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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 FRIDAY 20 JULY 2018

AT 10.08AM

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AGAINST CORRUPTION ACT 1988.**

**THE TRANSCRIPT HAS BEEN PREPARED IN ACCORDANCE WITH
CONVENTIONS USED IN THE SUPREME COURT.**

THE COMMISSIONER: Yes, Mr Chen.

MR CHEN: I call Ryan Strauss.

MR WHITE: I appear on behalf of Mr Strauss, Commissioner. He will take an affirmation. I'm also seeking a declaration, Commissioner.

THE COMMISSIONER: Thank you.

10

<RYAN STRAUSS, affirmed

[10.09am]

THE COMMISSIONER: Take a seat, Mr Strauss. Mr Strauss, I understand the provisions of the Act, in particular section 38, which entitles you to give evidence under objection, has been explained to you?---Yes.

You wish to have the benefit of that; is that right?---Yes.

20

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness, Mr Ryan Strauss, and all documents and things that may be produced by him during the course of his evidence are to be regarded as having been given on objection. Accordingly, there is no need for Mr Strauss to make individual objection to particular questions or the giving of answers or production of documents or other things.

30

MR CHEN: Is your name Ryan Strauss?---Yes.

Are you a development manager employed by Strauss Property Group?---Yes.

Have you held that position for approximately the last 15 years or so?---Yes.

And is that company your father's company, in essence?---No.

40

Who is the shareholding of that company held by, so far as you know?---I'm actually employed by L & J Property Developments. That company is owned by Brian Weedon. We go by the group name the Strauss Group when we are dealing with people, but that's the specific entity that employs me.

I see. Is it the case, though, that the entity that employs you has employed you for the last 15 or so years, or thereabouts?---No, that entity has employed me for about six months.

All right.---I have been employed by a series of entities, but, like I said, we trade under the Strauss Group in general. People know us as the Strauss Group, yes.

10 Have you, essentially, worked for the Strauss Group for that 15-year period?---Yes.

I knew I'd get there.---Yes.

Is it the Strauss Group or Strauss Property Group?---Strauss Property Developments is the name that we would collectively say we trade under: it's a company name.

20 Does the work of Strauss Property Developments, perhaps as its name suggests, principally or exclusively involve property development?---Yes.

And that involves sourcing land to either develop or on-sell; is that essentially what it does?---Yes.

That's always been the case?---Yes.

30 From time to time have you worked with a gentleman called Andrew Kavanagh?---Yes.

And you've done so for a number of years?---Yes.

He's also a property developer, is he?---Yes.

And he also has a background in building, I think; is that so?---Yes.

40 He's not employed by the Strauss Property Developments group?--- no.

He just works with you from time to time?---We co-develop.

I see. Now, you know a gentleman called Sam Say, do you not?---Yes.

You've known him prior to 2015, haven't you?---Yes.

For how long have you known Sam Say?---It wouldn't be much before that time, I wouldn't have thought.

Is he a gentleman who, from time to time, would bring to you opportunities in relation to property?---Yes.

Prior to 2015, had you ever done any formal deals with property that Mr Say had brought to your attention?---No.

10

You know you've come here today to give some evidence about some arrangements or an attempted transaction involving Solstice, a company called Solstice, and the land council in 2015 and 2016?---Yes.

20

Could you tell the Commissioner simply, if you can, what's the connection between Solstice and Strauss, if any?---Okay. My aunty at that point in time owned Solstice Property Corporation, I think it was, Pty Ltd, that's the name of the company, and I worked for her in the capacity of a development manager and that was the connection to Solstice.

Ultimately, that was the name that was used in this attempted transaction to do with the land in the Newcastle area; is that right?---Yes.

30

That's simply, for business or other reasons, the name that you were going to utilise to progress the transaction, if it did progress?---Well, we may have used - we normally use an entity and then when we go to final documentation, sometimes it changes, sometimes it stays the same, depending on what we are trying to achieve. It's just - it's a business.

40

I am just going to give you some key moments or events, Mr Strauss, to try to give your evidence a bit of structure, if I can. Mr Say came to you in late 2015 with a proposal for land in the Newcastle area, did he not?---Newcastle and Warners Bay, yes.

That was by phone, I take it?---Yes.

Did the property include the Newcastle post office?---Yes.

Did it also include several lots, as you've indicated, in the Warners Bay area?---Yes.

I just want to take some steps in your evidence, if I can, Mr Strauss. It's going to require you to jump ahead and I'll come back and fill in the details shortly. You ultimately went on a site visit, did you not, to look at some of these lots with Mr Say?---Yes.

10 Shortly after that period of time, was some documentation prepared in the form of draft contracts that were sent to you by email?---I believe it was some valuations that we were sent that gave us some indication of what the land is and what it was worth; that's what I recall.

That related, in particular, to the land at Warners Bay that Mr Say had introduced you to?---Yes, it was - there was land in the Newcastle - it was the post office. There was other land in the Newcastle region and there was also land in Warners Bay.

20 And are the sites that you visited with Mr Say, initially, those ones at Warners Bay and also the post office?---Initially, we visited the post office first and then we did a little drive around for some other sites in the area that were apparently part of the collective bundle of properties and then on the way back we went and visited Warners Bay.

I just want to get the - - -?---Back to Sydney.

30 I see. I just want to get the chronology right, if I can. Mr Say speaks to you about this land, that's the first step? You just need to audibly answer, sir, it's being recorded. You just can't nod, you have to say "yes" or "no", or whatever you want to answer.---Yes.

Mr Say then emails you some of these valuations; is that right?---No, we had the valuations emailed first.

40 I see.---And then we went up and saw the properties.

THE COMMISSIONER: The valuations came from Mr Say?---Yes.

MR CHEN: The next step is that - was there a meeting then with the people who lay behind this transaction?---First of all, we went to the council up near Warners Bay just to assess the likelihood of it getting rezoned. Then there was another meeting where we met in Knightsbridge lawyers'

office, which I guess has been heavily documented, but that meeting was around - to my understanding, it was about April. I think we went in February to see the site.

This is 2016 you're talking about?---Yes, 2016. Yes.

10 I am just going to ask you to pause there for a moment. I am going to come back and fill in some the detail, because I'll take you to some documents that might suggest that your memory of the dates might be inaccurate.---Maybe.

In any event, do you remember that some draft documentation was issued following a meeting at Knightsbridge North Lawyers, or you don't have a recollection of that?---There were - yes, there was.

20 Mr Strauss, ultimately, the discussions went through the latter part of 2015 but extended into 2016; is that your recollection?---Yes.

Eventually, Mr Strauss, the transaction came to a fairly abrupt halt, didn't it, in about April or May 2016?---Yes.

Do you know that Mr Kavanagh sought some legal advice at or around that time in relation to the titles to some of these lots that were being proposed?---Yes.

Did you see a copy of that advice?---No.

30 Do you know the effect of what apparently that advice said?---My understanding was that there needed to be state council approval for any deal, that any Aboriginal council individually was going to enter into, it needed to have a sign-off from the state Aboriginal land council. That was basically my understanding of what that advice was.

40 Were you aware of that prior to the time that you received that advice?---Prior to it?

Yes.---I didn't have any idea, no.

Going forward, was there an idea to try to make future negotiations conditional upon that consent or approval being forthcoming?---Oh, there couldn't be any other way to do it.

I want to just take you back to the documents now, Mr Strauss, if I can.---Sure.

Is that the basic chronology then of events, so far as you can recall at least at this time, of what happened for this attempted transaction?---Yes. There were a few other bits and pieces that led to the collapse of the transaction.

Let's go to some of the detail now.---Sure.

10

You referred to an email. Would you have a look, please, at volume 8, page 1. Do you recognise that as the email that Mr Say had sent to you enclosing these valuations that you gave evidence about earlier?---Yes, it would - yes.

20

What was the discussion that Mr Say had with you at around this time about you being interested in buying land in the Newcastle area?---Basically - so he's a site finder, that would be the term that I would give him. He brought us these sites. He showed us the valuations. He mentioned that there might be some sort of a joint venture that we could do with the Awabakal Land Council and these were some of the properties - as you can see, they sent the valuation, as I said before, to us, so that's what I was referring to before. Obviously, it looked like a fairly large project. We like to do residential subdivisions and this looked like a good opportunity to use our skills and capital, and try to do a joint venture with the landholders to see what could be achieved.

30

Anyway, you certainly expressed an interest in the land once it was- - -?---Definitely.

- - - identified by Mr Say?---Yes.

Did he tell you that it was land owned by a land council at that stage?---Yes.

40

Did he tell you that somebody else had been interested in this, or these particular lots?---Yes.

And did he tell you that they'd put in an offer for those lots?---Yes.

And did he tell you anything about what had happened in relation to that other party and what they had attempted to do?---There was no detail given about the other party, just

that there was another party talking to them.

I see. Did he tell you anything about that deal having fallen over or- - -?---No. We were of the understanding the deal was still under negotiation and we were basically competing with that deal.

I see. Now, I think you are familiar with a valuer or the valuation company Diamonds Property Consultancy?---Yes.

10

Did you read these valuations when they came in?---I looked at the headline numbers.

Did you have a view about whether they were accurate, inaccurate or- - -?---Stuart Rowan has a tendency to overvalue things, so I had a bit of a pre-conceived notion as to the headline numbers, that they might have been a bit pumped up.

20

So the next step after this was you arranged with Mr Say to have a site visit; is that right?---Yes.

Was it only you and Mr Say that attended this site visit?---No. This was another gentleman, one of Sam's I guess associates. His name was Joey. I don't know what his last name was.

30

Was it Melhan?---Yes. Yes. Yes. So he was there. I believe Andrew Kavanagh was there as well, he was there, yes, he was there, and they were the only people there, it was just the four of us.

Aside from the post office and the land at Warners Bay, do you have any recollection of going to any of the other lots, such as the ones at Waratah West, for example?---I can't remember the addresses, but we did go and site visit the few that were on the list in Newcastle.

40

I see. When you say "the few that were on the list", you mean those that have been identified in this email and in the valuations?---There was about three properties up in Newcastle that aren't on this list that we went and saw that were part of the bundle, that we understood to be, but I can't remember the addresses. We certainly did site visits - drive-bys, sorry.

I see. Just so it is clear, are they three in addition to

looking at the post office and the Warners Bay lots?---Yes.

I see. So definites are post office, the Warners Bay lots and three others you don't have a recollection of the precise addresses of?---Yes.

And this is the site visit that you went with Mr Kavanagh, Mr Say, Mr Melhan?---Yes.

10 Did Mr Say ever tell you at the site visit that some of these lots involved an entity called Gows Heat?---Could you be a bit more specific about what you mean by that?

Well, I'll be a bit more general, then, in my question. Did Mr Say mention at all that a company called Gows Heat had an interest in any of these lots that you had seen with him or were the subject of these valuations.

20 At that point in time I don't recall him mentioning Gows Heat. Gows Heat was an entity that I had seen later on, going forward, but at that point in time I wasn't aware of the name of the company involved.

All right. I am just going to show you some other documents, if I can, Mr Strauss. Would you have a look, please, at volume 8, page 72. This will come up on the screen. Do you see in front of you volume 8, page 72? I'll just show you the bottom of the page, if I can. You can see that's page 72. You can see above there's an email
30 from Ms Bakis to Samuel Say dated 18 November 2015?---Mmm-hmm.

Do you see that? If we just scroll up a bit to the top of the page, you can see that that's been forwarded on to you by Mr Say on that same day? Do you see that?---Yes.

Do you remember receiving this email?---I don't remember receiving it.

40 Do you remember receiving an email at about this time that attached a number of draft agreements which were to be used as, I guess, a talking point going forward?---I may have received them, but I would have passed them straight to my lawyer and not even read them.

I see.--- So that would have been to Dean Alcorn.

I will just show you a couple of these at the moment, Mr Strauss, and I'll take you back to how this came about. If you have a look, please, at page 82, you can see there that that is a document that I'm just going to ask you to assume was contained in the documentation that was emailed through. You can see that it's called a "surrender agreement and release" between Gows Heat and Solstice. Do you see that?---Yes.

10 Do you recall seeing this document at around this time?---Look, I don't recall, but if it was sent through it was sent through. I can't argue with the evidence.

All right. If you have a look, then, please at volume 8, page 84, you can also see that there's a document described as heads of agreement dated 15 December 2014. If you have a look at page 85, you can see that that purports to be an agreement between Gows Heat and the land council. Do you see that?---Yes.

20 Have you seen that document before?---Like I said, I don't read the agreements, I just give them to my lawyer and he reads them.

I'm not asking whether you read them, at the moment, I'm just asking whether you've seen it.---Well, I would have seen it. Okay, the answer is yes, I have seen it.

30 Mr Strauss, you can see by some of the documents, particularly the surrender and release agreement that I drew your attention to, that Solstice has already been entered into these draft documents. Did you see that? Would you like me to take you back to it?---Yes, yes, I can see it, yes.

40 So it's clear, I think, Mr Strauss, isn't it, that based on those documents there must have been a meeting prior to this time to discuss going forward and, in particular, enabled you or at least Mr Kavanagh to identify the corporate vehicle that was to be used, at least initially, to enter - - -?---I hope, yes.

- - - a transaction; is that right?---Yes.

So if we've got some dates now, I just want to ask you to focus on if you accept these documents were emailed through on 18 November 2015, the valuations are 6 November 2015- -

-?---Yes.

- - - there was a meeting, wasn't there, in that period involving at least you or Mr Kavanagh and others to enable these documents to come about?---There was definitely 100 per cent a meeting. The dates - like I said, I don't remember the exact dates.

10 You certainly remember it in a reasonably close period of time from Mr Say introducing you to the land, do you?---Yes.

Do you remember where that meeting was?---Yes, it was in Knightsbridge lawyers' offices.

20 Do you recall attending that meeting with anyone else?---The attendees were myself, Andrew Kavanagh, Sammy, Joey, Nick, Richard Green and I think - I believe it was Mrs Bakis. She was taking notes, she didn't talk.

Did Mr Green introduce himself?---As Mr Green, is that what you mean?

Yes. Did he say where he was from?---Yes, he did.

Where did he tell you he was from?---He said he represented the Awabakal Land Council.

30 Can you tell the Commissioner what was discussed at this meeting?---Basically, we were trying to get agreement on the structure of the joint venture that we were going to put together, the price - how the price was going to be - how that end price for the land was going to be cast in terms of, you know, how much cash, the timing of the cash, whether there was a land component to it in terms of getting product at the end as part of that land transaction, who was going to do the work involved in the rezoning of it, because it needed to be rezoned, and obviously finer details of the agreement in terms of the structure of how it was actually going to work. Like, it was basically a meeting to understand how much we were going to pay for it and how the deal was going to be structured.

40

The documents, at least some of them that I've referred you to in relation to this draft agreement that have gone through, refers to Gows Heat. Do you remember I showed you

those documents?---Yes.

Was there any discussion at that stage at that meeting about Gows Heat and the interests that it purportedly had in some or all of these lots of land?---At that point in time, I didn't understand a great deal about Gows Heat's involvement.

10 Did they mention this, Mr Strauss?---What they did mention was that Gows Heat had an interest in the deal. I can't remember exactly what it was, but they certainly said it had already had an option, I believe, on some of the land and that the transaction would involve us having to make that company part of the deal, given that it owned various options on land.

20 In the language of property developers, when you say "make them part of the deal", what does that mean?---Well, let's assume that we wanted to buy all the land, some of that land was owned by Gows Heat and the understanding was for us to get all the land we had to include Gows Heat in the transaction, because they would be a vendor, effectively. It would be like buying an option off somebody that had an option.

Pay them money?---Pay them some money, yes, for their interest in the land.

30 Are you able to be a bit more specific about whether Gows owned it or had an option, do you know?---I believe they had just an option on it. They definitely didn't own it, as far as I'm aware.

Mr Strauss, this meeting is at the offices, I think you said, of Knightsbridge North?---Knightsbridge - I can't remember. It was Knightsbridge lawyers, that's all I remember.

40 Where was this meeting held? Was it in a boardroom, in an office?---It was in their boardroom in their actual offices. I saw the sign as I was walking in the door, it said Knightsbridge lawyers, and I assumed I was walking - and meeting a lawyer.

Did you meet somebody who identified themselves as Nick Peterson or Nick Petroulias?---Yes.

I'll just show you a document, if you would. It's volume 1, page 1.---Yes, yes, that's Nick.

Is that the fellow that you met at this meeting?---Yes.

You said as well that Richard Green was there?---Yes.

And he was present while there was this discussion about Gows Heat?---Yes.

10

And was Ms Bakis there at that time, or not?---I was never introduced to her as Ms Bakis. I just assumed post that it was her. It was a receptionist - sorry, like somebody taking notes and I assumed it was Nick's PA, but I was never introduced with her name. I didn't know who she was.

Could you generally describe her, what colour hair she had?---Dark hair.

20

Are you able to estimate an approximate age? I know that's difficult.---50.

What about height - was she short, tall?---Fairly short.

Are you able to put a bit more- - -?---Look, my memory doesn't recall. She was insignificant to me in the meeting because she was just taking notes. I didn't see her as a major player.

30

Was there anybody else that you observed in the office of Knightsbridge, as you call them, Knightsbridge lawyers, at that time?---We walked straight into the boardroom. I didn't meet anybody else.

Does this office have a receptionist?---I didn't see a receptionist. We went sort of in the back, so it was kind of like we were led in by Nick, we walked straight into the boardroom. So I assumed that he - it was his offices.

40

Was there any dialogue between this person that you identified, this female person taking notes, and Mr Petroulias?---No, she was just taking orders, or taking notes of what he was saying.

What did Mr Petroulias identify himself as, or what was his role in this transaction?---Well, he had a lot of notes in front of him, so I'm assuming he was the - I thought he was

the lawyer acting on behalf of the Awabakal Land Council. I thought he was the actual lawyer that represented them.

10 Why do you say that?---Well, I thought it was his - first of all, I thought it was his offices. Second of all, he was leading the discussions and he had all the documentation in front of him. So naturally I thought he was a lawyer representing the - representing the Awabakal group and he seemed to be guiding all the conversations from Richard Green as well, what he was saying. So I figured he was giving him advice as well at the same time. So I didn't see any other reason to think he was not a lawyer.

20 What was Mr Green saying during this meeting?---Mr Green was basically giving us some comfort that he could get the deal across the line with regard to the - with regard to his council members. I understood that he was there to negotiate a fair deal on behalf of them and also that with regard to the rezoning process, that he had some influence or could provide influence and knowledge of the area to the council to help facilitate that rezoning.

30 Mr Green has given some evidence before the Commission that at a meeting that occurred, likely this one, he made it clear to you and to Mr Kavanagh that it was necessary for any deal to be done for approval to be given by a members' meeting of the Awabakal Local Aboriginal Land Council and, in due course, by the State Land Council?---No, there was never any mention of the State Land Council, ever. We basically came up with that through our lawyer doing due diligence, through Andrew's barrister who gives him specific land advice. It's not something that we'd ever dealt with before and if he had mentioned it, we would have, obviously, thought that that would be good knowledge, but, no, he didn't ever mention it. He certainly did mention - I mean, it was kind of obvious that we needed the Awabakal approval, we understood that, but we didn't realise that there was - we'd never dealt with Aboriginal land before, we didn't know what the process was and I guess that's why we got advice from the barrister that told us that.

40 But when you say - I had better get this evidence a bit more exactly, if I can. Mr Green, I think you said words to the effect, "He could get the deal across the line" and you just said a moment ago that you understood at least

that you needed the approval from the Awabakal Local Aboriginal Land Council. Why do you say that? Is that because they were a vendor, is that because somebody said something specifically? What's the position?---Well, he made it very clear that he had influence in the land council and that he was also representing them, so we assumed that we would - I mean, normally, when you turn up to a meeting and they are with their lawyer, they are the person that you're dealing with, so we just anticipated that, or we felt at the time that he was the - he had the authority of the land council to deal on these properties. We didn't have any other reason to think that he didn't.

And did you know that subsequently when these contracts were issued after this meeting, that in fact Mr Green had signed a contract involving - or a draft contract on behalf of the land council involving Solstice, did you know that?---Look, he may well have signed - signed something. Whether he had the authority, I wouldn't have a clue. That would have to be something my lawyers would have to check.

I am just asking whether you knew that he in fact signed the draft contract.---No, I'm not aware that he had signed a contract. If he signed it, he signed it. I don't know.

Was there at this meeting, aside from what I think you've described as the mechanics of how you would progress a deal, any discussion about any specific lots - for example, any particular parcels of land?---Look, we discussed that all the lots would be part of the deal because we needed - for putting up the capital we wanted security to make sure that we didn't waste the money that we were putting into it. So we asked for a first mortgage security to be put on there, and that's kind of where negotiations started to come apart a bit as well, because a lot of the land that they were saying that they had hadn't actually even been issued by the - hadn't been released by the land titles, so that was another impediment to the deal going forward as well, but we had to discover that for ourselves, it wasn't - they didn't tell us that.

Could you just have a look, please, Mr Strauss, if you would, at volume 8, page 22. Do you see that is a cover sheet of what's described as a "general heads of agreement" dated 19 November 2015?---Yes.

If you turn to the next page, you can see these are the

draft heads of agreement dated 18 November 2015?---Yes.

You can see, then, that Solstice has been added as a party to this proposed transaction?---Yes.

The land council and Gows Heat are the other two parties. Do you see that?---Yes.

10 Do you recall seeing this document at all, Mr Strauss, at the time?---I would have seen it, but I didn't read it.

Would you have a look, please, at volume 8, page 28. Do you see that there are signatures attached or appended to that agreement by somebody purporting to represent Gows Heat as well as the land council?---Yes.

20 Do you recall seeing, or at least looking at this page when it came through?---I don't recall seeing it, but I've seen it subsequent - at the time.

After this meeting, obviously this documentation issued; is that right? That seems to be the chronology. You just need to answer, Mr Strauss?---Sorry, what was the question?

The question was after this meeting this documentation issued?---Yes.

30 It involved at least being considered by your lawyer at that stage, is that right, Mr Alcorn?---Yes.

He was not a lawyer but he had some legal- - -?---Yeah, he was like our legal in-house counsel adviser.

It appears, Mr Strauss, that nothing much happened for a number of months after these contracts or draft contracts issued. Is that your recollection?---Yes.

40 Are you able to say why nothing appears to have happened for some months?---Yes. Well, there were two issues. First of all, we couldn't get a - we weren't satisfied that for us outlaying the capital, that the state council would agree to it and they wouldn't - the other side, the other parties wouldn't agree to guarantee that the state council would sign off on the agreement. That was the first issue. The second issue was obviously those titles that hadn't issued yet. They couldn't provide us with the security that we required to actually do the deal.

If I can go back, Mr Strauss, to make sure that you've got the timing of this evidence right. Maybe what I'll do, I'll get you to just follow through the documents at this stage, but I want you to assume that advice that you got from the barrister, or Mr Kavanagh's barrister, only came through on either 3 or 4 May 2016.---Sure.

10 And as I understood your evidence earlier today, you said you weren't aware of the need for State Land Council involvement until you received that advice?---That's right.

I will just take you to the documents now to try to order your evidence a bit more. Is that the position? I don't want you to give evidence that you're not comfortable with. Is it only when you got that advice that you knew that State Land Council approval was required, or did you know earlier?---No, we didn't know earlier. That was the first time.

20 I'll just take you through the documents this way, Mr Strauss, if I might. I'll just take you to volume 10, page 93. That's on the screen in front of you. Do you see that, Mr Strauss?---Yes.

30 It appears, on the material that's available to the Commission, that nothing, Mr Strauss, at least in terms of emails or other communications, happened between November 2015 and what appears to be March of 2016. Does that accord with your recollection or not?---It sounds right.

40 If you just look at these emails for the moment to refresh, I hope, your memory, you can see that at the top you send an email back to Dean Alcorn on 3 March and you talk about, "Get the Warners Bay option for now". Do you see that? And if you follow that through, it seems that Mr Alcorn had forwarded you an email that a gentleman called Michael Pearson had sent him on 3 March 2016. Do you see that?---Yes.

Are you able to say, assuming this is to be the position, why it is that nothing occurred between November 15 and March 16, or you just can't remember?---I think we'd just given up on the transaction in its current shape at that point in time and we started looking at other deals that Sammy had brought to us that seemed - because we sort of

had a better understanding of how the Aboriginal structure needed to be, so Sammy said that he had some other land councils that he was dealing with, and we said, "Okay, well, show us what you've got and let's see if we can do a deal." So we started looking at other property. We are constantly looking for property, obviously.

10 I just want to go back - I apologise, I have to go back to this meeting in November '15. Was there any discussion about how much you were proposing to pay at this stage, or was it really only a structural or mechanical- - -?---No, I believe there was definitely discussions about the price.

Do you recall now what the price was?---Oh, I don't recall specifically, but I think it was about \$17 million plus a bunch of housing stock at the back end. I think it totalled about \$25-odd million. That was just for one property. That wasn't for the whole group of properties.

20 I see.---That was just for one. That was just for the main rezoning in Warners Bay.

I see. Would you have a look, please, at volume 10, page 111. You can see there that that's an email from Sammy Say to you on 12 March 2016?---Yes.

You can see there that you've been provided with a structure by Mr Say?---Sorry, what was the date of that?

30 12 March?---12 March.

Okay. Have a read of it, if you like.---Sure. Okay.

Do you remember having a discussion with Mr Say along these lines?---Yes.

You certainly knew by this stage who Gows was? Do you see it talks about an option fee of \$2 million to Gows?---Yes.

40 This is to buy out this interest that it was declared that they had over these lots, isn't that so?---Yes.

Ultimately is the position that you sent that on to Mr Kavanagh for discussions; is that right?---I don't remember what I did with it, but I would have talked to him about it if - if that was the deal. I don't remember emailing it or talking, I can't remember.

At this stage, and perhaps I should have made it clearer by a question to you, he'd participated in the meeting in November 2015 and any deal going forward was involving at least him, wasn't it?---Yes.

10 I just want to show you now, please - well, I will just show you, for completeness, the next page, Mr Strauss. You can see that you forwarded on the email that I've just drawn your attention to at page 111. Do you see that?---Yes.

Now, would you have a look, please, at volume 10, page 137. You can see here, Mr Strauss, that Mr Say is forwarding on to you a suite of other agreements now relating to this transaction. Do you see that?---Yes.

20 Whereas originally there was one document that contained a number of schedules, there was now a call option agreement, a collaboration agreement, a surrender agreement and release, a deed of rescission and acknowledgement, as well as a manager agreement. Do you see that?---Mmm-hmm.

You remember that, don't you?---Yes.

Now, how has this come about, that there has been a change in the documentation to this degree, do you know?---No, I don't.

30 I just want to show you some of them, if I can, Mr Strauss. If you have a look, please, at volume 10, page 165, you'll see when that comes up on the screen that's called a call option agreement?---Yes.

The call option agreement is between the land council and Solstice. Do you see that?---Mmm-hmm.

40 If you have a look, Mr Strauss, you can see at volume 10, page 172, there's a description of the properties which are proposed to be the subject of this transaction. Do you see that?---Yes.

You remember that, I take it?---Yes.

If you turn over then to page 173, you can see that it has increased quite substantially from what was originally discussed, on your evidence, in November 2015 to being, at

least on my rough counting, something like 18 or 19 lots?---Mmm-hmm.

Do you remember the transaction being expanded in that way to this point in time?---Well, yeah, the transaction was always to include all of the lots. We didn't have a full suite of them until someone put them all together, I'm assuming it was Sammy.

10 So this documentation represented what you'd always expected to happen, namely, that all the properties that had been the subject of discussion at earlier meetings would be included in the final set of documents to be agreed upon between the parties?---Yes.

And you can see, as well, that now there's a more substantial or hefty purchase price beyond what you believed to be the \$17.5 million talked about in rough terms earlier, to \$30 million. Do you see that?---Yes.

20 Are you able to explain now why, or why at the time, it was proposed that there would be a manager agreement?---Well, the manager agreement was basically for the rezoning process, the cost for someone to, effectively, lobby the council, as many rezonings have lobbyists involved, to obviously try to facilitate the rezoning as fast as possible.

30 Who selected the manager for this proposed agreement, do you know?---Well, it was meant to be led by Richard Green, but obviously we were using our expertise to try to help him do that, but he was obviously the lobbyist part of that arrangement.

Well, I'll just show you volume 10, page 246. You can see that in fact the entity - and if you just scroll down, you can see "Project Management Agreement". Do you see that?---Yes.

40 I should just show you page 245, just to give you some context to this. This is an email that has come through to you from Mr Say and, in turn, that had come from Ms Bakis to Mr Say on 1 April. Do you see that?---Yes.

You remember receiving this management agreement, I take it, do you?---I would have received it and passed it on to my lawyer. I wouldn't have read it.

At all?---No.

Do you know who Able Consulting is?---Able Consulting, as far as I'm aware, is Richard Green.

10 How did you come to that understanding?---Because he said he was the guy who was going to facilitate the lobbying, so we assumed that was his company. We didn't check. I mean, we would have had lawyers check it out upon signing, but - but we'd just take it on face value that it was him. I don't see why it would be anybody else.

20 Where did you acquire this knowledge that this management company would be, or the manager would be Mr Green, or some company that Mr Green had an interest in?---Because at the meeting that we had he was meant to be the lobbying guy and this was the agreement that they put forward and we assumed it was him. We had no reason to think it was anybody else.

Do you know anything about what the manager was to be paid, or matters of that kind?---I can't remember what they were.

The manager was supposed to get \$800,000 for performing this agreement, did you know that?---That sounds right.

30 Does it? When you say it sounds right, that accords with your recollection, does it?---No, but if I take it off general practice, project management is about, say, \$200,000 or \$300,000 a year, and it was a five to seven-year project, that sounds about right. I don't remember the number.

40 Just going to standard practice, that involves somebody who is qualified as a project manager, presumably, does it?---Yeah, there's obviously us, there's myself and Andrew, and we may have used an external person within our group as well, plus Able Consulting. That seems a reasonable amount, I guess.

I just want to show you some other documents now, Mr Strauss. You see, these documents, can I suggest, were sent through in anticipation of a meeting that was to happen on or around 6 or 7 April 2016. Do you recall that? I'm sorry, did you answer that?---I don't have anything on my screen.

I am just asking you whether you remember these documents being sent through in anticipation of a meeting that was to happen shortly thereafter.---I don't remember that there would be a meeting held shortly thereafter, no, I don't remember that.

10 Would you have a look, please, Mr Strauss, at volume 11, page 98. You can see that there's a reference in the email from Mr Say to Knightsbridge North Lawyers that Mr Say was waiting on you to see if you could attend that day. Do you see that?---Yes.

20 Does that assist you in your recollection, having seen that, about whether you were discussing, at least with Mr Say, a possible meeting on or around that date?---There was only ever one meeting. There wasn't two meetings, there was only ever one meeting that we had, that's my recollection. There was only ever one meeting we had. I don't remember two.

And by that you mean November 2015?---I always thought the meeting was in April. I don't remember having a meeting in November that you're talking about. I did say that at the beginning, but - - -

30 But having seen the documents now, and how it's been put together and assembled, do you accept now that that's obviously what happened, that you did have a meeting in November 2015?---Potentially, but there was no second meeting. There was only ever one meeting, whether it was then or April.

Would you just have a look, please, Mr Strauss, at volume 11, page 147. You can see there's an email from you to Mr Say and others on 4 April 2016 at 9.16am?---Mmm-hmm.

It confirms what appears to be a meeting that's to be proposed, do you see that, on the Wednesday?---Yes.

40 Do you accept that now, having seen those emails, that it's likely that you had a meeting thereafter?---It's likely we had a meeting in April, like I said in the first place, and not beforehand. That's what I thought - I thought we'd only had one meeting in April.

Right. Now, there was some back and forth between your lawyer, or the person who was giving you some legal

assistance, and Knightsbridge North Lawyers about the ultimate form that these proposed agreements were to take; isn't that right?---Sorry, could you repeat that again?

I will withdraw the question and I'll put a different one. You've seen these five agreements that have come through in early April 2016?---Yes.

10 You may not have read them, but you remember receiving these agreements, do you?---Yes.

What I'm suggesting is that after that time there were versions sent back and forth from your side to Knightsbridge North Lawyers throughout the course of April?---No doubt.

20 And that's just the standard way these things happen; there are discussions about terms one side wants and the other side doesn't want, et cetera - negotiation; do you remember that?---Yes.

And ultimately, the idea was for a further meeting, can I suggest, which occurred in very, very late April 2016. Do you agree with that or not?---Yes, that's the meeting I was referring to at the beginning.

30 I just want to make it clear to you. I understand that's what you're saying, but so it's clear, I am putting to you that you've had more than one meeting - you understand that?---I don't believe we've had more than one meeting with those - with that group of people.

40 Well, so it's clear, I'm not suggesting that at any particular meetings it had the same persons attending. What I'm suggesting is that you certainly must have had a meeting in early November 2015 and it's likely you had one in early April 2016, and you certainly had one in late April 2016.---I can only recall one meeting that I went to and that was at Knightsbridge lawyers' offices; that's the only one I can recall.

Would you have a look, please, at volume 12, page 224. Do you see on the screen, Mr Strauss, there's an email that involves you dated 26 April 2016?---Yes.

This is just referring to emails that have gone between a number of people about changes to the documentation. Do

you see that?---Yes.

If you turn to the next page, please, volume 12, page 225, you can see that there are some differing views about whether or not the parties would meet again. Do you see, starting at the bottom, Mr Strauss, that Ms Bakis is saying, "We are not going to meet any more" because her clients are no longer interested in pursuing the matter. Do you see that?---Yes.

10

Andrew Kavanagh sent an email explaining why things have taken a little bit longer than anticipated. Do you see that?---Yes.

Mr Say has confirmed a meeting - do you see that - for 10am on 29 April 2016 and the response from Knightsbridge North Lawyers was they had not confirmed it. Do you see that? You just need to answer audibly?---Yes, sorry.

20

Does that accord with your recollection that this is what was happening at the time?---I can't recall specifically, but, I mean, obviously if - I can only go off what's in front of me.

30

What actually happened is a meeting did take place, though, didn't it, at least on your version, once these documents had been the subject of revision to close to final form by your side; isn't that right?---My recollection was that we had a meeting first, then we put the documents together, because that would just be commonsense to do that, to talk about the deal, then we put the documents together. We may have gone back for another meeting just to finalise those documents, but I can't remember that meeting. That may have happened, I don't remember it.

40

If you would just have a look, please, Mr Strauss, at volume 14, page 15. You can see that down the bottom there's an email from Mr Alcorn on 29 April 2016 and it refers to a discussion at a meeting "today"?---Mmm-hmm.

I am not suggesting this is an immediate response, but you can see above that Ms Bakis is sending an email on 3 May 2016 and if you look at the second paragraph, you can see that there's some complaint by her that the latest round of changes were dumped on them on the morning of the meeting, do you see that, and in the first paragraph you can see that another round of documents were proposed for 4 May

2016. Do you see that?---Yes.

This all seems to be suggesting, doesn't it, that in fact you were meeting?---There may have been an intention to meet but I don't believe we met.

10 Mr Strauss, I want you to have a look, please, just at volume 13, page 212. I am just trying to fill in these emails to try to perhaps assist your recollection, Mr Strauss. You can see that there's an email in the middle of that page from Despina Bakis and it talks about being unable to conclude the agreements on that day. Do you see that?---Mmm-hmm.

In the last paragraph there's a statement:

We appreciate that the further changes may be significant to you and accept that you decline to proceed.

20

Do you see that?---Yes.

But the fact is, as the email that I took you to in volume 14, page 15, makes clear, there were ongoing discussions after that time, weren't there? At the very at least, there were email- - -?---After which date?

After 29 or 30 April 2016?---There could have been further discussions trying to resurrect the deal.

30

I took you to an email just before, namely, the one where there was a complaint by Ms Bakis that documents were dumped on her or her team on the morning of the meeting and that email was dated 3 May 2016, so it appears- - -?---I'm not disputing that there wasn't, but - - -

Mr Strauss, would you have a look, please, then, at volume 14, page 16. I am sorry, I'm going to just take you to another document first, Mr Strauss, I apologise.

40

Volume 14, page 79. I appreciate you're not a party to this email, but did you know that Mr Kavanagh was proposing to seek the advice of a barrister on 3 May 2016?---Yes.

He raised it with you, I take it, did he?---Yes, he did.

And you can see there on that email at volume 14, page 79, that's the gentleman that was asked by Mr Kavanagh to

provide the advice?---Yes.

That advice was ultimately sent to you, wasn't it?---Well, it would have been sent to Dean, my in-house legal representative, and he would have then explained it to me.

Anyway, you knew the substance of it?---I did.

10 What did you think when you received this advice at this time, or the advice from Mr Alcorn that there were some impediments to the transactions?---I was disappointed and trying to understand how we could get around that issue, but the mere fact that they couldn't give us the certainty was one of the reasons we didn't proceed.

20 Had there been any disclosure at all by any of the parties who were also associated with this transaction, that there was this restriction in the title?---No, otherwise we, I guess, wouldn't have got the - sought advice about that total transaction in general. See, the advice that came through was about the total transaction and this was one of the points out of that, out of that advice.

Right. Did you then endeavour to try to make the agreement a conditional one, namely, that no moneys would be paid unless and until whatever approvals are required?---We certainly would have had the discussion about it; that's one of the main reasons we couldn't proceed.

30 Did you understand that that was communicated back through Mr Say through to those representing or apparently representing the land council?---Look, it would have been provided either to Sammy or via Dean to, I guess, Nick.

40 Ultimately, did you understand that advice was also sent on to Mr Say, the barrister's advice?---He would have got a copy of it, I guess, as the reason why we are not proceeding, just to make him aware of that, but I'm not sure if he was. I don't know if he was actually sent a copy. I don't know.

In any event, it was certainly communicated to Mr Say that there was this problem with the deal?---Absolutely.

Within a day or so of that communication, did you receive some communication from Knightsbridge North Lawyers about what their position would be?---My understanding was they

couldn't provide any certainty and that's why we didn't proceed with that transaction. There was also the issue of the - there was a whole bunch of titles that weren't issued either as part of the deal and we weren't comfortable with that as well.

10 I see. I will just show you, Mr Strauss, volume 14, page 203. Do you recognise - you can see that that's an email that includes you, sent by Ms Bakis on 6 May 2016?---Yes.

Do you remember receiving that email?---Yes.

And you can see that there's an indication that the board had resolved that day not to proceed further?---Yes.

20 Do you remember reading that email at the time?---I remember receiving the negative feedback from them, yes.

Was there any process going on in your mind about the timing of the communication of the barrister's advice through Mr Say and suddenly this position?---Yeah. I mean, it's - it seemed to be unusual that we'd put forward that we needed this and then we got this straight back. That was - we kind of figured that there was an issue there.

30 When you say "an issue there", what do you mean by that?---Well, they couldn't give us the certainty that we were asking. We were putting pressure on them to give it to us and then they came back with this response.

The transaction through these channels didn't proceed further, did it?---No.

But you made contact with Mr Say to see whether he could do a deal more directly with the land council, didn't you?---No, he came to me.

40 Right. And what did he say?---He said, "Let's just let the dust settle", and he said that he had an alternative way of doing a deal, which is always the case, if you can't do a deal and you like the deal, you try to make it happen, try to resurrect it in some way, shape or form, given that you understand a lot about it, you have done a lot of due diligence, a lot of time's gone into it. If there's an opportunity to resurrect it a different way, you certainly

look at it.

He told you he had connections within this land council, didn't he?---Yes.

10 And he indicated to you that he could use those to try to achieve, hopefully, a deal directly with them in relation to this very transaction, didn't he?---Yes, or a similar type of transaction with the Awabakal Local Aboriginal Land Council.

He told you, didn't he, that he knew Mr Green, on the one hand, didn't he?---Yes.

And he also told you that he knew Ms Dates, didn't he?---Yes.

20 You knew that both of them were on the board of that land council, didn't you?---No. He referred to Mrs Dates as a - like an Aboriginal elder with significant influence, but he didn't mention what position she held or anything like that. He just said that she was certainly a person within the Aboriginal group in general that had a lot of sway.

Let's cut ahead to it. You know, don't you, that there was a proposal that she be paid a sum of money; isn't that right?---Yes.

30 And you'd agreed to that, hadn't you?---I don't agree to paying the money, I just try to facilitate deals.

I can take you to this, Mr Strauss, if you like. You had agreed, at least with Mr Say, that you would offer to pay her a substantial sum of money; isn't that right?---Subject to various things being met.

40 That substantial sum of money was \$450,000, wasn't it?---Yes.

And you knew, though, surely, Mr Strauss, that she was on the board of that land council?---No, I wasn't aware. I was never aware she was on the board of the land council until later on down the track.

When you say "later on down the track", what do you mean by that?---I mean basically after there was no deal.

Right. Well, can you put a time on that?---No.

Well, was it days, months, weeks?---When we were told to cease and desist by the apparent representatives of the Aboriginal land council, we just desisted, we just stopped dealing.

10 But you knew by then, surely, by that stage, that she was on the board of the land council?---No, I was never aware she was on the board of the land council.

Wasn't it the case that your company, or Strauss, issued a letter directed to her after you had discussions with Mr Say about trying to deal directly with her?---The initial letter to her, it was - it was - it was - it had her name on the top of it, yes.

20 What, it was just going off to somebody in the community, was it?---She was - the reason we were paying her \$450,000 was because she was going to lobby the state council, which was the issue that we had in the previous deal, so she was the missing link that we needed, or that's what we perceived anyway.

How was she going to lobby them?---She was told to me to be an influential person in their community.

30 \$450,000 sounds like a lot of money?---It's not - not for a lobbying fee. Not for, like I said before, like, when you saw the fee that we were paying ourselves in the previous deal, it's half of that fee. You said yourself it was \$800,000, this is \$450,000. Over a seven-year period \$400,000 is, what, 50 grand a year.

So what was she going to do? She's an influential member. What's she going to do?---Lobby the council.

40 Let's be a bit more specific, Mr Strauss. What's she going to do?---There's two things that she would do, or three things: she would lobby the Awabakal Land Council; she would have to lobby the local land council, sorry, the local council, like, the normal council; and also the state council.

What's her influence to be able to do that with any degree of success?---Well, what was Richard Green's influence?

She was - she understands how everything operates. We've never done it before. We needed someone to guide us through it.

You don't know - she's an Aboriginal, as you say- -
-?---We'd never met her.

I'm sorry?---We'd never met her.

10 No, that's my point. You don't know anything about her, only what Sam Say has told you; is that right?---That's right.

She's going to lobby all sorts of councils to somehow push your deal through and you're going to pay her \$450,000; is that right?---This was part of the - - -

20 Please answer my question, Mr Strauss. Is that right?---That was the plan.

So tell us - that was what was agreed, at least between you and Mr Say; isn't that right?---Correct.

And she was also going to sign documents, wasn't she?---I don't know.

That was what Mr Say was telling you, wasn't he?---I don't remember him saying she was going to sign documents.

30 If it's in an email to you then plainly you would know?

THE COMMISSIONER: You wanted to add something?---Sorry?

40 Did you want to add something to that last answer?---This was just discussion between me and Sam. It had never been discussed with her whether she'd even do it. This was just - we were trying to form a deal that worked and this was just part of a deal-making process. It was the proposed deal structure. Nothing had been checked by lawyers.

MR CHEN: I will just show you these, Mr Strauss, some of these documents. Have a look, if you would, please, at volume 15, page 61.---Yes, I can see that, yes.

You can see that, at least according to Mr Say, there is some agreement along those lines. Do you see that?---Yes.

You plainly know about that, don't you?---About what?

Well, what's in this email?---Yes, I can read the email.

You can see there, as well, there's a reference to "sign-off". Do you see that?---Yes.

And also a sign-off from the CEO?---Yes.

10

Presumably, that's the CEO of the land council, is it?---I believe so.

You know that, don't you?---Well, that's what it says. I'm not disputing what it says.

But you do know it, don't you?---I'm not disputing what you're saying.

20

Anyway, you got a letter back, didn't you, from Knightsbridge North Lawyers saying you should back away from Ms Dates; isn't that the position, ultimately?---And we did.

MR CHEN: Yes, and you did. All right. Commissioner, that's the evidence of this witness.

THE COMMISSIONER: Thank you. Yes. Does anybody else want to ask any questions?

30

MS NOLAN: I just have one.

THE COMMISSIONER: Yes, all right, you go ahead.

MS NOLAN: Mr Strauss, you've given evidence that the deal that you were putting together with the Awabakal people was really at an end at about the end of May, wasn't it?---Yes.

40

I am sorry, I am going to withdraw that. I have made a mistake. It was really at the end of April. I am unclear, I'm sorry about this, that's a mistake. You've given some evidence that there was an email on 30 April 2016 where Knightsbridge North had said, "You're declining to proceed". Do you remember that?---Yes.

It's the case, really, that the deal was really at an end at about that point, wasn't it?---Well, just because

somebody says the deal's over doesn't mean you don't keep talking about it, but certainly my recollection is it went a little bit - it spilled a little bit into May.

It had lost momentum, hadn't it, really, at that point? It had lost its momentum at that point when that email was sent on 30 April 2016?---Yes.

THE COMMISSIONER: Mr White, do you have any questions?

10

MR WHITE: Yes.

Just in relation to those questions you were asked about the \$450,000, what was your understanding as to how that money was to be paid, if it was to be paid at all, if the matter had proceeded?---It would just be like a normal lobbying fee, receipted, invoiced, paid into a trust account - lawyer's trust account or a real estate trust account, whatever. I think that might have even been in an email that we were to put it into a trust account.

20

So was that your understanding, then, that the money was to be paid into a solicitor's trust account?---Yes. Definitely a trust account. That's what was mentioned.

At that stage, obviously, the deal had not proceeded; correct?---Correct.

Before the deal proceeded, would you have sought legal advice from your lawyers about the legality of what you were doing?---I think, as you've seen, I don't read the legal documents; I always get legal advice before we enter into a transaction. So obviously we would certainly get legal advice, yes.

30

In relation to this amount of \$450,000, which you understood, if the deal went through, was to be paid into a lawyer's trust account, would you have before the deal gone through and sought advice from those lawyers to satisfy yourself that everything you did was appropriate and in accordance with the law?---Of course. We do it every time.

40

Could you see anything wrong at all in anything you did in terms of having discussions about the \$450,000?---Well, the \$450,000 was only ever to be released if she'd performed her lobbying duties. So, I just saw it as a normal course of the business, just like Richard Green was going to get

paid. That would have been checked by lawyers as well.
There was no difference.

You understand the difference between a bribe and a lobby fee?---Certainly.

10 Did you ever contemplate that it was a bribe?---No. It was based on success. It was meant to be receipted, invoiced, in a trust account - I mean, I don't know how you can pretend it was anything else but a - just a fee for services provided.

I think you've already given this evidence, but you were told about this person, Debbie Dates; is that correct?---I was told about her, but I never met her. We'd never even interviewed her, to even know whether she was suitable for the role. It was just discussion.

20 Have you ever seen here or spoken to her since?---I don't know what she looks like and I've never spoken to her.

Is it the case that anything that was ever said to you about her came from Samy Say and no other source?---Yes.

MR WHITE: Nothing further, thank you.

THE COMMISSIONER: Thank you, Mr White. Nothing else?

30 MR CHEN: Not from my part, Commissioner.

THE COMMISSIONER: Mr Strauss, that completes the examination. Thank you for your attendance, you are excused.

THE WITNESS EXCUSED **[11.17am]**

THE COMMISSIONER: I will take the morning tea adjournment. There is nothing scheduled before 2 o'clock, is there?

40 MR CHEN: That's correct, Commissioner.

THE COMMISSIONER: Is there any reason, then, why I should not adjourn until 2 o'clock?

MR CHEN: Could we just take the morning tea adjournment and have a moment to discuss?

THE COMMISSIONER: Let me know. I will take a break and perhaps if you could let me know, certainly this side of midday.

MR CHEN: We'll do that.

10 THE COMMISSIONER: I have another commitment within the building. It will probably take me 15 or 20 minutes to attend to that. Then I will return to chambers and you can let me know.

MR CHEN: Thank you, Commissioner.

THE COMMISSIONER: I will adjourn.

SHORT ADJOURNMENT

LUNCHEON ADJOURNMENT

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[12.03pm]

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