

DASHAPUB07401
01/05/2019

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pp 07401-07447

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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

Reference: Operation E15/0078

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 1 MAY, 2019

AT 2.00PM

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THE COMMISSIONER: All right, Mr Moses.

MR MOSES: Thank you, Commissioner. Mr Hawatt, prior to the adjournment I asked you some questions in relation to whether you could recall making any donations to, in effect, the campaigns of another councillor. Do you recall me asking you questions about that?---Yeah, and I
10 said I don't recall exactly but I did make some donations, but I don't recall who to and when and how and - - -

So just on that last answer that you've given, you say you can't recall who to. Sitting here today, can you recall whether it was to a Liberal councillor, without recalling their names?---I don't recall. Most likely would be Liberal councillor, but I don't recall it.

Do you recall even making a donation to support the campaign of a Labor Party councillor?---I can't recall, no. It would be unusual but I don't recall
20 it.

But it's not something that you are in a position to deny, is that right? That is, you can't deny that because you can't recall?---No. I said I don't recall it but it is unusual if I did, very unusual. It's unusual. Most, most, highly unlikely, as Mr Buchanan says.

THE COMMISSIONER: There's no reaction.

MR MOSES: That's not one of Mr Buchanan's best terms, but okay. But
30 the reason why it would be highly unlikely is that it would be highly unlikely for a Liberal Party member to donate money to, in effect, the opposing political party, correct?---It's highly unlikely.

Highly unlikely. I'm just going to move on to a different topic now. If the witness could just be shown again, I apologise to the Commission staff, Exhibit 52, which is the code of conduct. Volume 2 of exhibit 52 and it's page 41 and 40, if that could – thank you. In relation to this code of conduct, which was the one modified August 2013, what I want to suggest to you in relation to this code of conduct is – and just if you can't recall say
40 so – you were actually present at the meeting on 22 August, 2013 that adopted this version of the code of conduct?---If I was there, that was recorded there, I was there.

And again, in relation to the new model code of conduct, in February 2013, you actually moved the motion with Councillor Saleh in terms of the model code of conduct being reviewed and amended to reflect the requirements of the council. Do you recall that?---Well, I don't recall, but if I moved it, as, as I said before, just because we move a motion it doesn't mean we own that

particular thing. We just move it, if it's on the business paper someone has to move it, and it is highly likely that I, I would have moved it because I moved a lot of motions and seconded by whoever seconded it, yeah, but I don't, but if you ask me what's in the details inside, I would say I don't recall.

10 No, I understand that. The point of my questioning is just to establish that you actually were present at meetings when the code of conduct was adopted, that's why I, trying to establish with these questions.---Well, I don't recall it but if I was there, I was there.

And on 25 February, 2016, you attended a meeting at council in which the code of conduct was adopted, that is the code of conduct of 2016 was adopted. Do you recall that?---No, I don't recall it.

Mr Hawatt, I have no further questions, thank you. Commissioner, no further questions. Thank you.

20 THE COMMISSIONER: Thanks, Mr Moses. Mr Andronos.

MR ANDRONOS: Thank you, Commissioner. Mr Hawatt, as you probably know, I appear for Mr Montague.---Yes.

Mr Hawatt, can I take you back to the events of late 2014, early 2015, which is a period, as you know, we've been referring to in this Commission as the war.---The war?

The war.---Yeah, yep. I remember the war.

30 Yes. And just so we all understand that we mean the same thing when we refer to it, when I ask you questions about the war I'll be referring to a dispute between a group of councillors including you on the one hand and a group of people including Mr Robson and Mr Montague on the other over that period.---Yep.

And the people who were on your side included you, Mr Azzi, Mr Nam, Ms Kebbe and Mr Con Vasiliades, is that correct?---And Mr Adler as well.

40 And Mr Adler, yes. If I didn't mention him, I meant to mention him. And the people on the other side included Mr Robson and Mr Montague?
---Correct.

Where did Linda Eisler and Karl Saleh fit?---I think they were in between.

In between?---Yeah.

Mr Saleh, in particular, tended to run his own race?---Oh, Mr Saleh is, he was trying to come up with some ideas of his own and nobody really

followed anything that he, he wanted because he was, in our opinion, he was a bit flimsy in his, his actions so we didn't support what, what he wanted but he was, he became, like, in the middle trying to coordinate between the two groups.

But nobody could rely on him to be a reliable vote?---No, no, no.

Now, the people who supported Mr Robson and Mr Montague included the senior staff of Canterbury Council?---Correct.

10

And you knew that they had support of the USU?---Yes.

The USU is of course the main union.---Correct.

And there are other political personalities like Rob Furolo who were supporting Mr Robson and Mr Montague?---Bill Kritharas and others.

20

Bill Kritharas. Morris Iemma?---Ah, no, Morris Iemma I don't think. He was in the, sort of again he didn't have the facts in front of him, so people, sometimes people make judgement without the facts in front of them and people have opinions, but he needed, well, from what I know, no, he couldn't make a proper judgement on, on the decision.

Now, of the people who were direct participants in the war, it's fair to say that you despised Mr Robson, didn't you?---Well, he created the war.

So is that a yes?---Yes.

30

THE COMMISSIONER: Did you despise him before the war?---We had, I ran, we ran for mayor, we ran against each other and we used to have a lot of misunderstanding, put it that way.

MR ANDRONOS: And you believed that your feelings towards him were, shall we say, warmly reciprocated?---Yes.

You've referred to him even as late as in the last few weeks in this Commission as your enemy.---Yes.

40

Yes. Now, I'm just going to try to summarise what I understand your evidence to be so far.---Yeah.

And if I misstate it, please let me know.---Yeah.

Your evidence is that the event that triggered the war was when you were informed that Mr Montague was not going to honour the contract that had been offered to Mr Stavis.---Correct, and we, yes, I'll wait, yeah.

And your reasons you have told the Commission are that you believed that this would result in council incurring significant and unnecessary financial liability.---Yes.

And you say you were also concerned about council not being sufficiently consulted.---Correct.

Now, this starts in about mid-December 2014.---Well, that's why we asked for the mayor to organise an extraordinary meeting to try and resolve it.

10

That came a little bit later, that came in the few days before Christmas 2014, didn't it?---Yeah.

Now, when do you say the war came to an end?---When?

20

Yes.---Oh, when, when things were really getting bad sort of in regards to there was no, any agreements, there was, council wasn't functioning, there was people calling complaining, and we felt, and there was pressures on the councillors, that was working together, it's like we felt council was going backwards and I think Mr Montague also felt he was given, being given a bum steer, as the saying goes, he was given, that he was misguided, and I think when we sat together and we resolved that and that's when the war ended basically.

Now, can you give us an approximate date? Perhaps you could do that with reference to say was it the meeting at Mr Alha's house that you've given evidence about?---Yeah, it was after that, yes, after that, yes.

30

It was after. So is it your evidence that the event which caused peace to break out was the meeting at Mr Alha's house?---Well, yeah, just after that we discussed it.

And that was in early February 2015.---Yes, most likely.

40

Are you sure about that? Sorry, I withdraw that.---Not 100 per cent but the dates I'm not, I'm not clear, but there was a meeting I had with, with Mr Alha and Mr Montague and I saw Jim quite stressed out and there was, we spoke about the, the problems that was happening in regards to council and we all realised we need to move, move on and try to fix it up.

Now, can I ask you some questions specifically about the EGM of 27 January, 2015.---Yeah.

Do you recall that? Do you need to see the minutes to - - -?---No, no, I recall that one well, yeah.

Now, that meeting had been called at your request for the express purpose of removing Mr Montague as general manager.---Correct, yes.

Yes. And going into that meeting, you believed you had the support of a majority of councillors for that resolution?---Correct.

You had yourself, Mr Azzi, Mr Adler, Mr Nam, Mr Vasiliades, and Ms Kebbe.---Correct.

So that's six out of 10.---Yep.

10 Now when that meeting was called, you recall that Brian Robson was in the chair.---Yep.

And Mr Robson declared the motions out of order - - -?---Yeah.

- - - closed the meeting and walked out?---After he called me below his feet. He insulted me at, during that evening, because there was a bit of debates. And I recall he, he made a comment that I was below his feet. In other words, he was, he was saying, like, this is another insult from him towards me at the time, I recall that, yeah.

20

So it was a highly emotionally charged meeting?---Correct. Yes. Yes.

Everybody's blood was up.---Yep.

When Mr Robson walked out, he took with him Mr Montague, Councillor Saleh, and the staff who were present. Is that correct?---I'm not sure, what I recall is he, he walked out with Mr Montague and the staff. I don't know about Mr Saleh, I just can't recall.

30 Ms Eisler moved off the floor and went and sat in the public gallery. ---Correct, yes. Yes.

Now you and the remaining – sorry, I withdraw that. You saw this as tactical gameplaying at its worst, didn't you?---Oh, we, no, well, well, we felt that his, his motion to, to cancel the meeting was out of order. And we moved, I think, I think Councillor Adler moved, at the time, moved that Councillor Kebbe who was the deputy, deputy mayor, to continue chairing the meeting, and we voted on that and she, she took, she took on chairing the meeting and then we just moved on with the, with the motion.

40

That's right. So, you and those who remained took the view that Mr Robson wasn't entitled to do what he did, and, as you say, you carried on what in your view was a valid meeting.---Correct.

But you're aware that there's a, there's quite a dispute as to whether or not it was valid.---Correct. Yes, yes, correct.

And that Mr Robson obtained advice to say that his conduct was lawful from Mr Robinson?---Oh, he, he might have, yeah, I, I don't, I, he might have, but we, we didn't believe that that was lawful, his position.

And the councillors who remained at the meeting also took advice to critique the advice that Mr Robson got. Do you recall that?---No, I don't recall that, that advice.

10 Now, the resolutions that were passed in what I might just describe as the second part of the meeting, the part of the meeting which Ms Kebbe chaired, included a resolution to remove Mr Montague as general manager. That's right?---Yep.

A resolution to appoint Mr Chris Watson as acting general manager?
---Yeah.

And some motions were tabled for the next EGM which was sought to be scheduled at the 27 January EGM.---Yep.

20 Do you recall that?---Yeah (not transcribable)

I wonder if the Commission staff could get up on the screen volume 4, page 236 of the bundle. Mr Hawatt, would you be assisted if you had a hard copy of this in front of you as well?---No, that's okay, no prob, yep.

Now, this was a document which was prepared prior to the 27 January meeting, and I believe might have been tabled at that meeting. Is that correct?---Oh, yes, could be, I just - - -

30 And you'll see that there are a number of resolutions. The first group of resolutions all assume that the resolutions to remove Mr Montague and appoint Mr Watson in the second part of the January 27 meeting were validly resolved. Do you see that?---Yeah.

Now, if I can take you to the resolutions at the bottom of the page, the ones with the handwritten numbers next to them. The first of the two with handwritten numbers which has the number 10 next to it refers to an Optus bill reported in the Daily Telegraph on 24 January. Do you see that motion?
---Yeah.

40 You recall the issue of the Optus bill and the iPad?---Yes, I do, yeah.

This was an issue that emerged publicly on 24 January with the publication of an article in The Daily Telegraph.---Correct, yes.

Commissioner, just prior to this afternoon's sittings I provided copies of two documents to Commission staff, they being newspaper articles. My solicitor is just providing copies to Mr Hawatt's legal team. I wonder if the

article of 24, actually 10.00pm on 23 January could be brought up on the screen. I think I provided additional copies so one could be provided in hard copy form to Mr Hawatt in the witness box, and one for you as well, Commissioner.

THE COMMISSIONER: Thank you.

MR ANDRONOS: Now, Mr Hawatt, you've had an opportunity to look at that article.---Yep.

10

Can you first perhaps just confirm with the Commission that this was the first occasion on which this issue became public?---Correct.

Now, we've seen from the article itself that what seems to have happened is this, and perhaps if I can just put these propositions to you and you can tell me whether you agree or not. You had been issued with a council iPad. ---Correct.

20

That iPad was a cellular iPad rather than a Wi-Fi-only iPad?---Ah - - -

By which I mean as a cellular iPad it had a SIM card and would incur data charges?---Oh, yeah, yeah.

MR BUCHANAN: Commissioner, can I take an objection at this point. The subject matter of the questions and indeed their direction appears to be going a long way away from the scope of this public inquiry and it might be that Mr Andronos can assist as to how this is within the scope of the public inquiry.

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THE COMMISSIONER: Mr Buchanan, I also assumed that you would have seen this.

MR BUCHANAN: I have, but I assumed that there was going to be questioning which would - - -

THE COMMISSIONER: Certain questioning, okay.

40

MR BUCHANAN: - - - which would simply proceed from this article as if it were a hook or a trigger, rather than going into the merits of the dispute the subject matter of the article.

THE COMMISSIONER: Of an iPad bill. All right.

MR ANDRONOS: No, Commissioner, there are two further questions. They're relevant to the state of mind of this witness in the events that followed and they're relevant to the question of how the war was conducted and how the war was brought to an end.

THE COMMISSIONER: And you say two questions?

MR ANDRONOS: Two questions and we're back to the chronology.

THE COMMISSIONER: All right.

MR MOSES: When the War Is Over, Cold Chisel.

10 MR ANDRONOS: Now, in general terms, what is reported here is that the iPad was taken on a trip to Morocco, the international roaming was left on and Optus hit you with a bill for \$17,000 for the whole time that the iPad was overseas, is that correct?---Oh, can I, firstly - - -

THE COMMISSIONER: I'm not interested in the merits of whether it was right.

MR ANDRONOS: Yes, that's right. We're not interested in - - -?---Okay, okay, yes.

20 - - - who's right or wrong. I think anybody who's taken a mobile phone overseas is - - -?---But I didn't take it, that's what I'm saying.

THE COMMISSIONER: We'll have sympathy.

MR ANDRONOS: We're familiar with the risk. Now, this was published a few days prior to the 27 January EGM, obviously enough.---Yep.

And it was damaging to you, wasn't it?---Correct.

30 And you believed it had been planted deliberately by your political enemies?---I, I felt it was Brian Robson that was behind it.

You thought it was Brian Robson?---Correct.

Now, at this time you were already the preselected Liberal candidate for the state seat of Lakemba?---Yes.

And that was for the state election which was due in March of 2015?
---Correct, yes.

40

Now, it was your view at the time, wasn't it, that if the war hadn't been raging in January, 2015, this leak to The Telegraph would not have taken place, do you agree with that?---Yes.

Now, you were asked a few days ago some questions about your relationship with Kate McClymont and you said – and I'm summarising here, tell me if this is not correct and I'll take you to the transcript if you want me to do so – that what you were doing in talking to Kate McClymont

was really a reprisal for dirt that had been placed with The Telegraph about you by your enemies? Do you recall giving that evidence?---There was, there was a lot of, yeah, heated feelings, yeah.

Do you accept that your view of that chronology is wrong and your contacts with Kate McClymont preceded anything that was published about you in Daily Telegraph?---No. Look, it's, to me that was the debate with, my, my contacts with Kate McClymont was based on, on, yes, giving her some information but as far as the article she wrote about Mr Montague had
10 nothing to do with this reprisal because we, there was no animosity during that period between myself and Mr Montague at all.

Might the Commission staff please get up on the screen - - -

THE COMMISSIONER: So you're saying that Kate McClymont – your recollection is when the Kate McClymont articles were published, there was no animosity between you and Mr Montague?---Yeah, yeah. I didn't even know her.

20 Sorry, what are we getting up?

MR ANDRONOS: We are getting up volume 4, page 50, please. Now, Mr Hawatt, you will recall that some text messages between you and Ms McClymont were the subject of questioning by my friend, Counsel Assisting and that at page 50 is a record of your text messages with Ms McClymont?---Yep.

So can I take you first to item number 3. Now, you see the date on which you sent this to Ms McClymont was 23 December, 2014?---Yep.
30

And there you give Ms McClymont some information about what you're alleging is improper conduct on the part of the general manager, you see that?---Yep.

That was a full month before The Daily Telegraph article I've just showed you, wasn't it?---Sorry, that was?

A full month, over a month.---Yeah, but we had, look, we ah, I don't recall what, look, from my understanding, I don't, I don't recall the date that it
40 was published in The Herald for what Mr Montague did, but all I recall is Mr Montague coming and talking to us about he was photographed at a restaurant, I don't remember the date, and, and then he was concerned about he was photographed with, when the mayor was there with him and there was, at that time there was absolutely no animosity between myself because he, he was talking to us and we said to Mr Montague, no, this is wrong, we had no issues with it, and, and that's what, that was what I remember so - - -

With respect, Mr Hawatt, that doesn't really answer the question. Here at item 3, is a record of you texting Ms McClymont and accusing the general manager of using hire cars to get to the Local Government Super Board at council expense. Now, that's an allegation of impropriety on Mr Montague's part, isn't it, Mr Hawatt?---Yeah, correct. She must have been, this is information I passed on after the iPad, yes, but again I'll, I will 100 per cent, I 100 per cent remember this in regards to when Mr Montague told us about being photographed at the restaurant, there was absolutely no animosity between myself and Mr Montague.

10

Just breaking down your answer in two respects. This was not after the iPad, this was a month before the iPad, wasn't it?---Yeah, but what I'm saying, I don't know when she, all I know - - -

Mr Hawatt, I'm not asking you when she published it. I'm asking you when you provided this information to Ms McClymont.---Look, I didn't know Ms McClymont until after that article, after Mr Montague spoke to, to us about the issue he had with her at the restaurant and really to me there was absolutely no animosity between Mr Montague and myself or the

20

councillors during that period until, until the, the iPad came up. So that was way before that I have to say.

I'll only say this once, that evidence is untrue, Mr Hawatt.---No, it's not, it's correct.

In your experience, December 2014 came before January 2015?---Sorry, in?

December 2014 came before January 2015?---Yeah, but it's not, it's not the, I'm not, you're talking about an article being published.

30

No.---I'm talking about - - -

Mr Hawatt, please listen to the question. I'm not talking about an article being published. I'm talking about your communication with Ms McClymont in December 2014 and I'm asking you to accept the indisputable proposition that that occurred before the Telegraph published the article - - -?---I, I, I - - -

- - - about the call charges.---I have to be honest about it, I don't, I don't, I

40

have to be honest about it, I don't recall specific dates but from, from memory, and I'll repeat what I'm saying, is from memory when Mr Montague came to us, we didn't go to him, complaining about he was photographed, I don't know the date that happened and I'm not sure how far after that the article was published, I don't recall.

Can you please look at item 5 on page 50 of volume 4. Now, that's an accusation that you made to Ms McClymont on 6 January, 2015, to the

effect that Mr Montague was in breach of certain statutory obligations. Do you see that?---Yeah.

Did you send that on 6 January, 2015?---Well, if it's there I must have sent it, it's my, for your information, yeah.

Yes. You see at item 7 - - -?---Yeah.

10 - - - you're continuing the correspondence with Mr McClymont on 7 January, 2015.---Yep.

Now, this is part of the campaign that you were waging to damage Mr Montague, isn't it?---No. She, she came to council, I recall she came to council and, and she was writing articles and we passed on whatever she wanted. She asked for information about what's happening, which all happened to be at the same period of the war. And to, to me, again, in hindsight, it's, to deal with the media would be the, a big mistake, and I think that was a, a mistake that we made, I have to honestly say.

20 It's a - - -?---It's a mistake that we made based on the, as you said, the war. Yes, when there's a war, you know, there's, it's unfortunate, when it comes to the war, there is no, no humanity in it, and, and to me that's a, that was a mistake that we made, I have to be honest about it, during that period where we should have been a bit more civilised in our actions - - -

You were, you - - -?--- - - - civilised to resolve the problems without going further.

30 You were trying to hurt Mr Montague, weren't you?---Sorry?

You were trying to hurt Mr Montague, weren't you?---Oh, look, I was, I was being hurt again with the, with the iPad, I was treated like a, a, again, pretty bad with the media.

From 24 January, correct?---Well, whatever happened there. Mmm.

40 And you were trying to hurt Mr Montague because you were trying to put pressure on him to resign.---Oh, look, we, we felt, again, during the, the period of the war, as I said, there was no humanity, it, it came to it, and it's unfortunate, that's what happens in wars. Humanity is shoved aside, and madness prevails, and I think eventually we, we, we got over the madness and, and we come to some sensibility and, and we made the right decision towards the end to end the war.

Thank you. Can we please go back to page 236 of volume 4? Just ask you a couple more questions about this EG - - -?---Yep.

- - - this call for an EGM.---Yep. Yep.

THE COMMISSIONER: Can I just stop you there, just because I've, I don't want to forget it. Mr Buchanan, are we going to tender this, or - - -

MR BUCHANAN: Yes, if I may, Commissioner, noting that the relevant date is at a third of the way down the second page of the copy of the article extracted from The Daily Telegraph - - -

THE COMMISSIONER: Oh, 23 January.

10

MR BUCHANAN: - - - namely 23 January, 2015. And if I can emphasise that the purpose of its tender is the issue of the chronology of events during the war.

THE COMMISSIONER: Yes. All right. The article published in The Daily Telegraph website on 23 January, 2015, at 10.00pm, will be Exhibit 302, but I do note Mr Buchanan's point that the purpose of the tender was to assist in establishing a chronology.

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**#EXH-302 – DAILY TELEGRAPH NEWSPAPER ARTICLE TITLED
'WHOPPING \$17,000 IPAD INTERNET BILL DUMPED ON
RATEPAYERS' DATED 23 JANUARY 2015**

MR ANDRONOS: Now there's one further point about this call for the EGM, and the notice for the next meeting, and that's this, Mr Hawatt. You and the councillors who you were aligned with wanted the iPad issue dealt with as soon as possible at council level. Correct?---Correct, yes.

30

And it was important from your point of view to address the iPad issue as soon as possible in order to limit the political damage to you that it might cause.---Well, no, the, the information in The Telegraph was incorrect.

That's right.---I never had the iPad and I was in Africa at that time happens. So they actually, I don't know where they got the article from.

Well, not getting into whether it's correct or not, it had been published, and if it's published it can cause you political harm, obviously enough. Do you agree?---Well, it was published, it was already published, yeah.

40

And it was in your interest to try and beat that down as quickly as possible given that there was an election coming on in March, 2015, in which you were a candidate.---I, I don't recall if I ran or not. I think I might have withdrew as a candidate.

Well, we'll come to that.---Yeah.

But at the time of 27 January, you were then a candidate for the forthcoming state election. That's correct, isn't it?---I, I, I don't recall, maybe I withdrew, oh, look, I don't, I don't remember. I think I was a candidate, yes, but I am not sure if I continued running as a candidate.

And as a candidate, it's in your interest to remove any trace of scandal as quickly as you can?---We had to clear, we had to clear it because it was incorrect.

10 Now, shortly after this time – that's all for that document. Shortly after this time, Mr Hawatt, you had an exchange of text messages with Joe Alha. You recall that exchange of text messages?---Look, I remember there was, it was played. I don't recall exactly but there was some, yeah, messages, yeah.

Yes. Perhaps if Commission staff could get volume 5, page 9 up on the screen. You were asked somewhere questions about these text messages by my friend Mr Buchanan, and do you think this is a fair summary of your evidence, Mr Hawatt, that you had an exchange of text messages with Mr Alha, as a result of which you attended a meeting with Mr Alha and Mr
20 Montague a couple of days later at Mr Alha's house?---Correct.

And you recall that the meeting at Mr Alha's house came a couple days, a small number of days after this exchange of messages?---Yep.

And at that meeting your evidence is that Mr Montague acknowledged he had made a mistake in withdrawing the offer to Mr Stavis and you said something along the lines of, "That's all we want, give him a go, you decide when you want to retire without any pressure from me and those who support me on council"?---That could, that could have been discussed, I, I
30 don't remember.

Well, do you recall giving that evidence to this Commission?---It could have been the case, yeah. I mean from memory that would have been the general discussion in that regard, where we just had, the initial, the initial contact is to, to find out what the issues are and what his concerns are from, from memory on that day and, look, I can't be really specific too much but from memory it was a, a, a meeting and it was stressful, a stressful meeting that was, entailed Mr Montague who was, he was not himself and, again, there was also I wasn't myself in regards to our initial contacts and initial
40 discussions. So I don't specifically recall but there was just a meeting about how to move forward with this basically.

Well, perhaps, Commissioner, if the relevant part of the transcript could be brought up on the screen. It's page 6600 or maybe 6602. 6602. So Mr Hawatt, you'll see from about line 29. Mr Buchanan asked, "What happened at that meeting?" And you said – so from about halfway down that paragraph, your recollection was that Mr Montague said, "Look, I understand my position and I think you were right about the, the financial

implication.” And he said, “I made a mistake, I think you’re right and we’ll, we’ll put, we will, we will move forward, we will put Stavis on as a trial basis and if he’s okay, he’s okay.”--- That’s probably the general discussion, yeah.

So it’s the case, isn’t it, that your evidence is that from early February 2015 you were aware that Mr Montague intended to put Mr Stavis on? That’s correct, isn’t it?---To put him on?

10 To have him come to work as director of planning.---Oh, yeah, he was supposed to start work, yeah.

And that that was Mr Montague’s position as communicated to you at the beginning of February 2015.---I, I’m not, I’m not, I’m not clear on all your questioning, not really clear.

Well, at the end of that - - -?---Are you talking about after this meeting we had at Joe Alha’s or before?

20 At the end of that – perhaps if we go back to that part of the transcript. If you go down to the last two lines on that page, so was the discussion, sorry, at the end, this is part of the question, “At the end of this meeting was the outcome as you understood it that the attempt to terminate Mr Montague forthwith in his job would stop in exchange for Mr Montague agreeing to put Mr Stavis on for a trial period?” And then you said, “Correct.”---Well, that was, that was the general discussion we had. I mean for me - - -

I’m just asking you - - -?---I don’t recall exactly what - - -

30 Mr Hawatt, I’m just asking you if that was your evidence.---Well, if I said it, yeah, that, that was the general discussion we had in regards to resolving the problem.

And so you knew that Mr Montague proposed to have Mr Stavis come to work as director of planning.---No. At that time, no.

Not on that day, but as a consequence of that meeting you understood that Mr Montague agreed that Mr Stavis would start work.---Start working, to start work again.

40

Yes.---And he agreed to the discussions we had, yes.

Now, I think you also gave evidence a couple of weeks ago that you then took the outcome of that discussion back to the group of councillors.---Yes.

The A Team.---Yeah.

And they agreed with your position.---Correct, to follow it up, I think there was another, other meetings, but yeah, follow it up.

Now, I wonder if Commission staff could get page 29 of volume 5 up onto the screen. Now, Mr Hawatt, this is a document which goes for three pages, it's a memorandum of advice, it's an opinion from a barrister by the name of Scott Nash.---Yeah.

10 Have you seen this before?---There was, I, I remember talking to Mr Scott, I think he might have, yes, it's just coming back to me, this one, yeah, there was, he sent us his opinion, yeah.

Yes.---Yeah.

You see in the first paragraph he says his instructing solicitor is Mr Eid, E-i-d, of Danny Eid Lawyers?---Yeah.

20 Did you instruct Mr Eid to obtain this advice?---No, I think I knew Mr Robertson, what's his first name, sorry?

THE COMMISSIONER: Danny.---No, no, Robinson, what's his first name?

Mark Robinson of Senior Counsel, I think he provided the opinion.---Scott Nash, sorry, Scott Nash is the one that I - - -

MR ANDRONOS: So Mr Nash is - - -

30 THE COMMISSIONER: Mr Nash.

THE WITNESS: Sorry, Scott Nash is the one, yeah, no, I knew Scott Nash, it's, that's why I just, I spoke to him and asked him for his opinion.

MR ANDRONOS: So you initiated the request for an opinion from Mr Nash?---From Nash, yes.

Do you recall when you did it?---No, I don't recall exactly.

40 He refers to some advice from Mr Robinson dated 1 February, and if you skip forward to page 31 you'll see the advice is provided on 3 February, so it must on 1, 2, or 3 February, 2015. Correct?---Yeah.

Now, in light of the meeting that you say took place with Mr Montague at Mr Alha's house and the discussion you say took place there, why didn't you contact Mr Eid or Mr Nash and say the advice was no longer necessary? ---Because it hasn't been fully resolved. It was a discussion that had to go back to the, I mean he gave, Mr Montague gave me his, his, his position and

what he wants, what he would do and I had to go back to the A Team, but I just don't, I don't recall the dates in regard to this but all I know from memory is that that meeting I had at Joe Alha's was the thing that broached the, the issue with the, with the war.

Well, well - - -?---That's my memory I, I recall, that meeting was what happened in regards to Eid's intention.

10 Your evidence as I understood it, on 12 April, which is the passage in the transcript I took you to, is that the war had been resolved, that Mr Stavis would start and you would leave Mr Montague alone.---Correct.

And so if you were going to leave Mr Montague alone, why did you need any advice from Mr Nash about the validity - - -?---Yeah, but that could have been before the meeting, this advice came in. If I ring up, if I make a phone call and talk to somebody, say, "Give me some advice," it's not, didn't come straight on the same day. That could have been before I had that meeting with, at Joe Alha's house. And then the advice came in afterwards.

20

Wasn't the real reason, Mr Hawatt, that even though you knew Mr Montague was going to allow Mr Stavis to start work as director of planning, you didn't deviate for a second from your intention of trying to - - -?---No.

30 - - - remove Mr Montague?---No, I did, no, no, no. And if you, if you're using that as a, as the date, I, I think that's incorrect because it's, it's not the date that I wrote the, I made contacts with, with Scott Nash. I would have made contacts with him way before that, and he, the advice came in afterwards. That could have been a few weeks back. Oh, I don't know. This could be more.

Well, it can't have been before 1 February, can it?---Of course it can. I mean, an advice, he needs to talk to some senior council and he needs to come back and - I mean, yeah, it, it takes a, it takes a while.

40 Might the Commission staff get page 27 of volume 5 up on the screen? Now you'll see, Mr Hawatt, this is a letter which appears to come from the desk of Ms Kebbe, addressed to the Minister for Local Government, Mr Toole, dated 9 February, 2015. You see that?---Yeah.

And you see your signature is one of the six signatures on the bottom of the page?---Yep.

Now, can I take you to, if you could maybe have a quick read of that. I'm going to take you to the third and fourth paragraphs.---Yeah, that's, yeah, that's in response to the meeting we had (not transcribable) meeting, yeah.

Now, in the third paragraph you refer to legal advice. Now, that legal advice is the advice from Mr Nash, correct?---Oh, I don't know.

Perhaps we could just - - -?---Because we spoke to, I think it was Mr Eid, as well. I, I don't - - -

Perhaps if we could just quickly turn the page to page 28, and then 29 in the volume, the opinion follows this page, so - - -?---Yeah, it could be, could be, yeah.

10

It's a fair inference that these are the - - -?---Yeah, yeah.

- - - this is the annexure that's referred to.---Yeah.

20

So on 9 February, you're providing Mr Nash's advice to Mr Toole, and you're saying, in the third paragraph – sorry, I withdraw that. In the third paragraph, you're recounting the events of 27 January, and you're saying that your legal advice showed that your actions at the meeting were valid. Now, then you go on to say, and I'll read this out, “We are concerned that the actions of the mayor are intended to keep Mr Montague in office as general manager by obstructing due process and creating impediments to the implementation of the guidance provided by the office of local government and yourself.” That actually was a statement of your position as at 9 February, wasn't it?---Well, this is, this all the councillors supporting that, yeah.

30

And that's what you believed.---No, this is a response to the meeting, this was dated the 9th, yes. But it, it's response to the meeting we had for the extraordinary, we, we put in a complaint about the meeting because we were told that meeting wasn't valid.

It was sent on the 9th to Mr Toole, wasn't it?---Well, that's the date on there, yeah. It's, but it's based on that meeting, the extraordinary meeting we had in January.

40

Now, if you were no longer at war with Mr Montague, it didn't matter what happened at the 27 January meeting, did it?---I mean, look, from, from, from memory, that's, that's, that meeting I had at Mr Alha's house with Mr Montague was the, the day, the date, that was the last meeting I had with him in regards to sorting out the issues. That's from memory and, and that's when the tension eased off and then I had to go back to the A Team and, and talk to them about the meetings we had and in between there was issues in regards to the extraordinary meeting and it's more to do, this one, it's more to do with Brian Robson's actions.

You were still trying to get rid of Mr Montague as at 9 February, weren't you?---No, no. We, we were sending a message about what happened in

regards to the meeting. There's, there's nothing that it says we want to continue – oh, it's gone. We're talking about here - - -

I'll just read you this passage again, Mr Hawatt. "We are concerned that the actions of the mayor are intended to keep Mr Montague in office and general manager."---Correct. We're talking about the past here, yep.

10 This is an ongoing concern of yours as at 9 February, isn't it?---We're talking about, we're, we're referencing, we're talking about the actions - - -

No, Mr Hawatt, can you please answer my question.--- I am, I am. We're talking about the actions.

As of 9 February, you were still trying to get rid of Mr Montague, is that correct or is that incorrect?---No. This, this, this is to do – hold on a second. After - - -

THE COMMISSIONER: No, no, no, no.

20 THE WITNESS: No, it's incorrect because my position - - -

MR ANDRONOS: It is incorrect.

THE WITNESS: - - - after the meeting, Mr Alha, it became much more softer.

MR ANDRONOS: Did you send this letter to Mr Toole or did somebody else send it?---Well, I was one of the signatures, could have been, Mr Alder might have sent it, I don't recall.

30 You don't - - -?---I don't recall.

THE COMMISSIONER: It's just got Ms Kebbe up on the right-hand top corner.---Yeah, she's, yeah, she's the one, she's the deputy mayor.

MR ANDRONOS: Do you accept that you sent it?---I might have sent it, I, I don't, but it's, Councillor Kebbe is the one who, who is the, the author of this letter but reading through this, it, it talks about the past actions.

40 If you sent it – I'm sorry, I withdraw that. If Councillor Kebbe were the author, would you expect that she would send it or would you send it on her behalf?---I, I might have sent it. I mean, I, I, I don't see the issue. This is, this is referring to a past event.

Well, you did send it, didn't you?---I might have sent it. If I did, I did but what I'm saying is, this refers to a past event.

Now, you continued to have communications with Ms McClymont through this period, didn't you?---Oh, if she called me, she might have, yeah, during that period. She might have continued calling.

THE COMMISSIONER: And sorry, period is February?

MR ANDRONOS: Yes, the first half of February. And you were still providing her with information which you thought was going to be damaging to your political enemies, that's correct, isn't it?---I, I don't, I don't, as I said, my contacts with her regarding, it's, it's a contact that shouldn't have, shouldn't have occurred. Really, it's, it's a regret that I made, dealing with her in the past.

And you were still trying to get rid of Mr Montague, weren't you?---No. Look, I, again, after the meeting at Mr Alha's house, things had softened up and, and that was, that was it for me. So if there was any contacts with her, it would have been, if, if I did talk to her, it would have been stupid of me to do that, but after that meeting I softened up and, and there was the opportunity to resolve the issue with Mr Montague.

20

Might the Commission staff get page 38 of volume 5 up on the screen. Now, you'll see, Mr Hawatt, this records two text messages you sent to Ms McClymont on 10 February, 2015.---Yep. This is number - - -

It appears to be the same message perhaps formatted differently on the two occasions.---Well, this is, refers more to the mayor and it talks about the debate of the, the previous extraordinary meeting, so it's referring more to the mayor because all of us, all the councillors at the time were really, even though we resolved our issues with the GM but we didn't resolve our issue with the mayor so it's, it's a reference, this one here it's, it's, there's nothing to do with attacking the GM but more to do with attacking the, the mayor in, in regards to his actions which caused a problem.

30

Can I take you to the last two lines.---Yeah, show me.

And I quote from the message, Mr Hawatt. "We will try to amend motion to remove the GM."---Correct, to, will try to amend a motion to remove him. Amend, amend, that means to change, not to, not to remove it.

Mr Hawatt, that is just a flat-out lie, isn't it?---Well, no, I'm just reading this, no.

40

That is just a flat-out lie.---"We'll seek legal advice to ensure," da da da da da. "We will try to amend motion to remove the GM." To me I'm reading that amend the motion to remove, so in other words, we already had a motion to remove him, we already had motion to remove him, why would I say amend a motion to remove him?

Mr Hawatt, you recall that the motion to remove the GM failed on 27 January, didn't it?---But we had a motion to remove him.

Please, just answer that question.---So repeat it again.

The motion to – sorry, I withdraw that question. I think I was wrong and you were right. I apologise Mr Hawatt. The motion to amend, sorry, the motion to remove Mr Hawatt - - -

10 THE COMMISSIONER: Have a glass of water, start.

MR BUCHANAN: I feel a lot better now. A lot better.

THE WITNESS: I can leave if you'd like me to.

MR ANDRONOS: No, you stay, I'll go. Mr Hawatt, the motion to remove Mr Montague on 27 January was one of questionable validity because you knew at the time that Mr Robson had purported to close the meeting, and if he closed the meeting anything passed after that meeting might not be valid.
20 You accept that that was the position as understood, certainly by the Robson forces?---Yeah, there was a, there was the war, yeah, during - - -

There was a war.---There was a war, yes.

And if he was correct that meant that the motion that you passed to remove Mr Montague and replace him on an acting basis with Mr Watson had no effect. Correct?---What we were told, it wasn't a valid motion.

30 Yes. And so what had been proposed for the next EGM, being the one that took place on the 13th, was to proceed as if those motions on 27 January had been valid, but if they weren't, to have a back-up motion to remove Mr Montague all over again. Do you recall that?---No, no, that's incorrect, no, no. We, we, there was no back-up to remove him. We didn't really want to remove him in the first place. If it wasn't for the actions of the mayor nothing would have happened.

40 So, Mr Hawatt, am I understanding your evidence correctly this way, that you say there was an agreement reached at Mr Alha's house that you would back off trying to get rid of Mr Montague if he agreed to put on Mr Stavis, but, and you did not reach that agreement?---No.

Do you agree with my proposition?---No, no, conditional had to go back to the A Team and discuss it with them.

But they agreed with you, didn't they?---Well, they, they would have agreed with me, yes. They didn't agree with me regarding Mr, the mayor, the just wanted him out.

And your position is that everything that happened subsequently to the meeting at Mr Alha's house did not reflect any continuing attempt by you to remove Mr Montague?---After, after that I don't, I don't think so because I was really, after that meeting I had, I remember that meeting very well, Mr Montague was stressed out, everybody was stressed out, he was more relaxed after, after the meeting and I left comfortable with the discussions we had and, and to me that was, that was the beginning of the end of the war.

10 Mr Hawatt, I have to put this to you. That evidence is untrue.---No, it's not.

That you knew Mr Montague was going to honour the offer to Mr Stavis but you tried to get rid of him anyway.---That's incorrect. That's not correct.

Can Commission staff please get page 74 of volume 5 up on the screen. You'll see at page 74, and this goes over to page 75, and if you need to see it, Commission staff will no doubt oblige you, from item 23 onwards you'll see it records a text message from you to members of the A Team, sent at about just before 2.00pm on 11 February, 2013. Now, you'll see the text of
20 numbers 23, 24 and 25 all the same, all the way down to 27 on the next page. Now, this is a text of some strategic advice or some tactical advice you're giving members of your team. That's correct, isn't it?---So which, which one, 23 is it?

23.---23. Yeah.

Now, see the advice you give is to attend the council meetings so as you're not made to look bad and have that used against you?---That's, that's probably something that's correct. I mean there's, it's a meeting that, yeah,
30 could be a tactical by the, by Brian, but again it's got nothing to do in regards to my softening up for the, for the GM after that meeting I had.

Now, you say, "make us look bad and trigger the sacking of council which Montague wants to see happen. I agree, especially now, I agree with the advice to attend the meetings, especially now when we are so close to removing him."---Correct.

Now, the "him" was Montague, wasn't it?---Yeah. So?

40 I beg your pardon?---I mean yes, that would be, I would say yes.

So you were close to removing him because you were still trying to remove him.---No. This is a discussion about a meeting that Brian was trying to organise and it was a probably tactical move by Brian in regards to, to the GM in regard to that, but as far as I was concerned, this is a tactic to do that, but from my position, after that Alha meeting, I'll say that again, I, and I recall very well that meeting we had, I softened up a lot about the position of Mr Montague and I had to relay that meeting back to the, to the A Team

and there was meetings in between, committee meetings in between, and I'm just relaying that pass on, we're close to it but it doesn't mean we're going to get rid of him, otherwise would have taken, we kept, we kept going with the action.

THE COMMISSIONER: When you relayed the result of the Joe Alha meeting back to the A Team, did the other members of the A Team soften in their attitude as well?---They, they, they were concerned about the mayor, they weren't happy with the actions of the mayor, and then - - -

10

But what about in respect to Mr Montague?---They softened up but they still weren't 100 per cent clear on, on the intent of the mayor, whether he's still influencing the GM.

But we're not interested in the mayor, we're focussing on - - -?---Yeah, but he was influencing - - -

- - - Mr Montague.---But he was, the mayor was influencing the GM as well, so there was a concern about that.

20

MR ANDRONOS: Your position was that Mr Montague should not be recognised as the GM any longer, wasn't it?---The position we had, we felt our position - - -

Can you please just answer my question, yes or no?---No, but we felt the motion we moved was legal, that's, that's the position we had.

And you thought that you had got rid of the GM.---Well, that's, that's the motion we moved, yes.

30

And as at 11 February, that's the situation you wanted to prevail, wasn't it? ---No. Is that after the meeting with Alha or before?

Yes, yes, it was more than a week after the meeting with Alha.---No, no, it's, look, again I, there was still that period of that week, there was still things already acted upon and it's coming to, towards, futrition [sic] and there were some issues in regards to the mayor and, and activities, but after that it's, no, we softened up a lot, all of us, but there were still activities in between.

40

Mr Hawatt, you, even as at 11 February, had not wavered for a second in your purpose of trying to remove Mr Montague as general manager, even though you were well aware he was going to honour the offer of employment to Spiro Stavis. That's true, isn't it?---After the meeting, yeah, he, he agreed to it, the meeting at, at Joe Alha's.

So you did not waver for a second in your purpose of trying to remove him. ---No, it was, there were, look, there was a number of things happening,

even after myself meeting with him. But prior to that, there was a lot of activities going in the background with the A Team. I wasn't, I wasn't the, the only sole person who was making all these decision. There was a deputy mayor, there was Councillor Adler, there was others involved. But as far as I'm concerned - - -

10 You were all trying to get rid of him, weren't you?---Yeah, they're all – look, after, after the meeting I had with, with, with, at Joe's place, I think they softened up but they didn't soften up on the mayor, and they were concerned about whether the mayor was continue influencing, whether Mr Montague was genuine about fulfilling that agreement, there were some, still some issues there. But it's up to them. I mean, I can't control, I had to go back and talk to them. But they weren't, they didn't trust the, the outcome that I had originally.

You didn't propose to stick to the outcome that you say you had, did you?
---No, I did, I stuck to it.

20 I'm going to go onto another document, Commissioner. If we're going to have the leg stretch, now might be a time, otherwise I'm happy to carry on.

THE COMMISSIONER: We might - - -?---I'm happy to continue.

All right. Okay.

30 MR ANDRONOS: Now's everyone's chance to speak up. Can the witness be shown page 86? You'll see, Mr Hawatt, there are two emails on this page. It starts off at the bottom half of the page with an email from Mr Robson, or from Mr Robson's office, attaching a letter and documents, and then the top half of the page is your response. Now I'm going to take you to your response. This is dated 12 February, 2015. Now, you complain about the conduct of the mayor, and you say in the second paragraph, "He," the mayor, "has disrupted a valid council meeting and has stopped the democratic rights of the majority to please himself." It goes on to talk about defamation. Then you say in the next paragraph, "He is once again using this tactic to delay our meeting to remove the GM." Now, just pausing there, you were concerned that the meeting which was scheduled for 13 February would be delayed, and you would not be able to get rid of Jim Montague, weren't you?---No. That's, oh, again, it's, it's a tactical that we
40 felt, I think the, the team felt there was still a unease in regards to the actions of the mayor, it's, and, and, and he, whether he had the ear of the, of the GM.

Because you were still trying to get rid of the GM.---I had, and I'll repeat it, I, I, I'll, I remember that meeting very well. I was there.

Mr Hawatt, if you're disputing the proposition I'm putting, you just have to say so.---Yeah, I softened up and the A Team, it still had doubts about the mayor and, and his, and his intent. They didn't trust him.

Now, you go on to say in the last paragraph, "The mayor needs to stop his," I think it's meant to be, "childish behaviour, and resume his elected role as the mayor and do the right thing by the residents who are the ones he should be representing, not the GM."---Correct, his - - -

10 Because you were concerned that he was protecting the GM against a - - -?
---Oh, his, no - - -

- - - an attempt by you and your colleagues to remove him.---No, his actions were not the actions of a mayor. It's, it's got, it becomes irrelevant whether to remove the GM or not. It became – his actions, past actions were not representing the, the interests of, of council, but he was representing the interests of, of one person, the GM at the time. And they have concern about the mayor's actions and position, where he should be representing the people, the council, and doing the right thing. That's the, that's what I'm
20 saying.

Because your fight at this stage was still a fight to remove Mr Montague. Mr Hawatt, I cannot understand how you're resisting this proposition.---No, because I recall the meeting. You weren't at the meeting. I was at the meeting. It softened up. We saw Jim Montague a different person but the mayor wasn't a, a, a different person and, and I think the, the A Team were still uncomfortable with, with his, with the mayor's actions, and they were concerned about he still may continue influencing him, that's all.

30 Mr Hawatt, you regard yourself as a man of your word, don't you?---Yes, hundred per cent.

And so if you agree to do something, you will do it, won't you?---I did do it, and I, and I fulfilled that agreement and - - -

And if you agree not to do something - - -?---And that's why we ended the war.

- - - you will refrain from doing it.---But that's why we ended the war,
40 because of that.

Can we turn to page 93, volume 5, please. Could we go one page forward from that? Just go to page 94, that might conform with my 93. No?

THE COMMISSIONER: I think 96.

MR ANDRONOS: 96.

THE COMMISSIONER: If you're looking for the motion.

MR ANDRONOS: No, I'm looking for an email on the 12th of February. Maybe back to page 92.

THE COMMISSIONER: Hold on, another email from Mr Hawatt on the 12th?

MR ANDRONOS: Yes.

10

THE COMMISSIONER: Page 87.

MR ANDRONOS: 87. Thank you, Commissioner. I'm indebted to (not transcribable). I won't spend long on this email, Mr Hawatt, but you'll see the last part of the first paragraph. You're once again complaining about the conduct of the mayor in protecting the GM.---No.

That's what you're doing, aren't you?---He's, he's, he's, look - - -

20

Please just answer that question yes or no.---Yes, yes.

Yes.---The past, yeah, the past.

Yes. You say that's to do with the past, even though it's expressed in present tense?---Correct, correct. It's the past. We're, we're trying to, they, the A Team just were not comfortable with him at all.

THE COMMISSIONER: Sorry, with whom?---With the mayor.

30

MR ANDRONOS: This is you writing it on your own behalf, isn't it? ---I'm, I'm representing the, the, the voice of the team when I talk to them, and I'm passing it on. That's, that's my position on that. I mean, it looks like I'm the one who's running it, but it's, we've got people other people moving motions and, and signing letters and, yeah, I, I'm the one who was coordinating the, the move and, and the information to pass on.

Can we now please turn to, it's page 96 in my volume. Now, Mr Hawatt, these are the minutes, these are an extract of the minutes of the 23 February, 2015 meeting.

40

MR BUCHANAN: 13?

MR ANDRONOS: 13 February, 2015. And if you need to see the balance of the minutes to put it in context, please say so and I'm sure the Commission staff will provide it to you. But you'll see that on this page there are two substantive motions and two motions of dissent which are recorded. Now, the first motion on this page proposes that there be a selection panel for the purpose of interviewing and recommending to

council a person to fill the position of general manager. You see that?
---Yeah.

And that's a motion, notice of which was given in that document we looked at earlier on 27 January, 2015, setting out the motions, notice of which was given for the next general meeting.---Mmm.

Now, you saw that – do you recall this meeting?---I, I don't, I don't recall it exactly but there, there was meeting, yeah.

10

Do you recall that Mr Robson was in the chair for this meeting?---Well, that's why we tried to move dissenting his ruling, yeah.

Well, Mr Robson ruled this motion out of order on the basis, quite properly, with respect, that there was no vacancy for the position of general manager and to the motion was out of order. You recall that?---Yep.

And this was Mr Robson manoeuvring to protect Mr Montague, in your view, wasn't it?---Oh, yes, yes.

20

Yes. And you moved a motion of dissent from that ruling because you opposed Mr Robson manoeuvring to protect Mr Montague, didn't you?
---No, we were, again we did not want him to chair the meeting and that was a move to get him, because we just didn't trust him.

Well, you moved a motion of dissent because you were trying to remove Mr Montague?---Because we didn't trust his, his actions, no, not Mr Montague, the, the mayor, we tried to remove the mayor because we didn't trust him to, to make any, any good decisions and, and that was, that was then, that's what the, the councillors wanted.

30

Mr Hawatt, that was not your reason, was it?---Yes, it is. We did not want him to address or to control the meeting.

If we go to the next motion, about halfway down the page, this is a motion that the general manager's contract be terminated immediately under clauses 10.3.5 and 11.3 of the contract, and we'll skip 2 and we'll go to sub-motion 3, Mr Chris Watson be appointed acting general manager. See that?---Yeah. This is the - - -

40

You supported that motion, didn't you?---We, I, I, did, I, I might have, I can't remember but it's moved by Adler and Nam and, and the motion (not transcribable)

And when that was ruled out of order, you moved a motion of dissent, didn't you?---It was, it's all to do with the mayor, this one, as far as I'm concerned and I think it's just follow up on, on, on, on the original motion that, that they had because I think the Office of Local Government might

have said, look, you must have another meeting in order to resolve this, this issues and so I can't recall.

Mr Hawatt, it is plain as a pikestaff that it was all to do with Mr Montague. ---Yeah, but it's also the mayor. The, the, the team, the councillors were not, they did not trust him at all and there's a couple of issues, yes, the GM was part of it but the, the main concern was the mayor and the way he conducted the meeting and, and - - -

10 When you say the GM was part of it, that's because you were still trying to get rid of the GM, weren't you?---I, I, look, as far as I'm concerned, from, from memory and I'm going to repeat that after the meeting - - -

No, I'm not asking you to repeat any of the ecstasy you've given before, Mr Hawatt.---Well, to me it's, to me it's more focussing on the removal of the mayor because we didn't trust his, his actions.

Can you point to me where there's a motion to the effect that the mayor be removed?---Well, the dissent, moving in dissent.

20

Well, that's not removing the mayor, that's dissent - - -?---That's removing to, to chair the meeting.

With respect, it's not.---It is.

30 What you are seeking to do is remove Mr Montague. Mr Hawatt, you cannot deny this.---Look, from memory, from what I, what I, from memory, as far as I'm concerned, I met with, with him, I softened up and with regards, there was still concerns from the, from the other councillors in regard to the actions of the mayor and whether he is still influencing there GM and whether they wanted to continue with it, I don't recall this, but from my, from memory, I softened up on the GM and they didn't trust the, the mayor. That was the situation at the time.

Your motion of dissent on the second of these motions also failed, didn't it?---No, it, it failed because the mayor, again, he, he walked out, I think from, from memory. I just don't remember.

40 No, I failed because the mayor ruled the motion out of order.---Just because he ruled it out of order, it wasn't valid. That's my they didn't trust him.

Well, at the end of the meeting Mr Montague was still general manager, wasn't he?---He was still general manager, yeah.

Even though, and I'll put this one final time, you and your team were doing your best to remove him?---It was more focussing on the GM – sorry, on the mayor in order to remove the mayor. I don't know what the outcome was in regards to the, after the meeting, after I spoke to them about the meeting I

had with the GM. I don't recall whether they still wanted to continue or, or they had no trust or they, there was no trust anymore between these guys, so, but my position, my personal position, I softened up a lot on the GM.

Now, there had been two meetings where motions were put to remove Mr Montague as general manager, a meeting on 27 January and 13 February, correct?---The January one was, was an invalid meeting and then this one follow-up.

- 10 Yes, but one of the motions of which notice had been given to be discussed at the 27 January meeting was a motion to remove Mr Montague as general manager.---At that January, yes.

And a motion to that effect was actually moved at February.---That was, that was the correct one, and then that follow-up, because that meeting was invalid, it was a follow-up. I think the Office of Local Government, from memory, they said you must have another meeting.

- 20 We do not need to get into that, Mr Hawatt. Now, at both of those meetings you understood you had the support of six out of 10 councillors to remove Mr Montague, didn't you?---The first meeting, yes, and the second meeting, they, there was a soften-up from, from my side and, but the councillors, the other councillors, they still had doubts about the position of the mayor and whether he's still influencing the GM or not.

Mr Hawatt, you had been comprehensively outmanoeuvred by Brian Robson at these meetings, hadn't you?---Brian Robson caused a lot of problems at the time for everybody.

- 30 Brian Robson won and you lost, didn't you?---For which one?

Both of these meetings.---Well, no, we don't believe he won. He just wasn't conducting the meeting correctly. We, we, we were going to challenge it but it's what, it all collapsed.

- 40 You came into both of these meetings with a team of people, a majority of people, who were trying to get rid of Jim Montague, and at the end of the meeting Jim Montague was still general manager. That's a loss, isn't it? ---We, we pulled away. Look, we pulled back, after that meeting we pulled back in regards to the actions to remove the GM. After that.

After the meeting with Joe Alha?---After this, this meeting, after the meeting with Joe Alha, softening up, and after this meeting there was further discussions. Instead of taking more actions, we decided to just - - -

Well, after this second, after this second - - -?--- - - - have a, sort it out with the, with the general manager.

After this second meeting the game was over and you had lost, hadn't you?
---No, we didn't lose it. It wasn't, again, we, we don't believe that the way he conducted the meeting was legal.

10 So are you saying that even though Jim Montague was still general manager, notwithstanding those resolutions, your response is to say, all right, we'll call it a draw?---Call it the majority of the councillors. If we have a meeting, you've got a, you've got a, you've got a council meeting, from my understanding the majority – under democracy – the majority of the councillors have the floor. They can remove the mayor, move a dissent in his, in his actions, so the majority are the decision makers, not the mayor. So his action is based on not the majority decision made by all the councillors, his action was on himself independent, and we don't believe that he's correct. There should be the majority makes the decisions of council and the majority we had, we had the majority, and he made a decision we, we believe was incorrect.

20 You had a majority to do what?---To, to, to act on whatever we wanted to act on. Originally there was the original motion to remove the GM, and the second one, the, the, the rest of the team wanted to continue with their, with their action, but especially more focusing on the mayor himself.

So are you saying that that motion, the second of the two motions of 13 February that I took you to, the one that you moved a dissent from when it was ruled out of order, the second one - - -?---The second one is, we had to, we had to have it because the Office of Local Government, from memory, said you must have another meeting.

30 Mr Hawatt, are you saying that you went to that meeting not proposing to vote in favour of a resolution to remove Mr Montague?---I don't recall my position. All I know is after the meeting I had with Alha (not transcribable) softened up - - -

Mr Hawatt, Mr Hawatt, that is a lie.---That's not a lie.

You went into that meeting - - -?---That's my - - -

40 - - - as you indicated in your text communications with your team and with Ms McClymont immediately prior to the meeting, you went into that meeting with the intention of having Mr Montague removed.---After the meeting at Joe Alha's house I softened up my position in regard to the GM, I had to relay back to the other councillors - - -

Mr Hawatt, this is - - -?--- - - - and that was - - -

This is untrue evidence to your knowledge.---And that's 100 per cent true, I was at that meeting.

So after 13 February, Jim Montague was still general manager and because of the way in which procedurally council meetings work, you would not have another change to try to remove him until April or May 2015. Is that correct?---Oh, we could have moved an extraordinary meeting if we wanted to.

But if it had been negativised you wouldn't be able to move the same motion again for three months?---Well, I don't, I don't remember that. We could have, from memory I think we could have if we wanted to.

10

By this stage you had personally suffered in this war, hadn't you?---We all suffered in this war.

Including you?---Of course, we all suffered in the war.

Mr Montague and Mr Robson had been battered by these threats to their positions and by reason of the publication of the articles by Ms McClymont in the Herald?---We, we all, we all suffered.

20

Well, just say yes or no to the propositions as I put them, please.---Yes, we all suffered.

And you had also sustained some damage, the articles that were published, the article that had been published in The Telegraph was damaging to you, wasn't it?---Yes, of course.

And the cost to you was both personal in terms of stress you suffered, do you agree with that?---Yes.

30

And it was political, because it affected your ability to remain a candidate for the seat of Lakemba at the forthcoming state election.---They would have used it against me, yes.

Can we see the document at page 105 of volume 5. Now, this is a letter you wrote on 16 February to Tony Nutt, who I think might have been the state director of the Liberal Party. Is that correct?---Yeah.

40

There you refer to the ongoing fiasco at Canterbury City Council, negative media publicity and defamation actions you intend taking against some people and the inaction by the OLG and Minister Toole to suspend the mayor, and you go on to complain about the conduct of the mayor. You go on in this next paragraph to complain about the inaction by the OLG and the minister, which then you carry on into the following paragraph. And then you go on in the third full paragraph to say, "Now, it seems to me," complained about the OLG lacking strength, "especially when both the mayor and GM worked together against the wishes of the majority of council." And you go on to say that it will "only prolong the ongoing saga," and makes it harder for you to work on your campaign. Now, the next

paragraph you say, "I am leading the charge to remove the Labor general manager." Now, I'll just pause there. Do you now adhere to your earlier evidence that you had softened after the Joe Alha meeting but the only reason you carried on in a position which appeared to be hostile to Mr Montague and his remaining general manager was because of other members of the team?---I still say after that meeting I did soften up, even though I wanted to, to, to refill my, my, my candidature as, as the candidate for Lakemba.

10 You tell Mr Nutt that you are still, "leading the charge."---Yeah, that's fine.

You had been leading the charge, hadn't you?---What I'm saying to, as the coordinator of between the two groups I was making representation in order to, for me to withdraw as a candidate as well, and at the same time leading the charge which I was the person, the, who, who are running the, the main coordinator between the groups and I was leading the charge on their behalf, yes.

20 That's not what you say here, Mr Hawatt.---What I'm saying is, is correct, I'm meeting with Jones on their behalf.

You go on to talk about the support you have from the Labor councillors and you talk about the pressure they're under and then you say, "Even under this pressure, they're still holding firm to remove him and it's a fight we must win but unsure how long we can last without the backup locum." ---Because, because the councillors, as I'm, the one I'm representing have, have, they seem to want to, to stand, stand their ground and continue with the action against the mayor and, and the GM at the time.

30 And you go on to say in the next paragraph, "I am committed to continue this battle to remove the GM." You were, weren't you?---Those are words I've made to, to the thing to, to remove myself as a candidate for Lakemba.

You removed yourself as a candidate for Lakemba because you didn't feel that you could carry on in light of the - - -?---The negative publicity.

- - - the negative publicity you had suffered.---Correct.

40 Correct. And I'm not saying this is a gloating way or a glib way, but that must have hurt?---Hurt not to run?

Well, you had been in public life for 20 years at this stage, hadn't you? ---Yeah, but, you know something, it was a good, it's a good excuse for me to, to withdraw.

The seat of Lakemba was - - -?---It's a hard seat to win,

It was an open seat?---It's a hard seat, it's a Labor seat.

The previous holder of the seat was retiring, Mr Furolo?---Yes.

It was an open seat, it was you against a new Labor candidate?---Yeah, but it's, it's a hard seat to win.

10 Yes. It's still an honour to be nominated, isn't it?---I was the chair, I was the president of, I had the control over the, the Local Government Conference of Lakemba, so I was the, the, the, the president, so, but it was, I mean, it was up to me to run or no to run, so really, it was a, a good excuse for me to withdraw.

You had stood preselection, hoping to obtain preselection, hadn't you?
---There was no preselection.

20 How did you come to be the candidate?---Because I was the, the, the main person that nominated and there was no preselections because I was the, the person who controlled that, that particular branch and area as, as being the president and there was no challenges against me if I nominated.

You could have just allowed whoever the previous applicant had been to stand for the seat if you had wanted to?---Oh, I, I could have, I could have. It was up to me.

And you chose to run?---At the time and then I changed, I also chose to withdraw.

30 I'll put this again, it must have been a great disappointment to you to be forced to withdraw in those circumstances?---I think, I think, to tell you the truth, I was happy to withdraw. I'm telling you, it's not easy running for a seat in a Labor, strong Labor seat. I was happy to withdraw. It was a good, a good excuse for me to withdraw.

THE COMMISSIONER: The last sentence, "The previous applicant who was approved," who was that?---Sorry, which one?

40 Sorry, the final sentence in the letter, "The previous applicant who was approved and paid his fees is still interested."---Yeah, some other person might have been, wanted to run and I said, yeah, I'll put him in so if I withdraw, there's got to be someone to continue taking over.

But describing the person as the previous applicant - - -?---Oh, candidate, should have been.

Oh, okay.---I think it should have been candidate. It's a mistake.

So that previous candidate was somebody who stood for the Liberal Party, at what election would it have been, 2011?---It could have been, yeah. So

he might have been interested still and so for me to withdraw, got to have someone to replace.

MR ANDRONOS: If we go back to the letter in front of you, Mr Hawatt, you say, I'll take you to this again, "I'm leading the charge to remove the Labor general manager." The thing is, you did lead the charge, didn't you? ---Look, I was the coordinator and I was representing the six councillors and if they made a decision that they want to continue, even though, and I'll repeat myself, softened up a lot on, on, on the GM, I still had an obligation to the, to the, to the team and as, as to prove to that I'm not the person who, who could make sole decision, so there is a whole team of six people and if, even though I'm softened up, if they wanted to continue, as their coordinator I, I have to support the majority of the decision makers.

Right from the outset you had been the one who had texted members of the group about matters of strategy, hadn't you?---I was the coordinator of the meetings we had, the meetings (not transcribable)

You devised the strategy, didn't you?---No, we, between me, Adler and others, we played a big role in it, yes.

You lined up a proposed acting general manager in Mr Watson in January 2015, didn't you?---That's originally, yes, yes, because I had to have a – you can't just have a gap. We're going to have a backup.

You drafted the motion with Kent Johns.---Correct. Correct.

You're the person who - - -?---No, no, sorry, no, no, no, no. The original motion wasn't with Kent Johns. I, I, I drafted the motion because I received it from Ned Mannoun from Liverpool and I just changed it. It's the same motion. He wasn't involved in drafting the motion, no.

You're the person who met with Mr Montague together with Mr Azzi on 27 December, 2014.---At the club?

At the club.---Yeah.

And you're the person who met with Mr Montague in the presence of Mr Demian on 13 January, 2015.---Yes.

You're the person who met with Mr Montague and Mr Alha on the 1st or 2nd of February, 2015.---Yes.

You're the person who was told that Mr Montague was going to honour the offer to Mr Stavis at that meeting, aren't you?---Yeah.

And I suggest to you that your evidence that you had softened is incorrect and that what you may have done is transpose some later feelings that you

had about Mr Montague to that period from the beginning of February to the middle of February, 2015, is that possible?---I, look, it, I did soften up on that meeting, I have to, I remember very well, I did soften up, and I relayed whatever meetings I had with Mr Montague. It's always been relayed back to the A Team. And, and after that last meeting things would have been got, probably got worse, and I think it was time to move on. I think the rest of the councillors, they were getting a lot of pressure on them from their, from their political parties, from the unions. It just become unworkable and everybody just decided to move on.

10

Mr Hawatt, I'll make this suggestion. Could it be that the softening up of feelings that you had towards Mr Montague didn't follow the meeting with Mr Alha but followed what I'll describe as your second defeat on the floor of council on 13 February. Do you think you might just have that timing wrong?---No.

Do you want to think about that?---It was definitely after the meeting with (not transcribable)

20 Do you want to think about that for a moment?---I'm telling you. From memory, I remember he was stressed and he was, he was looking for a solution, trying to resolve it. I'll stick to that because I remember the meeting.

In your letter to Mr Nutt, you describe Mr Montague as the Labor general manager.---Yeah, that's correct because he, he's always been, from day one, he's always been supporting all the majority, which was Labor. It's always been like that for years and years.

30 And describing him as the Labor GM, that really did reflect your actual feelings towards Mr Montague, didn't it?---No, it's, it was relaying my concerns. Look, what I was saying in this, in regards to trying to make the Liberal Party to sort of wake up and, and smell the coffee, basically, saying, look, you know, you guys had a GM that's always been pro-Labor for years and years, and, you know, we're, we're, we're working hard to promote the, the Liberal Party. This is all political stuff in regards to Canterbury Council, and my wording there is more political based on politics within the, the Liberal Party than anything else, so it, it really is a political letter that I sent in order for me to justify my, my position as a candidate, and at the same
40 time saying, look, we're still promoting the Liberal cause. That's basically it.

Was your perception of Mr Montague's sympathy for the Labor Party the real reason you wanted to get rid of him?---No, no. It's, it's to do with his actions in regards to his decision not to, not to fulfil an obligation that's put council in a financial predicament.

You see, Mr Hawatt, Mr Montague never owed his job to you, did he?---No, of course not.

The outcome of the war, such as it was, meant that it was Mr Robson who had protected Mr Montague from the A Team, including you or including you only as a half-hearted member. Do you agree with that?---Yes, he was, he was defending him, yes.

10 And he defended him successfully.---Well, defended him, we don't believe he was successful, it was based on him being the, the mayor and the chair of the, of the meeting and not, and not conducting his, his position to, to have a proper meeting and, and listen to the, the majority decision of, of council. That's what we all believed.

And that was done successfully, whether you agree with the tactic or not, it succeeded, didn't it?---Well, it's only succeeded the first time and then it became a legal issue which we didn't want to continue following. Look, his decision, we don't believe, we still don't believe, whatever decision he made was not a legal decision.

20

I'm not asking if they're right or wrong, I'm not asking if they're right or wrong, but Mr Montague was there at the end of the day so they worked, didn't they?---They worked, yes, correct, for the two tactics he moved, but we don't believe they were a legal tactics.

Now, might the witness be shown page 106. Now, my friend, Mr Buchanan had taken you to this email before. Do you recall seeing this?---I have to read it again. So which one are you referencing?

30 Well, from the bottom of the page.---18th. Yep.

So this is an email that you sent to Mr Montague which is far more cooperative and neutral in tone than any communication you had had with him, any documentary communication you had with him for some time. Do you agree?---Yep.

40 And that was your way of reaching out to Mr Montague basically to end the war, wasn't it?---Well, no. Look, after that meeting, the last one going through, I think we must have sat down amongst the A Team and some of the other people saying, look, let's, let's move on.

Yes, that's right.---Let's move on and, and, and that was the continuation of the meeting I had at Joe Alha's place. I mean why would I respond to him in regards to communicating with him if there wasn't, if there wasn't already an understanding prior to that? So my, my - - -

Mr Hawatt, I don't normally answer questions but I will answer that one. The reason you did is because the game was over and you had lost. That's

why, isn't it?---That's, that's incorrect. No, there was a mutual agreement between Mr Montague and us to resolve this issue.

Well, Mr Montague - - -?---We did not, no one, look, there was no winners.

10 Mr Montague was all - - -?---I have to honestly say there was no winners in this whole thing. No winners. We didn't lose, we could have continued the battle but it was just too much and from, from this it, it, a continuation of that meeting I had with Mr Alha at his, at his house with, with Jim Montague and for me to be able to, and him to communicate there was already softening on that, and that proves to me that that softening was based on the last meeting I had with him at Mr Alha's house.

Mr Hawatt, I suggest to you that the softening, as you've described it, occurred on and from 18 February.---No, nah. Oh, that was definitely, I know, I remember, there was, that was the softening, and I think the A Team said, look, let's move on. Maybe we had a meeting together, said let's just move forward.

20 Yes, and that - - -?---And then the communication.

And that was between the 13th and the 18th of February, is that correct? --- (not transcribable) That's when, around the period when the war ended.

Yes, thank you. Thank you, Commissioner. Those are my questions.

THE COMMISSIONER: Thanks, Mr Andronos. Mr Neil.

30 MR NEIL: Yes, thank you, Commissioner.

THE COMMISSIONER: Oh, I'm sorry, Mr Neil.

MR DREWETT: I wonder if, even though my client did decline that back stretching exercise, maybe just a couple of minutes, just before Mr Neil starts?

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

40

SHORT ADJOURNMENT

[3.51pm]

THE COMMISSIONER: Right, Mr Neil.

MR NEIL: Thank you, Commissioner. Mr Hawatt, I act for Mr George Vasil. Will you understand that?---Yep. Yep.

Thank you. Now, I want to ask you some short questions firstly about your background knowledge of Mr Vasil. I think you've known him for many years, is that right?---That's correct.

And is he a well-known identity in the Canterbury area?---Yes, he's a, especially around the council period, yeah.

10 Is he known to be prepared to talk and discuss matters with members of council?---Correct, yes.

Of all political persuasions or independent?---Correct.

MR BUCHANAN: I object. I wonder if we could cut to the chase, as it were. All of this is very well known to the Commission and is simply repeating the evidence that's already before the Commission.

20 THE COMMISSIONER: I think that's been – I take Mr Buchanan's point. We've heard evidence of Mr Vasil attending, I think at one stage it was described as "practically every council meeting". His knowledge with planning matters, his particular interest in particular planning matters, and also that he would talk to councillors, we've had evidence of the A Team – you might not have been here, Mr Neil, although I understand you've obviously all been reading the transcript – of the A Team meeting at Mr Vasil's real estate agency, and things like that.

MR NEIL: With Mr Vasil being basically not present.

30 MR BUCHANAN: Not necessarily.

THE COMMISSIONER: He might have been in and out.

MR NEIL: In and out. Described it as, I think, somebody who walked around a lot, yes.

THE COMMISSIONER: I think that was the, sorry, Mr Hawatt's evidence, yes.

40 MR NEIL: Yes, yes. Well, you see, Commissioner, I'm happy to come to a particular point, and that is that as part of your evidence, you, in answer to questions by Counsel Assisting, described yourself as a political ally of George Vasil. Do you recall such evidence?---Political, he, he became political when they, his son joined the Liberal Party. But George is a general person who, who does help everyone.

You said that you shared, this is 6385, the Liberal Party political affiliation. Your answer to that was, "Correct." Now, on what basis did you

understand, if at all, that Mr George Vasil was a member of the Liberal Party?---No, he was, he wasn't a, a, I don't think he was a member, a paid member.

No.---He wasn't a paid member.

Correct. You didn't have any actual formal political affiliation with him at all, did you?---No.

10 And he made himself available, as I put earlier, to councillors of all political persuasions, correct?---Correct.

And he was known as a person who was very knowledgeable on planning policy issues, correct?---Correct.

He was not a member of the council, was he?---Nah.

And he was not a person with whom you caucused before any decisions you made, correct?---Nah, nah, we just had discussions of the issues sometimes.
20

And indeed, even with members of the council, there was a rule that in the code of conduct, volume 2, Commissioner, if we need to go it, page 50, 3.14, "You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting." You're aware of that, aren't you?---Mmm.

And you wouldn't suggest, would you, that Mr Vasil had had in any way attempted to influence you in respect of any specific motion that you voted on in the council, would you?---No, George is like, oh, look, I treated
30 George like any other person. If he had issues, complaint about certain things, if there's something wrong with the code or controls, and he will relay that and, and pass it on like, a, a complaint like any other person would, would call for.

Thank you. And I think you would have known, would you, that he was particularly, that is Mr Vasil, particularly interested in matters to do with the DCP and the LEP?---Correct, yeah.

Well, then next point, in relation to some matters to do with the Harrison's
40 site, I just want to ask you some points. Firstly, could we be shown on the screen, Commissioner, volume 23, page 184. Now, is this, as it would appear to be, an email that you sent on 11 May, 2016 to Mr Maguire?
---Yeah.

Daryl Maguire is his name, correct?---Yeah.

And you set out what you've said there to be a number of available sites. Do you see that?---Yep.

The first one you mention is 548-568 Canterbury Road, Campsie, 353 units, DA-approved. Was that what was known as the Harrison's Timber Hardware site?---It could be, I just don't, I don't, the numbers, it's not, but yes, could be.

All right. And was 570-580 Canterbury Road, Campsie, the next entry, was that known as a carpet shop or a carpet store?---Well, that's all the one, yeah, all the one.

10

Well, I want to - - -

THE COMMISSIONER: It's all the - sorry?---That's the I would look at it as one site because it's all next to each other.

MR NEIL: But what I want to put to you is this. They are in fact two sites. Do you agree with that?---Well, they're two different addresses but to me I look at them as one site, that's my - - -

20

Well, you might.---Yeah.

But I take you to the fact that I want to suggest to you that they're two separate sites.---Yes, different addresses.

Were they both owned by a Mr Demian?---I think so, yes.

Now, could the witness be shown, Commissioner, in Exhibit 52, volume 22, page 229. Now, I want you to look at that document, take a moment if you need to read it, and look at minute 476 that relates to consent for a DA and it's to do with 548-568 Canterbury Road. Do you see that?---Yeah.

30

The Harrison's site. Correct?---Yeah.

And that under part A states that the general manager be authorised to issue the consent for the DA there numbered, "Once the suitable concurrence is received from the RMS subject to the conditions as recommended in the director (city planning)'s report and any other conditions that arise as a result of the RMS concurrence." Do you see that?---Yeah.

40

Now, is it the case that that resolution referred the matter of the consent for the DA to the general manager?---Well, yeah, yeah.

And is it the case that that was the last occasion on which the matter of 548-568 Canterbury Road came before the council up until the amalgamation? ---It look like it, yep.

And is it the case that there were, from 3 December, 2015, up until the amalgamation, no pending matters that would or did come before the

council or were likely to come before council in respect of 548-568 Canterbury Road, Campsie?---That's correct.

Now, could the witness be shown volume 23, pages 226 to 227. Now, just to deal with some aspects of this Harrison property, was there, and I'm trying to keep this short, at some time, an agent appointed by Mr Demian known as CBRE Real Estate? You won't find them mentioned on there, just - - -?---Yeah, sorry, yes, yeah, there was a, yeah, I recall that one, yeah.

10 Yes. And then following their finalisation of their appointment, was there appointed by Demian, Mr John Dabassis, as we see as the agent on page 226, trading as Galazio Properties?---Yep.

Now, I just want to ask you this, the sale of the Harrison site fell through and wasn't eventually sold for some 12 months or more after the Dabassis agency, are you aware of that?---Well, yeah, because I know he, what they had is, it's nonsense anyway, yep.

20 THE COMMISSIONER: Hold on, sorry, the Harrison site was eventually sold 12 months after, what about June 2016?

MR NEIL: Approximately, Your Honour, yes. And this document we've got at page 226 of volume 23 shows the property that's been described there as 548-568 Canterbury Road, Campsie. Do you see that?---Yep.

All right. Now, I just want to ask you this, is it the fact that Mr Dabassis, as you understood it, was keen to obtain a vendor agency agreement?---Yes, he was, yeah.

30 Was it the case that Mr George Vasil never obtained any vendor agency agreement from Demian regarding this property?---Well, I agree, looking at that, yep.

Yes. Did you have an understanding that Mr Vasil had, at some stage, sought an introduction fee, meaning a fee for someone who introduces an agent to a vendor?---I, I don't recall that. I, I don't recall any discussions like that.

40 All right, thank you. Now, I'd just like you to have a look at some evidence which you gave, I think, in the last few days, on 24 April, 2019 at 7065, Commissioner, if that could be made available. At line 20 you were asked a question, "Why not George Vasil?" "I don't think George would have known, I don't think George would have been interested to, to that extent, I think Laki is the one who's more pushy." Then there was question that didn't seem to get fully answered. "George, you knew George was very interested in vendor's agency." "Yeah, but he, he would not - - -" "From Charlie Demian, didn't you?" "But, but he would not be spreading information that's incorrect. The other guy's spreading information that's

not correct and it's, he's the only one who would do that." Now, what I want to suggest to you, that Mr Vasil was not interested in obtaining a vendor's agency. Have you got any basis for, if that answer of yours is to be interpreted as saying that Mr Vasil was interested in the vendor's agency, why you said that?---I, I don't, I don't recall, so the question was, oh, just because the person I was talking to is mainly George and probably I took it from face value that he was interested in it. I mean just maybe a misinterpretation of, of, of events.

10 I take it there's no material that you can point to within your knowledge to support the proposition that in fact Mr Vasil was seeking a vendor's agency?---No, there's no evidence, just, it was just, I think it's interpretation, sorry, yeah.

Now, if I could ask you to look at some other evidence recent, on 30 April, 2019, at page 7366, Commissioner. Now, you were asked by my learned friend, Mr Moses, a question at line 22. The question was, "Do you accept that on 9 May, 2016, there was still an application pending before
20 Canterbury Council in relation to the Harrison's site?" "But on 9 May, this is to me a few days before the sacking of the council, let me finish, and if, if I did to any transaction as a finance broker with Daryl then if it did come to council I would have to declare interest." Question, "So I'm going to ask the question. On 9 May, 2016, do you accept that there was still a pending development application concerning the Harrison's site before the council?" You said, "I don't, I don't recall that one." Now, I just want to ask you something in light of the answer that you gave that if you'd been involved in any way as a finance broker, if it came before council you'd declare interest. Firstly, if that had happened, if that had happened, that there had been a transaction involving you as a finance broker you'd have declared the
30 interest you say?---Correct.

And does that mean you would not have voted on the matter?---Correct.

Now, just listen to this question. If, and I'm not suggesting that you were involved in any discussions on commission on the Harrison's site, but if you had been involved in any discussions in 2016 let us say, involving you possibly obtaining commission in relation to the Harrison's site, and if any further aspect of the planning process for that site came before Canterbury Council in 2016 prior to the amalgamation, does it follow that you would
40 have declared an interest in relation thereto?---Absolutely.

And in those circumstances would you agree that you would not have voted in council on any further aspect of any such planning process for the Harrison's site?---Absolutely.

Thank you. Now, you've been asked some questions about events in February, 2015, in particular some questions by my learned friend Mr Andronos. I want to ask you something slightly different, and that's this.

Whenever it was that you softened your position in relation to the general manager, was it not the fact that by the end of February at least you had acceded to the proposition that the general manager should remain.

---Correct.

Are you able to say, if at all, how soon or how many days approximately before 28 February did you come to that conclusion that you'd actually agree to him staying?---Oh, look, I, I softened up on the day after I met him in - - -

10

THE COMMISSIONER: With Mr Alha.---With Mr Alha. I have to, I remember that meeting very well. And I had to report back to the councillors about the, the position, and they were a bit, some of them were sceptical, some of them were concerned. But you know, after that month, I, I think there were, might have had a couple of meetings, and then it became obvious that we wanted to end this, this problem, and, and move on, move forward. That, that was, yeah, around the end of that period.

MR NEIL: Now, was the meeting with Mr Alva, I think it is, Alha, on 1 February?---Oh, I don't, look, I, honestly, I don't remember the date. I, I don't - - -

Did you at any stage become aware of a decision having been made by Mr Montague on 2 February, to honour the appointment of Mr Stavis?---I, I don't recall this.

When, was there anything at the meeting at which Mr Alha was present at which there was any discussion of the general manager's view changing such that he would agree to appoint or reappoint, whichever word you want to use, Mr Stavis?---Well, he agreed to, from, from memory, because that, that was the, the whole idea of, of the meeting, he's trying to resolve the issue, and the, and the issue was based on, on that, he's, the sacking and, and the financial implication to council and, and he agreed on, to moving forward with it.

30

THE COMMISSIONER: Sorry, so this is the Mr, the meeting with, at Mr Alha?---Mr, at Mr Alha's, yes.

He agreed to - - -?---Mr Montague, because the whole issue was based on - - -

40

No, no, no, what did Mr Montague agree to?---To, to move on and to, oh, and honour - - -

But what does - - -?---To honour the, the, the contract, sorry. To honour.

So to move on means to honour?---To honour, yeah, to honour the, yeah, because that's the whole problem was that.

MR NEIL: Do we take it you're referring to him honouring the contract with Mr Stavis?---Correct.

Thank you. With apologies to the Commission staff, because I didn't, I don't think this is on the list, it might be, I hope it is, but if not, could we have volume 5, page 11? If you just have a look at this, that document, it's dated 2 February, and it's from Mr Montague to the mayor, advising that he'd pretended to proceed with the appointment of Mr Spiro Stavis. Now,
10 do I take it that as of February or early or even late February, 2015 you hadn't seen this particular letter?---No, that, that answers my position at that meeting.

Have you, since this ICAC inquiry started, seen this letter as part of the evidence?---No, I haven't actually. I, I can't recall it, no, but that answers by my position, what I'm saying.

Yes. Because what is being said in this letter is that, firstly, further to some discussion today, it was 2 February, and following receipt of legal advice,
20 copy attached, intention to proceed with the appointment of Mr Stavis to the director of city planning, correct?---Correct.

And then they set out some reasons. Now, I think it's been agreed that, number one, the events of the extraordinary council meeting of 27 February should read 27 January.

THE COMMISSIONER: That's correct.

MR NEIL: Thank you, Madam Commissioner. 2015, demonstrated clearly
30 the majority of the council favours his appointment. How firm are you on the date of the Alha meeting, it could have been the 2nd or 3rd or are you firm on the 1st?---Could have been early in that period. Could be the 1st, could be the 2nd, I can't - - -

If it was the 1st and Mr Montague had expressed the view that he was going to reappoint Mr Stavis, he's formalised it with his letter to the mayor the next day, correct?---Yes, I agree, yes.

Or if it's after the letter, he's telling you what he's actually decided although
40 he didn't tell you, he didn't show you letter?---Correct, correct.

THE COMMISSIONER: And I'm sorry, I was thinking about something else. When Mr Neil asked you whether before these proceedings, you had seen this memo, you - - -?---No, I don't recall it.

You don't recall seeing it.

MR NEIL: Thank you. And then point 2 – well now, at the meeting at Mr Alha’s, can you recall if Mr Montague said, in substance, that one of his reasons for proceeding with the appointment of Mr Stavis was that the extraordinary council meeting on 27 January, it demonstrated a clear majority of councillors in favour?---Well, look, the, the, the general discussion we had was basically based on, on that. He, he knew that the majority of councillors were concerned and, and to, to honour the, the position. So that basically covers my, my discussion with him.

10 All right, well, I don’t want to be pedantic but - - -?---Yeah, sorry, but it’s -
- -

In substance, at the Alha meeting, did Mr Montague say that one of his reasons was the majority of the councillors, he considered, were in favour of the appointment?---Correct, correct.

20 And can you recall whether he actually mentioned that he’d got that view in whole or in part from the extraordinary council meeting?---Before that, no, but after that he realised that there, there are six councillors and he knew and he can count that the majority of councillors were opposed to the decision he made and, and he also knew, I mean, as a GM, he knows that end of the day, the majority of the councillors will make the decision on the floor of council, so, and that’s what he agreed on.

Did he at the meeting say anything along the lines that the appointment of Mr Stavis would avoid potentially costly legal proceedings?---Well, that’s the discussions we had.

30 Did he mention that point?---I don’t, honest, I don’t recall. I don’t recall.

You don’t recall. Did he say anything about he thought that the Stavis appointment would be in the best interest of the community of the council as a whole?---It would have been part of the discussion.

Did he mention anything about avoiding further unfavourable publicity surrounding the appointment?---Yeah, that would be part of that because we all wanted to do, there was too many negative publicity and that would be something that we would have discussed.

40 And sorry, Mr Hawatt, you’re using the word “would”.---Because we, we, we spoke general about - - -

But do you actually have a recollection or is this what you think - - -?
---Well, I, I, I think, thinking about it, because we did discuss about the council’s negative, there was, in memory, there was a, a discussion regarding the negative publicity of council.

THE COMMISSIONER: At the Alha meeting?---Yeah, yeah, and we wanted to just move on with it, yeah.

MR NEIL: And did he mention anything about negative impact on staff morale?---Yes, yeah, that's - - -

Did he mention anything about the overall efficiency of the council?---It was falling behind, there was lots of problems.

10 Commissioner, I note the time. Would that be convenient? I can assure you I will not be long in the morning.

THE COMMISSIONER: And you'd prefer to have overnight?

MR NEIL: Yes, I'd like to check notes. I'll probably save time doing that.

THE COMMISSIONER: All right. Now, can I just check, let me see. Mr O'Gorman-Hughes, at the moment do you anticipate any questions?

20 MR O'GORMAN-HUGHES: No, Commissioner.

THE COMMISSIONER: Mr Pararajasingham?

MR PARARAJASINGHAM: Yes, Your Honour, yes, Commissioner, less than an hour.

THE COMMISSIONER: Less than an hour. Where's Mr Pullinger?

30 MR PULLINGER: I'm at the back where I belong, and I anticipate perhaps 20 minutes to half an hour.

THE COMMISSIONER: All right. And we've got nobody else? All right then. Mr Drewett, are you anticipating that you'll apply for a period of time to confer with - - -

40 MR DREWETT: Yes, I will. I think through discussions with all the counsel in the room being allowed the opportunity with my instructing solicitor to have some start at process and I can assure you that lunch was to that purpose, but I will need some more time. I just can't say how long at this stage.

THE COMMISSIONER: All right. Look, why don't we play it by ear tomorrow. We'll see how long the other cross-examination goes. I'm just wondering whether we should say a 10 o'clock start. Mr Andronos is looking very excited.

MR ANDRONOS: I don't dare believe it, Commissioner.

MR NEIL: I'll join in the excitement, Commissioner.

THE COMMISSIONER: Mr Neil's joining in the excitement. What do you reckon, Mr Buchanan?

MR BUCHANAN: Well, if the time between the time we normally start and indeed perhaps the hour beforehand could be used by Mr Drewett to confer with his client, it would be productive.

10 THE COMMISSIONER: On that basis we'll adjourn until 10 o'clock tomorrow morning.

THE WITNESS STOOD DOWN [4.32pm]

AT 4.32PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.32pm]