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PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION SKYLINE

Reference: Operation E17/0549

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 6 MAY, 2019

AT 10.30AM

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THE COMMISSIONER: Yes, Dr Chen.

MR CHEN: Commissioner, there were some technical difficulties, obviously, that prevented the prompt commencement of the hearing. They've now been resolved as I understand it. Commissioner, there are two housekeeping and one more substantive matter that I just wish to raise before the public inquiry resumes, Commissioner. The first is that my learned friend Ms Goodwin will seek your leave, Commissioner, to appear on behalf of Ms Bakis, and if it's appropriate, Commissioner, perhaps she could do that now.

THE COMMISSIONER: Yes, very well. Yes.

MS GOODWIN: My surname is Goodwin, as you've just heard. I seek leave to appear on behalf of Ms Bakis for the remainder of the inquiry.

THE COMMISSIONER: Yes, I grant leave to you to appear. Thank you.

MS GOODWIN: Thank you, Commissioner.

THE COMMISSIONER: Thank you, Ms Goodwin.

MR CHEN: Commissioner, the second matter of a housekeeping kind was that the hearing list has obviously gone on the Commission website and notified to the parties and it is to present as planned. The more substantive matter perhaps I should move to now, Commissioner, is this. Since the public inquiry adjourned last year, Commissioner, Mr Petroulias has interviewed, at the very least, Mr Green and Ms Dates and, as I understand it as well, Ms Bakis. In relation to Mr Green, Mr Petroulias not only interviewed but recorded the interview of Mr Green, which occurred, as I understand it, Commissioner, on or about the 31st of March of this year, and a transcript of that interview has been prepared by Mr Petroulias and, I'm instructed, been circulated at least to Mr Green.

In relation to Ms Dates, Commissioner, Mr Petroulias interviewed and again recorded an interview with her, and I understand that that interview occurred on or about 28 March of this year. A transcript of that interview, Commissioner, has been made available by Mr Petroulias if not yesterday then certainly early this morning to Mr Broad of the Commission. Commissioner, I thought it appropriate to raise that matter because it is a significant matter, and also I have raised it because there are obviously those behind me who will be interested in not only the fact that it has occurred and that their clients have participated in those interviews, but that also Mr Petroulias will be seeking application at an appropriate time to not only use those recordings but the transcripts that he has apparently transcribed or had transcribed.

Commissioner, that's all I wish to raise at the moment in relation to those applications and what Mr Petroulias has done in relation to the various witnesses that I've raised, Commissioner, but obviously at some point – perhaps after the witnesses are called, certainly the three witnesses Mr Kavanagh, Ms Keagan and Mr Townsend – it may be an appropriate time for that issue to be ventilated more fully.

10 THE COMMISSIONER: Well, Dr Chen, from what you've said and from what I gather from what you've said is that Mr Petroulias has undertaken a parallel investigation with the investigation being conducted by the Independent Commission Against Corruption so far as those witnesses are concerned.

MR CHEN: That's so, Commissioner.

THE COMMISSIONER: Are you able to confirm whether each of those persons mentioned – Mr Green, Ms Dates, Ms Bakis – are under summons of the Commission as witnesses in the Commission proceedings?

20 MR CHEN: They are, Commissioner. And, Commissioner, you would recall that in relation to each of them, each have been examined, each of them have been cross-examined by interested parties and those to whom leave has been granted by you, Commissioner, to appear, and the only remaining examination, Commissioner, sorry, cross-examination that was to take place was that by Mr Petroulias of those witnesses, Commissioner.

THE COMMISSIONER: Yes, and then there's further evidence that witnesses who are cross-examined may be required to give, in answer to any further questions you might have, is that - - -

30 MR CHEN: That's so. And, Commissioner, I should add as well, that as part of what has occurred in this process that Mr Petroulias has undertaken is that additional documents have been made available to various witnesses and they've obviously been made available to the Commission by Mr Petroulias, but they are not within the public brief and they are certainly, some of them, Commissioner, documents that neither I nor the Commission has seen to this point. So the examination that remained of some of the witnesses was no doubt to pick up some outstanding matters that remained, but will now necessarily need to extend across these additional documents,
40 Commissioner. I hope I've answered your question.

THE COMMISSIONER: One other question. Did the Commission receive notice from Mr Petroulias that he intended to embark on conducting recorded interviews with the Commission's witnesses, being Green and Dates and Bakis?

MR CHEN: I'm told not, Commissioner, I'm instructed not. Certainly he has advised the Commission that he has done so or he had done so, but only

after the event. There was certainly no direction, nor would there have been, by the Commission to go out and undertake what he has undertaken, Commissioner.

THE COMMISSIONER: Thank you.

MR PETROULIAS: Commissioner, can I just correct, there seems to be a misimpression here. If you recall at your invitation - - -

10 THE COMMISSIONER: Sorry, just before you go on. Mr Petroulias, I take it you are now appearing on your own behalf. Is that right?

MR PETROULIAS: Always was, yes.

THE COMMISSIONER: The previous lawyer who was appearing for you, whose name was?

MR CHEN: Mr Voros.

20 THE COMMISSIONER: Mr Voros?

MR CHEN: Voros.

THE COMMISSIONER: Is no longer under retainer or no longer acting for you in this inquiry. Is that right?

MR PETROULIAS: That's correct. He was only for re-examination.

30 THE COMMISSIONER: All right. No, you don't have to explain why, but he's no longer appearing for you. Is that right?

MR PETROULIAS: He was only for a limited brief.

THE COMMISSIONER: Just answer my question. Is he - - -

MR PETROULIAS: No, he's not.

THE COMMISSIONER: - - - no longer - - -

40 MR PETROULIAS: No.

THE COMMISSIONER: - - - appearing for you?

MR PETROULIAS: That's right.

THE COMMISSIONER: And you are not legally represented?

MR PETROULIAS: That's correct.

THE COMMISSIONER: Right. Yes.

MR PETROULIAS: Now - - -

THE COMMISSIONER: Now, what do you want to say?

10 MR PETROULIAS: Now, if you recall, it was part of my arising from the February hearing I then, I did some statements from Faraj and Vaughan and you picked that up in your reasonings as, as, as something that was certainly not unfavourable. The only difference with, with Green and Dates is that they're not statement-type people, they're oral people, and if you recall I, I sought that you adjourn making your, or delay making your decision back on 17 April so that you could have the benefit of listening to the recordings, and - - -

THE COMMISSIONER: That's if the recordings ever find their way into evidence.

20 MR PETROULIAS: Well, I sent it to Mr Broad as soon as they happened, the day they happened, and I asked him if you could, if you could not make your decision until you have listened to them, then we had that discussion that you put in exhibits about my communication with Mr Broad about what exactly that I wanted to, and who's going to make the transcripts and what exactly are they relevant for, so none of this is, is a surprise or anything peculiar.

30 THE COMMISSIONER: But Counsel Assisting, Counsel Assisting tells me that you gave no notice to the Commission of your intention to conduct these recorded interviews with the three witnesses who have been named. Is that correct?

MR PETROULIAS: I, well, I, I said I would take statements from everyone.

THE COMMISSIONER: Just answer my question directly.

MR PETROULIAS: I thought I did, yes.

40 THE COMMISSIONER: Is the statement by Senior Counsel that you did not provide any notice to the Commission of your intention to undertake recorded interviews with the witnesses Green, Dates and Bakis, is a correct statement by Senior Counsel?

MR PETROULIAS: That's a correct statement, yeah.

THE COMMISSIONER: Thank you.

MR PETROULIAS: I said I was going to get statements. But, yeah, and they are consented interviews, so the interviews merely replace the statements that I already obtained from the other witnesses.

THE COMMISSIONER: So, Mr Petroulias, I understand you want to have these recorded interviews of the three persons I've just named, tendered in evidence.

MR PETROULIAS: As well, yes.

10

THE COMMISSIONER: Well, then if that's to be undertaken then I need to carry out an investigation as to the circumstances surrounding the conduct you've undertaken to conduct these recorded interviews without any notice to the Commission, because, as Counsel Assisting has indicated, this may impact not only on the Commission's proceedings but on other witnesses, namely the - - -

MR PETROULIAS: I'm - - -

20

THE COMMISSIONER: - - - namely the three witnesses just named, but possibly other witnesses who are named in the recorded interviews.

MR PETROULIAS: I'm entirely happy to get on the box and do that. No problem.

THE COMMISSIONER: Don't you worry, I'll conduct that investigation, not you.

30

MR PETROULIAS: I'm happy to be interviewed, that's all, isn't it?

THE COMMISSIONER: It is an extraordinary circumstance that's come to pass that a person under summons in this Commission, namely yourself, has taken upon himself to conduct in effect a parallel inquiry with witnesses who are under summons to this Commission. But however, be it as it may, we will understand the ins and outs of how that came about and the significance, if any, that the recorded interviews might have to the Commission's proceedings and/or to anyone else.

40

MR PETROULIAS: The fact that I was doing statements is in your reasons, Commissioner, you knew that I was doing statements and at one stage agreed that you suggested that I do it.

THE COMMISSIONER: I'm telling you what I'm going to do.

MR PETROULIAS: Okay.

THE COMMISSIONER: And I need to do, and that is to carry out an investigation into the circumstances in which you have undertaken these so-called recorded interviews.

MR PETROULIAS: That's fine. And insofar as any documents are concerned, there's only two and they're originals and I have them and I said to Mr Broad I'd give them to him next time I saw him, so - - -

10 THE COMMISSIONER: What are those documents, can you identify them?

MR PETROULIAS: Yeah, sure. If you recall, the original power of attorney that they gave me to join what was then a consortium before it became United Land Councils, yeah.

THE COMMISSIONER: What's that, anything else?

MR PETROULIAS: And the early communication of what it was about and what we were trying to achieve, because this is like - - -
20

THE COMMISSIONER: You'll have to be a bit more precise.

MR PETROULIAS: Sure, may I have - - -

THE COMMISSIONER: But I won't press you now, you might need to give further particulars to Mr Broad. All right. Thank you.

MR PETROULIAS: Thank you.

30 THE COMMISSIONER: Now, in relation - - -

MS GOODWIN: Commissioner, I apologise for interrupting.

THE COMMISSIONER: Yes.

MS GOODWIN: But might I just indicate this. Ms Bakis instructs that she has never participated in any recorded interview with Mr Petroulias as just outlined.

40 THE COMMISSIONER: I see. I was basing that on something that Mr Petroulias had said, that I understood that a recorded interview either had or would be undertaken with Ms Bakis, but you say it hasn't happened.

MS GOODWIN: Correct.

THE COMMISSIONER: Thank you.

MS GOODWIN: Thank you.

MR O'BRIEN: Sorry, Your Honour, Commissioner, can I make just one further observation?

THE COMMISSIONER: Yes, yes, Mr O'Brien.

MR O'BRIEN: You'll recall that I represent the interests of Ms Dates.

THE COMMISSIONER: Yes.

10

MR O'BRIEN: I was not informed at any stage that there would be an interview of the type to be conducted.

THE COMMISSIONER: You were not informed?

MR O'BRIEN: Not at any stage. I've represented Ms Dates since September of last year continuously.

THE COMMISSIONER: Yes.

20

MR O'BRIEN: That's the first point I wanted to make clear. The second point was that when I heard at some months ago, I think it was in the September hearings, Mr Petroulias talking about recorded material that might be tendered, my understanding was that it had already happened and that would be subject to tender at a later stage, not that there was going to be something prospectively done, and it was never understood by me insofar as I was aware of instructions at that stage that there was anything of the like going to occur. I've not seen or heard the recordings to this juncture. Obviously if there's any application at any stage I'd like some advance notice as to what is contained within them.

30

THE COMMISSIONER: I take it, Mr O'Brien, that you have not seen any transcript or have not heard any recording of these interviews - - -

MR O'BRIEN: That's correct.

THE COMMISSIONER: - - - that Mr Petroulias has conducted?

MR O'BRIEN: That is correct.

40

THE COMMISSIONER: All right. Thank you for that. I'm just going to raise - Mr Lonergan, you wanted to say something?

MR LONERGAN: Yes, Commissioner. I think being the third person that had a conversation recorded. I have indicated to the Commission under instruction that Mr Green was aware of a recording having been taken of an interview of him by Mr Petroulias, so that is the first point, so he was aware of the fact that a recording was being made. Now, that in itself doesn't then

just make the evidence admissible, I think there are issues that need to be ventilated in relation to the admissibility of that recording and the weight, if it is admitted, of it into the evidence for the Commission. That's the second point. And the third point is that, similar to my friend, my understanding was Mr Petroulias had made application back September last year I believe to put into evidence recordings of an interview that was said to have occurred with Mr Green, and at that juncture I raise objection to the Commission and I believe the Commissioner's ruling was to the effect that Mr Petroulias had to made submission in to why that evidence should be admitted and nothing was forthcoming. So at least to my understanding of the position going into this year was that there was no evidence of recordings, et cetera, that were going to be put into evidence or sought to be put into evidence by Mr Petroulias. So that's the third point but then I guess coming back to the first, if Mr Petroulias is seeking, and I presume he is seeking to put into evidence the present recording, the one taken in the previous few weeks, then I would need the opportunity to respond to the submission that he makes as to the admissibility of that evidence and then either submit against that or, in the unlikely event consent, but time is needed in order to be able to do that, Commissioner.

20

THE COMMISSIONER: Yes.

MR PETROULIAS: Commissioner, can I make it clear that - - -

THE COMMISSIONER: No, just – yes, Mr Petroulias.

MR PETROULIAS: Both - - -

THE COMMISSIONER: Mr Lonergan, I'm sorry, have you finished?

30

MR LONERGAN: Yes, Commissioner.

MR PETROULIAS: Yeah, both of them have consented and it's on the record and it's straight upfront, so there's really no issue of admissibility.

40

THE COMMISSIONER: The hearing today has been programmed to take evidence from four witnesses. I intend to proceed shortly to taking evidence, but before I do so I intend to deal with what I can only describe as an extraordinary situation that's arisen since the public hearing that was last conducted, and that is that one of the witnesses, Mr Petroulias, or one of the participants in the inquiry, Mr Petroulias, has undertaken it upon himself to investigate, by way of recorded interviews, of two key witnesses. They are key witnesses in the sense that they were very much involved with factual events with which this Commission is investigating. The matter is of such significance that because Mr Petroulias has foreshadowed that he wants these recorded interviews to be admitted into evidence that I carry out an investigation into the circumstances in which this situation has come about.

It seems to me that the basic matters that need to be addressed include the following.

10 The first of three matters, firstly, whether the legal representatives for Mr Green, appearing for Mr Green and Ms Dates were aware of Mr Petroulias's intention to conduct a recorded interview with Commission witnesses, being Ms Green and Dates. Mr O'Brien has made the position clear on that point and I understand, although I think it needs to be expressly confirmed by Mr Lonergan as to whether Mr Green's legal representatives have been given notice of the intention to conduct the interview with Mr Green.

Secondly, that if any legal representative was aware or had been alerted to Mr Petroulias's intention to conduct recorded interviews with Commission witnesses, being their client or other witnesses, whether they did anything to alert the Commission of Mr Petroulias's disclosed intention in that respect.

20 And thirdly, whether the legal representatives, in particular for Mr Green and for Ms Dates, were afforded the opportunity to provide any legal advice to their respective clients on the question of participating or not participating in any such recorded interviews conducted or to be conducted by Mr Petroulias will be necessary to establish any other necessary matters concerning this episode. It is a matter of great significance to this public inquiry and must be dealt with sooner than later.

30 There is a potential that the recorded interviews may impact on other witnesses, including others who are represented here today, and therefore their legal representatives need to have the opportunity to have an, at least, a transcript of the recorded interview, if not the recording of the interview itself, in order to determine whether – and, if so, how – it might impact adversely or potentially adversely to their respective clients or to other witnesses for that matter, and that I intend to direct be achieved today by the Commission providing copies of the recorded interviews to both Mr O'Brien and Mr Lonergan and any other legal representative.

I intend to deal with this as the first order of business tomorrow morning when the Commission resumes in order that we can receive any evidence or deal with any matters in submissions in relation to this question.

40 There is one other matter I raise. That is concerning the recorded interview of Mr Green, as to who else was present at that interview. Ms Goodwin would you take instructions as to whether your client was present during the interview with Mr Green that was recorded by Mr Petroulias?

MS GOODWIN: Yes, certainly. Would Your Honour excuse me for a minute.

THE COMMISSIONER: Yes.

MR LONERGAN: Commissioner, whilst that's occurring, can I just make clear for the record, is the point that the Commissioner raised that - - -

THE COMMISSIONER: Sorry, I'm just having a bit of trouble hearing you.

MR LONERGAN: Yes. There was at no point in time notification to me that an interview was going to occur.

10 THE COMMISSIONER: Right, thank you.

MS GOODWIN: Commissioner, I'm told that whilst the interview was conducted at the home of Ms Bakis and Mr Petroulias, that Ms Bakis was, by and large, in a completely different room in the house and not present during the interview. There may have been a couple of occasions when she walked in and out, perhaps overhearing a minute or so or a couple of minutes, but she, by and large, was not present for the content, the substance of the interview.

20 THE COMMISSIONER: All right. Thank you, Ms Goodwin. Are there any other matters before you call Mr Townsend that you want to ask?

MR CHEN: Yes, Commissioner. Could I say that, in relation to the recording and making it available, Mr Broad has suggested that a copy of the recording can be put in the restricted website and therefore those with an interest to access that recording can do so.

30 THE COMMISSIONER: It's not available to anyone else and it will not be available to anyone else? Does it require a - - -

MR CHEN: It's the restricted website, Commissioner, so it would only be party to whom leave has been granted.

THE COMMISSIONER: Yes, very well.

40 MR CHEN: Mr Petroulias has made a written application, Commissioner, which was emailed through this morning, it was certainly dated 6 May, 2019. I have not had time to look at it. We'll make that available to those behind us in hard copy, if not on the restricted website in the same way, and so too the transcripts of Mr Petroulias has made available.

THE COMMISSIONER: All right. Well, look, I think that's quite in order but if it doesn't cause too much dislocation if, at least, two copies of the recorded interviews of Mr Green and Ms Dates can be made during the course of today so that counsel can have that added facility, then I think that should be done.

MR CHEN: We'll do that, Commissioner. And the other thing, just to complete the material, Mr Petroulias put before the witnesses an number of documents and we've given a copy of those to Mr O'Brien, a hard copy. We'll make a hard copy of the documents that we understand were shown to Mr Green available to Mr Lonergan as well today and they can be made available, I assume, in the same way on the restricted website.

THE COMMISSIONER: All right. Thank you. We'll deal with that matter tomorrow at 10 o'clock.

10

MR CHEN: Yes, Commissioner. Could I just raise one matter in relation to the statement I've made about Ms Bakis being the subject of I think I used the word interview. Commissioner, that was based on the advice that Mr Petroulias gave the Commission in an email dated 3 April where Mr Petroulias said, "I am currently working with Ms Bakis on her evidence being the final in a series of statements and interviews."

THE COMMISSIONER: Thank you.

20 MR CHEN: Thank you, Commissioner. Ms Curtin will take Mr Townsend who is the first witness, Commissioner, at an appropriate time.

THE COMMISSIONER: Very well. Mr Townsend, are you present? Come forward, Mr Townsend. Mr Townsend, in order to give evidence you either take an oath or an affirmation. You can make an affirmation if you wish. Do you have a preference?

MR TOWNSEND: An affirmation.

30 THE COMMISSIONER: Affirmation. Very well. Thank you.

<PETER JAMES TOWNSEND, affirmed

[11.01am]

THE COMMISSIONER: Mr Townsend, will you just state your full name and occupation.---Peter James Townsend. I'm a culture and heritage officer at Awabakal Land Council.

I'm sorry, you're a - - -?---Culture and heritage officer at Awabakal Land Council.

10

Thank you. Mr Townsend, you're not legally represented, you don't have a lawyer appearing for you?---No. I wasn't aware I needed one.

Ms Curtin, is Mr Townsend aware of the provisions of the Act under section 38?

MS CURTIN: I don't know that he is, Commissioner.

20

THE COMMISSIONER: All right. Mr Townsend, there is a provision in the statute under which the Commission operates for a witness to object to giving evidence. It doesn't excuse the witness from giving evidence but by objecting it can provide a protection if you like so that the evidence you give here today or in this inquiry cannot be used against you in the future in relation to any proceedings whether they're criminal or civil or administrative or disciplinary proceedings. You don't have to object if you don't want to but if you do want to object so that you have that protection then there is a provision whereby you can be able to give evidence under objection by way of a declaration that I can make to that effect. Do you understand what I'm saying?---Kind of, yeah, yeah.

30

Well, if you need more information just let me know if you have a query, but do you understand sufficient to what I've said to know whether you do want to object or don't?---I'd like to wish to object to give evidence.

Yes, all right. You want the benefit of the protection the act offers. Is that what you're saying?---Yes.

40

All right. I make a declaration pursuant to section 38 of the Independent Commission Against Corruption Act. I declare that all answers given by the witness, Mr Townsend, and all documents and things that may be 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. Accordingly there is no need for Mr Townsend to make objection in respect of any particular answer given or document or thing produced.

I MAKE A DECLARATION PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT. I

DECLARE THAT ALL ANSWERS GIVEN BY THE WITNESS, MR TOWNSEND, AND ALL DOCUMENTS AND THINGS THAT MAY BE 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. ACCORDINGLY THERE IS NO NEED FOR MR TOWNSEND TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

10

THE COMMISSIONER: All right. Yes, thank you, Ms Curtin.

MS CURTIN: Thank you. Mr Townsend, you've told the Commission that you're the cultural and heritage officer at the Awabakal Local Aboriginal Land Council. When did you commence in that role?---Around 2011/2012.

And that's when you started working at the Land Council as well?---Yes.

20 So you were working at the Land Council in August, 2016 when Ms Sophie Anna commenced in her role as the acting CEO?---Yes.

Who else was working at the Land Council offices at that time?---Myself, Candy Towers, I think Tamara Towers may have been there at the time as well and I think some of the our Green Team was there as well which consisted of three or four blokes.

30 THE COMMISSIONER: Can I just ask you if you wouldn't mind just speaking into the microphone. Just keep your voice up as much as possible so it can be heard and recorded. Yes.

MS CURTIN: And do you recall shortly after Ms Anna commenced working at the Land Council that she organised a clean-up day of the offices?---Yes.

Did you attend that clean-up day?---Yes.

It was around about 12 August, is that right, a Friday?---It may have been. It's, it's a while ago now. I'm not real sure what day it was.

40 THE COMMISSIONER: 12 August of what year?

MS CURTIN: Sorry, 2016. 2016. Yes, just before the administrator came in to take over the Land Council. Is that about right?---Yes, yes.

But in any case, you attended the clean-up day?---Yes.

Who else was there on that day, do you recall?---Candy, myself, the Green Team, Sophie. Yeah, that's all from memory.

And did Sophie Anna give any instructions about how the clean-up was to proceed?---Really we were just given sort of areas to clean like, there's an office where the project officer were, you know, all the work was done in that area. The boardroom was made available to sort papers and folders and things like that as well.

I see.---Yeah.

- 10 Do you recall seeing a skip bin on the Land Council premises on that day?
---Yes.

And did you observe anything being thrown into the skip bin?---Yes, I, I chucked a lot of stuff in there myself. Furniture, boxes, yeah, things like that. A lot of furniture went, went out of there. Cleaned a lot of furniture out of the office.

So you yourself put furniture and boxes into the skip bin?---Yes.

- 20 Did you see anything else being thrown out into the skip bin I should say?
---No, just mainly boxes and, and I don't know what was in the boxes but, yeah, just boxes and a lot of furniture, shelving and stuff like that, tables and chairs.

What about Land Council documents, did you see any documents being thrown into the skip bin?---A lot of the documents from my memory are in folders and in boxes and, you know, a lot of it's, I think a lot of it gets archived after sometime and so a lot of them boxes may have contained Land Council documents.

30

But did you yourself see any documents being thrown in to the skip bin?
---Not the skip bin itself. There was also another bin. It's like a, a bin where you, where the documents get shredded. After a while it'll get taken offsite. You know, it's, yeah, just documents. You know the bins you put in that - - -

A secure document bin?---Yes, with the lock and key on it.

- 40 Yes. So did you see documents being put into that bin?---Yes.

Did you have a look at the documents before they were put into the bin?
---No, just we were sort of tasked with, Sophie was sorting a lot of the documents while we were tasked with just getting rid of them. Like she may have put, you know, CEO stuff, previous CEO stuff and, and things like that in an area and, you know, other things, I don't know, a part of the Land Council's, you know, day-to-day runnings and that sort of thing and, you know, just all different sort of piles of documents everywhere and, yes,

we, I did throw some of those papers out. I don't know, I don't know what they had on them or anything but.

Sorry, you're saying now that you did throw documents out?---You're sort of getting, there was two bins made available, right. You had the skip bin and you had this one for documents or paper to go in and, yes, I did throw some like, paper into that bin as well.

10 But you didn't have a look at the documents that you were throwing out in the bin?---No, no, no.

So you can't say what was on those documents?---No.

And did you see anyone else throw documents into that locked bin?---Not off the top of my head, no.

20 Well, just have a think about it. Can you recall seeing anyone putting documents into that bin?---Well, yeah, they would have because I wasn't the only staff member there at the time and, yes, I did. Yes, other people did throw documents into that bin.

You saw people throwing documents into the bin?---Yes.

But again, can you say what those documents were?---No.

Did you look at them at the time?---No. It wasn't any of my business so

30 And did Candy Towers ever raise with you that documents had been thrown out that belonged to the Land Council when they ought not to have been?
---Yes, Candy did raise that, yes.

THE COMMISSIONER: When did she say that? Was it afterwards or the same day or when?---During and afterwards. Candy seems quite concerned that documents were getting thrown out.

40 MS CURTIN: I see. Did she tell you what those documents were that had been thrown out?---No, just, you know, that they're the Land Council documents and they shouldn't be leaving the building.

The chairman of the board, Debbie Dates, she wasn't there at the Land Council on that day, was she?---Not that I recall. I don't know. I'm not sure. I don't know.

You don't recall seeing her?---No.

Mr Townsend, your evidence earlier was that the people that were there on the clean-up day were yourself, Candy Towers, Sophie Anna and three or

four blokes from the Green Team, is that right?---Yes. Also, from memory now that, Sophia's cousin Lauren was there as well.

I see. And that's it?---And that's it, yeah.

So I take it, then, you didn't see Mr Richard Green at the Land Council on that day either?---Like I said, it's a while back now. It may have been. Like, board members, they do come to the office from time to time. They, board members may have been present, yeah.

10

But do you recall seeing Mr Green?---No, I don't. But, like I say, they may have been.

That's the evidence.

THE COMMISSIONER: Yes, thank you. Anybody got any questions of Mr Townsend? No.

MALE SPEAKER: No, thank you.

20

THE COMMISSIONER: All right. Thank you, Mr Townsend, for your attendance. You may step down. You're excused.

THE WITNESS EXCUSED

[11.12am]

MS CURTIN: Commissioner, the next witness is Ms Keagan, who's already given evidence before the Commission. I understand that Mr Petroulias wishes to cross-examine Ms Keagan, and also that Ms Berberian is here representing Ms Keagan.

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THE COMMISSIONER: Sorry?

MS CURTIN: Ms Berberian is here representing Ms Keagan.

THE COMMISSIONER: Thank you. Very well.

MS CURTIN: Yes, Commissioner, I should say she was already granted leave to appear for Ms Keagan.

40

THE COMMISSIONER: Ms Berberian, yes.

MS BERBERIAN: May it please the Commission.

THE COMMISSIONER: Thank you.

MS CURTIN: Commissioner, I should also say that Ms Goodwin has foreshadowed that she may wish to cross-examine Ms Keagan.

THE COMMISSIONER: Very good. All right, let's see how we go. Ms Keagan. Thank you. Ms Keagan, do you take an oath or an affirmation to give evidence?

MS KEAGAN: An oath, please.

10 THE COMMISSIONER: Oath. Thank you.

THE COMMISSIONER: Thank you, Ms Keagan. Just take a seat there.

MS BERBERIAN: Commissioner, in the past there has already been a section 38 declaration made in this case.

THE COMMISSIONER: Yes.

10

MS BERBERIAN: I presume that will continue in relation to the balance of this evidence.

THE COMMISSIONER: Yes. Yes. What was the date Ms Keagan gave evidence last time? Have we got that to hand?

MS BERBERIAN: It was 19 September, 2018.

20

THE COMMISSIONER: Thank you. It's noted Ms Keagan gave evidence previously in this inquiry on 19 September, 2018. On that occasion I made a declaration under section 38 of the Independent Commission Against Corruption Act. That declaration continues to apply to the evidence Ms Keagan gives today. Yes, Ms Curtin.

MS CURTIN: I think it's just a matter of Mr Petroulias's cross-examination of Ms Keagan.

30

THE COMMISSIONER: Yes, all right. Just put on the record your full name if you wouldn't mind, Ms Keagan.---It's Hayley Kim Keagan.

And what's your occupation?---My current position is technical director of PKF, but previously when I appeared it was manager of PKF.

Yes. Thank you. You gave evidence on that date that I've mentioned, 19 September, 2018. I think Mr Petroulias wants to ask you a question or two. Yes, Mr Petroulias.

40

MR PETROULIAS: Ms Keagan, I have some documents I wanted to show you which you referred to. I'm the gentleman that you spoke to, if you recall when you gave your evidence, you wanted some further information. It became a conference call from Ms Bakis.---You're referring to the - - -

No, I'm just telling you who I am.---Oh, okay.

I'm the Nick Petroulias who you were talking to on your phone as part of your file note. Or Peterson.---Okay.

THE COMMISSIONER: Perhaps just so that we've got the context, Ms Keagan, you recall you gave evidence on the last occasion that you made some inquiries of Ms Bakis in relation to the audit that was being undertaken of the Awabakal Land Council, and your evidence was you'd subsequently sent an email to Ms Bakis on 19 July, 2016 seeking clarification concerning entities which the Land Council may have a direct or indirect interest in and related matters.---Yes. Yes.

10 So it's in that context that Mr Petroulias is now asking you the question. The evidence you gave on the last occasion, at transcript 2960, was that after you had made requests for information, there was a subsequent telephone call you had with Ms Bakis in which you sought clarification concerning, amongst other things, the incorporation of certain companies. Do you recall the evidence you gave?---Yes, I do.

Right. I think there's then, as Mr Petroulias has said, a telephone consultation, and I think that was the one involving, is this right, Mr Petroulias, Ms Bakis and yourself?

20 MR PETROULIAS: That's right.

THE COMMISSIONER: All right. You're now being asked about that area.---Yeah.

MR PETROULIAS: (not transcribable) relevant to both the question of whether what you had provided was sufficient, got a sufficient description, and then you made some specific references to New Zealand law that I'll take you to.---Okay.

30 I just wanted to give you a context of who I am. Okay. Now, so, so let's be true, let's be clear. When an auditor is satisfied with the information that they've received to verify, they qualify an audit, right? The audit is qualified.---Sorry, the - - -

When the auditor is dissatisfied with the verification of information that they seek, they would qualify the audit. That's the penalty.---That's, that's a decision of the audit partner, so otherwise only the staff, my role was just obtaining the evidence and performing audit procedures. The audit partner set the strategy and makes the decision for the audit opinion.

40

And you remember that you told us that the conclusion in this particular audit was that certain payroll data had to be qualified. And that's in your email of 20 July to Ms Bakis.---I might have to refer back to the final audit report - - -

You don't remember?--- - - - which will have the audit opinion.

You don't remember that the, as, as, the only qualification you gave to this report, that came to this report, would you explain – it's in front of you now – is, is that payroll data.---Okay. So this is referring to a draft audit report indicating there would be a qualification.

That's what you ultimately came with. That was, that was the date, that was the date of the audit report. That was the end result.---Okay. It's not actually my conclusion in terms of the qualification. It's the conclusion of the signing audit partner.

10

Right. But you do remember, for example, that, with the payroll figure there, the most substantial one, \$72,000, there wasn't the vouchers, the time sheets to verify the vouchers.---That's correct, yeah.

And that, and that wasn't good enough and therefore you qualified it.---Oh, so it is called scope limitation under auditing standards.

20 Sure. And that was, so what I'm trying to show is here are payroll figures, and you could verify them through bank statements and group certificates, but they were missing the vouchers.---So I think it's a question for the audit strategy and whether the - - -

30 No, I'm just asking what you remember. Do you remember this?---I don't recall what evidence is on the audit file in relation to these specific amounts. However, usually when we end up in this kind of a situation of a qualification, it would be because the evidence supporting these amounts would not be considered sufficient or appropriate audit evidence. However, it's not for myself as an audit staff member to make that decision. It's for the audit partner.

So you don't remember the time sheets being the issue here?

MS BERBERIAN: Commissioner, I object on two bases. First, Ms Keagan should be given a copy of the report if Mr Petroulias is going to be permitted to continue to ask questions about it. But, secondly, Mr Petroulias has provided the Commission the bases upon which he seeks to cross-examine Ms Keagan, and I note this topic hasn't been identified by Mr Petroulias, and further submit that it can't affect his interests.

40 MR PETROULIAS: No, no. It is important for this reason. She says - - -

THE COMMISSIONER: No, just a moment, Mr Petroulias, just a moment. If you want to deal with this particular matter, I'm not quite sure of the relevance of it at this - - -

MR PETROULIAS: Now - - -

THE COMMISSIONER: No, just let me talk, would you, and don't interrupt.

MR PETROULIAS: Yeah.

THE COMMISSIONER: We'll get on much more effectively if we don't talk over each other.

MR PETROULIAS: Certainly.

10

THE COMMISSIONER: If you want to pursue this matter of the time sheets, I'm not at all sure at the moment the relevance of it, but there is the audit report, it may bear upon this issue and rather than have the witness trying to deal with it from recollection, you could take her to the report, if anything turns on it. That's the first point. The second point is, what's suggested is, this is straying outside the ambit of the leave you sought for cross-examination. I'm just not quite sure where you're intending to go with this and perhaps you could - - -

20 MR PETROULIAS: I'm not - - -

THE COMMISSIONER: - - - inform me so I can see how it does relate to the ambit of your cross-examination.

MR PETROULIAS: It goes to two things. See how it says, this is her letter and she says the time, the time sheets were not provided adequately, right, so that was the only reason for the disqualification, and I was going to ask her if she remembered why, because it goes to what could be provided in time. So I wanted, I wanted to ask her if she remembered it. If she doesn't, she doesn't.

30

THE COMMISSIONER: Can you deal with that or not?---Sorry, I'm a little bit confused.

MR PETROULIAS: Okay. If I put this proposition to you. You had asked for those time sheets that morning. Ms Candy Towers tried to deliver them by 3.00pm. She missed the, she missed the 3.00pm deadline and we got disqualifications.---Okay.

40 Does that refresh your memory?---Yes, it does, yeah.

Right. So I'm just trying to establish now the timeline is very tight. ---Yes.

Was that 3.00pm?---Yes.

And you knew that also for example that there had to be a board meeting in Newcastle, the board members had to sign off on the, on the representation letter or the management representation letter to give to Mr Hickey.---Yes.

Right. All by 3.00pm.---Yes.

And so Ms Bakis had to get up there as well and explain, explain things sufficiently for them to understand what the management representation letter is, to make the resolutions to give to Mr Hickey by 3.00pm.---Yes.

10

Right. Okay. Now, there's no qualification for example oh, I haven't seen executed documents and I can't verify the significance of the transaction or any of that by you.---Sorry, could you - - -

Your evidence was you didn't get the executed documents, if you recall. ---So we didn't have the evidence available to support the opinion, would be what the conclusion is, so it's got a scope limitation.

20

Yeah. Now we're going back to the Advantage transactions.---I think it's also important to note that that time frame, the 3.00pm time frame was the client's time frame rather than the auditor's time frame that we were working towards.

Because there had to be an AGM that day.---Yes, as set by the, by the client.

Yes. Okay. Now let's go to these Advantage documents that you weren't provided an executed copy of. Do you recall that?

30

THE COMMISSIONER: Do you know what documents are being referred to?---Yes, I recall from the last time when I gave evidence they were discussed.

MR PETROULIAS: Right. Okay. So you didn't, you didn't qualify, make any qualification to say I asked for executed documents, wasn't given, so I can't really verify it?---So firstly, as I'm not the signing audit partner it's not my responsibility to make a conclusion on qualifications.

40

Right.---Secondly, without the audit report in front of me I'm unsure what the final qualifications were, I'd need to have a look at that.

But you didn't, you didn't, you didn't recommend that it be qualified in any way?---It's not my responsibility to issue the qualification, that's the signing audit partner's responsibility.

And you made no recommendations on this one?

THE COMMISSIONER: Well, Mr Petroulias, she said three times now, it was not her role to do such things, it was for the audit partner. Is that right or not, or is it up - - -?---That's correct.

Is it beyond your scope - - -

MR PETROULIAS: Okay.

10 THE COMMISSIONER: - - - or was it beyond the scope of your role to make recommendations for things to be qualified?---I can make recommendations but the final decision on the audit opinion lies with the audit partner.

I think Mr Petroulias is asking whether you did or you did not make recommendations on the matter of the Awabakal/Advantage agreements which were unsigned?---I can't recall without going back over my audit file notes.

20 MR PETROULIAS: Okay. And you gave evidence at transcript 2962, line 5, that because these were unenforceable, these transactions, they had no material financial impact, and the reason why you thought they were unenforceable is because they weren't executed.

MS BERBERIAN: Well, I hate to object but - - -

THE COMMISSIONER: Mr Petroulias, I don't think it's putting the position correctly.

30 MR PETROULIAS: Well, that's what I refer - - -

THE COMMISSIONER: No. The witness sought the signed documents, all she was given was the unsigned documents. Until she received signed documents she wouldn't be able to or nobody else, the audit partner wouldn't be able to know what the position was as to enforceability and whether it affected the position of the Land Council.

40 MR PETROULIAS: 2962, "I didn't take them to be in existence, they weren't, because they weren't executed I didn't believe they had any enforceability."

MS BERBERIAN: Commissioner, I object. That's the evidence that Ms Bakis gave in this - - -

THE COMMISSIONER: Is it? Oh, well.

MR PETROULIAS: Sorry?

MS BERBERIAN: Sorry, no, no, sorry, I withdraw that now.
Commissioner, yes, the evidence that Ms Keagan gave - - -

THE COMMISSIONER: I'm sorry?

MS BERBERIAN: The evidence Ms Keagan gave, Commissioner, in relation to the collaboration agreement and the addended agreement, was that she was, she didn't take them to be in existence however because they weren't executed, "So I didn't believe they had any enforceability."

10

THE COMMISSIONER: Right.

MS BERBERIAN: Which is different to what Mr Petroulias just said.

THE COMMISSIONER: Just before you go, what's the transcript reference there?

MS BERBERIAN: It's page 2962.

20 THE COMMISSIONER: 62?

MS BERBERIAN: 2962, line 3 to 4.

THE COMMISSIONER: Okay. Thank you.

MR PETROULIAS: Excellent. Okay. And therefore they had no adverse financial interest as a post-balance sheet item.---I didn't know that they exist so I couldn't make those kind of conclusions.

30 Sorry?---I didn't know that those agreements existed so I wasn't able to make those kind of conclusion.

Well, you thought they were unenforceable therefore they had no financial impact. Is that right?---I didn't know that these signed agreements existed at the time of the audit.

40 You just said, "I didn't take them to be in existence however because they weren't executed, so I didn't believe they had any enforceability."---So they were unsigned agreements which I had copies of, so given that they were unsigned I believed they weren't enforceable. However, last time I gave - - -

-
And, hold on, and because - - -

THE COMMISSIONER: No, no, just, no, no, wait, Mr Petroulias, don't interrupt. Yes, you continue.

THE WITNESS: However, last time when I gave evidence it came about that there were other agreements that were in existence which I wasn't aware of at the time.

MR PETROULIAS: Okay. But on the basis that they weren't enforceable there was no adverse impact as a balance day item, as a post-balance day item. Isn't that correct?---So the unsigned agreements were not enforceable so had no impact on the audit.

10 Right.---Yes.

That was your conclusion.---Yes.

Okay. Now, now, you actually made no note that that was the reasoning. ---Sorry, I made no note?

Note anywhere that, you know, in your working papers or anywhere saying - - -?---I'm unsure. I don't have my audit file in front of me.

20 Okay. So no similar file note in relation to that conclusion?---I don't recall.

Okay.---There could be something on the audit file.

Because I'm suggesting your conclusion is correct, but not for the reasons that you say.---I just don't recall. There's a lot of evidence on, audit evidence on our audit files, I don't recall everything that's on there. Usually it would be something that I would document in my audit file, but I don't have an exact recollection of that at the moment.

30 All right. Okay. Now, then we move to the avoiding, avoiding the law concept, where you said, according to your evidence, I told you that we used New Zealand companies because it was, "outside the Aboriginal Lands Rights Act." That was your evidence, right?---I believe that was a file note from a discussion.

Yes.---Yes, that was a discussion that was had.

40 So did you report this to NSWALC or your partner or the client?---Yes, it was absolutely reported to the partner, that was the purpose of the file note.

Yes, because if there was intended, you're saying there's intended illegality and did you tell the client that?

THE COMMISSIONER: I don't think that's right, Mr Petroulias, it's not characterising her evidence properly.

MR PETROULIAS: Is it, so you, at the end of an audit you do a management report, don't you, to the client?---Yes, there is a management letter.

And that's usually, what, within a week or two?---It can take some time. Usual audit procedures, we have 60 days after the signing of the audit report to assemble our audit file. The, definitely the collation of the management letter points is the responsibility of the audit partner and particularly in an audit file where we've had quality reviews, that would definitely lie with the
10 audit partner rather than myself.

Okay. And are you aware that the client was informed that this, this guys is trying to avoid the Aboriginal Land Rights Act?

THE COMMISSIONER: Mr Petroulias, I can't hear you, quite frankly. I don't know if the witness can.

MR PETROULIAS: Sorry. You didn't tell the client that you've just had a conversation and the whole intention seems to be to avoid the Aboriginal
20 Land Right Act and that's something that you should be concerned about?
---I reported it to the audit partner and then it's the audit partner's responsibility to communicate with those charged with governance.

Oh, okay, but you, okay, that's as, that's as far as you took it, is it?---I, I believe I put it in the file note which went into our audit file and then it went through our quality review process.

Okay, but usually the audit file is working papers, not file notes?---It
30 consists of, it's audit evidence, what we call sufficient appropriate audit evidence so it can be working papers, it can be source documents, it can be file notes. It can constitute anything which provides evidence for the fact that are needed to arrive at a conclusion for the audit.

So where would, where would we find this warning to the client?---Sorry, where would you find the - - -

This warning in the, that, there might be something - - -?---Communicate, so you're - - -

40 No, you said you warned the partner.

MS BERBERIAN: I object to that. She didn't use the word warning, she said that she set it out in the file note.

MR PETROULIAS: So the file note is the, is, is the only step you took?
---There would be discussions and meetings within the audit engagement team as well to discuss risky areas of audit so that the audit partner can set the strategy.

Right. So the, we, we won't be able to find anywhere, anything in writing to say that there's, that there's something inappropriate going on here?
---Oh, I'm unsure. It may be, it's usual practice that this stuff is contained within our audit files. It could be contained within management letters, but it, it lies with the audit partners responsibility to set the strategy in response to these identified risks.

10 Right. So, other than this file note, you know of no other place where this is reported, this issue about - - -?---I, I don't recall we've had access to - - -

THE COMMISSIONER: Well, the witness did say there were matters discussed in their meetings and quality assurance processes so she doesn't preclude the possibility it may have been discussed. That's my understanding of her evidence.

MR PETROULIAS: Yeah but you can't point to anything in writing anywhere else, other than this file note?---No. Not at this moment.

20 Now, do you know why it took 18 months later for, in mid-2017, for the management letter to come out?---It's probably not a question for myself as that's the responsibility of the audit - - -

But it's unusual, isn't it?

MS BERBERIAN: I object.

30 MR PETROULIAS: In your experience, management letter you said comes out within a week, two weeks, three weeks?---I've never been a signing audit partner on an audit before so I don't really have practical experience of actually having to go through that process. I think it would be more a question for the person who signed the audit opinion as to why there may have been delays.

THE COMMISSIONER: Is this the first occasion you worked on an audit concerning a Aboriginal Land Council?---No, it's not.

40 MR PETROULIAS: What you said earlier about usually being three weeks, is that you're now withdrawing that evidence, that's wrong?---No, that's not just in relation to Aboriginal Land Council's, that's in relation to all audits, I'd probably say around 60 to 90 days. However, I have had experience in the past with audits of Aboriginal Land Councils, where management letters have taken up to 18 months after the signing of the audit opinion, just due to the nature of the information contained in them.

And the purpose of these management letters is to say these are the problems we've found and this what you should do to fix it?---It's to, it's to inform those charged with governance of audit issues that have been

identified and, and to provide recommendations or considerations for improvement.

Okay, so if the board's gone, it really wouldn't help them much because administrators had been appointed?

THE COMMISSIONER: Mr Petroulias, you keep dropping your voice so I can't hear you.

10 MR PETROULIAS: So – very odd. If the board has gone because an administrator's been appointed, the don't actually get the benefit, therefore, of how to fix things and, and anything that was inappropriately found in, in, in, in their systems?

MS BERBERIAN: Commissioner, I object. Again, we're drifting far away from the areas that Mr Petroulias had identified for cross-examination of Ms Keagan and, further, I can't see how this line of inquiry assists or affects Mr Petroulias's interests.

20 THE COMMISSIONER: Well, I'm inclined to agree, Mr Petroulias, but also the question suffers from the problem that it's so vague. I think you need to reconsider what you want from this witness.

MR PETROULIAS: I, and there's plenty to ask so let's not get bogged down. You, you said you reviewed the minutes or assisted other members of the audit team. In other words assisted other, assisted other members of the audit team, which means that, you yourself didn't necessarily review the minutes but were told to focus on certain areas, is that correct?---So I may have supervised other staff members as they were responsible for reviewing the minutes or I may have reviewed them myself.

30

And, but you've picked the 7 June minutes, for example, that talked about the Advantage transactions.---I believe I reviewed them myself, correct.

Right. But you didn't look at, for example, the 8 April, minutes that looked at all the other - - -?---I, I don't recall. I may have, I may have requested one of the other team members to review those for me and then report back to me the key findings of those minutes.

40 So you yourself were not particularly interested in Sunshine, Gows or anything else that was talked about?---I don't recall those names during the audit.

Okay. Now, you were, you said you were interested in, in entities that Mr Green was involved in?---That's correct.

Right. So did you look at the pecuniary interest folder?---Yes, we sought out the pecuniary interests register to identify any related entities within that.

Did you do that?---I can't recall if it was myself or if it was another member of the audit team.

10 Oh, okay. Because that could well be a source. Can you be shown Bakis volume C, page 281. Now, that Richard Green, founder United Land Councils. That would, does that refresh your memory at all?---I don't recall this specific document.

Okay but, oh, okay. You don't recall, it, okay.---That's not to say it's not contained within the audit.

You, no problem, you recognise this signature?---No, I don't.

20 Oh, okay. Proves somebody signed it, presumably from the Land Council? ---I'm not sure whose signature that is.

Okay and see how it says in there, "Memorandum declaration acknowledgement and consent dates 5 May attached"?---Yes.

Do you know anything about that?---No, I do not recall this document.

30 Okay. As a general proposition, though, auditors go to source documents and make their own verifications, they don't rely on third parties to do their work for them?---Occasionally we may rely on third parties but there are auditing centres that relate to that.

Great. Now, you said members of a – you, you remember this, this was a, sorry, members as part of the team doing that review, you used the words, "the review." Do you remember this was a, well, it's called a second party, second partner review?---Oh. So we had the second partner come in to do a quality review process, if that's what you're referring to, which was performed by Scott Tobitt who was an audit partner from our Sydney office.---Sydney officer as opposed to Newcastle?---That's correct.

40 And do you remember why that happened, that you told us?---So that was at a request of the audit partner because the audit risk had increased and part of our internal policies is that we're, the audit risk increases, that we have a second partner review

And did you, and that had to do with the threat of litigation?---I can't comment on that. I wasn't involved in the audit at that point.

Do you remember that it was a summons by Ms Bakis for a specific performance to complete an audit that triggered, that triggered the urgency

in this matter?---I recall seeing those documents. I wasn't involved at the time to understand why the second partner review was brought in.

Now, in your experience is it usual for an auditor to receive a summons (not transcribable) specific performance to be taken to court to do his job?---That would be the first time that I'd seen that.

10 And so just to make clear the urgency here, the reason why there had to be an AGM that day was because it was the last day in which an AGM could be held, and if it wasn't held that day, no member could vote and no member could stand for election, and therefore the Land Council failed.
---I - - -

Do you remember that being the urgency?---No, I do not recall.

Why it had to be done that day.---No, I do not recall that.

20 Now, now, you said you chose Advantage because that may have an impact on the financial report disclosures.---That's correct.

Good, okay. Now, and Ms Bakis did tell you straight away when – actually, I do want to ask you about this. If you see, if you look at your letter on the 19th, if we can go back to – sorry, I'm looking at the staff here. Is it on the screen? You've got your letter of 19 July, your email of 19 July. Can you see it onscreen?---No, I can't.

It's the next page.---Yes, I can see that.

30 Yeah, and it's before that, page before that. There we go. Can you see that?---Yes.

Now, you say you've got the Advantage minutes. You've got the minutes, it says that you saw the minutes where the Advantage agreements were resolved, and you say, where do you say anything about executed copies?
---In relation to this email?

40 Yeah, I'm just trying to work out where this, the whole premise of your evidence was that you asked for executed copies and you weren't given them, and I'm trying to work out where does it say "executed copy"?
---Within the minutes.

No, you said, "The minutes resolve that agreements with Advantage effecting previous board resolutions be executed."---Yes.

You're quoting, you're quoting the minutes. And then you say could you be provided a copy of the agreements.---That's correct.

But you didn't say executed agreements.

THE COMMISSIONER: Look, it doesn't say "the agreements". It follows on from the previous line. The minutes - - -

MR PETROULIAS: It says - - -

THE COMMISSIONER: Don't talk over me.

MR PETROULIAS: Yeah.

10

THE COMMISSIONER: "The minutes resolve that agreements with Advantage effecting previous board resolutions be executed. Would you please provide a copy of these agreements." That is, the ones which the board had addressed. That's what the document says.

MR PETROULIAS: Right.

THE COMMISSIONER: Well, now - - -

20

MR PETROULIAS: Not executed agreements.

THE COMMISSIONER: It's talking about the agreements which the board said must be executed. She says, "Where are they?"

MR PETROULIAS: Right.

THE COMMISSIONER: Now, Mr Petroulias - - -

30

MR PETROULIAS: No, no - - -

THE COMMISSIONER: - - - I have to at this point in time – you can come back to this question in a minute. There's two primary issues here that were raised. One was a request for clarification about the agreements, including the collaboration agreement and its addendum, and the other one was what's the reason for the company or companies being, which were executed in New Zealand.

MR PETROULIAS: I'll address these, Commissioner.

40

THE COMMISSIONER: Now, those two discrete issues were fairly and squarely raised during the course of the audit. Now, we know that there were no executed agreements sent by you or Ms Bakis to the auditors. That's correct, isn't it?

MR PETROULIAS: Yeah, and I'm saying - - -

THE COMMISSIONER: Yes. So the auditor's request was met either by silence or a failure to provide any more information. That deals with the

question of the agreements, whether there were agreements, if they were executed or (not transcribable)

MR PETROULIAS: Sure.

THE COMMISSIONER: The second issue is the reason for using companies that have been incorporated in New Zealand, and the evidence of this witness goes to what you said the purpose was. That had to do with investments.

10

MR PETROULIAS: The two issues are - - -

THE COMMISSIONER: Now, why are we going down - - -

MR PETROULIAS: The two issues are related.

THE COMMISSIONER: Now, why are we going down the question of the reference in this letter to agreements which the board directed be executed - - -

20

MR PETROULIAS: Okay, because - - -

THE COMMISSIONER: - - - bear upon either of those two issues?

MR PETROULIAS: Okay. Whatever interpretation was taken, there's a reply above and it says until there's a certificate from NSWALC, anything beforehand is of no significance whatsoever. Right, you saw that?---Yes, I can see that.

30

And before the, before the approval it's a nothing.

THE COMMISSIONER: Mr Petroulias, would you stop ignoring my point.

MR PETROULIAS: No, I am - - -

THE COMMISSIONER: I'm about to pull you up and restrict your cross-examination, but I want to hear from you anything you want to say about the points I'm raising. You see? Understand the process?

40

MR PETROULIAS: No, I understand. What I'm - - -

THE COMMISSIONER: Right. Well, why don't you address the points I've raised, that there are two narrow issues - - -

MR PETROULIAS: Yeah.

THE COMMISSIONER: - - - the auditors were raising.

MR PETROULIAS: Yes.

THE COMMISSIONER: One was where are the agreements - - -

MR PETROULIAS: Yes - - -

10 THE COMMISSIONER: - - - especially because there are minutes there recording the resolution to have them executed. And the other is the use of New Zealand incorporated companies. Now, why are we going down this pathway when we know no agreements executed were provided to the auditors, point one. Point two, the witness has given her evidence as to what you told her about the New Zealand companies.

MR PETROULIAS: I'm about to explain, Commissioner.

THE COMMISSIONER: No, no, you just address what I'm saying.

MR PETROULIAS: I am addressing it. I, I am addressing it. I'm saying - - -
20

THE COMMISSIONER: Why are we going on about this email of 19 July, 2016 when those were the issues?

MR PETROULIAS: Because an interpretation was obviously taken of what she was looking for. She said she was dissatisfied and then she made a file note of the conversation. When we look at the file note, the only discussion about execution was that one of the parties no longer exists, which means – because that's the party that I was a director of for a moment in time – that party was removed. So Ms Bakis is telling her they need to be re-executed anyway because the parties don't exist.
30

THE COMMISSIONER: But the plain answer was either there are no executed agreements – notwithstanding the board's resolution – or, yes, I'll send them to you. Now, we know what happened. No executed agreements of any kind were sent to the auditors following their request for information on the question of whether these agreements existed or not.

MR PETROULIAS: Yes. And - - -

40 THE COMMISSIONER: So why are we fussing around with this particular email here when that's the issue and it's clear as – and I don't think you contend otherwise, no executed agreements were ever sent to the auditors. Isn't that right?

MR PETROULIAS: I'm saying, one, it wasn't technically requested. It was interpreted to say really execution doesn't matter because, because she's advising her about the Act. When they have a subsequent discussion

she now says that, she now says that the new entity needs to be incorporated and they're going to be re-executed anyway.

THE COMMISSIONER: Mr Petroulias, you'd better get on with it. You've been granted leave on a certain basis, now you just bear that in mind if you would.

MR PETROULIAS: Okay. And you know that Mr Hickey was going to be at the presentation that evening?---Yes.

10

Right. So now, let's look at this New Zealand. You did, you did a search. You realised that the company no longer existed, Awabakal Trustees Limited.---Yes.

Awabakal Trustees was one of the parties to the unexecuted agreements you were sent?---I don't quite recall. There were a number of entities that have been registered and deregistered in the short period of time. I believe I had emails where I was trying to set them out to get an understanding of what was going on.

20

But you carefully looked at the, what you were sent. You would have seen that the party that you said no longer existed was a party that was into the, entering into the agreement?---I don't recall which parties there are.

MS BERBERIAN: In fairness to Ms Keagan, if she's going to be questioned about certain agreements - - -

THE COMMISSIONER: Sorry, I can't hear.

30

MS BERBERIAN: I'm sorry. In fairness to Ms Keagan, if she's going to be questioned about certain agreements and certain documents those documents should be in front of her so that she's not guessing the answers essentially but from what we understand again, this seems to lie outside the scope of what Ms Keagan was requested to answer for the purposes of today's evidence given she's already been in September, 2018 and given evidence.

THE COMMISSIONER: Yes, all right. I'll just wait and see. Allow Mr Petroulias one more go. Yes, Ms Curtin.

40

MR PETROULIAS: Well - - -

THE COMMISSIONER: Just a minute, please.

MS CURTIN: If I could just add to what my friend has said. Also Ms Keagan should in fairness be shown the emails that she exchanged with Ms Bakis about this because there are a number of entities, two of which

have the same name, and it's likely to lead to confusion without seeing those emails.

THE COMMISSIONER: Mr Petroulias, that is the case that there could well be confusion. If you want to ask the witness a question about a particular entity or company you had better produce to her or have brought up on the screen the particular entity you're talking about.

10 MR PETROULIAS: Okay. You were asked, this is your evidence. 2958, line 10, 59, line 10. You were asked by Ms Curtin, you identified that Awabakal trustees had been removed from the register and then, then you were shown page 48 of Exhibit 83 which is a collaboration agreement. So let's, let's show her page 48 of Exhibit 83.

THE COMMISSIONER: You're asking there be brought up a - - -

MR PETROULIAS: Yeah.

20 THE COMMISSIONER: Which document? The collaboration agreement, is it?

MR PETROULIAS: Yes. The one that was shown to her.

MR CHEN: I'm sorry, could Mr Petroulias just repeat it. It's volume 83 page 48, is it? Thank you.

MR PETROULIAS: This is Exhibit 83, page 48. I'm just reading from the transcript. 2959.

30 MR CHEN: We have it.

THE COMMISSIONER: Now, what question do you want to ask the witness?

MR PETROULIAS: Okay. You do see Awabakal LALC Trustees Limited?---That's right.

40 And your evidence was that you identified that it had been removed from the register at line 10 of 2959.---Okay.

And that Ms Bakis confirmed that it no longer existed at line 25.---Okay.

Okay. So anything that this company signed would be unenforceable, it doesn't exist.

THE COMMISSIONER: Mr Petroulias, that doesn't follow.

MR PETROULIAS: It doesn't?

THE COMMISSIONER: What the auditors are trying to do is reconstruct what's happened in the past.

MR PETROULIAS: Sure.

10 THE COMMISSIONER: Now, if this trustee company existed a month or a year or whatever it was what did it do, what was it there for, did it incur any liabilities, et cetera as you well know. Now, what question do you want to ask about this company?

MR PETROULIAS: Yes. Now, what, is that your file note talks about Ms Bakis saying it'll have to be, this company needs to be reincorporated and re-executed, any agreements have to be executed.

THE COMMISSIONER: I reject that question.

20 MR PETROULIAS: Well - - -

THE COMMISSIONER: Bear in mind this witness has made it clear what her role is. She's not an auditor. She was assisting in the audit.

MR PETROULIAS: I see.

THE COMMISSIONER: And she has the role which was a limited role as she has made plain.

30 MR PETROULIAS: Okay.

THE COMMISSIONER: And we've already heard from the partner, haven't we, Mr Cameron?

MR CHEN: We have. Mr Hickey.

THE COMMISSIONER: Mr Hickey, rather.

MR PETROULIAS: Yes.

40 THE COMMISSIONER: So he gave evidence on this. He was called, examined.

MR PETROULIAS: That's fine. Okay.

THE COMMISSIONER: So bear in mind the witness's position, in fairness to her, is a limited one.

MR PETROULIAS: Okay. So the conclusion that unenforceability means no financial impact whether because they're unexecuted, whether it's because one party doesn't exist - - -

THE COMMISSIONER: I reject that question. She's not here to answer general questions about enforceability and the impact. You've taken her to this company. What do you want to ask her about Awabakal Land Council Trustees Limited? We've taken time to go to the document. There it is on the screen. Now what's the question?

10

MR PETROULIAS: The question was that it was identified to her by Ms Bakis that this company no longer exists and the documents would need to be signed.

THE COMMISSIONER: All right. Now what do you say to that? Do you know or remember?---I concluded that there was no signed agreements so there was no contract in place and therefore no impact on the audit.

MR PETROULIAS: Okay. And if the, and if the agreements were unenforceable by operation of law, for example, as she advised you, it's the same conclusion, isn't it?---So if I was presented with signed agreements the audit would have taken a different path.

But if, if the law meant that they weren't enforceable even though they were signed it would be still unenforceable?---I would have to get other expertise for that kind of a conclusion.

Okay. Is that what you're saying? Okay, that's fine. Now, about this expertise. Did you, the statement that a company in New Zealand avoids the Land Rights Act, did you get - - -

30

THE COMMISSIONER: I reject that question. Put it in proper form. Her evidence is clear that you told her why it was being used, that is, the New Zealand based company. What do you want to ask her about that point?

MR PETROULIAS: Yeah, that's exactly what I'm coming to. The proposition was that a New Zealand company somehow avoids the Land Rights Act, wasn't it?

40 THE COMMISSIONER: No, no.

MR PETROULIAS: Oh, yeah, the - - -

THE COMMISSIONER: I reject that.

MR PETROULIAS: I'll explain two things. You said the entities are in New Zealand to bypass the (not transcribable) requirements.---I believe that was what was represented to me by yourself.

Did you get any advice on it?---No. It wasn't relevant for the audit.

THE COMMISSIONER: Mr Petroulias, I think her evidence was as I understand it on this teleconference that you were asked what the purpose of incorporating Awabakal LALC Trustees in New Zealand and you gave her the answer and the answer was to do with being able to avoid the legislation. Isn't that right?

10 MR PETROULIAS: That's what she said so I'm saying did she ever get advice that - - -

THE COMMISSIONER: Well, what do you want to ask her about that?

MR PETROULIAS: Did she get advice as to whether that's true.

THE COMMISSIONER: Do you want to contradict her that you told her that or not?

20 MR PETROULIAS: No, I - - -

THE COMMISSIONER: You're happy with that evidence?

MR PETROULIAS: No, what I'm saying is that doesn't make any sense.

THE COMMISSIONER: But do you want to ask her anything about it? She says that's what you - - -

30 MR PETROULIAS: Yeah. I'm saying - - -

THE COMMISSIONER: No, no, please, let me just - - -

MR PETROULIAS: Yes.

THE COMMISSIONER: She's given her evidence as to what she says she recalls you said to her - - -

MR PETROULIAS: Sure.

40 THE COMMISSIONER: - - - on that question of the New Zealand companies and you recall the evidence she gave on that?

MR PETROULIAS: Yes.

THE COMMISSIONER: Right. Do you - - -

MR PETROULIAS: And I - - -

THE COMMISSIONER: Do you wish to contradict her on that?

MR PETROULIAS: Yes. I want to - - -

THE COMMISSIONER: In what respect?

MR PETROULIAS: I want to say, say to you that a statement such as this doesn't make any sense.

10 THE COMMISSIONER: I won't allow it in that form. What do you want to put to the witness in a carefully formulated question? Do you want to put to her I did not say that to you, identifying what it is, or do you say I only said half of it, or - - -

MR PETROULIAS: Okay.

THE COMMISSIONER: Just apply your mind, please.

20 MR PETROULIAS: I understand. Sorry, Commissioner. These, these matters are form that I'm not, I don't have the expertise with - - -

THE COMMISSIONER: They're not of form they're of substance. They go to the very evidence as to a conversation that took place with you. Not with anyone else, with you.

MR PETROULIAS: All right. That's proposition, the first, the entities are in New Zealand to bypass the (not transcribable) and the second proposition you make down the bottom is, "NP explained that Advantage is a New Zealand entity and as such needs to transact with a New Zealand entity of
30 Awabakal" - - -

THE COMMISSIONER: What are you reading from?

MR PETROULIAS: Her file note.

THE COMMISSIONER: Well, let's get the file note up. Whose file note is it?

40 FEMALE SPEAKER: It's Ms Keagan's file note, Commissioner.

THE COMMISSIONER: All right. Can we have that on the screen, please. The witness doesn't know what you're referring to unless you tell her you're putting this based on what she said in a document or in a conversation.

MR PETROULIAS: Okay. So that's - - -

THE COMMISSIONER: Now, it's on the screen, now what do you want to, what part of it do you want to draw the witness's attention to?

MR PETROULIAS: The second-last paragraph.

THE COMMISSIONER: All right. Just pause there. Let the witness read it.

10 MR PETROULIAS: Sorry, part of that page has just moved.

THE COMMISSIONER: The second-last paragraph?

MR PETROULIAS: Yeah.

THE COMMISSIONER: Just a moment.

MR PETROULIAS: Right.

20 THE COMMISSIONER: It commences, "NP explained," is that right?

MR PETROULIAS: "NP explained."

THE COMMISSIONER: Right. Thank you. Just let the witness read it.

MR PETROULIAS: So, and if you see - - -

THE COMMISSIONER: Just a minute, just wait a minute, just wait a minute. Yes, very well.

30 MR PETROULIAS: Okay. And what I'm going to suggest to you is I also, you also noted, "NP explained the detail, the project in detail." So there was quite a significant discussion?---Yes.

And what I'm trying to say to you is, this is not a transcript or a verbatim statement, this is an impression that you have concluded?---This is a file note of the notes that I took during the discussion that could be used as audit evidence to support the audit - - -

40 I understand, but that's, you're not actually saying that these are the literal words spoken?---No.

This is more of an overall impression?---That's correct. These are my notes.

Right. Now, as an example, does this refresh your memory, that putting, putting companies to, sorry, land that is to be developed into a unit trust and

then allowing the unit trust to separate means that you only do the approval process once rather than multiple times - - -

THE COMMISSIONER: I reject the question.

MR PETROULIAS: Too lengthy?

THE COMMISSIONER: No. We're dealing with a communication about this matter, you and the witness.

10

MR PETROULIAS: Yes.

THE COMMISSIONER: What do you want to put to the witness about what was said about that?

MR PETROULIAS: Oh, I was just doing that.

THE COMMISSIONER: Well, you didn't make that clear.

20 MR PETROULIAS: Oh, I see, I see.

THE COMMISSIONER: You were just quoting from something.

MR PETROULIAS: I understand. Mr Keagan, can I suggest to you that I said this, that there was a, that there was a unit trust and the purpose of the unit trust was to put properties that were to be developed into the unit trust, once developed they could be separated from the unit trust and on the separation the second time round there would not need to be a second approval process.---I don't recall any discussion about a unit trust and usually if I was to hear that during the audit it would result in further audit procedures being undertaken.

30

In any event - - -

THE COMMISSIONER: Mr Petroulias, you've been going now for some time.

MR PETROULIAS: No, no, that's all right, we're done.

40 THE COMMISSIONER: What else do you want to deal with, you dealt with the earlier matter as to the unenforceable agreements as you call them.

MR PETROULIAS: Yes.

THE COMMISSIONER: And you've now dealt with the conversation that deals with the use or purpose for the New Zealand companies. Now, they were the two matters you were granted leave to deal with.

MR PETROULIAS: Yes.

THE COMMISSIONER: Well?

MR PETROULIAS: And, well, she's, the only details that you took, you said I explained the details, the only details that you took are, well, you actually didn't take any details, you just simply drew those conclusions. ---These are the areas that were relevant to the audit and that need to go on the file's audit evidence.

Right.

THE COMMISSIONER: Anything else, Mr Petroulias?

MR PETROULIAS: No, that's fine. And you were clear that this is not a verbatim transcript?

THE COMMISSIONER: She's already said that.

MR PETROULIAS: Yep. All right. Thank you.

THE COMMISSIONER: Thank you, Mr Petroulias. Sorry?

MS CURTIN: Commissioner, I'll just say for the purposes of the transcript that Ms Keagan's file note of 20 July, 2016, was admitted into evidence at Exhibit 115.

THE COMMISSIONER: Yes, thank you. Anything else for Ms Keagan? Anybody else want to cross-examine Ms Keagan?

MS BERBERIAN: No, thank you.

MR LONERGAN: Commissioner, can I just ask one or two quick questions?

THE COMMISSIONER: Yes, all right.

MR LONERGAN: Part of the audit, you said that you were interested in entities that Mr Green was involved in. Is that correct?---That's correct.

And were you provided material as to the entities Mr Green was involved in?---A lot of the documentation was done through our own searches, I had also requested any available information, I think that came about through the pecuniary interest register.

Right. So you saw the pecuniary interest register of the Aboriginal Land Council?---It was contained within our audit file.

All right. And can I just bring back up Bakis, volume C, page 281. That document, have you seen that before?---I don't recall it today. I may have seen it as part of my review of the audit file.

Right. So it is possible that that was the pecuniary interest register entries for the Aboriginal Land Council?---That is possible.

10 So were you satisfied at the end of your investigation of Mr Green and his pecuniary interests that all pecuniary interests had been disclosed?---I don't believe so, which is what led to a representation being requested to be signed off by board members.

Right. And the audit that was eventually completed had no reference to any lack of evidence in relation to Mr Green's pecuniary interests?---I'm unsure. I'd really like to see the final audit opinion to be sure about how we concluded in that manner, because there was a lot of work done in that area.

20 Right. So just take for the moment that the final audit didn't say anything in relation to Mr Green and his pecuniary interests. Would it therefore follow that the process of investigation has satisfied all the requirements of the audit, or sorry, under the audit for the investigation of Mr Green's pecuniary interests?---Well, ordinarily that would be the audit partner's final decision but during an audit I would say that reliance would have been placed on management representations to state that all interests have been disclosed as part of the audit.

No further questions, Commissioner.

30 THE COMMISSIONER: Yes, thank you. Anything further from Ms Keagan? Thank you, Ms Keagan for your attendance. You may step down. You are excused. Thank you, Ms Berberian.

THE WITNESS EXCUSED

[12.06pm]

THE COMMISSIONER: We'll take a short break, 10 minutes, and then resume.

40

MR CHEN: Thank you, Commissioner.

SHORT ADJOURNMENT

[12.07pm]

THE COMMISSIONER: Yes.

MR CHEN: Commissioner, the next witness is Andrew Kavanagh. Commissioner, you'll recall Mr Kavanagh gave evidence on 18 September, 2018. Commissioner, he's represented by Mr Fernandes, to whom the Commission has granted leave, and Mr Kavanagh also sought and was provided with a declaration under section 38, Commissioner.

THE COMMISSIONER: Thank you. Very well. Yes, thank you, Mr Kavanagh. Mr Kavanagh, do you take evidence on oath or affirmation?

10

MR KAVANAGH: Oath.

THE COMMISSIONER: Oath. Would you mind just standing and the oath will be administered to you.

THE COMMISSIONER: Yes. Thank you. Yes, I note that Mr Kavanagh gave evidence on 18 September, 2018. On that occasion I made a declaration under section 38 of the Independent Commission Against Corruption Act. That declaration continues to apply to his evidence today. Yes, thank you.

10 MR CHEN: Your name is Andrew Bruce Kavanagh?---Yes.

And you remain, do you, a consultant property developer?---That's correct.

Thank you, Commissioner. I think Mr Kavanagh's been asked to return for cross-examination by Mr Petroulias.

THE COMMISSIONER: Yes, very well. Yes, Mr Petroulias.

20 MR PETROULIAS: Commissioner, I have some short selected documents. Now, whether it's more convenient to have both electronic and paper. I would prefer they'd be able to flick through and get conformable with the documents.

THE COMMISSIONER: Have you shown these documents to Counsel Assisting?

MR PETROULIAS: Yes. Sorry, we have forwarded them. There's an electronic version that can go on the screen at the same.

30 THE COMMISSIONER: What's the story there?

MR CHEN: Well, they were provided to us shortly prior to you coming on, Commissioner. I've looked at some of them, I don't recognise some of them but I don't presently have any difficulty with Mr Petroulias commencing his examination and taking the witness through the various documents. We did, of course, make a copy available to Mr Fernandes.

THE COMMISSIONER: All right. Well, we should mark the bundle of documents then for identification at least.

40 MR CHEN: Yes, Commissioner.

THE COMMISSIONER: What are we up to on the MFIs. It'll become MFI 53 then.

#MFI-053 – BUNDLE OF DOCUMENTS PRODUCED BY MR NICHOLAS PETROULIAS TO MR ANDREW KAVANAGH

THE COMMISSIONER: Yes, the bundle of documents Mr Petroulias is now producing for use in evidence with Mr Kavanagh is – can we have somebody take that bundle from Mr Petroulias?

MR PETROULIAS: Commissioner, would you prefer a hard copy or - - -

10 THE COMMISSIONER: Yes, thank you, if you've got a hard copy there. Thank you. Perhaps, can you put an MFI sticker on that? Thanks.

MR PETROULIAS: Should I start? Ready to go? Okay.

THE COMMISSIONER: Yes, all right, then. We'll start, Mr Petroulias.

MR PETROULIAS: Okay. Mr Kavanagh, can I take you to the meeting we held at, in Castlereagh Street in, the dates are late April/May 2016. Now, do you recall, I walked into the room. You guys were already there. I shook your hand, said something like (not transcribable) "Last time I saw you, you had orange hair," and you sort of gave me a strange look. Do you remember that?---You're talking about the very first meeting?

No, I'm talking about this April/May meeting.

MR CHEN: Well, the witness has, with respect - - -

THE WITNESS: I don't remember anything about orange hair.

30 MR CHEN: Just a moment. The witness has, Commissioner, given very specific evidence as to the timing of meetings, and it might help Mr Petroulias if he just - - -

MR PETROULIAS: I, I - - -

MR CHEN: Just a moment, Mr Petroulias. If he asks the witness to focus on a particular meeting or puts a proposition. That may assist Mr Petroulias in moving through his examination of this witness a bit more efficiently.

40 THE COMMISSIONER: How many meetings were there, do you remember?

MR CHEN: Well, Commissioner, the evidence slightly varies, as you would expect, between various people who are involved in these meetings. According to this witness there was at least two and they were both in early April 2016, and I think late April 2016 is the witness's evidence, Commissioner.

MR PETROULIAS: Yes.

THE COMMISSIONER: Yes, all right, thank you. Well, Mr Petroulias, you heard what Dr Chen has said there.

MR PETROULIAS: Yeah, I was - - -

10 THE COMMISSIONER: So if you could just take that on board, otherwise the witness will be asking questions all the time, "Which meeting are you talking about?" et cetera, et cetera. He needs to be assisted by you identifying the particular meeting.

MR PETROULIAS: Sorry, Commissioner, because, because later on he was asked questions by Mr White and there he accepted it was, it was May, but, so it's the one whether it's late April or May, but I'm talking about Castlereagh Street office.

20 THE COMMISSIONER: And what was the subject of business at that meeting? Just so that the witness knows which meeting you're talking about.

MR PETROULIAS: Yeah, I'm going to get to exactly what the subject was, but about security and whether you had sufficient security in entering into a deal. And - - -

THE COMMISSIONER: Is that a - - -

MR PETROULIAS: - - - you have given evidence that I walked in, it had already started and I walked in, and I want to talk about that meeting.

30 THE COMMISSIONER: All right. Now, just pause there. Does that assist you identify the meeting that you think you're being questioned about?

MR PETROULIAS: And I'm going to give you some more particulars and see if you can agree with me.

THE COMMISSIONER: All right. Well, let's see how we go, then, but just try and be specific.

40 MR PETROULIAS: Yeah. The particular was (not transcribable) shake your hand, said something strange like, "I remember you had orange hair," and you gave me a weird look. Do you remember that?

THE COMMISSIONER: How do you respond?

MR PETROULIAS: No, he just - - -?---I don't remember that.

THE COMMISSIONER: Thank you.

MR PETROULIAS: (not transcribable) certain things that you - - -?---I tried to clarify for you before as to whether - - -

Yeah.--- - - - when you walked in after the meeting had begun.

Yeah.---That to me was our first meeting. If that's the one you're talking about, then I know, I remember that meeting.

Okay. Now - - -?---But there was no orange hair comment.

10

Okay, if you don't remember that. But, but basically it was to, it's, it's, it's about what would give you adequate security for, for the commercial risks that you were, we were going to undertake. Now, the meeting went on about the security. We were interrupted several times of being too loud. We weren't getting anywhere. Let me see if I can, I'm going to give you some - - -

THE COMMISSIONER: Let's pause there now. Do you remember any of that?---I don't recall it.

20

No, you don't. Well, you'd better come now right to the point that you're going to ask the question on.

MR PETROULIAS: Yeah. I'm getting there now. It was loud. The discussion became loud. We were interrupted by people telling us to be quiet. Do you remember that?---Don't recall that.

30

Let me finish. You and Ryan went downstairs and you stayed at the foyer in the coffee shop. Me and Sam and Joey stayed upstairs. Then we came downstairs, it was the evening, and we're still screaming at each other, and you guys come and sort of pat us on the back, making, trying to make light of the situation. Then we sat on one of the outdoor tables and tried to more calmly work through things. Does that, remember that? And then you showed me your bank balance to tell me that you're serious and you had an ANZ on your, ANZ bank account on your phone, and showed me that - - -

THE COMMISSIONER: Well, let's pause there.

40

MR PETROULIAS: Do you remember any of this?

THE COMMISSIONER: Is any of this carrying any meaning?---There's fragments, there's fragments, but it, I can't answer that. There's no question there for me to answer.

No, let's - - -

MR PETROULIAS: But do you - - -

THE COMMISSIONER: No, Mr Petroulias, could I suggest with respect you formulate a question to the witness?

MR PETROULIAS: Do you remember at least at the end me and Sam were very loudly screaming at each other in disagreement?---No, don't recall that.

You don't remember that disagreement?---(No Audible Reply)

10 Okay. You don't, but you do recall me and Sam and Joey coming out after you and Ryan being outside in the foyer?---From which meeting?

This is after the, I'm saying it's the only one that, that I came in late. In April or May of 2016. We were there to talk about security.---I made reference to the, we, I recall we only had two meetings.

Yeah.---The first one was the one you came in late.

15 I'm, I'm going to suggest to you that it was the second one, and, and the reason why I'm trying to place Joey and, and, sorry, the reason why I'm
20 trying to place Joey and Sam and me together in a heated argument and then you and Ryan is to say that was, that was the group. Does that help? And it was late and it was outside in the foyer area, where there's a coffee - - -?
---The events that you're recounting feel like, in my recall, a hybrid of the two.

Right. I see.---Not, they're not the events of one meeting. So the lateness to, to one of the meetings was the first one, so some of the, some of the events that you've referred to were the first meeting.

30 Okay. And, but Richard Green wasn't there.---He was in the first meeting.

MR CHEN: Well, which meeting, with respect?

THE WITNESS: So the very, so this meeting that I think, that I recall, as far as the one that you arrived late, Richard Green was definitely at that meeting. That was the first meeting that I was involved in.

40 MR PETROULIAS: Okay. As I understand it you said the first meeting you were just trying to get an idea of what was going on. You sort of passively sat and just, just listening to what was on offer, whereas the second meeting we were getting into the heavy stuff, into the detail.---(No Audible Reply)

All right. We'll move on.---What's the question?

Okay. I'm, I'm trying to work out that, I'm trying to distinguish that in the first meeting, the general one, Richard Green was at. The second one, which was about the security, adequate, and the, and the risks to you, the

more detailed legal one, Richard Green was not at.---The first meeting that I was involved in was more introductory initially in nature.

Yeah.---You had a different, you were introduced, Nick, as Nick, you had a different name then.

Yeah, Peterson.---Richard Green was definitely at that, as was Ryan, myself, I'm not sure who else was at that meeting, and we, we introduced the various properties that were to be talked about.

10

After that second meeting, though, it pretty much ended, didn't it? There were no further discussions after that.---What was the date of the second meeting?

I, I, I'm suggesting it's the 5th, 5 May. Could be 4 May, 5 May, and I'm going to get to the documents to show, see if you recollect. And that the first meeting was actually way back in December 2015.---I was a part of the first meeting.

20 Right.---Back in December.

Yeah, sure.---It was, it was brought, I heard about the deal back in – just very broadly and very vaguely – in late 2015 but I wasn't involved in site meetings or, or any meetings until that first one that I, that I, I mentioned to you earlier, where you arrived late.

30 Okay. Now, but after that second meeting, there was – but that was the end of the communication, there was no ongoing discussions with me or anyone else after that because what you got on the 6th was the letter from Ms Bakis saying the client's moved on, they're interested in some pilot program with the minister and that was it as far as we're concerned?---The deal was at an end in my mind when I received the advice of Marcel Fernandes.

Precisely.---That's when the deal, that's when the tap was turned off, I realised we were very close to having been ripped off and there were trust issues there and those trust issues were squarely with you, Nick.

40 Anyway, let's get to that now. If, if, if you look at, let's, let's try to place the date on this. If you can turn to page 28. Now, you, no, sorry, next, next page. We, we, you, you, you get the opinion on the 3rd, isn't that correct? ---Correct.

THE COMMISSIONER: Sorry, what are you dealing with now? What page are we on?

MR PETROULIAS: Let me just get that. Okay, 25, we start with 25, Someone's trying to – Ms Bakis has written to you at the bottom, the 28th, saying, look, we, we, our clients are no longer interested, right, clients,

plural. And then Sam seems to try to renegotiate a, a meeting and, and he says, look, it's been confirmed for 10.00am in the morning and she says not by us. So that's on 28 April. Then she's basically, again, showing look, she's not – on 26, page 26, the next day, basically can't justify the time being used to talk about this any further. Then you move ahead to your receipt of an opinion, which will be page 30. You, you receive an opinion, don't you, on, on the 3rd.---That's correct.

By Mr Fernandes.---3 May.

10

Now, somehow Ms Bakis is informed so she writes to you at page 35 and she says we're informed that you, someone's scheduling another round of meetings. So this was the day that you've received the opinion, word's got around to her because she says if, can I please at least have the electronic document so that we can see what the hell, you know, what we're talking about so we can have this meeting properly. And then what I'm suggesting to you, it's, it's Sam that's negotiating, Sam is negotiating all, these, these meetings because you haven't been, you, you haven't ever spoken to me, you've never spoke to Richard Green in terms of direct communication?

20

No email to me, no phone calls to me, your communications are with Sam. We find out at page 59 that somehow Sam's ended up getting a 10 per cent interest in, in the company.

MR CHEN: I, I think, Commissioner - - -

THE COMMISSIONER: Yes. Wait a minute, this is a running dialogue, this is not a question, Mr Petroulias.

MR PETROULIAS: No, I'm trying to give him context.

30

THE COMMISSIONER: Yes. No, no, no, no. I'm just telling you it's a running dialogue. We do it, as you know, by question and answer format here. What's the question?

MR PETROULIAS: Okay. Is it true, as it is shown on page 59, that Sam, Mr Sayed ends up with a, being offered a percentage of the business, 10 per cent interest in the business?---I had no discussion with Sam about that.

40

Okay. So it could be – you see, you gave evidence that you said this was not a normal deal where the vendor would just go, we were always to get, always able to get back in and what I'm wondering is, all I've seen here is three emails by Ms Bakis saying we're not really interested in talking, talking about it and I'm saying to you that the only person where you're getting an idea that there's a negotiation continuing is Sam, because you're not getting it from me, Ms Bakis, you're not getting it from Ms Bakis, there's no email from Richard Green saying come and talk to us?

MR CHEN: Well, Commissioner, the question's not fair because if Mr Petroulias, in part of the running dialogue, showed Mr Kavanagh one of the emails where in fact, according to Ms Bakis, she was inviting the submission of further documents to be emailed in electronic form. The second point is, Mr Kavanagh's evidence on the last occasion was in the context of, admittedly on occasions when the deal appeared to be off the table, Mr Kavanagh, in his experience always felt he could get back in it, that's the context of the evidence. It's not as Mr Petroulias put it. To come back, Mr Petroulias should show the witness the emails that he took him through briefly so he can properly respond and fairly respond to the question, in my submission.

THE COMMISSIONER: Yes. Mr Petroulias, I think it might assist everyone. Which are the relevant emails that bear on this question that you want to ask? What pages, just so the witness will have the opportunity of refreshing his memory from the emails. Just use the page references for the page of the bundle of documents, which is MFI 53.

MR PETROULIAS: Okay. If we look at page 54.

THE COMMISSIONER: 54. Is there any others that are relevant to this line - - -

MR PETROULIAS: No. We've, we've seen what we've seen so far.

THE COMMISSIONER: No, no, no, no. Please, just stay with me. Is there more than one email that's relevant to the line of questioning you're not pursuing and if so, just give me the page numbers do we can have them?

MR CHEN: Page 35, Commissioner, is the email of 3 May, 2016.

THE COMMISSIONER: All right. We'll add that to the list.

MR PETROULIAS: Yes, 3 May, yep.

THE COMMISSIONER: 35, 54, anything else?

MR PETROULIAS: Yes, so - - -

THE COMMISSIONER: No, no. Please answer my question.

MR PETROULIAS: Well, we saw the ones before that, which were - - -

THE COMMISSIONER: The pages, give me the pages again.

MR PETROULIAS: Sorry, okay, 25.

THE COMMISSIONER: 25, yes.

MR PETROULIAS: "Our clients are no longer interested." 25 again, at the top where - - -

THE COMMISSIONER: That's okay. Just give me the page numbers. He can read them.

MR PETROULIAS: Yeah. And then 30th, where says, "Can't justify working on this matter further."

10

THE COMMISSIONER: Did you say page 30?

MR PETROULIAS: Oh, sorry, 26, page 26.

THE COMMISSIONER: 26, yes. Anything else?

MR PETROULIAS: So, and then, and then she's told of the meeting on 3 May, which - - -

20 THE COMMISSIONER: No, can you please do what I've asked you to do, is to identify the emails that are relevant to this line of questioning by reference to page number. We've got three so far, 25, 26, 35 and 54.

MR PETROULIAS: Okay. 35.

THE COMMISSIONER: Okay, now what's the point, firstly what question are you going to go to?

MR PETROULIAS: Okay, what I - - -

30

THE COMMISSIONER: What does it relate to?

MR PETROULIAS: I'm going to fix that the meeting occurred on, on, on - can only have occurred between 4 and 5 May. Then we're going to say what, the context of what that meeting could have been by reference to the fact that he had received council opinion.

THE COMMISSIONER: Have a look at those page references. Have you got the bundle of documents there?---Yeah. Which, so which, which page?

40

25, start it with 25 and look at 26.

MR PETROULIAS: And then we jump to 35.

THE COMMISSIONER: Don't, please just, Mr Petroulias, just maintain your silence for a moment. 25, 26, 35 and 54. 24, 25, 36, and 54.---Yep.

Just have a look through those.---Yes.

Okay, now question, Mr Petroulias?

MR PETROULIAS: And then by 5 May, at page 54, you were told by Ms Bakis the client's going a different direction, he's interested in rezoning plan on some pilot program with the minister. Do you see that, 54?---I can't see it, I'm afraid. Oh, there it is. Yes.

10 Okay. So I'm suggesting that the, the meeting that was contemplated on the 3rd must have happened 4th or 5th?---No.

No. You did receive Council advice, correct?---Yes, correct.

THE COMMISSIONER: Mr Alcorn, is that right, Mr - - -

MR CHEN: No, it was from Mr Fernandes.

THE COMMISSIONER: Oh, Mr Fernandes, of course, yes.

20 MR PETROULIAS: And for a little while, so on the 4th, if you look at page 40, you're communicating with Mr Sayed and he's suggesting to you, well, page 40, see 4 May down the bottom, "We know all this, that's why it's structured this way." So, and then at 41 he's saying to you, this is Mr Sayed, he's trying to convince you that there's no problem here.---Mmm.

The state council is just a formality.---Mmm.

30 MR CHEN: Commissioner, just before Mr Petroulias moves further, I mean Mr Kavanagh should be given a chance to read this and it is clear if you look at page 40 that that's an email from Knightsbridge North Lawyers, either Mr Petroulias or Ms Bakis.

THE COMMISSIONER: Yes, that's true.

MR CHEN: And you seem to be suggesting - - -

40 MR PETROULIAS: Oh, sorry, sorry. Keep going. And at 42 he tells you, "State council is just a formality." And then he's saying to you, "Look, the potential is to make 90 to 150 million and you'll already have caveats and 99-year leases."

THE COMMISSIONER: Sorry, where are you drawing his attention to on that page?

MR PETROULIAS: Page 42.

THE COMMISSIONER: Yeah, whereabouts?

MR PETROULIAS: Up the top, 90 to \$150 million.---Yes.

And then down the bottom, “NSWALC is funded by a community level.”
In the middle you’ve got 99-year leases.---Yes, I can see where it says that.

Okay. So he’s tried to, what I’m suggesting, putting to you as you recall
this is Sam’s doing his best and then to, to try to convince you that it’s all,
it’s all good, you know, it’s still worth doing.---Yes.

10 And at page 47 he even offers his legal advice at 47 where he says, “Your
money’s not lost because caveats and leases are not under section 42 in the
Act.”---I can see where it says that, yeah.

Yeah. And Mr Fernandes at 46 has said to you, “Well, look, you could, you
could structure it, you know, if you have the appropriate clauses,” at page
46. Do you see that?---Yes.

20 So my point was, at page 48, Sam says to you, hold on, I think we can fix
the problem, and suggests meet on the 5th, which is page 48. And what I’m
saying is, that’s the meeting, that’s why I was wheeled in, to see if, well,
he’s tried to suggest how he can fix it and now he’s run out of options and
he’s brought me in to try to convince you guys that we can work out some
sort of structure for the security to satisfy your needs. Do you agree with
that?---No. No. The point about Sammy is, he, he, he missed the, he
missed the whole point. He didn’t understand that, that the - - -

Well, that’s the - - -

30 THE COMMISSIONER: No, please, Mr Petroulias, don’t interrupt
witnesses when they’re giving answers. Yes?

THE WITNESS: Didn’t understand the need that was set out in Marcel
Fernandes’ advice that the transaction required the consent of the New
South Wales State Council before any deal was entered into, so it wasn’t
good enough to just enter a deal. He didn’t understand that.

40 MR PETROULIAS: Well - - -?---So, so at that point we couldn’t go any
further. You had to go, effectively had to go away and get that consent and
then come back to us and then we could do a deal, not before, couldn’t be
arse-about.

That’s a legal argument, but I’m just trying to, I mean how you understood,
I’m just saying, what is the, what is a trigger for me to come to this meeting
on the 5th. This is my report. See if this refreshes, my report is on page 50.
This is what I thought we talked about, and see if you agree with anything
I’ve said. Look at page 50. And at page 50 I’m reporting on our meeting,
Sam Sayed, Andrew Kavanagh, Joey Melhem, Ryan. Right?---I’ve never
seen this.

No, no, these are my notes, this is what I'm reporting and what I'm suggesting to you is - - -

THE COMMISSIONER: Where did this document come from?

MR PETROULIAS: These are my notes.

10 THE COMMISSIONER: No, no, where did it come from?

MR PETROULIAS: Ms Bakis's file, MFI 33, page 52.

THE COMMISSIONER: MFI 33.

MR PETROULIAS: Page 52.

THE COMMISSIONER: Page 52. And who's the author of the document?

20 MR PETROULIAS: That would be me and Ms Bakis.

THE COMMISSIONER: Two authors to this document?

MR PETROULIAS: Yeah.

THE COMMISSIONER: How do you know, how do you know that?

MR PETROULIAS: Well, ostensibly it looks like Ms Bakis but I would have made a lot of the comments.

30 THE COMMISSIONER: Well, you're just guessing, your just guessing whose file note it is.

MR PETROULIAS: No.

THE COMMISSIONER: It's either yours or Mr Bakis's. Is that right?

MR PETROULIAS: I would - - -

40 THE COMMISSIONER: Huh?

MR PETROULIAS: Sorry, Commissioner. Our practice was to, that I would do a draft or she would do a draft and we'd make comments on the draft and we'd add to them.

THE COMMISSIONER: What, file notes or all documents?

MR PETROULIAS: File notes.

THE COMMISSIONER: Anyway, you go on. Just let the witness read the document first before you ask a question. You said you haven't seen this document before?

MR PETROULIAS: No, no, no.

THE COMMISSIONER: Just - - -

10 THE WITNESS: It's all nonsensical to me, I haven't seen it.

THE COMMISSIONER: I was going to ask you whether any of it accords with your knowledge of this matter.---I can - - -

MR PETROULIAS: Well - - -

THE WITNESS: - - - recognise some names in there but how is - - -

THE COMMISSIONER: As to the dot points there.

20 MR PETROULIAS: Okay.

THE WITNESS: Was it put together after the event or - - -

THE COMMISSIONER: Please, Mr Petroulias, I'm asking the witness questions. I'm focussing on the dot points in the document as to whether or not any of that resonates with you in terms of your recollection or - - -? ---I can recognise a name, Zong, there, that I've learned after, after we were involved in the deal, and I think he was the guy who was in the deal or they tried to do a deal, if you could call it that, with Zong prior to us, I can
30 recognise some names, Gows, my name's there, Sam I assume is Sayed, Sayed.

MR PETROULIAS: Okay. What I want to put to you is, I'm suggesting that I, that I've realised that Sam is, that Sam has different interests than, than myself.

MR FERNANDES: I object to that.

40 MR PETROULIAS: Would you - - -

THE COMMISSIONER: Just a minute, Mr Fernandes. Finish the question.

MR PETROULIAS: Is there, would you have gained the impression from that meeting that me and Sam were not seeing eye to eye?

THE COMMISSIONER: Just hold it. Yes, Mr Fernandes.

MR FERNANDES: I object to that question. He's asking Mr Kavanagh
- - -

THE COMMISSIONER: Just could you speak into the microphone.

MR FERNANDES: He seems to be asked Mr Kavanagh what Mr
Kavanagh thought about what Mr Petroulias might have realised and he - - -

MR PETROULIAS: No.

10

MR FERNANDES: - - - hasn't explained what this document even is, is it
Mr Petroulias's recollections after the event, contemporaneous - - -

THE COMMISSIONER: I accept that. We're not dealing now, some years
later, with somebody's understanding what the other one was believing.
What we're trying to reconstruct from documents and recollection is what
happened, what was said.

MR PETROULIAS: Yes.

20

THE COMMISSIONER: Okay. So just confine it, if you would. If there's
something you want to put to this witness that something was said at this
meeting or something was done at this meeting, you do that.

MR PETROULIAS: Okay. Look, the issue that I'm trying to address here,
Mr Kavanagh, is did you detect that - - -

THE COMMISSIONER: No, I reject that question for the reason I just
explained.

30

MR PETROULIAS: Well, there was a, did you identify a disagreement
between Mr Sayed and myself about the transaction?---No, none.

None? So in your mind Mr Sayed was representing me, was he?

MR CHEN: I object, Commissioner.

THE COMMISSIONER: Withdraw that, I mean - - -

40

MR PETROULIAS: Well, actually, Commissioner, you asked him that
same question in his transcript and you asked him - - -

THE COMMISSIONER: Mr Petroulias, next question, please. I won't
allow that last one.

MR PETROULIAS: All right. Now, during your cross-examination last
time by Mr Lonergan here you did say that you admitted that on the
question, on the questions of the restrictions on the title certificate you

didn't pay sufficient attention as you, as you should have and you certainly didn't understand the significance. Is that correct?

THE COMMISSIONER: I reject that. If there's some evidence you want to put to him, put it in terms of the evidence, not just some summation.

MR PETROULIAS: Yeah, well - - -

10 THE COMMISSIONER: Well, you've got the page reference in the transcript?

MR PETROULIAS: Yeah, transcript is 2948, line 15 - - -

THE COMMISSIONER: All right. Let's go to that.

MR PETROULIAS: - - - where you said you hadn't noticed - - -

20 THE COMMISSIONER: No, no. You've got the page reference. You've got the line reference.

MR PETROULIAS: Yeah, 15.

THE COMMISSIONER: Frame the question around that so the witness knows what you're asking him to address. What did he say at that point?

MR PETROULIAS: Yeah, "I had no idea" - - -

THE COMMISSIONER: What was the question?

30 MR PETROULIAS: Okay. You, you said this - - -

THE COMMISSIONER: No, no. What was the question to the witness?

MR PETROULIAS: To the witness? Oh. The question, the question was from you, Commissioner.

THE COMMISSIONER: Yes, okay, well, put - what was it?

40 MR PETROULIAS: And it says - - -

THE COMMISSIONER: Just read the - - -

MR PETROULIAS: - - - "What do you mean by not properly appreciating the restriction on the certificate of title?"

THE COMMISSIONER: All right. And the answer?

MR PETROULIAS: And, and he said, “I did notice the encumbrances. Didn’t take it serious at the time, but later didn’t appreciate that I had, I had no idea that it was this level of gravity.”

THE COMMISSIONER: Now your question now.

MR PETROULIAS: Okay. So I had taken you to certain emails from, certain emails suggesting that this was already known, there are already mechanisms in place to provide security, and why, and basically I’m there to try to explain those to you at that meeting, at what, what could give you adequate security.

THE COMMISSIONER: Sorry, what’s the last bit?

MR PETROULIAS: I’m here at this meeting to explain or to try to convince you or to try to find a solution to the security. What kind of security we could give so that your risks could be managed.

THE COMMISSIONER: Mr Petroulias, that has nothing to do with the question and answer you just read. What’s the point of going to that question and answer? Is there some question you want to put? Do you want to contradict him about it or do you want to put something else new to him or what?

MR PETROULIAS: Okay. The title B, the restriction on title you had known at least since the Diamonds reports that you received back in November 2015, because the restrictions on title are in as part of the valuations of the Diamond valuations. So they’d been there for a long time. But you, all I, I’m simply saying is you just really didn’t appreciate the significance of them until Council brought them to your attention, but they had been there.---Well, they were on the title but neither yourself nor KNL brought it to our attention specifically that there were notations there that effectively would render any deal between us and the local council null and void without the concurrence of the New South Wales Aboriginal Land Council.

That’s not - - ?---That was all up to us to find out.

Okay. Let’s not worry about the technical interpretation.---All right.

But, for example, if Mr Green had told you back then of the process, likewise, you know, there’s an approval process that we have to go, again you would not necessarily have appreciated the significance of it when he first told you in December. If you hadn’t appreciated the significance on the title, you certainly wouldn’t have appreciated, appreciated that he had some internal approval process. You would have thought - - -

MR CHEN: Commissioner, I object. This has been partly covered, in any event, by my examination of the witness and indeed I think Mr Lonergan's examination. But if the proposition is to be put in terms, it would very much depend upon what was said by Mr Green if there was such a disclosure, and with great respect that should be put to the witness.

10 THE COMMISSIONER: Well, Mr Petroulias, I won't reject the question in terms of the substance of what you're trying to get at, but I think it's, Counsel Assisting just indicated you should really be putting to, what are you asking him to assume Mr Green said upon the matter and how that would have affected him?

MR PETROULIAS: Okay. What I would have said to him is, is this. That in our first meeting in December that was general, when we first met. It may well be that Mr Green did say that it was an approval process but that in your understanding every organisation's got an approval process and you're not, and you didn't really fully appreciate the significance of it.---Did you just reference a meeting in December?

20 Yes, when we wanted to talk about the post office.---I had, I had no meetings with anybody until March/April.

Oh, so you were not at the meetings about the post office?---That's right.

Fair enough.

THE COMMISSIONER: Now, Mr Petroulias, I think we'll have to take a lunch break at some point. This might be a convenient time.

30 MR PETROULIAS: Yeah, I - - -

THE COMMISSIONER: And just so that we can deal with the further programming, what's your estimate as to how much more time?

MR PETROULIAS: Oh, an hour.

THE COMMISSIONER: An hour.

40 MR PETROULIAS: We're going to get technical soon, so an hour.

THE COMMISSIONER: Well, I'll tell you what I'll do. I'll give you another 30 minutes to complete your cross-examination and then we'll see how we go. But you're on notice, okay? You'll have 30 minutes. I make that direction pursuant to the standard directions, having regard to the nature of the issues and the evidence of this witness previously, on the previous occasion. Yes, Mr Lonergan?

MR LONERGAN: Commissioner, I have not put in an application for cross-examination of Mr Kavanagh. However, one or two things have come up during the course of Mr Petroulias's cross-examination. If I may have five minutes at the end of that.

THE COMMISSIONER: Speak to Counsel Assisting, then, and put him on notice, or put both counsel on notice as to what those matters are.

MR LONERGAN: (not transcribable)

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THE COMMISSIONER: We'll take a lunch break, so we'll resume at five past 2.00.

LUNCHEON ADJOURNMENT

[1.06pm]