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PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION SKYLINE

Reference: Operation E17/0549

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 12 APRIL, 2018

AT 2.00PM

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

THE COMMISSIONER: Yes, thank you. Yes, are we ready to resume?

MR CHEN: I seek to have Mr Zong recalled, Commissioner.

THE COMMISSIONER: Thank you. Mr Zong, would you mind coming down. Thank you.

Mr Zong, would you just state your name for the record?

10 MR ZONG: Tony Zong, Shuxin Zong.

THE COMMISSIONER: Thank you. Mr Zong, you last time took an affirmation. Do you wish to take an affirmation today?

MR ZONG: Yes.

THE COMMISSIONER: To give evidence?

MR ZONG: Yes.

20

THE COMMISSIONER: Thank you.

<TONY ZONG (AKA SHUXIN ZONG), affirmed

[2.08pm]

THE COMMISSIONER: Yes, thank you. Very good. Now, Mr Balafoutis, Mr Zong, does he - - -

MR BALAFOUTIS: Yes, Mr Zong seeks an order under section 38.

THE COMMISSIONER: Sorry?

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MR BALAFOUTIS: Mr Zong seeks an order under section 38, a further order.

THE COMMISSIONER: I'm sorry, I can't hear.

MR BALAFOUTIS: Sorry.

THE COMMISSIONER: I think you've got to speak into these things.

20

MR BALAFOUTIS: Mr Zong seeks an order under section 38.

THE COMMISSIONER: Thank you. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers to be given by this witness, Mr Zong, any documents or things produced to him in the course of his evidence shall be regarded as having been given or produced on objection and accordingly there is no need for Mr Zong to make individual objection to questions or answers required of him or production of documents or other things.

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PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS TO BE GIVEN BY THIS WITNESS, MR ZONG, ANY DOCUMENTS OR THINGS PRODUCED TO HIM IN THE COURSE OF HIS EVIDENCE SHALL BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR MR ZONG TO MAKE INDIVIDUAL OBJECTION TO QUESTIONS OR ANSWERS REQUIRED OF HIM OR PRODUCTION OF DOCUMENTS OR

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THE COMMISSIONER: Thank you. Yes.

MR CHEN: Thank you, Commissioner.

Mr Zong, you recall during the course of or late in October 2015 there was some discussion that you had with a number of people about what was to

happen with the \$48,000 of the deposit that was carried over from the June or July 2015 agreement?---Yes.

And there were some emails that passed back and forth between you and Ms Bakis about how much of that \$48,000 might be refunded to you?---Yes.

And part of what was raised was, by Ms Bakis, that you had to make a contribution or your company had to make a contribution in relation to the valuations?---Yes.

10

And you pointed out, did you not, that in fact you'd paid for the valuations and therefore you shouldn't have to pay for it again?---Yes.

I want to show you some emails about these discussions so it's clear in your mind. These appear to have occurred after the agreements had been signed at the Land Council's office on 23 October 2015. Is that your recollection? ---Yes.

20

So would you be good enough just to have a look at Volume 7 page 257? ---Yes.

Now, what I'll ask you to do, Mr Zong, is just have a look at the bottom first at 257 and we'll then take you to the next page so you can see where that email ends, but you recognise at the bottom of the page is an email from Knightsbridge North to yourself, Mr Rhee and Mr Say?---Yes.

And you'll see there, there's a discussion about, or a reference to the \$48,000?---Yes.

30

And we'll turn the next page, or if you'd like to look at this in hard copy, I think it's in front of you, but – and you'll see therefore that Ms Bakis has sent this email to you?---Yes.

Now I want to move up but if you feel that you'd like to see the rest of the documents on page 258, you're welcome to do so?---Yeah, that's fine. I can see the screen.

40

I'm just going to ask you to then look up at 257 and you then provide a response. You'll see that at 12.29pm on 29 October 2015?---Yes.

And again if you look up, there's an email from Ms Bakis to you at 1.34pm on the same day?---Yes.

And again, if you look at the top of that page you'll see there's a response from you at 1.51pm asking for a bit more time to work the issue out. Do you see that?---Yes. Yeah.

What you also say is please wait us direction later. What you're intending to convey, Mr Zong, by that email is you didn't want the money to be dealt with. Is that so?---At the beginning we, he not release this 48,000 and would not agree. There's no, at that time because we still owe Keeju money, that's why I said the, Keeju is the, is the agent, I said maybe just let Keeju talk with them because (not transcribable) just to, just to pay the Keeju.

10 At this time what you were intending to convey by the email at page 257 was you're unclear about the \$48,000 but you don't want the money to be disbursed at that point, isn't that right, or paid out to anybody without you getting back to Ms Bakis. Is that right?---Yes.

And is it the case that that \$48,000 was in fact not refunded or repaid to you, or was it?---It wasn't. This is, because we want this, we still with the deposit, we pay this 412 including the 48,000. This is for the deposit, we should pay the trust account.

20 So just to be clear, so far as you understood the arrangements that arose out of the agreements that were signed, this \$48,000 or whatever was left over was to be used as part of the overall price. Is that so?---Yes.

I want to work back from this date, Mr Zong, and you had a number of dealings with Mr Rhee in the period of this transaction leading up to the signing of the contracts, isn't that right?---Yes.

And you had dealings with him afterwards, did you not?---Yes.

30 In particular, you had to discuss with him about payment for Keeju?---Yes.

And similarly, in this period of October, or leading up to the signing of the contracts, you had had discussions with Mr Say as well, had you not?---No. Just Mr Rhee.

And even after the contracts had been signed, you'd had dealings, had you not, with Mr Say?---No, not Mr Say, Mr Rhee.

40 Do you say that you had no dealings after the contracts had been signed with Mr Say?---No.

Are you agreeing with me? You say you didn't meet Mr Say or speak with him at all after the contracts were signed?---At that time, Mr Rhee and Mr Say, sometimes they come my office together. Sometimes Mr Rhee, I not recall if they together or just Mr Rhee.

Did you meet at all, whether it's together or individually, Mr Say after the contracts were signed in the Land Council's offices?---Yes, this is 23 October (not transcribable)

Sorry, my question was unclear. You signed the contracts in the Land Council's offices on 23 October. You recall that?---Yes.

And what I'm asking you now is, did you ever speak or meet with Mr Say after that date?---No.

Are you sure about that?---No. Not with himself, no.

10 So if you did meet with him, it was only with Mr Rhee. Is that right?---Yes.

I see. Now, do you have a recollection of meeting Mr Rhee and Mr Say in your offices at around this time that this deposit issue had arisen?---Yes. Because at that time I hadn't paid them for a month. They chase me a few times.

Mr Zong, during the course of this transaction, you had had some contact, at least up until this time, with Richard Green, had you not?---No.

20 You'd at least met him.---No. At that time, it was just sign contract.

Just so it's – I'll put it again. In the course of the overall transaction, throughout 2015, you'd had some dealings with Mr Richard Green, had you not?---After sign contract.

All right. Sorry, it was after you signed the contract?---Yes.

30 Right. And what were the dealings after you signed the contract that you had with Mr Green?---Just after, about a week after, after signed contract, he came (not transcribable) he's, he's in, in Sydney. He called me, called me and said (not transcribable) dinner for him.

Oh, you did give some evidence about having dinner with him on the last occasion. Is that the time that you had that dinner with him?---Yes. Yeah.

And did Mr Green at all express any concerns about the transaction with you at that stage?---No. Never talking about that.

40 Did he ever raise with you at any stage personally that he had any concerns about the transaction that had been entered on 23 October, 2015?---No. We didn't talk about.

Did you have just an enjoyable, pleasant evening with Mr Green on this occasion when he came to Sydney, did you?---Sorry, what was that?

Did you just have a meal and a pleasant meal with him that evening, is that it?---Yes.

Now, it's the case, isn't it, that in late October, 2015, after the contracts had been signed, that you had a discussion with Mr Say and Mr Rhee about the Keeju moneys that were still owed?---Yes.

And they expressed some concerns about having to wait to be paid?---Yes.

And I take it you were doing your best to ensure that they were promptly paid?---Yes.

10 And that was one of the reasons why they came to the office, isn't that so? Your office.---Yes.

And they also discussed, did they not, that there would need to be some payment to Richard Green?---No. Never talking about that.

Not at all?---No.

20 You see, Mr Green was the only person you dealt with in this transaction from the Land Council, isn't that right?---And Debbie Date sign the contract.

Well, aside from her signing the contract on 23 October and any discussions that you had in her presence on that day, the only other person that you had been dealing with was Mr Green?---Yes.

And you built up a good rapport with him, had you not?---No. No rapport.

Well, you went out to dinner with him within a week.---Yes.

30 And you were sufficiently, or the terms in which you had been dealing with him were certainly close enough for you to want to go or agree to go to dinner with him?---Yeah, just dinner, yeah.

Yes. But you were sufficiently familiar with Mr Green to agree to go to dinner with him. Isn't that right?---Sorry, what is the question?

Well, you were comfortable enough in the company of Mr Green to go to dinner with him?---Yes, because - - -

40 And was your – I'm sorry, did you finish?---Yeah, because we signed the contract (not transcribable) so then we can celebrate.

And he made contact with you, did he, when he was in Sydney?---Yes.

And so he had your contact details?---Yeah, after, after the signed contract, yes.

And is that because you had to make contact with him for the work that was required after that time?---Yes.

And he rang you to let you know that he was in Sydney?---Yes.

And was it your suggestion or his suggestion that you go for a meal?
---Not recall who.

But you paid for the meal, didn't you?---Yes, yeah.

10 And you'd built up by that stage a good working relationship with Mr Green, had you not?---Yes.

And you understood that his involvement in the whole deal that had been put together was very important, didn't you?---Yeah, but later we, we, at that time we start rezoning process, we need they help us to the rezoning process.

Right. And when did you start the rezoning process?---After we signed the contract we start talk with the town planner.

20 Could you identify the date as best you can?---Sorry, I not recall that, the date.

Anyway, that involved dealings and interactions with Mr Green, did it, to assist in that process?---No, at that time we didn't talk, it's we just talk with town planner, we're not talking about the, Mr Green about this rezoning process.

30 You see you had a discussion, can I suggest, with Mr Rhee and Mr Say about making a payment to Mr Green, didn't you?---No.

And you did that when you met with those two gentlemen on 26 October, 2015?---No, I never, we never discuss about the payment to Richard Green.

And could I suggest to you you did and you did that because you knew that he'd been an important participant in bringing this deal together between
- - -?---No.

40 - - - you, Gows Heat and the Land Council?---No. We only pay Keeju, the agent, also the Gow.

And can I suggest that you agreed to at least contribute towards the payment of Mr Green of whatever money was to be refunded from the deposit that was held by Knightsbridge North Lawyers?---No.

Now, would you just have a look, please, at this email, Mr Zong. It's Exhibit 63, page 199. Do you recognise that, Mr Zong, as an email sent to you by Mr Rhee on 29 October, 2015?---I'm not recall this email. This, this, in the morning I saw this, I not recall this.

Sorry, when you say in the morning do you mean this morning?---This morning, yeah, when I sit at back I saw, saw this email. I not recall this, this email. This is why I bring another email, Keith send me another email talking about the 48,000 (not transcribable) nothing really with Keith and Sam.

Now, have I drawn your attention to those emails by showing you those documents earlier that you referred to, that you brought some other emails?
10 ---Yes, yeah.

I'll show you another email I'm sorry, I perhaps should have done this before.---Yeah.

So it's Exhibit 63, page 183. Now, is that the email or a copy of the email that you brought today, namely the one at that page sent by Mr Rhee to you on 29 October, 2015 at 9.41?---Yes.

And that's the other email that you wanted to complete the emails that dealt with this deposit issue?---Yes, because at that time I can't agree with
20 Knightsbridge. I ask Keith to help talk with them. I said we need to talk with Knightsbridge, sort this out. And then send me email. This says nothing to do with them.

So if we just go back, please, to page 199, this is the email that you have no recollection about. Is that so?---Yes. Yeah.

But that's your email address, is it not, tony@sunshineinterior.com.au?
---Yes.
30

And you certainly had a meeting, did you not, on 26 October 2015?
---Sorry?

Do you agree you had a meeting with Mr Rhee and Mr Say in your offices on 26 October 2015?---Yeah, maybe, because at that time they come to my office a few times.

And you agree, don't you, that the discussion at that meeting, if you accept that it was on 26, involved a discussion about a refund from Knightsbridge
40 Lawyers, do you?---Yes. Yeah. (not transcribable) thousand.

And can I suggest to you it also involved a discussion of you agreeing to give that money to Richard?---No.

And by Richard, that meant Richard Green?---No, no.

Are you able to offer an explanation of that email, Mr Zong?---I'm not record, I'm not remember this, I, I don't, I don't see this email, this is why I

was confused, in the morning I was confused. This is why I went back to my office to have a look at the emails, this is what I can assure you.

THE COMMISSIONER: Have you been through your email, sir, to see whether you've got the email?---Yeah. I don't remember this, I question myself.

No. It's not a question of whether you remember it, it's a question of have you checked to see whether on your system, your email system - - - ?---Yes. I've checked that, yes.

- - - you do have the email. Whether you read it or not is another question?
---No, no.

Pardon?---No, I couldn't find it, I couldn't find this email.

MR CHEN: I think we've been through, you certainly remember the subject matter of, sorry, the fact that you had a meeting?---Not a really meeting, they come to my office to test the money, not a meeting.

THE COMMISSIONER: Well that must be a meeting if they physically entered your office?---Yeah.

And talked to you?---Yes.

I call that a meeting, wouldn't you?---Yeah, you can you can, yeah.

Well you keep saying we didn't have any meeting. That's a meeting of a kind?---Sorry, yeah. Yeah.

MR CHEN: Well they attended your office, didn't they?---Yes.

And they attended together?---Sometime together, I think this, because at that time (not transcribable) some is Mr Rhee by himself.

Well, Mr Zong, what I'm putting to you really is that you actually did have a meeting and it included, at the very least, Mr Rhee and most probably Mr Say, and there was a discussion about paying Richard Green?---No, never talk about the pay Mr Green.

And you agreed with them to pay Mr Green a sum of money?---No.

And you did that to reward him for his efforts in bringing about the transaction involving your company, Gows Heat, and the Land Council?
---No.

Thank you, Commissioner. Nothing further.

THE COMMISSIONER: You were aware that the agreements executed on 26 October in fact were signed by Mr Green, purportedly on behalf of the Land Council?---I don't know that one.

You would have seen it on the document, wouldn't you?---Yeah. I saw the document, then I saw the – on 26 I don't know this.

MR CHEN: You were there on the day when Mr Green signed it, weren't you?---No.

10

You said you went up on 23 October?---23, yeah, 23, I signed this on 23, not on 26.

The Commissioner's question was you knew by 26 that it had been signed by Mr Green?---Sorry, was it 26 the agreement?

Well, no, on 26 I've put to you, you had a meeting in your office?---Yes.

Involving Mr Say and Mr Rhee?---Yes.

20

And the Commissioner's question was that you knew by that date that the document, the agreement between the Land Council, your company and Gows had been signed by Mr Green?---Yeah, I signed on 26 by Mr Green. I, I, I signed in, in the office. Of course it's signed.

THE COMMISSIONER: You saw Mr Green sign the agreements?---Yes, yeah.

That was in Newcastle?---In Newcastle.

30

On 23 October?---23 October, yes.

And you knew that he was signing, as it were so it said, on behalf of the Land Council?---Yes.

So his involvement was significant. He was the signatory for the Land Council.---Yes.

40

And well, when you met Mr Green was he introduced and you were told that he was the deputy chair of the board of the Land Council?---Yes.

Right. So you knew he was a director, in other words, of the Land Council? ---Yes.

Right. You knew also did you by the day of the signing, 23 October, that he seemed to be an associate or a friend of Mr Petroulias, was that apparent or not?---Yeah, they're always together when - - -

Always together. Well, apart from seeing Mr Green sign the agreements on behalf of the Land Council, or so it's said, what else did you discuss with Mr Green on that day, before the contracts were signed?---They were talking about the next stop of the process.

About, sorry?---The next, next step of the rezoning process.

10 The next step?---Yeah. And they said they will help once we, we are ready.

He said what, I'm sorry?---They will help, help us.

He will help?---Yeah, once, once our town planner finishes the rezoning process.

And did he indicate in what way he would help?---No, we, we, after we finish I think just five to 10 minutes we left.

20 MR CHEN: I'm just going to put another proposition to you, Mr Zong, that in fact you'd had discussions about rewarding Mr Green before that time involving at least Mr Rhee and at least Mr Say.---Sorry, what that?

I'll put it again. It was unclear, I agree. You'd had discussions before 26 October, 2015, involving at least Mr Rhee and Mr Say about paying Richard Green for his involvement in this transaction.---No, never. I never talking about the pay Richard Green.

30 Well, you had agreed to do it, can I suggest to you?---No. If they told me I not agree because I have paid so much money already.

Thank you, Commissioner.

THE COMMISSIONER: Yes. All right. Now, Mr Menzies, what's the position?

MR MENZIES: I'd certainly like to ask Mr Zong some questions arising out of what's just been asked.

40 THE COMMISSIONER: Yes, yes, well, that new matter.

MR MENZIES: That new matter.

THE COMMISSIONER: Yes.

MR MENZIES: As to the rest, we would be within a very narrow compass, certainly not, and there would be three matters that I'd need to deal with, and they go in part – well, first of all it's this matter which I'm obviously I'm able to deal with in any event, secondly because, and I take, take on

board what Your Honour has said and accept, the question of – I've done it again – what you've said, Mr Commissioner.

THE COMMISSIONER: Don't worry about it, Mr Menzies.

10 MR MENZIES: I can't help myself. One of the matters which is relevant to your inquiry as I understand the parameters is the issue of whether or not Mr Petroulias may have been involved in a fraud. That gives rise then, and of course that is a matter which can then engage the Commission's, engage the Commission's jurisdiction, and as I read your, the four matters, that certainly seems to be engaged. So insofar as that is relevant, so far as that being so, then I need to take up with Mr Zong the issues of reliance and knowledge which go to the elements of a fraud. The third matter is whether there was any involvement by Mr Petroulias in a dishonest scheme and there are some, and what is relevant so far as Mr Zong's evidence is concerned is what he might be able to say about that.

THE COMMISSIONER: So far as Mr Zong's evidence?

20 MR MENZIES: Of what he might be able – I need to put – I want to put some propositions to him with respect to that issue and that is obviously also a matter which has already been enlightened as part of your jurisdiction, so those are the matters.

THE COMMISSIONER: All right. We'll see how we go. I certainly grant leave to deal with the first matter because that's a new matter. In relation to the second category, depending upon how broad the issues are, I grant leave until the 3rd. I think perhaps we'll reserve and re-come back to that once we get there.

30 MR MENZIES: Yes. But I hazard a say that I'm not about to engage in a journey down Aphasia Lane, so I'll do it - - -

THE COMMISSIONER: I couldn't, sorry, hear that.

MR MENZIES: I don't intend to engage in a journey down Aphasia Lane, I'll deal with it as strictly as I can.

40 THE COMMISSIONER: I'll just add as a matter of procedure, these microphones, I think unless you're standing near them and sometimes it's awkward to do that, I appreciate.

MR MENZIES: Yes.

THE COMMISSIONER: But I don't know that we can, I'll look into the question whether we can magnify or increase the capacity for them to save you having to lean towards it.

MR MENZIES: That's okay.

THE COMMISSIONER: If you wouldn't mind just standing near the microphone.

MR MENZIES: Not at all, not at all and if I had my high heels on like Ms Nolan, I'd probably be able to be in a perfect position.

THE COMMISSIONER: Yes, all right.

10

MR MENZIES: Now, Mr Zong you were asked some questions about whether or not you had a meeting with Mr Green and you've given some evidence about that. Just so that I can get the time and the context right, what's your birthday? What date of the year is your birthday?---7 May.

I beg your pardon?---7 May.

The 7 May?---Yes.

20

Right. Now, you've said that Mr Green rang you for the purpose of getting together and celebrating, effectively, the completion of the deal. Is that right?---Yeah. It's not, not a really, just rang me, not and said I'll come and celebrate the deal.

I thought that's what you said?---Yeah. What I think he said, he come here, he rang me, I said, yeah, we have dinner, we celebrate the deal. This is what I thought. Not he rang me said let's have celebration the deal.

30

Just help me with this, if that's not what he said, why did you think you were celebrating a deal? Is that because that's what you thought you should be doing?---Yeah. This is I thought.

I'm sorry, didn't hear that?---I thought.

You thought that would be a good idea?---Yeah. I, I think this because we sign the deal to come here, I should honour the dinner.

And when you have that dinner, was anyone else there?---Yeah. Just another two people, I don't, I don't know them.

40

Who were they, male or female?---Male.

And you don't know them?---I don't know them.

How did they come to be at the - - - ?---This is Richard, Mr Green's friend.

Mr Green's friends?---Yes.

And did you understand why they were there?---I don't know, I didn't ask him, he just bring his friend, I just, that's fine because I said it doesn't matter if you bring your friend together, that's fine.

Right. So, you, Mr Green and two male friends of Mr Green?---Yes.

Could this be the case, that the two other people who attended the dinner were not male but female and they were prostitutes? What do you say about that?

10

MR BALAFOUTIS: I object, Commissioner. It's hard to see what relevance this has to any matter of interest to Mr Menzies' client.

THE COMMISSIONER: What's the relevance of that?

MR MENZIES: Well it goes to the issue of what the, what the purpose of the dinner was.

20

THE COMMISSIONER: I think, Mr Menzies, we have to ensure that unless a particular matter like that is germane to the investigation, it's not the sort of thing that we would permit to be ventilated in a public inquiry unless we, as I say, can make a judgment or we are clearly aware of the fact that it's relevant. I don't see at the moment that it's relevant, but the fact that the other two might have been two women, perhaps, might be relevant but I don't know whether you need to add the rest of it.

MR MENZIES: Well, I'm in your hands about that - - -

30

THE COMMISSIONER: Well, perhaps - - -

MR MENZIES: And let us just proceed.

THE COMMISSIONER: Yes. See how we go.

MR MENZIES: And we'll see how we go. In any event the meeting took, the dinner took place on what day of the week then and what date?---I don't remember exact date.

40

All right. If I was to suggest to you that it was 28 October, does that ring a bell?---I'm not remember, not remember the date.

Right. Well now, it was after 26 October, wasn't it? Because that was the date of the signing of the agreement, wasn't it?

THE COMMISSIONER: The 23rd, I think.

MR MENZIES: I'm sorry, 23rd. It was after the 23rd, correct?---Yes.

And the 28th is the following week. So after a weekend had gone by, does that help you?---Not, not recall which date.

Right. Well, let me suggest this to you, that the meeting, the dinner, did take place on 28 October, and can I help you with this? The very next day was the day that you communicated via email to Ms Bakis, concerning the \$48,000 and where it should do. Do you agree with that?---Yeah, 29th, yeah, we did have conversation about the \$48,000, yes.

10 Yes. And can I suggest to you that the dinner was the previous night?---I'm not remember, remember the date for the dinner.

Forget about the date, just the timing. The night before your email of, I think it was 10.30am, was it? Doesn't matter. The night before the email of the 29th, you had dinner with Mr Green, didn't you?---The date for dinner, I'm not remember the date. But there were - - -

I'm not asking you to remember the date, Mr Zong. What I am putting to you is that the night before your email directions was the night you had
20 dinner with Mr Green, wasn't it?---No. The email nothing related with dinner.

I beg your pardon?---The, the email nothing related about, about dinner. We, dinner, never talking about the - - -

I'm not asking you about what you talked about. The proposition I'm putting to you is - - -?---Yeah. You keep, you keep, you keep asking me if this, this all together. It's, I tell you this, this is not, not together.

30 What do you mean it's not together?---I keep asking me this dinner, after dinner I send an email. I tell you, so this, the date of the dinner, I not remember. I said the email is (not transcribable) because at that time we talking but I, I forgot when we started talking about the \$48,000 because at that time we need to pay the rest of, the balance of deposit.

Wasn't that day, 28 October, Richard Green's birthday?---Don't know.

Isn't that what he told you?---No. Never talking about.

40 And didn't he say to you, didn't, as a consequence of that say, "Well, let's get together and have dinner"?---No. Not talking about that.

You deny that, do you?---Yes.

It did not happen. Is that right?---I did not mention about the birthday.

So, let me put the proposition simply to you. The straightforward proposition is this, that on 29 October, you sent an email with directions as

to what should happen to the \$48,000. That's the first proposition. You accept that, don't you?---No.

You don't?---Sorry, sorry, what was your question?

On 29 October, you sent an email concerning your directions for the disbursement of \$48,000, didn't you?---Yeah. We had a few emails about this \$48,000 at that, that date.

10 I'm sorry?---On 29 we have many email about this 48,000.

Yes. I don't care whether it was one or more but it was certainly on the 29th that you gave those directions, didn't you?---No.

Why do you say you didn't?---Yeah, we didn't.

MR BALAFOUTIS: I object, Commissioner. Out of fairness to the witness can he be shown the document rather than being (not transcribable)

20 THE COMMISSIONER: Yes.

MR BALAFOUTIS: It's page 258, volume 7.

THE COMMISSIONER: I'm not sure that, did he give any actual directions on that day? I don't think - - -

MR MENZIES: Yes.

MR BALAFOUTIS: Yes, there was. Page 250 - - -

30

THE COMMISSIONER: There was a direction, was there? That was the 1.51pm.

MR BALAFOUTIS: 9.34am.

THE COMMISSIONER: Is that the one?

MR BALAFOUTIS: 9.34am. It's at page, it's on the screen.

40 MR MENZIES: Well, isn't that what I'm putting? I thought it was.

MR BALAFOUTIS: It is.

MR MENZIES: Have a look at the document. That's your email, isn't it? ---Yeah. Then you keep looking in the, the forward email and it's the, I think it's different.

I'm directing your attention to the email at 9.34am on Thursday, 29 October. Do you see that?---Yes.

And your email says the second sentence, please release the \$48,000 to Keeju, thanks. Now that's your direction, isn't it?---Yeah. But later you can have a look at the email after, after the email, this, the, the, we haven't done it.

10 What email then do you want me to look at?---Have a look at this, after.

Is that the email of, at 10.09am from Ms Bakis to you? Is that the email you want me to look at?---Yeah. Said that this, this, said it gives us a bit more time to work it out and just wait the direction, and this one we didn't give any direction.

20 Then the email at, she sends an email at – so then at 1.51, thanks Despina, I am still bit misunderstood the 48,000. Give us a bit more time to work it out, please wait us direction later. Thanks. Right, is that the one you want me to - - - ?---Yes.

And is there anyone after that?---No, I think.

Well, be all that as it may, there's no doubt, is there, that at 9.34 it was certainly giving you direction, "Please release that 48,000 to Keeju." No doubt about that, is there?---Yeah. But it, this is, at the end of these few emails, it's back and forth, back and forth, this is, and then we started just with, just with, with her direction (not transcribable). And the, and actually we didn't give any direction about this 48,000.

30 So was the 48,000 ever paid?---No. This is the first time, first time from 50,000, from the deposit. It was paid into another friend's trust account.

So the money was never paid to Keeju?---No, no.

Is that right?---No.

40 Isn't this right, that you, that it was proposed to you at the dinner you had with Mr Green that the money that he be paid, some amount of money, namely \$20,000, and that the funds be paid to Keeju and from Keeju they were going to be paid to him?---No.

That was the conversation, wasn't it?---No.

You deny that?---Yes.

And there would be no reason why, do you say, that would happen, I take it? There was nothing to pay Mr Green for. Is that what you say?---No, it's,

I signed, signed the contract with Mr Green but they go to the agent, they go to their lawyer, I pay them the big, big amount of money.

Yes.---Yes.

And so what does that mean?---What's your question?

10 I think I've asked you the question. I'm now asking you what does it mean, I paid the lawyers, I paid them a big amount of money, what do you mean by that?---This is the deal, this is the deal.

Look - - -?---The deal I had done, the deal, all the deal had done.

Your idea of a deal, Mr Zong, could I suggest to you, your idea of a contract, could I suggest to you, is a starting point for negotiations, isn't it? ---Of course, yeah.

I beg your pardon?---Yes.

20 So a deal so far as you're concerned is a deal not done until you've been able to get the best you can?---No, the deal, at that time the deal is done and we exchange the contract and we pay all the deposit.

Well, if the deal had been done and the contracts had been exchanged, then it was pretty plain, wasn't it, what you were obliged under the contract to pay?---Yeah, that's why, that's why we engaged the town planner start the process with town planning, the rezoning process.

30 After there had been a deal, an agreement, you sought to change it, didn't you?---Change what?

The agreement.

MR BALAFOUTIS: I object. It's just not specific enough, Commissioner. What agreement? When was the change made? It's unfair.

40 THE COMMISSIONER: Look, I think there's ambiguity here when you say, "the deal." I think you should specify what deal you're talking about so that the witness is clear.

MR MENZIES: Certainly. The agreement that you – the proposition is this, Mr Zong, that after there had been an agreement which involved you in paying a certain amount of money, you sought to amend that agreement by offering to pay only a lesser amount.

THE COMMISSIONER: With respect, you can't have it in that form. Let's not - - -

MR MENZIES: Thank you, Your Honour, thank you.

THE COMMISSIONER: Let's not be evasive. What agreement are you talking about?

MR MENZIES: All right. All right.

THE COMMISSIONER: Involving a certain amount of money, what money, what are you, which transaction are we talking about?

10

MR MENZIES: Yes. Can I have that please? Yes, certainly, Your Honour. Sorry. Can I have that, the agreement, please, and the way it was changed? While I'm doing that, can I just - - -

THE COMMISSIONER: Mr Menzies, I also raise the question, where is this taking us? We're moving now from as I say the dealings between a director and others, be it Mr Zong or anybody else, and now we're going into the contract negotiation aspect. We may go beyond that into the what happened after the agreement was signed on the 23rd.

20

MR MENZIES: I understand.

THE COMMISSIONER: All those matters might be of great significance perhaps as I said before in civil proceedings between parties who are parties to the contract, but that's all very well in civil litigation where those proceedings between the parties will determine inter se their rights or liabilities.

MR MENZIES: Certainly, Your Honour.

30

THE COMMISSIONER: But in this case we're concerned with conduct, as I tried to explain before, in relation to specific segments. Now, if we're drilling down into how the contract was allegedly changed and how in negotiations there were counteroffers and so on and so forth, that's not going to help at all in this investigation. Indeed I don't see the relevance at all.

MR MENZIES: Your Honour, I understand.

40

THE COMMISSIONER: And having granted leave, as I've said, I've only done so on the basis that category 1 you identified of the three was limited to what we call the new material introduced this morning by Counsel Assisting, and now we seem to be straying well off that path.

MR MENZIES: I won't pursue this matter any further.

THE COMMISSIONER: All right.

MR MENZIES: Let me deal with this proposition. At one, you engaged solicitors to act on your behalf, did you not?---Yes.

And you sought from them advice, I take it? I'm not asking you what the advice was.---Yes.

And they gave you advice?---You mean the contract (not transcribable)?

10 I beg your pardon?---You mean the contract for, the ones for the contract?

Well, two issues. One, they advised you with respect to the contract and, I take it, what legal obligations arose for you from that contract?

MR CHEN: Well, Commissioner, I made the same objection with my learned friend Ms Nolan, who has conducted this cross-examination of the witness before. There are obviously several stages where there has been contracts and my friend should be, with respect, clear, and also clear about when they had advice.

20 MR MENZIES: Well - - -

THE COMMISSIONER: Yes. I think the chronology is critical and there are quite a number of agreements and unless we identify what we're talking about - - -

MR MENZIES: Let me try and roll it - - -

30 THE COMMISSIONER: - - - what the advice, which one it related to, it's meaningless almost.

MR MENZIES: Let me try and roll it up in an efficient way. When did you first engage solicitors with respect to your dealings with, your attempts to purchase the land? Can you remember when that occurred?---Yes. Yeah.

When was that?---I not remember, remember exactly the date. Once, once we started negotiations with, when we receive the head agreement, we get our lawyer involved.

40 Get your?---Solicitor.

And that solicitor's name?---DCP. Mark, Mark, DCP Lawyer.

All right. And did those lawyers continue as your advisors until the deal had been completed?---Yeah, until they sign, before sign we exchange the contract.

Until?---Before we exchanged the contract.

Right. And is this right, that from time to time there were variations from the original proposal as to another proposal?

THE COMMISSIONER: Mr Menzies, again, you're getting into this vague area, the original proposal. Which one are you talking about? There's quite a number.

MR MENZIES: Well there are, I understand that, Your Honour. The point I'm trying to - - -

10

THE COMMISSIONER: That's point one.

MR MENZIES: Yes.

THE COMMISSIONER: Point two is coming back to the primary matter. We're not here, going to plumb at the depths of the rights and liabilities inter se and the relationships, contractual or otherwise that have nothing to do with the conduct that we're investigating here.

20

MR MENZIES: That is not the matter which I am seeking.

THE COMMISSIONER: Well, it sounds like it. I mean, you're talking about variation to, what you called, the original proposal. Now, why are we going into the variations area at all, whatever they be?

30

MR MENZIES: Your Honour, the proposition that I seek to advance is a simple one, and that is this, that Mr Zong at all times, from the date that he has told you solicitors were involved until the end date, he had solicitors engaged. The next question, obviously, is did he seek their advice. The next question is - - -

THE COMMISSIONER: Well, I expect the answer to be yes, yes, yes, to all of that. Yes, he had lawyers, yes he - - -

MR MENZIES: And yes, he relied upon that advice.

THE COMMISSIONER: He would have been - - -

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MR MENZIES: That's all.

THE COMMISSIONER: So what? I'm not, I keep saying - - -

MR MENZIES: Your Honour - - -

THE COMMISSIONER: The principles of reliance, whether contractual or otherwise, it's got no relevance here.

MR MENZIES: Well, part of Your Honour's jurisdiction goes to the question of whether or not Mr Petroulias has committed a fraud.

THE COMMISSIONER: Well, it's not that, I don't agree it's that narrow.

MR MENZIES: No. I said, part of Your Honour's jurisdiction.

THE COMMISSIONER: Yes. Yes. You did, you did.

10 MR MENZIES: Obviously it's much - - -

THE COMMISSIONER: That's true. Okay.

MR MENZIES: It's obviously much broader than that. Now, if that's the case, then if be demonstrated that, if I seek to demonstrate and succeed on the proposition that whatever he did was not fraudulent, then insofar as part of your jurisdiction relates to that issue, that issue goes away. That's all.

THE COMMISSIONER: I don't see it, I'm afraid.

20

MR MENZIES: And if I – of course I can descend into detail and go to each and every agreement variation of it and the like, but it seems to me, with respect, to be unnecessary and to be unnecessarily time consuming, that's all.

THE COMMISSIONER: Mr Menzies, you're putting us on the peg on assumption that in order to be a case of fraud it's relevant to go into what advice, advisors and advice was received by Mr Zong in relation to the transactions. Quite frankly, you can't be that general, you can't say because

30 there's an issue of fraud and nobody has said yet that there is, but assuming for the purposes of the argument there's an issue of fraud, is it fraud by whom, against whom in what way? I mean, it may or may not involve a public official.

MR MENZIES: It doesn't have to.

THE COMMISSIONER: It might involve somebody we can call an outsider who is doing a business deal and does it involve the conduct of a public official or conduct towards a public official, but see I think you've

40 got to be more specific in identifying why you're going down this path, just to say there's a possibility of fraud involved here. That doesn't give you a canvas to just go into all the nuts and bolts of the negotiations, and so on.

MR MENZIES: That's the very thing - - -

THE COMMISSIONER: That's the point I'm trying to make.

MR MENZIES: That's the very thing that I thought I was at pains to express, that that's what I'm trying to avoid doing.

THE COMMISSIONER: I know you're trying to avoid it, but when you then descend into generalities, the original proposal, then how is the witness necessary to know which one you're talking about? He may, but there may be a lack of clarity so therefore if you're going to go into this area, it's one of those sort of areas you've got to be specific in particular about and that's what I'm trying to avoid, and you can't get around it by simply saying, well,
10 I'll talk in generalities about original proposals or other proposals or so on. Do you see the problem?

MR MENZIES: I have to confess no, Your Honour.

THE COMMISSIONER: Maybe counsel assisting can contribute to this.

MR MENZIES: No, well, look I'll do it.

THE COMMISSIONER: No, no.
20

MR MENZIES: I'll do as Your Honour suggests.

THE COMMISSIONER: No, no, I'm calling upon - - -

MR MENZIES: I don't - I'm sorry, I didn't mean to talk over you.

THE COMMISSIONER: No, no, I just want Mr Chen to have an opportunity to have a say.

30 MR MENZIES: What I'm trying to do is be efficient. What I'm trying to do, obviously unsuccessfully so far, is be efficient. I want to deal with an aspect of the Commission's jurisdiction. It may never come up but in as much as it seems to be raised and, as I read, the complaints, I raise it. If it's not a part of the complaint, I shan't.

MR CHEN: Well, Commissioner, all I wish to add is that Ms Nolan cross-examined on this very topic and we're going over, with respect, identical ground, and in my submission that's a further reason why my learned friend shouldn't cross-examine on it. If it's something different, then perhaps,
40 Commissioner, you may consider it appropriate to permit the cross-examination but it's being conducted, as I understand it, entirely by Ms Nolan on this very issue so it shouldn't be allowed again, in my submission.

THE COMMISSIONER: Well, Mr Menzies, I leave it with you for the moment but unless it's directly related, not indirectly as background material but unless it's related in the way I tried to categorise the issues that arise in this case, then I think we're going to be encountering trouble and I don't think you can overcome it by putting to a witness generalities like

original proposals, because he may be on a different planet to you and you're just not meeting because he doesn't know which proposal you're talking about. There's a danger, there's a risk of unfairness to a witness if he doesn't understand precisely what you're talking about. So therein lies the problem.

10 MR MENZIES: All right. I take it on board as well what the counsel assisting has said and I'm certainly not going to go over something which has already been dealt with. Can I just, would the Commissioner just give me a moment?

THE COMMISSIONER: Mr Menzies, if it's - - -

MR MENZIES: I'm sorry.

THE COMMISSIONER: - - - of any assistance, just to refresh your memory, standard direction 13 is in the following terms.

20 MR MENZIES: Yes.

THE COMMISSIONER: In determining whether a person has sufficient interest to cross-examine a witness the presiding Commissioner may call upon the cross-examiner to A, identify the purpose of the cross-examination, B, set out the issues to be canvassed, and C, whether a contrary affirmative case is to be made, and if so the details of that case. So just bear in mind that, as I say, I've extended a reasonable amount of latitude in not requiring there to be an affirmative case summary required so that I can determine the limits of cross-examination, but it may reach a stage where I will need you to state clearly what is any affirmative case on
30 matters so that I can understand where you're coming from. But anyway, for the moment I think we'll just continue.

MR MENZIES: Thank you.

The – well, I won't pursue further the matters of, that you've identified as being unhelpful. I accept that the cross-examination has already taken place as to some of these issues and I won't again seek to put - - -

40 THE COMMISSIONER: Thank you, Mr Menzies.

MR MENZIES: - - - a further cross-examine on those. In that respect, that then – well, that completes the cross-examination. Thank you.

THE COMMISSIONER: Right. Thank you, Mr Menzies. Mr Balafoutis?

MR BALAFOUTIS: Yes, a few questions arising.

Mr Zong, you recall that you gave evidence before about a meeting on 26 October with Mr Rhee, do you remember that?---Yes.

And in that meeting Mr Rhee told you he wanted you to pay further money to Keeju.---Yes.

Is that right?---Yes.

10 And I just ask for the screens to show volume 7, page 259. Did you recall what time that meeting was with Mr Rhee, was it midday or so or - - -?
---Hmm, yeah, probably midday. I not, not, not recall time.

Right. If you look at page 259 can you see there near the bottom of the page an email which you sent on 26 October - - -?---Yes.

- - - at 3.46?---Yes.

20 Is it likely that email was sent after the meeting?---Ah, yeah, ah, yeah, probably, yeah, probably, yeah.

And in that email you ask Ms Bakis to confirm, amongst other things, that there is \$48,000 in her account. Can you see that?---Yes.

And you've copied Mr Rhee on that email.---Yes.

And Ms Bakis then replies two days later on 28 October. Can you see that's at the top of page 259?---Yes.

30 And says the amount was not refundable. Can you see that?---Yes.

And going up to page 258 you, at the bottom of page 258 you ask, you say you don't understand the calculations?---Yes.

Further up 258 on 28 October Ms Bakis refers you to a document and then I think you were shown the email on 29 October which you sent at 9.34am asking the money to be released to Keeju?---Yes.

40 Can you see that?---Yes.

Now, I then ask for the screen to show, so just to confirm, that's at 9.34am. Then ask for the screens to pull up Exhibit 63, page 183. Right. So can you see there at 9.41am there's the email from Mr Rhee saying, "The 48,000 has nothing to do with me or Sammy?"---Yes.

And following that email did you decide then not to release the money to, not to ask that the money be released to Keeju?---Yes.

And then going back to volume 7, page 257, you'll see on 29 October at 1.34pm, so that's the second email, Ms Bakis asks whether the \$48,000 business is resolved and you direct that you pay your share to Keeju. Can you see that email?---Yes.

And you responded and said, "Give us more time to work it out." At that time did you not direct that the money be paid to Keeju because of Mr Rhee's response to you earlier?---Yes.

10 And when you said, "Please wait us direction later," can you see that?
---Yes.

You subsequent to this email did not give a direction for the release of the \$48,000 to anybody.---No.

Is that right?---No.

And by no you're agreeing with what I'm saying?---Sorry, what?

20 You do agree with me that you did not issue a direction to release the money to anybody?---Yes.

And so your intention then was it to retain the \$48,000 in Ms Bakis's trust account for the purpose of paying Awabakal the final purchase price?---Yes.

No further questions.

THE COMMISSIONER: Thank you.

30 MR CHEN: I don't have any further questions, Commissioner.

THE COMMISSIONER: Yes, very well. Thank you, Mr Zong. You may step down. You're excused.---Thank you.

THE WITNESS EXCUSED

[3.12pm]

40 MR BALAFOUTIS: May I ask also to be excused?

THE COMMISSIONER: Mr Balafoutis.

MR BALAFOUTIS: Thank you.

THE COMMISSIONER: Yes.

MR CHEN: Commissioner, there is a witness here at the moment. I expect that there will be a problem with it continuing beyond today and that could

make it undesirable for that witness to be called. Commissioner, so that will mean we will not have any further evidence this afternoon. Mr Broad has spoken to the witness and cannot be here tomorrow for reasons which I need not elaborate upon, so, Commissioner, that's as far as we're going to get today. Unfortunately we do have another witness on standby to come but we had to give them half an hour's notice and that will only give us 15 minutes.

10 THE COMMISSIONER: Yes, no, that's okay. So we're ready to go tomorrow 10 o'clock?

MR CHEN: Yes, Commissioner, yes.

THE COMMISSIONER: Good. Nothing else?

MR CHEN: Not for my part.

THE COMMISSIONER: Very well. I'll adjourn.

20

AT 3.13PM THE MATTER WAS ADJOURNED ACCORDINGLY
[3.13pm]