30 ASSISTANT COMMISSIONER: Did somebody tell you to give him the key, somebody in Council say give him the key?---I can't recall.

So you don't know how you came to give him the key at all?---No, 12 November, no, I can't recall.

Don't worry about the letter?---Yeah.

40 But did somebody in Council say give him this key?---I really can't remember.

All right. Mr Griffin? Sorry, Mr Jones, were you - - -

MR JONES: No, no, thank you, no.

ASSISTANT COMMISSIONER: You have nothing? Mr Farmer.

]

MR FARMER: Mr Chau, do you recall if it was in fact you who gave Mr Pyo the keys to the premises?---I, I just can't recall any - - -

All right. Yes, thank you, that's all I have for Mr Chau, thank you, Commissioner. Might he be excused?

ASSISTANT COMMISSIONER: Yes. Mr Chau, you are now excused. You may leave the hearing?---Thank you, madam.

AT 12.31pm THE WITNESS WAS EXCUSED

[12.31pm]

10

MR FARMER: Yes, thank you, Commissioner. I call Mr Pyo. I understand he needs the assistance of a Korean interpreter.

ASSISTANT COMMISSIONER: Yes. And could I just say that the interpreter has asked that everybody speak slowly and clearly to help him to do his job when it comes to questioning the witness and I will try to do the same. Mr Pyo, could you come up, please. Thank you, Mr Pyo, take a seat.

20 Mr Interpreter, I understand your name is Ke-Hyong Kang.

THE INTERPRETER: Correct.

ASSISTANT COMMISSIONER: That is correct.

THE INTERPRETER: Yes.

ASSISTANT COMMISSIONER: And you interpret from the English language to the Korean language?

30

THE INTERPRETER: Both ways.

ASSISTANT COMMISSIONER: And vice versa. All right. We just require you to take an oath that you will well and truly translate.

THE INTERPRETER: Yes.

ASSISTANT COMMISSIONER: You can either take that as an oath on the bible or make a declaration.

40

THE INTERPRETER: On the bible.

ASSISTANT COMMISSIONER: Could the interpreter be sworn, please.

ASSISTANT COMMISSIONER: Mr Pyo, please remain seated. You are required to give evidence here today. You may seek a declaration that your answers are given under objection. I don't know whether your counsel wishes - - -

10 MR JONES: Yes, we have raised that that is sought and we seek a global protection to facilitate the conduct.

ASSISTANT COMMISSIONER: Could we just stop for a minute, something has to be done. Yes, and Mr Kang, could both you and Mr Pyo try to speak into the microphone when you are giving answers.

Mr Pyo, your counsel has indicated that you wish to seek a declaration under section 38 of the Act. The effect of this declaration is that answers you give in these proceedings cannot be used against you in future proceedings. Pursuant to section 38 of the Independent Commission
20 Against Corruption Act - - -

THE INTERPRETER: Could you please speak a bit slowly please so that I can interpret more properly.

ASSISTANT COMMISSIONER: All right. Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by this witness and all documents and things produced by this witness during the course of the hearing are to be regarded as having been given or produced on objection?
30

THE INTERPRETER: Sorry?

ASSISTANT COMMISSIONER: All of the answers he gives and all of the things are to be regarded as having been produced on objection and there is no need for the witness to object to any particular answer or document or thing produced. All right. Mr Pyo, you are required to promise to tell the truth by taking an oath on the bible or making an affirmation?

40 MR PYO: Bible, please.

ASSISTANT COMMISSIONER: Could the witness be sworn, thanks.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Farmer.

MR FARMER: Thank you, Commissioner.

Mr Pyo, what's your full name?---David Pyo.

10 And your surname is spelt P-Y-O. Is that right?---*Yes*. Yeah, correct.

ASSISTANT COMMISSIONER: Mr Pyo, could you, could you explain to him I understand he may understand some English and be able to speak it, it is much better for the transcription if he always answers through you rather than answering directly.

Thank you.

20 MR FARMER: Mr Pyo, are you currently in negotiations with Strathfield Municipal Council in relation to a proposal to a licence premises at 26 Pomeroy Street, Homebush?

THE INTERPRETER: What's the name of the street again?

MR FARMER: Pomeroy, P-O-M-E-R-O-Y?---That's correct.

On 23 December, 2009 did you attend here and give evidence?---Correct.

30 In answering questions on that day, did you answer truthfully?---Correct, I did.

And did you answer as accurately as you could?---I did.

Commissioner, that hearing was in, was closed to the public and I would accordingly seek that the suppression order in relation to the transcription be lifted and I seek to tender a transcript of the evidence given by Mr Pyo on 23 December, 2009.

40 ASSISTANT COMMISSIONER: To include the exhibits that were tendered at that time as well?

MR FARMER: Indeed and I will deal with them as we go through the evidence.

ASSISTANT COMMISSIONER: All right.

MR FARMER: At this stage I just seek to tender the transcript.

ASSISTANT COMMISSIONER: All right. Well, I order that the suppression order made in respect of the appearance of this witness on 23 December be lifted and the transcript of his appearance is accepted as Exhibit 13 in these proceedings.

DIRECTION PURSUANT TO S.112 - SUPPRESSION ORDER MADE IN RESPECT OF APPEARANCE OF THIS WITNESS ON 23 DECEMBER 2009 BE LIFTED AND THE TRANSCRIPT OF HIS APPEARANCE IS ACCEPTED AS EXHIBIT 13.

#EXHIBIT 13 – TRANSCRIPT OF COMPULSORY EXAMINATION OF DAVID PYO ON 23 DECEMBER 2009

MR FARMER: Mr Pyo, can I ask some questions about your background?
---Yes.

20 How old are you?---I was born on 9 November back in 1954.

And where were you born?---I was born in (not transcribable) Korea.

In the year 2000 did you and your family come to Australia?---That's right.

You were about 46 years of age. Is that right?---Yes (not transcribable) in order to make accurate answer, I have to calculate.

30 Approximate will do. When, by the time you came to Australia, you had been working in Korea. Is that right?---I actually work, yes, had work in Korea but before I arrived in Australia, I went to New Zealand first.

I see. How long did you spend in New Zealand?---Probably five to six years.

Did you work in New Zealand?---Yes, I was working in cleaning business.

Did you own the business?---I was receiving the wages.

40 And that was for the whole time while you were in New Zealand. Is that right?---In the beginning I did not know anything about it, so it was not remarkable. But the for final three to four years, yes, I was receiving wages.

Did you work in Korea?---Yes, I did.

What did you do for work in Korea?---I was working in transportation industry. In the meantime I was teaching at one of the high schools.

What do you mean when you say transportation industry? What work were you actually doing?---I mainly do two things. Number 1, the importation of automobiles from overseas to Korea. Number 2, to improve the capacity and functions of the automobiles.

The what, capacity and?---Function.

Function. By doing what?---I did not have the technical know how by myself, personally, but I worked the paperwork.

10

And where were you teaching?---In (not transcribable) Korea.

Teaching what?---I was teaching two subjects. One is electronics subject. And number 2, mathematics subject.

Was the importation business owned by you?---I was employed by somebody else.

20

And similarly were you employed by someone in relation to the improving capacity and function business?---Correct. I was employed.

In relation to the importation business were you ever involved in working with government officials who controlled the importation of goods into Korea?---No, not at all.

What about in relation to the other business of improving the capacity and function of automobiles?---No, not at all. Can I (not transcribable) of what you said.

30

Just wait for a question. In either of those two jobs were you employed by the Korean government?---I was not directly employed by the government, but I was employed by an organisation entrusted by the government.

And I take it that you were employed by two different companies. One doing importation and one doing improvements to motor vehicles?--- Actually, that was one identical company. Only thing is that they had this two different functions.

40

Thank you. As a teacher were you employed by the government or by a private institution?---Private high school.

In relation to the motor vehicle business at any time while you were working with them did they have any policies about offering money to government officials?---Not that I know of. As far as I understand that, my employer or company never offered any money or gift to the government officials.

To your knowledge was it illegal in Korea to offer money to public officials?---It all depends on the circumstances. One thing is sometimes it is socially accepted because that is we call, in Korean version we call kumilbong that means a small gift.

Could you spell those Korean words that you - - -

THE INTERPRETER: Kumilbong Okay. I'll try my best. K-U-M-I-L-B-O-N-G. Kumilbong literally means small amount of money.

10

MR FARMER: But anything greater than a small gift is illegal. Is that right?---As far as I understand according to my (not transcribable) assistant if the money is considerably big (not transcribable) at some forms of reward, in return then it must be illegal in Korea but if you give a small amount of money just for the (not transcribable) or just for the gift or just for Christmas present or if you can give small amount of money to the police station because police officers are working so hard then that is socially and broadly accepted. If you do not expect anything in return, yes, that's not, that's not illegal.

20

Did you yourself ever pay money to the police when you were in Korea? ---Not by myself but the department chief, the head of the department in a huge business company or congregation they usually give small amount of money to the police so that they can have (not transcribable) because they are covering that area.

Apart from the police while you were in Korea did you ever give small gifts to any other Government official?

30 MR JONES: I object (not transcribable).

ASSISTANT COMMISSIONER: I think you're objecting because he didn't say he gave anything to the police?---I didn't, I have not (not transcribable).

I think he's saying the head of the organisations might've, not that he personally ever has.

40 MR FARMER: Yes. I wasn't meaning to imply that he had done it personally.

ASSISTANT COMMISSIONER: Yes.

MR FARMER: I just meant to distinguish the police from other Government officials?---I have not had any experience I myself.

Prior to leaving Korea did you acquire personal assets?---Yes, I did.

And do you still own any of those assets?---Yes. I still own.

And do you have any idea of the current value of the Korean assets that you still own?---Do I have to answer that?

ASSISTANT COMMISSIONER: Yes?---Somewhere between five to seven million in Australian dollars.

10 MR FARMER: All right. Commissioner, that's about all I have in terms of the background material. I now propose to go to others or other areas. Is that a suitable time?

ASSISTANT COMMISSIONER: Yes, I think that is. We will adjourn now till 2 o'clock.

LUNCH ADJOURNMENT

[12.57pm]