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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC  
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 2 JULY, 2018

AT 2.00PM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

THE COMMISSIONER: Yes.

MR O'NEILL: May it please the Commission, my name is O'Neill. I seek your leave to appear for Marwan Chanine. I understand he is not yet to give evidence but I'm informed by Counsel Assisting that he will be giving evidence this afternoon.

10

THE COMMISSIONER: That's correct. And sorry, your first name?

MR O'NEILL: Callan, C-a-l-l-a-n. I'm instructed by Maroun Draybi of Centurion Lawyers.

THE COMMISSIONER: Right, Mr O'Neill, you are authorised to appear for Mr Marwan Chanine.

MR O'NEILL: May it please.

20

THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Commissioner. If we could put up on the screen, please, the business papers for the IHAP meeting which contained reports by the director of city planning on the two DAs. The first one is page 23 of the business papers I understand. So that's the first page you can see there on the screen of the part of the business papers that deals with 212-218 Canterbury Road. Do you see that?---Yes.

30

And if you just go to another page, and this is page 23 of those papers. Excuse me a moment. Page 23 of the papers for that IHAP meeting. And can you see towards the bottom under the heading Clause 4.6 Variation, "Council has received legal opinion that the extent of non-compliance to a development standard is not a relevant consideration in determining the reasonableness of any clause 4.6 submission." Do you know anything about the legal opinion spoken of in that paragraph?---No.

So it wasn't a legal opinion provided by you, to your knowledge?---Not to my knowledge.

40

And it wasn't a legal opinion provided by your brother, to your knowledge? ---Not to my knowledge.

Commissioner, there is in the same papers, and I just record it, it's at page 93, an identical paragraph in the report in respect of the other part of the proposed development, so we're looking now at page 93. Thank you. And you can see the same passage appears under the heading Clause 4.6

Variation in that report. But you don't know anything about it. Is that right?---No.

Thank you.---Correct.

Commissioner, I tender the business papers for the Independent Hearing and Assessment Panel meeting of 24 November, 2015.

10 THE COMMISSIONER: And that was the IHAP?

MR BUCHANAN: Yes.

THE COMMISSIONER: All right. Excuse me. The business papers for the IHAP meeting of 24 November, 2015 will be Exhibit 117.

**#EXH-117 – BUSINESS PAPERS FOR THE IHAP MEETING OF 24 NOVEMBER 2015**

20 MR BUCHANAN: And if I can inform parties that a copy of that exhibit will be on the public website this evening. Now, the significance of that passage – that council had received an opinion that the extent of non-compliance was not a relevant consideration – was that the extent of FSR variation from the FSR control in the LEP in respect of these DAs was considerable, wasn't it?---Correct.

30 The IHAP recommended that development applications both be refused. You would have become aware of that shortly after 24 November?  
---Correct.

And you were aware that the bases of the refusal were identified by IHAP as twofold. One, in the case of 220-222 Canterbury Road, that the proposed development exceeds the maximum permissible floor space ratio provisions at clause 4.4(2) of the Canterbury LEP by over 50 per cent, and that in the case of 212-218 Canterbury Road that the exceedance was by over 100 per cent.---Correct.

40 And what the IHAP identified there was in fact correct in terms of the degree of exceedance in each case?---I believe so.

The second round of refusal was the same in each case, I want to suggest to you, namely that the grounds of the objection under clause 4.6 provided by the applicant did not demonstrate that the FSR controls were unreasonable or unnecessary, nor were there sufficient environmental planning grounds to justify contravening the development standard. Do you recall that ground in both cases?---Yes.

So, once you became aware of the decisions or recommendations by the IHAP, would I be right in saying that there were three outstanding issues for you in respect of these DAs? And I want to list them for your consideration. Firstly, the first issue was that the recommendation by the IHAP was that the DAs be refused. That was an issue, correct?---Yes.

Secondly, that the deferred commencement condition recommended for both DAs was that the plans be amended to set the proposed developments back from the boundary with 15 Close Street by three metres.---Yes.

10

And, thirdly, the outstanding concurrence, and if concurrence were to be granted conditions from the concurrence authorities, the RMS and Sydney Trains, which meant on their face that the DAs simply couldn't be determined.---Correct.

Now, thinking of the first issue that you had, the recommendation by the IHAP that the DAs be refused, did you do anything about that?---I would have attended the discussion. Marwan would have asked me to attend the discussion with him, with council director amongst others, I presume.

20

And with what outcome?---To, to push our point that it's unreasonable and unnecessary that the development be refused.

And do you have a memory of coming away from a meeting with Mr Stavis with the impression that you had made an impact on him in respect of that? ---Not specifically.

30

So, as far as you were concerned, that issue wasn't solved before the council meeting, is that right?---There was nothing set in stone prior to a, to a council meeting.

Yes, but was there anything that was set in something less solid than stone? ---I don't believe so.

So you had no indication before the council meeting that anything was going to be done about the recommendation by the IHAP that the DAs be refused?---Not as far as I know.

40

You were on a bit of a sticky wicket then weren't you - - -?---Correct.

- - - as far as your knowledge was concerned?---Correct.

And you have no recollection of being satisfied after talking with Spiro Stavis or with Mr Montague or with your brother that anything was going to be done about it. Is that right, is that what you tell us?---Correct.

To your knowledge did your brother separately from you do anything about that issue?---I don't know.

So the second issue was the deferred commencement condition as to a three-metre setback from the rear. Did you do anything about that issue?---I can't recall.

Well, was it discussed with Mr Stavis or Mr Montague?---I believe so, but I can't recall the specifics.

10 When you say you believe so, what is it that you believe in that regard?  
---That I would have brought up the issues of the recommendation of the IHAP panel and put forward, further put forward our case.

Well, in this case thought the IHAP didn't even get as far as the recommendation for deferred commencement, they weren't going to even approve it.---Correct.

Or rather recommend approval.---Correct. They were recommending refusal.

20 But you have agreed with me I think that there were three issues, one was the IHAP recommendation, secondly was this deferred commencement condition which was part of the recommendation in the officer's report - - -?  
---Correct.

- - - that as you understood it would be going forward to council.---Correct.

30 So what I'm just asking you to focus on is, was anything done about that as far that you had an understanding that what would go forward to council is a recommendation for the plans to be amended as a condition of a deferred commencement approval?---I can't specifically recall.

Do you recall being satisfied that that issue had been addressed and - - -?  
---Yes.

Sorry.---Yes.

You were?---Yes.

40 On what basis did you hold that satisfaction?---From, from recollection I believe that I would have had conversations and I believe that it would, I, going back to your point, I would have walked away from conversations or meetings knowing that my point was made and my point had got across. As to what the outcome would be, I would not guarantee that.

And this is having meetings with whom?---I can't recall specifically. I would have spoken to, I would have spoken to Spiro about it and I would have potentially spoken to Mr Montague about it.

In the evidence you gave us last Friday you thought that an issue that you had taken to Councillor Azzi was this particular issue.---Correct.

And is that still your evidence, do you remain of that view, that that is an issue, the deferred commencement condition to eliminate the three-metre setback recommendation?---Yes, it could be, yes.

Well, do you remember meeting with Councillor Azzi about that?---Not specifically.

10

Or talking to him on the phone?---I believe so, yes.

On the phone?---I can't recall if it's on the phone or if it was in a meeting.

But you - - ?---I recall having a conversation.

A contact.---A contact, a conversation of some sort.

Do you recall whether anyone else was present?---I don't recall.

20

Do you recall what the outcome was of that contact?---Not really.

Well, you were able to meet with Mr Montague almost anytime you wanted just by ringing his staff and making an appointment, weren't you?---I would say so.

So - - ?---Subject to his availability.

30

So you didn't really need Mr Azzi to set up a meeting with Mr Montague, did you?---No, correct.

Was what you wanted from Mr Montague an intervention on his part to ensure that that deferred commencement condition was deleted from the consideration by council?---I can't recall.

40

I'm just wondering, Mr Chanine, how it can be that you don't have a recollection of how these issues were addressed beyond, as it seems, you having a recollection that you did have a contact with Councillor Azzi about the deferred commencement condition, because these are very serious issues that were facing you at the time, weren't they?---Yes.

And you have no recollection as to how they were resolved?---I can't quite recall exactly how they were resolved. I, I recall the conversations taking place. I recall the issues being addressed. With who, at what time, when, I don't recall.

But all three of them were addressed and to provide a satisfactory outcome to you and your brother, weren't they?---I believe so.

And apart from that fact that you believe you had meetings and certainly a contact with Councillor Azzi, you can't recall how the situation shifted from, on the one hand, three serious obstacles to your DAs being approved to a situation where those obstacles were removed?---Correct.

In a very short space of time.---Correct.

10 You don't have any idea about how that happened beyond, as you tell us, thinking that you spoke to the director and the general manager and believing that you had a contact with Councillor Azzi?---To the limit of my knowledge and to the limit of the extent that I was involved, that's the involvement that I had. To say that the partners didn't have any other involvement, I'm not sure.

20 It just seems a little difficult to credit that you wouldn't be able to remember how you were, in a short space of time, able to move the position from a very seriously adverse one on three fronts, to a satisfactory one for both DAs in the space of a week.---You're presuming that it was, it was I that turned that tide.

No, no. It was you who had an understanding of how you were able to shift from a seriously adverse position on three fronts to a satisfactory one on all fronts within the space of about a week.---I don't follow.

You appreciate that the decision of council was made on 3 December, 2015?---I believe so.

30 The IHAP meeting was on 24 November. 2015.---Yes.

So, you've got about 10 days in between.---Correct.

What was it that happened in those 10 days to change the position from one of being seriously adverse in respect of each of those three issues to one that was satisfactory on all three issues?---There would have be dialogue and correspondence and discussion between the two parties.

40 But you have no memory of it, is that what you tell the Commission?---I gave, I gave you my recollection of it, what I, I was involved with.

Yes, but I'm asking you to tell us anything that you weren't involved in of which you had knowledge.---That's all I recall.

But you don't have a knowledge of anything that your brother said that he was going to do or had done?---Not specifically, no.

You don't have a recollection or knowledge of anything that anyone else said to you that they were going to do or had done?---No.

That seems very difficult to credit, Mr Chanine. We're trying to find out what happened very quickly here to change a position quite radically in your favour and it involved decision-making by the local government authority at multiple levels and you can't assist us as to how that happened?---I wasn't involved in those conversations.

10 Well, I thought you gave us, to indicate that you believe you probably were involved in conversations with at least the general manager and Mr Stavis and you do recall a contact with Councillor Azzi.

MR ANDRONOS: I object to that. That wasn't the witness's evidence.

THE COMMISSIONER: Sorry, Mr Andronos, what do you say his evidence was?

20 MR ANDRONOS: Well, my note is that the witness said that he believed that he would have had conversations, he would have spoken to Mr Stavis and would have potentially spoken to Mr Montague. That's not the way the question was framed.

MR BUCHANAN: I withdraw the question. Did you hear what Mr Andronos just said?---Barely, yes.

Yes. And do you accept that that's your evidence?---Yes.

You're saying you don't actually have a memory at all?---No.

30 That, I suggest to you, cannot be the truth, can it?---I disagree.

Now - - -

THE COMMISSIONER: Can I just - - -

MR BUCHANAN: Yes.

40 THE COMMISSIONER: After, sorry, I'm just looking at my notes. After your answer that Mr Andronos just referred you to, I then have a sequence where you agreed that they were serious issues that had to be resolved and that conversations took place and that the issues were addressed. Now, are you saying that did happen?---Knowing that there were issues that, issues that were brought to light in terms of the recommendations, conversations would have taken place and any further supplementary information that needed to be provided I presume would have been provided.

Right. Wouldn't have you been at least one of the people who would have provided that further information?---Correct, yes, if there was something

asked of me to provide then I believe I would have provided it. I just don't recall if I did provide something further or if I didn't.

All right. Would have you provided in writing or - - -?---That's what I mean, Commissioner, if, if there's something in writing that I would have provided then it's, then I would have provided something, if it's not then I don't specifically recall writing a report or writing an additional supplementary letter or anything along those lines.

10 Right. But what about talking to somebody, you just have no recollection of that?---I don't have a specific recollection. That's why I made the point that I believe I may have had those conversations but I can't pinpoint specifically that I did have a conversation.

MR BUCHANAN: Do you have a recollection of being satisfied with the outcome of the 3 December meeting of the City Development Committee of council?---The approval?

Yes.---Yes.

20

And do you have a recollection, just thinking back to that time of what you knew as to how that had come to pass, as to how that had occurred?---What do you mean, sorry?

Just think back to when you found out that an approval had been obtained - - -?---Yes.

- - - on 3 December. Can you recall that?---Yes, I was at the council meeting.

30

Thank you. And was it a surprise to you that there was an approval? ---It wasn't a surprise, it was a relief.

But did you expect an approval?---Never expect an approval because you don't know what happens on the floor of council.

So you don't have a recollection of believing, oh, well, such and such an effort, whatever it might have comprised on your part or to your knowledge, paid off?---There was a lot of debate on the floor of council so we were, I was waiting to see what the outcome would be.

40

What I'm asking you though, sir, is about your memory at the time of thinking, well, that's a good thing, the work that I was aware of or had done in the last 10 days has contributed to this outcome?---I believe so.

What was that work?---Any conversations that I may have had to help get it over the line. I wouldn't attribute the, the relief let's say to the last 10 days

as you put it, I would have put it to the last year of working through that application.

Do you have a recollection of talking with your brother or discussing with your brother in any way what needed to be done about these three issues that existed once the IHAP had made their recommendations?---Not specifically. We would have had conversations about it of course, but not specifically.

10 Do you have a recollection of dividing up between you the work that you both agreed needed to be done to address those issues?---I don't think so.

A letter was conveyed to council from Sparke Helmore Lawyers that was addressed to you. Do you recall that?---Vaguely.

Well, if we could have a look, please, at volume 27, page 274. Do you see the first page of that?---Yes.

And it's addressed to you?---Yes.

20

And it's dated 27 November, 2015?---Yes.

Right. Can you see that it is said on the right-hand side, "By email," and then it's got your brother's email address?---Yes.

Who commissioned this opinion?---I think it was Marwan.

Why is it addressed to you?---I don't know.

30 Well, the first paragraph opens, "You have designed two proposed mix-used developments."---Yes.

And that wouldn't be a description of Marwan, would it?---No.

That would be a description of what you had done?---Correct.

At least collectively, if you know what I mean, the firm had done?---Yes.

40 So do the first three paragraphs set out instructions that you gave to Sparke Helmore Lawyers?---I can't recall.

Did you give any instructions to Sparke Helmore Lawyers?---I can't recall. I - - -

Who was the Sparke Helmore Lawyers client for the purposes of this opinion?---I believe Marwan.

And you can't explain why - - -?---I can't.

- - - the opinion is addressed to you?---No, I can't recall why it's addressed to me. I may have been copied into the emails with the instruction to then provide them plans and the like, but that's all I can put it down to.

Did you have a meeting with anyone in order to provide instructions?  
---Not that I recall.

10 Commissioner, could I make an application, please, in respect of transcript of a hearing conducted on 27 February, 2018, page 1373?

THE COMMISSIONER: Just excuse me for a minute. Mr Buchanan, could you give me the page reference again?

MR BUCHANAN: I'm sorry, yes, Commissioner. 1373.

THE COMMISSIONER: Yes.

20 MR BUCHANAN: The application is to vary the section 112 direction given on that occasion to take out of its scope lines 10 to 17 inclusive. Sorry, if I said 10 I withdraw that.

THE COMMISSIONER: It should be line 8.

MR BUCHANAN: I mean line 8 to 18 inclusive.

30 THE COMMISSIONER: I vary the section 112 direction made on 27 February, 2018, to exclude questions and answers of the transcript of the examination which occurred on 27 February, 2018, page 1373 from lines 8 to 17.

**VARIATION OF SUPPRESSION ORDER: I VARY THE SECTION 112 DIRECTION MADE ON 27 FEBRUARY, 2018, TO EXCLUDE QUESTIONS AND ANSWERS OF THE TRANSCRIPT OF THE EXAMINATION WHICH OCCURRED ON 27 FEBRUARY, 2018, PAGE 1373 FROM LINES 8 TO 17.**

40 MR BUCHANAN: Commissioner. Mr Chanine, I'm going to read out to you questions and answers you gave at a hearing on 27 February, 2018, before the Commissioner. Question, "If I can take you to the third page of this memorandum you'll see that there's some advice attached there dated 27 November, 2015 from Sparke Helmore Lawyer." Answer, "Yes." Question, "I'll give you a moment to have a look through that." Answer, "Okay." Question, "Just to see whether you recall this document." Answer, "Yeah, I do vaguely recall this, yes." Question, "Did you provide instructions for the preparation of this advice?" Answer, "Yes." That

evidence that you gave on 27 February is not the same as the evidence you've given today on the subject of whether you gave instructions for the preparation of that advice, is it?---Correct.

Which is the truth?---I can't recall. Don't recall if it was myself or Marwan.

Was the evidence that you gave on 27 February, 2018 true to your knowledge?---I can't recall now.

10 I take it you accept that you did give that evidence on 27 February, 2018?  
---Sorry?

I take it you do accept that you gave the evidence that I have just read out to you in question-and-answer form on 27 February, 2018?---Yes.

Thank you. Now, that opinion was to the effect that it would be reasonable for council to conclude that the setbacks, namely nil for the rear of the developments the subject of the development applications, are to be allowed and that that would not prevent the bowling club site from being  
20 redeveloped to its full potential. Do you have a recollection of an advice being obtained to that effect?---Yes.

And the opinion said, and this is at page, excuse me a moment, at page 275, paragraph 9, last two sentences, "Accordingly, we conclude that the council would be acting entirely reasonably in approving the development," I'm sorry, "in approving the applications as submitted, and without deferred commencement condition A1. Removal of the condition would also alleviate any suggestion that the condition was imposed unfairly to provide a benefit to the council." Now, effectively that means, if accepted and acted  
30 upon, the deletion of the deferred commencement condition in respect of the rear setback condition, is that right?---I believe so.

THE COMMISSIONER: I'm sorry?

MR KIRBY: I was about to, before the question was answered, object because I did not understand but the witness may have, the reference to who it was in the question, that is, "The effect of it was, if accepted," whether that was a reference to the author of the advice, a reference to council who may have received this advice. It wasn't clear to me, I was going to object  
40 on that basis - - -

MR BUCHANAN: I'm very happy to reframe the question if it's not clear.

THE COMMISSIONER: I thought it was clear to you.

MR BUCHANAN: I would have thought it was clear but I'll reframe it.

THE COMMISSIONER: Was it clear?---"It," meaning council, I presume.

Yes.

MR BUCHANAN: Yes. You're talking about, it's clear, isn't it, that if acted upon that advice would lead to the deletion of the rear setback condition for the deferred commencement approval, which was the recommendation in the officers' reports as you understood it?--- Yes.

10 Did you become aware that Mr Montague recommended to the City Development Committee that it give the development applications ordinary conditional approval with no condition requiring amendment of the plans to provide for a three-metre rear setback?---Not specifically at the time.

What about generally? Were you aware that Mr Montague intervened to change the recommendation?---I know that the, the development team was having conversations with Mr Montague, so that's - - -

20 What is your understanding, what is your belief as to why Mr Montague recommended to council a different outcome for the approval of the two DAs from the outcome that had been prepared and was set out in the officers' report?---I presume he didn't agree with it.

Yes, but I'm asking about your understanding as to why Mr Montague did that?---Maybe based on the advice provided to him.

But you're speculating, when you say - - -?---I'm speculating, yes.

30 And you had no conversation with Mr Montague which might explain why he made that intervention?---No, not that I recall.

There was no conversation with Mr Montague in which a complaint was made about that part of the recommendation in the officers' report?---I would have complained about it.

THE COMMISSIONER: To him?---I can't specifically say if it was directly to him.

40 MR BUCHANAN: Did Mr Montague give you anything to indicate that he would look after it, he would look after your complaint?---I can't recall specifically.

That he would take care of it and get rid of the problem?---I can't recall specifically.

THE COMMISSIONER: You said you were aware the development team were having conversations with Mr Montague.---Meaning Marwan and his associates.

Well, how were you aware of that?---He would have mentioned it, I believe he mentioned to me that he would be speaking to him.

Sorry, who's he and him?---I believe that he, Marwan, would have mentioned that he, that Marwan would speak to Mr Montague.

You're using, your evidence was, I was aware the development team was having conversations with Mr Montague. Do you actually have a recollection of that?---No, not specifically.

10

When you say not specifically - - -?---I don't know of a specific occasion.

All right. But you do - - -?---I know that around that time there were, there were conversations, as Mr Buchanan pointed out, between the IHAP panel meeting and the council meeting, there was a lot of conversations back and forth between us as the applicants in terms of architect developers et cetera and council's people.

20

All right. When you say council people, who are you talking about?---Spiro Stavis, Jim Montague and I believe the councillors as well.

All right. And when you say councillors, who were they?---As far as I know, Councillor Azzi.

MR BUCHANAN: Were you aware that Mr Stavis directed his staff to draft a recommendation to council to the effect that the DAs be given ordinary conditional approval with no rear setback requirement condition? ---I recall that on the night there was a memorandum or a motion or something along those lines to change the condition.

30

A memorandum from Mr Montague?---I don't know who it came from.

THE COMMISSIONER: I'm sorry, the memo was part of the papers that were put to the council or how did you know about it?---They passed it around. I was sitting in the gallery, they passed it around the chambers.

MR BUCHANAN: And were you aware of who drafted the memo? ---No.

40

When were you first aware of the existence of the memo?---When they mentioned it at the council meeting.

And if you assume, please, that the memo that you recall being handed around, this is in relation to consideration by the City Development Committee that your two development applications, or your brother's two development applications, assume that that memorandum was drafted by staff at the direction of Mr Stavis and that it was signed by Mr Montague,

can you explain why Mr Stavis would have given that direction and why Mr Montague would have signed it?---I don't know.

You can't give us any assistance at all as to why they intervened in this way via this vehicle of a memorandum to cause the recommendation to be changed?---The, potentially that the legal advice they were provided suited, like was sufficient for them.

10 On all three issues?---Well, this one is about the, this is about the issue of the three-metre setback.

Yes. If I could ask you, please, have you still got volume 27 there?---Yes.

If so could you go to page 271, please.---Yes.

20 This is an email conversation from in the first instance Mr Stavis to Mr Montague on 26 November, 2015, two days after the IHAP meeting, at 12.42pm, and it reads, "Hi, Jim, Canterbury Road Chanine's" – apostrophe S – "I have met several times with Ziad and Marwan." Just stopping there, was that a true statement?---It potentially would have been, yes. I've got no reason to say it wasn't.

So, you had been involved in meetings with Spiro Stavis along with your brother?---I believe so.

30 And it goes on to say, "They are putting together a submission which supports deletion of the condition, re the rear setback. I will review once I receive. As a side issue, we are yet to receive concurrence from the RMS or Sydney Trains. Technically the application cannot be determined until this is received and it cannot be conditioned. Hence, if we don't receive before the CDC meeting, the only way we can progress the DAs is to recommend the following or similar," and then he sets out a form of words about support and delegation of determination of the DA to the general manager once concurrence is obtained. Do you see that?---Yes.

40 And then Mr Stavis goes on to say, "I ran this idea past Marwan and he is agreeable. Are you okay if we proceed this way if we don't receive concurrence from the RMS and Sydney Trains in time? Otherwise the DA cannot progress on 3 December." Do you see that?---Yes, I do.

So, do you know anything about what is recorded there as, "I ran this idea past Marwan and he is agreeable"?---I presume it's regarding the condition that the council's, the, well, it's in inverted commas that council support the proposed development and delegates the determination.

Yes. But do you know anything about Mr Stavis running that proposal past Marwan and him agreeing?---No, I don't.

Marwan never came to you and said, "Look, there's a solution to our problem of lack of concurrence from the concurrence authorities"?---I don't recall.

Stavis has proposed this or, sorry, Spiro has proposed this?---I don't recall that.

10 So, you always understood, did you, that without the concurrence of the concurrence authorities, the DAs couldn't be approved?---Yes, that's right.

How did you understand that was going to be solved?---I can't recall.

Why did you attend the meeting of the City Development Committee on 3 December if your state of mind was this can't go through?---I'm presuming Marwan may have mentioned it to me prior to that, prior to the council meeting.

20 And what did he mention to you?---What it says there, that council can delegate the development approval to the GM.

And did Marwan indicate that that had been agreed to by Mr Stavis or Mr Montague?---I can't recall. Possibly.

It certainly seems, doesn't it, as if you and your brother intervened at very high levels, indeed all decision making levels of Canterbury City Council, to change the situation that was the case after the IHAP decision from one which was seriously adverse to you to one which was favourable to you?  
---Yes.

30 And your interventions at each of those levels were successful?---I believe so.

If you had not had the relationships that you did have with the people that you met with at each of those levels, your development applications would have been in serious trouble, wouldn't they?---It would have been a completely different path from the very beginning.

40 What do you mean?---As I mentioned earlier, the, the attitude of council was to workshop through problems and workshop through solutions and that came through a longstanding history of relationships, doing a lot of work in the area. If that wasn't the case then the application process would be vastly different. It would have been dramatically different.

Would the applications have been made at all?---Yes. They still would have been made I believe.

But with a less ambitious, if that's the right word for it - - -?---Probably less ambitious, and as I mentioned earlier again, it's from the very outset the, the

ambitious proposal was put forward to the council in its seed, in its inception of a concept.

Knowing that you were talking to people who were interested in providing solutions to developers, particularly you and your brother?---Not in particular to me and my brother.

10 Well, no, but there was a personal relationship between you and your brother on the one hand and Mr Montague. Correct?---Would you, what, can you elaborate on personal?

Well, you were friends.---No, we weren't friends.

You had a personal relationship with Councillor Azzi.---Not really, no.

You had a personal relationship with Mr Stavis.---Working relationship.

20 I suppose what I'm asking is, would the design have been as ambitious had you not had the relationships you had with those gentlemen at those three levels of decision-making about planning at Canterbury Council?---Possibly not.

And when we say ambitious, we're talking about pushing the envelope when it comes to development controls.---To a certain extent, but not really.

30 Why not really?---Because we were pushing the envelope with regards to floor space ratio. The building itself was still within the confines of the envelope, the permissible envelope in terms of setbacks and heights predominantly. That was the proposition presented. There was a, there was a discord between the FSR on the site and what could actually fit within the envelope of what council had envisaged for that site.

40 And so I'll just see if I can complete that and see if you agree. Are you saying that the design might not have been as ambitious in relation to FSR had you not had those pre-existing relationships at those three different decision-making levels of council?---I can't rule it out completely. I couldn't rule out completely that it wouldn't have transpired down the same design solution if it wasn't with those, with the people at play, but like I mentioned, that's the purpose, that was the purpose, the very purpose of having those initial discussions, to put forward those, those ideas. If those ideas had been shot down and were shot down completely in their entirety to say that it's something that is unfathomable, then the application would have gone down a different path.

Can I ask about your experience generally speaking. Canterbury Council was not the only council to have an IHAP?---Correct.

How many councils that you dealt with in the period say 2013-16 had IHAPs?---Not many.

So in a minority, was it, in terms of having one?---From, my, from recollection I think Canterbury was one of the only ones to have an IHAP as a, as an advisory body, so to speak.

10 And so far as Canterbury's was concerned, did you have an understanding that its purpose was to provide independent expert assessment of development applications under section 79C for the benefit of council when it came to determining applications?---To be honest with you, I'm not sure what their particular purpose was. It's, they, they, and I say through the experience that we, that I have had myself through the independent panel at Canterbury Council, it would occur, as you pointed out, about ten days prior to a council meeting, so you would, you would sit and work through an application and workshop an application for a year or so with council staff and council's team, massaging it to the point where council, it was palatable for council to put forward a recommendation and then that application went to IHAP. The IHAP panel by and large would then want to go back to the, 20 to the drawing board essentially and re basically start as a design review panel as opposed to an Independent Hearing and Assessment Panel.

What was your experience of the extent to which IHAP recommendations were accepted or not accepted and followed by the council or the City Development Committee at Canterbury?---From what I had observed?

Yes.---In terms of whether the council would adopt the recommendation?

30 Yes.---Sometimes they'd adopt the recommendation and other times they would overturn the recommendation from IHAP and do the contrary.

And in what proportion of cases in your experience did council not follow the IHAP recommendation?---I couldn't put a number on it. I do know of instances, not specifically, but I do know that from time to time they would go against the IHAP panel.

Does that indicate that your experience was that generally speaking the council followed the IHAP recommendations?---I believe so.

40 Now, can I ask you about, you remember that I went through what I suggested were three issues that needed to be addressed if you were going to have a favourable outcome once the IHAP had made its decision on 24 November. If I could take you to an email from Sydney Trains to Mr Stavis in late November, 2015 which is page 269. Now, it's a long email. I don't propose to take you through it all but it starts on page 270 I should just in fairness indicate to you, where you can see that Mr Stavis sent to someone called Jim an email saying, "I left a phone message for you today. I need an URGENT favour regarding this matter." And then he talks about needing

Sydney Trains concurrence. “Is there any way you can please provide concurrence before 3 December, 2015 subject to conditions? Even if they are deferred commencement conditions any assistance would be greatly appreciated. I apologise for any inconvenience caused.” Turning over then to page 269 and there’s an email there from a Mr Tsirimiagos, T-s-i-r-i-m-i-a-g-o-s, of Sydney Trains to Mr Stavis and can you see that in the first paragraph in he tells Mr Stavis, “We are unable to consider deferred commencement.” In the second paragraph he says, “This site has a number of issues on top of that that need to be addressed.” And then if I can take you down to the last paragraph, “In other similar situations in other LGAs some councils have decided to endorse the development as presented but delegate the determination of the DA to their GM once concurrence was obtained and not substantial changes needed as a result. This way councillors can give it the tick without actually issuing a determination. Is this possible?” I want to ask you about the next email too but can I pause there. Had you any experience either before or since in your career of a solution like that being implemented by a council where concurrence by a concurrence authority is outstanding but the council wishes to proceed with the approval?---I haven’t had dealings in that instance, no.

20

So this is the only occasion of which you understand it has occurred in your experience?---That I have seen, yes.

Can I take you now to the email at the top. Mr Stavis sent it to your brother and said, “FYI. Maybe you can pass it on to your legal team to review and advise.” I’ll just pause there. Did – I withdraw that. Reading Mr Stavis’s words “your legal team” in this email to Mr Chanine, Mr Marwan Chanine, who did you or who do you understand Mr Stavis to have been referring to with the words “your legal team”?---I presume his lawyers.

30

So it’s not that there was a lawyer on tap, a lawyer on staff?---No.

Then Mr Stavis continues, “As we said worse case is that we add to the recommendation that council delegates determination of the DAs to the GM once concurrence et cetera is obtained.” Did your brother bring the subject of this email to your attention?---I don’t recall specifically this email but

---

40 Did he bring to your attention the subject matter, namely this is a device which can be employed to allow an approval to be given even though concurrence has not been obtained?---I believe so.

And was there any, what was the discussion about that?---I don’t recall the discussion specifically.

Was there any discussion about whether or not that was in fact going to occur, namely that such a recommendation would be made to council?---I don’t recall.

Were you open to the idea?---Yeah, I don't see why not.

You didn't think it carried any risks?---No. If it could be done legally, no.

As it turned out, am I right in saying that it did carry a risk because an approval wasn't in fact granted?---Yes.

10 But that is somewhat after, that's after amalgamation?---Well after amalgamation, yes.

Now, the view is open to the Commission, I want to suggest to you, that Mr Stavis and Mr Montague took unusual measures to progress your development application and indeed change its status from one in which refusal was inevitable to one in which prima facie approval would be granted. What do you say to that?---I don't really follow.

20 You don't think it follows, is that what you said?---I don't, sorry, I don't follow what you were saying specifically.

All right. It's, it's open to the Commission to conclude that what Mr Stavis did and what Mr Montague did in between the IHAP recommendation and the meeting of the City Development Committee on 3 December were unusual measures to favour your brother's development and your development applications. Now, what do you say to that?---I don't believe it was extremely unusual for the general manager and the director of planning. We had a strong working relationship with them. We had been working on this particular application with them for the past, roughly for the past year prior to the determination so I don't see it, I don't see it out of the ordinary for them to, to continue to workshop and provide that assistance.

30 And can you explain, assuming that the measures they took in that period were unusual, can you explain why they took those measures?---No, I can't.

You don't think it might have been because of the relationship that they had with you and your brother and the communications that had occurred between them and you and your brother?---I believe, when you say the relationship, sorry, can you repeat that?

40 Yes. You don't think that Mr Montague and Mr Stavis taking what I suggest were unusual measure to progress your development applications was due to the relationship that you and your brother had with them?---I didn't find it unusual. I believe that they, they took that same process with many applicants in the LGA, they did a lot of work in the council area.

And when you say, "They," you're talking about Mr Stavis and Mr Montague, are you?---Yes. I presume, yes, yes.

And are you saying that, as far as you're concerned, you believe that Mr Montague and Mr Stavis frequently intervened in the assessment process with a view to ensuring a favourable outcome for the developer and the designer?---I wouldn't say, like I said, they would, they would be a sound ear to an applicant, an applicant that had grievances or issues. Mr Montague always made the point that his door was always open to workshop through ideas and bring the table the varying different parties to work through a solution. That solution wasn't always to the benefit of the developer.

10 THE COMMISSIONER: Can I just ask you.---Yes.

You keep on using the term workshop.---Yes. Workshop, workshopping of ideas.

So just meeting and discussing them?---Meeting, discussing them, coming up with solutions, coming up with solutions as opposed, as opposed to receiving a council letter or council saying there is a particular issue of X, Y and Z and just leaving it in your lap and walking away.

20 MR BUCHANAN: And are you saying that you were not the only developer and designer respectively who had the benefit of such a relationship and such communications with Mr Montague and Mr Stavis? ---As far as I, as far as I'm aware, that's correct.

Can you please tell us who other developers were who had a similar relationship and similar communications as you understand it - - -?---I can't  
- - -

30 - - - to assist in the progressing of their applications?---I can't pinpoint specific names. I know that Mr Montague was well regarded within the community and that he's, he, he had made the point even in front of me that his door was always open to, to people, and I know of not specifics, but I know that other people would go meet with the general manager from time to time to air grievances and the like and get solutions.

40 Can I ask you about Councillors Hawatt and Azzi. Was it your understanding that other developers had relationships with them which led to favourable outcomes for their applications because of the intervention of those two councillors?---I don't know about circumstances.

So yours are the only two development applications, these two at close to Canterbury Station are the only two that you know of that appear to have benefitted from Councillor Azzi's intervention - - -?---I don't know what  
- - -

- - - that you know of?---I don't know what he has intervened in with other people in the community. Him being a councillor I can, I'm pretty sure that

many others have approached him and the other councillors as well to, to present arguments on their behalf.

You have told us that a reason you approached Councillor Azzi in respect of these two development applications was because you understood he was pro-development.---Correct.

But he wasn't the only pro-development councillor on Canterbury Council at that time, was he?---From what I could see, that's right.

10

Did you have any communication with Councillor Hawatt between the IHAP meeting and the City Development Committee meeting on 3 December, 2015?---I don't think so.

Do you know whether your brother did?---I don't know.

After 3 December, 2015, did you provide any work to Mr Stavis?---(No Audible Reply)

20

Sorry, by that I mean paid work as a consultant?---No.

You provided him with paid work as a consultant in respect of Kanoona Avenue, Homebush. Correct?---Yes.

And you attempted to in respect of another address immediately afterwards and he said, sorry, I - - -?---That's correct.

I've got a job as DCP at Canterbury. Was there any reason why you didn't hire him again?---After he had - at which point, sorry?

30

At all.---He was the director of planning at Canterbury.

Yes, but did he remain director of planning at Canterbury?---No.

All right. Did you understand that - - -?---That's why I asked, that's why I asked you the question, while he was director at Canterbury and you said yes.

40

Okay. Did you offer him any other consultancy work ever after 3 December, 2015?---I can't recall.

Can you recall any consultancy work he provided you, that is to say product, after that date?---I, I don't, I don't recall.

Is there any address or site or project that you associate with Mr Stavis in terms of a contribution from him to a project or site that you and your brother were dealing with after that date?---No. Don't recall.

On Friday you told us that your brother assisted a friend to purchase a property from Councillor Hawatt in Penrith.---Yes.

Could you tell us what you know about that, please.---The project itself?

Just if you could tell us the story, starting at the beginning.---Marwan assisted a friend to purchase an option, I believe, and essentially we were the architects on the project, asked to design the building. Proceeded to lodge an application with council.

10

Sorry, we just lost the first bit of that sentence.---We proceeded - - -

Who lodged the application?---Sorry?

Who lodged the application?---Our, our office did the design work.

Yes.---Yes.

20 THE COMMISSIONER: And then did your office lodge the application at council?---I can't recall specifically as to who physically lodged the – I can't recall.

MR BUCHANAN: When you say you designed it, who was your client? ---John Christou.

Christou?---Christou.

C-h-r-i-s-t-o-u?---I believe so.

30 Were you paid for your work?---I believe so.

Do you know who paid you?---I believe John.

And what's the basis of that belief? I'm not suggesting you're wrong. I'm just asking why do you say that you believe John was the person who paid you?---Because he was the client.

40 Did your firm render an invoice to Mr Christou or some special-purpose vehicle he had for the development?---I can't recall.

Would there have been any reason why you wouldn't have rendered an invoice to Mr Christou or a company of his?---Not to my recollection.

In 2014-16 – I'm changing the subject now – in 2014-16 how many staff worked at Chanine Design Architects?---'14-16?

How many of them were architects?---No, sorry, I meant - - -

Oh, I do apologise.---I apologise.

We were at cross purposes.---I meant, “2014-16?”

Yes.---Sorry.

No, it’s my fault. I misunderstood.---I think six to eight.

10 How many of them, sir, were architects?---A handful, a couple, I think.

Well, you've identified Mr Yammine.---Yes.

Who else?---I can't recall at the time. That’s probably, Jacob Yammine is the constant.

THE COMMISSIONER: When you say handful, are we talking two, three?---Oh, sorry.

20 Something like that?---Probably Jacob was the only one at the time. Like, as in architect.

MR BUCHANAN: He was a registered architect?---Yes.

Was he nominated under the Architects Act - - -?---Yes.

- - - as a person responsible for the provision of architectural services?  
---Correct.

30 And in your firm during 2014-16, who made the final decisions on matters architectural?---I would.

In 2014-16 were you a registered architect under the Architects Act?---No.

You, in that period, did represent yourself to be an architect, didn't you?  
---To a certain extent.

You signed reports and you signed correspondence as, quote, “director”, unquote, of CD Architects.---I may have.

40 You were the Chanine in Chanine Design Architects.---Correct.

You were the principal of the firm.---Sorry.

You were the principal of the firm.---No, I was the architectural director.

Was there anyone else who was the principal of the firm?---My father was the director.

But he didn't take an active role, did he?---Not in the design matters.

You say you were the person who made the final decisions on design matters.---On design matters, myself with Jacob.

You checked plans submitted in support of the DAs for the Doorsmart project?---I believe so.

10 And you indicated that by using your initials, ZC, in the "checked by" field on the plans, didn't you?---No, not really.

When you say, "Not really," what do you mean?---You're referring to in the bottom, it says, "Checked by," and there's a, there's text written in which it says, "ZC." My staff sometimes just have that as a constant.

What do you mean, "Constant"?---It's automatic in, in the, it's automatic in the (not transcribable) that they would just put Ziad or ZC. I didn't, I didn't sign each one off.

20 Right. Do you mean to say that the "checked by" field could contain the letters, "ZC," when you had not in fact checked the plans?---Correct.

That was to misrepresent that you had checked the plans, wasn't it?---No.

How could it be otherwise?---Why would I need to misrepresent that the plans had been checked or not checked?

30 I'm not saying you at this stage, I'm simply asking, to allow a plan to go out indicating that it had been checked by the only person in the firm with the initials ZC when they hadn't been checked by you would be to misrepresent that the plan had been checked by you, wouldn't it?---I'm not quite following the question.

If a document says, "I have checked this document," that represents that I have checked it, doesn't it?---Yes.

If I haven't in fact checked it, then if the document represents that I have, it's telling a lie, isn't it?---Yes.

40 Now, the plans that went out from your firm that had ZC in the "checked by" field, which hadn't been checked by you, were telling a lie, is that right?---Not necessarily.

Why not?---Because I didn't specifically say that I did or I didn't, I just couldn't, I can't recall whether I did or I didn't. I can't recall checking every single plan.

You're saying that there are, you had told us very clearly, Mr Chanine, that there were circumstances when, to your knowledge, plans went out that you had not checked that represented that you had checked them.---Possibly.

You, in this Doorsmart project, represented yourself to be a registered architect when you were not a registered architect, isn't that the case?---No.

And was Mr Yammine the nominated architect under the Architects Act for the entirety of the three-year period, 2014-16?---I can't recall.

10

Was there anyone else who was nominated in that period?---I can't recall.

Was there anyone else would could have been nominated in that period?  
---Prior to that, there was somebody.

THE COMMISSIONER: Sorry, prior to what, to '14?---Prior, prior, prior to Jacob coming on as a, as the registered architect. There was another colleague.

20

And who was that?---Nicholas Lycenko.

MR BUCHANAN: And how do you spell the surname, sir?---L-y-c-e-n-k-o.

Thank you. Was there a reason why you did not register as an architect under the Architects Act, you yourself?---No. I never got around to it.

30

Did you ensure that the business correspondence issued by your firm, which bore your firm's name, had printed on it the name of your nominated architect in the period of 2014-16?---I don't think so at that time.

Was there a reason why you did not?---No. We were, it was brought, it was brought to light that we should be doing all of that, so subsequently our, all out correspondence now has what it's required to have in terms of the nominated architect.

40

How was it brought to light?---I believe there was a circular put out by the Institute of Architects and there was some further dialogue between our office and the institute.

Between your office and the Institute of Architecture, not the Board of Architects.---Board of Architects, sorry.

I'm asking the questions, I'm not - - ?---I'm not sure.

I'm not putting something to you.---I, I'm not sure. It wasn't me that made the phone call but we sought to get further advice as to exactly what we need to do, so we can meet our obligations.

And does that mean that, as well, the identity of the nominated architect for your firm responsible for the provision of architectural services by the firm was not prominently displayed at the place of business of the firm?---No. I believe we had a like, a framed certificate addressing who was the nominated architect.

And where was that kept?---At the entry to the office.

10 And was that the case in 2014/16?---I would say so.

In 2014/16 had your firm received an exemption from the requirement to ensure that your business correspondence bore the name of the nominated architect?---Sorry, I don't follow.

Did you ever get an exemption from the requirement?---No.

20 THE COMMISSIONER: You said it was brought to your attention. When was it brought to your attention?---I can't recall. Probably about a year and a half ago.

MR BUCHANAN: Excuse me a moment. And just to make sure I've covered this clearly, for the Doorsmart project you definitely – I'm sorry – you allowed plans to go out of your office with an indication that you had checked them. Correct?---I may have checked them.

30 Yes, but my first question is you allowed plans to go out of your office for that project with an indication in the checked by field that you had checked them?---Yes.

And there were occasions when you had not checked those particular plans. Is that right?---No, that's not right. I can't recall whether I did or did not check those specific plans.

40 But what does that mean, Mr Chanine? What I'm trying to ascertain from you is did you have a practice of ensuring that the only plans that went out of your office with the letters ZC in the checked by field were plans that you had checked?---The ZC from my recollection is a fixed constant on all those drawings.

And you didn't check all the plans yourself?---For the Doorsmart project?

Yes.---I believe that I did check them but I can't recall specifically.

When you say you believe that you did check them - - -?---I would have checked them for the design of the building. I would have checked them to ensure that they met my certain criteria and objectives that I had asked my team to put, to put together.

That doesn't sound consistent with the evidence you gave us about five minutes ago on this subject, Mr Chanine, because you gave us to indicate that the letters ZC were a constant in that checked by field and that it wasn't always the case that the plans had in fact been checked by you.---Correct.

10 Is that the truth?---Yeah. From time to time there would be plans that would go out of the office due to the fast-paced nature of the office that the team would send the plans straight over to consultants or straight over to a client without my checking them.

That's my examination of the witness. Thank you.

THE COMMISSIONER: Thank you, Mr Buchanan.

MS BULUT: No questions, Commissioner.

20 THE COMMISSIONER: Mr O'Neill, any questions? I know you've come in late.

MR O'NEILL: No, no, no. No, no questions, Commissioner.

THE COMMISSIONER: Mr O'Gorman-Hughes?

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

THE COMMISSIONER: Mr Drewett?

30 MR DREWETT: I've got no questions thank you, Commissioner.

THE COMMISSIONER: Mr Pararajasingham?

MR PARARAJASINGHAM: No questions, Commissioner.

THE COMMISSIONER: Mr Kirby, back to you I think.

MR KIRBY: I have no questions in the examination, Commissioner. Thank you.

40 THE COMMISSIONER: Right. Mr Chanine, I'm not going to excuse you because I would like to see that the documents you produce pursuant to the order that I made on Friday, now they're due Wednesday at 4.00pm. What I intend to do is when we get those documents I'll review them. If no other questions need to be asked of you I understand I have the power that in your absence I can then excuse you which means you won't have to come back. If I adopt that path we will let your legal representatives know.---Thank you.



THE COMMISSIONER: Mr O'Neill, have you had a discussion with Mr Chanine about a direction under section 38 of the Act?

MR O'NEILL: I certainly have.

10 THE COMMISSIONER: And would he like to avail himself of that?

MR O'NEILL: He would.

20 THE COMMISSIONER: I understand this has been explained to you by your legal representatives. Can I just emphasise, and I emphasise this with every witness who seeks the direction under section 38, that there is one very important exception to the protection given by a section 38 direction, that is if you give false or misleading evidence to this public inquiry. If you do that you may be prosecuted for an offence under the ICAC Act. It's like a form of perjury. It's a very serious offence. It brings with it a maximum penalty of a term of imprisonment.

Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

30 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR**  
40 **THING PRODUCED.**

THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Commissioner. Sir, your name is Marwan Chanine.  
---Marwan Chanine.

Marwan Chanine.---Yes.

Thank you.---You're welcome.

And your occupation, sir?---Property developer.

And for how long have you had that occupation?---The best part of 15 years.

You hold a Bachelor of Building Construction Management?---From the University of New South Wales, yes.

10

Is there a company called Chanine Developments Pty Ltd?---No, there isn't. There's a company called C9 Developments Pty Ltd.

And when was that formed, sir, as best as you'd recall?---Possibly three years ago.

And what is your relationship to that firm? Are you a director? Are you a shareholder?---I believe I, I was a director. I'm no longer a director and I'm an employee of that firm, and I still remain as an employee of that firm.

20

And do you know who any of the shareholders are?---I can't recall, no.

Are you a shareholder?---I don't believe so.

Is any member of your family a shareholder?---Yes. Yes. I, I think my father might be a shareholder.

Your father and - - ?---My father.

30

Sorry, just your father?---Yeah, I believe he's, he's a sole shareholder.

Does your father take an active role in your business of property development?---Yes.

What is that role?---We constantly bounce ideas off each other and he plays an integral part of helping with the finance of the developments.

40

And in what way does he play an integral role of helping with the finance of the development?---He guarantees a lot of the loans that are taken out for our developments.

Did he have a hands-on role at all with the Doorsmart project?---No.

Did he get involved in contacts with Canterbury Council in relation to the Doorsmart project?---No.

In 2014-16, thinking of that period, it's likely that C9 Development Pty Limited didn't exist at the beginning of that period. Is that right?---Correct.

C9 Property Development, thank you very much. Were you using any other vehicle for your work as a property developer when it came to the Doorsmart project?---Yes.

What was that?---It was a special purpose vehicle called Arguile.

I've been probably mispronouncing it as Arguile, A-r-g-u-i-l-l-e [sic]?  
---Correct.

10

THE COMMISSIONER: Can I just pause? The C9 company, what's its name?

MR BUCHANAN: C9 Property Development I'm informed.

THE COMMISSIONER: Is that correct?---It's, to my memory it's C9 Developments Pty Limited.

MR BUCHANAN: Excuse me a moment. C9 Developments Pty Limited.  
20 Could that be right?---Yeah, I believe so.

Now, you have special vehicle, special purpose corporate vehicles for each property development in which you're involved. Is that right?---Correct.

And before the formation of C9 Developments Pty Limited, did you have a general purpose corporate vehicle that you used for your work?---Yes.

What was that?---It was called Nouveau Living.

30 Nouveau, and what's the second word?---Living.

Living. Thank you. Pty Limited?---It wasn't a proprietary limited company, it was just a brand.

I see.---Just a name we associated with our brand.

Rightio. But in terms of a legal entity, what were you using if anything?  
---I don't believe we were using a legal entity at that stage. Any legal entities would have been a special purpose vehicle.

40

Thank you. Now, you have worked with your brother, Ziad, on a number of projects. Is that right?---Correct.

How many development projects, are you able to say, have you been involve in, leaving aside your brother?---If I was to take an estimate over the last 15 years I could say 40 to 50 development applications.

How many of them have proceeded to construction phase?---Probably a quarter of them.

And have those quarter proceeded to finalisation?---Yes.

In how many of those DAs, the 40 to 50 DAs in your lifetime that you've been involved in, have you worked with your brother?---All of them.

10 And has the – I take it the degree of involvement of your brother in your projects has varied from project to project?---Correct.

And he has a firm you would know, Chanine Design Pty Limited?  
---Correct.

Trades I think as CD Architects or Chanine Design Architects.---I believe so.

20 On how many of your projects has that firm done design work?---On all of my projects.

Now, the director and shareholder of Chanine Design Pty Limited is your father.---I don't know.

All right. Volume 28, page 312. Sir, on the screen in front of you is the first page of a company search for the company Chanine Design Pty Ltd. Can you see that?---Yes.

30 And down the bottom of the page, you can see the heading Directors?  
---Yes.

If we go over the page, you can see that there's one director, Camile Chanine.---Yes, I can see that.

He is your father?---He is.

And you can see there that there are two shares in the, under the heading current share structure?---Yes.

40 And can you see down the bottom, the shareholding is Camile Chanine, two shares?---Yes.

Does that come to you as a surprise?---No.

With C9 Developments Pty Ltd, that was owner controlled by your father?  
---Originally it was owned and controlled by myself.

But it is now owner controlled by your father, is that right?---It is now under the control of my father.

When did that change occur?---To the best of my knowledge, 12 to 18 months ago.

And why did it occur?---It was based on advice from our accountants.

Why is it that your father owns and controls your company and your brother's company?---That's the way our accountants liked to set up our structure.

10

Do you have an understanding as to why your accountant like to set it up that way?---No.

Because normally what that would mean is that, just taking your company, your company is run by your father, but that's not the case, is it?---No.

When you say, "No," it's my fault for asking is that way, it's not the case that your father runs your company is it?---Sorry, can you repeat that?

20 Yes. Your father does not run your company, does he?---Not solely, no.

And your accountant hasn't given you any idea at all as to why it should be that the company structure for your company and for your brother's company should be the way it is?---No, he hasn't.

So, how do you derive an income from your efforts?---I earn a wage, a salary.

30

Sorry, was that last word solely?---Salary.

THE COMMISSIONER: Salary.

MR BUCHANAN: Salary. And do you, generally speaking now, derive any benefits or income from an interest in your projects, a financial interest?---From time to time I may, yes.

Thinking now about Arguile Pty Ltd, did you derive a financial benefit from that company in respect of the Doorsmart project?---No.

40 I think it's the case that you weren't a member of that company, either? ---No, I wasn't.

Was there a reason why you weren't a member of the company that was set up as a special-purpose vehicle for your development at 218-220 Canterbury Road and 4 Close Street?---No particular reason that I can remember.

It seems strange, is what I want to suggest to you, sir, that you wouldn't have an interest in the corporate vehicle that's set up for the work you do.--- I don't see why it seems strange, sir.

Well, most people, if they set up a company to be the vehicle by which they carry out their work, would have an interest in that company, but you don't?---I can't say whether I do or I don't.

10 Well, in respect of Arguile you know you don't, don't you?---Correct, yes.

Well, are you able to explain any of this to the Commission as to why neither you nor your brother seem to have an interest in or any control over the corporate vehicles that you use for your work?---I can't comment on any controls that my brother may or may not have but I, I can advise that all of the entities are trustees of particular trusts so hence why I can't comment on Arguile per se as that is a trustee company.

20 And if we could go to page 325 of volume 28, please. Can I take you to, that's the front page of a company search for Arguile Pty Ltd. Can you see on page 326 that at the time this search was conducted the directors were Barry Barakat, Tanya Marie Chanine and Simon Srour?---Correct.

Tanya Marie Chanine was your wife.---And still is.

And is there a reason why she was a director and not you?---Not sure.

30 Have you had any discussion with your wife about why she's a director of Arguile Pty Ltd and not you?---No. Like I said at the outset, it would have been a structural set up from our accountant.

And have you ever asked your accountant why am I not controlling Arguile Pty Ltd?---No, I haven't.

Why have you not asked your accountant?---I haven't seen reason to because my wife was there.

40 So is your wife a person who is looking after your interest in respect of the control of Arguile Pty Ltd?---When you say looking after my interest, in what capacity?

Well, you say, your answer to my last question was because your wife is there so you haven't had a reason to ask your accountant about why you're not there and that would tend to suggest given that it's your special purpose vehicle that your wife is standing in for you.---It's not solely our special purpose vehicle. There are other parties that that special purpose vehicle represents.

So far as it is a special purpose vehicle for your work on the 218-222 Canterbury Road and 4 Close Street project is concerned you are satisfied that your interest in it is protected by having your wife as director so far as concerns control?---Yes.

And that would suggest I want to suggest to you that your wife is looking after your interest in relation to the running of that company?---That's a fair comment.

10 Now, if you go to - - -

THE COMMISSIONER: Can I just ask, who are your accountants?---At that particular point in time it would have been Sattouts Accounting.

How do you spell that?---S-a-t-t-o-u-t-s.

And they're no longer your accountants?---They are still our accountants but not on all of our projects.

20 But on the Doorsmart project they were your accountant?---Yes, they were.

MR BUCHANAN: And was there a particular person at that firm of accountants who was looking after this particular company structure?--- There was Sam, the principal, and his son Matthew.

Surname of?---Sorry, surname of Sattout.

And could you spell that for me, please?---S-a-t-t-o-u-t.

30 Thank you. Can I take you to page, halfway down page 326 and can you see there is set out the share structure for Arguile Pty Ltd?---Yes.

And the number of shares on issue 1,000. Do you see that?---Yes, I do.

If I can take you over the page to page 327 and can you see that the shareholders are identified as your father, Barry Barakat and Simon Srour? ---Yes.

40 Are you able to tell us why your father has a shareholding but you don't in your special purpose vehicle for the Doorsmart project?---No, I can't.

Who paid you the salary that you derived from the work you did on the Doorsmart project?---I can't recall which entity it would have come from.

How did you know that you were receiving a salary?---I'm quite sure would have been receiving a salary at the time but which entity I derived that salary from, I just can't recall.

Was it paid directly into a bank account of yours?---I'm sure it would have been, yes.

And did you ever read your bank account statements?---No, my wages get paid into my wife's bank account.

Why do your wages get paid into your wife's bank account?---Because she looks after all the day-to-day bills.

10 Of?---That accrue at our home.

All right. And you had never looked at the statement of what is it, your wife's bank account?---I wouldn't, I would not say never but very rarely would I.

And so you can't tell us, by reason of the fact that you've looked at a bank account statement, what the identity is of the entity that had paid you a salary?---If I look at the account, yes, I can. It will say where the money was paid in from.

20

But you tell us, do you, you've never looked at it and so you don't know what entity has paid you a salary, is that what you're saying?--- No, I didn't  
---

MALE SPEAKER: I object to that question. I object. That was not this witness's evidence.

MR BUCHANAN: No, I didn't say it was.

30 THE COMMISSIONER: I think he's putting a different proposition.

MR BUCHANAN: Is it your evidence that you had never looked at a bank account statement that would enable you to tell the Commission who paid you a salary for the work you did?---No. That is not correct.

What is the case then?---If you ask me a question I'll answer it for you.

Well, you know what I'm asking about, don't you, Mr Chanine?---No, I don't. That's why I'm asking.

40

Your knowledge of the source of your income. Tell us your knowledge of the source of your income in the period 2014-2016, please.---2014-2016, I clearly cannot recall the source of my income. It would have been one of your special-purpose vehicles.

So, it wouldn't have been C9 Developments once it was formed?---Once it was formed, quite possibly.

So, who organised the payment of your salary?---Our accounts.

So, your personal accountant organised the payment of your income?---Yes.

10 THE COMMISSIONER: Sorry, you said, "It would have been one of our SPVs." So, were you earning a salary for each different project you had on foot in '14 and '16?---No. The way our accountant has set up our structure is he would advise that, your salary should be paid from this entity for this financial period or this entity for this period or a different entity for a different period. It wasn't project specific that I was earning a salary on.

So, just to use an example, if your salary was \$100 a week, your accountant would put into place some structure that \$100 per week was paid into your wife's bank account from a particular SPV?---Yes, it would have been either my bank account or my wife's bank account.

All right. I thought you said that your salary on DSP was being paid into your wife's bank account?---On DSP, sorry?

20 Sorry, Doorsmart project.---Oh, okay. I did not earn a salary on the Doorsmart project, no.

Now I'm getting confused.---Sorry, I must have misunderstood your question.

30 MR BUCHANAN: So, you didn't earn a salary at all on the Doorsmart project?---Not specifically for the Doorsmart project. I earn an annual salary from our companies to run our developments. It's not for one particular project.

THE COMMISSIONER: So, using my \$100 a week, that means your accountant for a particular financial year would designate this SPV will pay from its revenue your salary of \$100 per week?---Correct.

And that was paid into your own personal bank account?---It could have been mine or it could have been my wife's. I'm not sure.

40 You're not sure. And did that designated SPV that paid your annual salary, did that change from financial year to financial year?---It may have, yes.

MR BUCHANAN: And did your accountant ensure that there was enough income in whatever corporate vehicle was the source of your salary?---I'd like to think that he would have, yes.

How did he do that?---I don't - - -

How did he work out what the income was?---I don't know.

Well, you're leaving us, can I just make this suggestion to you and invite you to respond. In a position where it's very unclear how you derived an income and how you protected your interests in your work and in the work you did and that you're not being forthcoming with the Commission.  
---I don't believe so. Sorry, I don't believe so, no.

Can you understand why your evidence might seem a bit confusing and unusual about the way you derived an income and the structures that were set up?---No, not at all.

10

Certainly I want to give you the opportunity of responding to the proposition that your evidence is very unclear.---If you can point me to what's unclear I'm happy to try and unravel it for you.

Did you have an interest, a financial interest in the Doorsmart project?  
---I'd like to think I did.

What do you mean by that?---Exactly what I said. I'd like to think I had a financial interest in it.

20

Are you trying to be smart, Mr Chanine?---No, not at all.

What do you mean by saying I would like to think that I did?---I would have liked to have think that I was obtaining a financial benefit out of the success or potential success of the development application.

And did you derive a benefit out of the success or potential success of the development applications in the Doorsmart case, Doorsmart project?  
---No, I didn't.

30

Was there any structure set up to ensure that you would if any profit was made?---There was definitely a trust set up on my family's behalf and I would like to think that I would have obtained a benefit through that trust if a profit was to be made out of the project.

THE COMMISSIONER: So were you a beneficiary of the family trust?  
---I don't know how trusts, I don't know if I'm a beneficiary of a trust or all of our trusts or any trust of ours, they're all at the discretion of the trustee, which I'm not a trustee.

40

Okay. But if the trustee exercises the discretion to pay the beneficiaries, that would go into your bank account or you would receive those funds?  
---If I was a beneficiary, yes.

All right. During '14-16 did you receive any such payment as a beneficiary of any type of family trust?---Not that I can recall. It is possible but I can't recall.

Do you still have your tax returns?---Of course.

Such a payment would have been declared in your tax returns?---Of course.

MR BUCHANAN: Would the tax return be with you in your records personally or with your accountant?---Good question. I think they'd be with our accountant.

10 THE COMMISSIONER: And that's Sattouts?---Ah - - -

Or are they different accountants?---It could be a different accountant. We have three or four accounting firms that work for us.

All right. Who are the other two accounting firms?---The other one is Katos Associates has done work for us.

Could you spell that?---K-a-t-o-s.

20 O-s?---O-s, yes. And MKP Accounting Services.

And do you know which of the – and sorry, is that it?---I believe they're the three, yeah.

Right. And of those three who did your personal tax returns?---I think it may be MKP.

30 MR BUCHANAN: Has the identity of the accounting firm that prepares your personal income tax return changed from the period 2014-2016 or in that period?---It may have, it may have.

Who prepares your income tax returns now, who last prepared your income tax return?---Now it's MKP.

But it might have been one of the other companies - - -?---It may have.

- - - which you identified?---Correct.

40 Can I ask you to have a look, please, at volume 25 of Exhibit 69, page 6. ---Thank you.

And we have a copy up on the screen of the title page but what I'm taking you to is a trust deed for a unit trust called BBCS Unit Trust. Do you see that?---Yes.

And it goes from pages 6 through to 59 in the hard copy volume. The unit holders are identified on page 46 of volume 25 and can you see that three companies are nominated there?---Yes.

Do you recognise the name Karantina Pty Ltd?---I do.

As trustee for CCM, sorry, CZM Chanine Family Trust?---Yes.

And is Karantina Pty Ltd your father's company?---To the best of my knowledge it is.

10 And Destiny Australia Group as the trustee, sorry, acting as trustee for Barakat Family Trust is Barry Barakat's company?---Correct.

And Hably, H-a-b-l-y, Pty Ltd is Simon Srour's company?---Correct.

That's three. There doesn't appear to be a company there controlled by you.---No.

Or in which you have a shareholding. Is that right?---Unless I'm a beneficiary of the CZM Chanine Family Trust that's correct.

20 Well, you think you are don't you?---I'd like to think that I am but I can't certainly tell you that I am.

But the, so the, did you – I withdraw all of that. I apologise. You recognise the name of the unit trust as a unit trust for which Arguile Pty Ltd was the trustee in respect of the Doorsmart project?---I'm not sure. It does ring a bell but whether Arguile is a trustee of this trust or not I'm not sure.

Can I ask you to have a look at page 46, please, again.---Yes.

30 And can you see that four lines underneath the heading First Schedule - - -?  
---I can see it now, yes.

- - - the trustee is Arguile Pty Ltd?---Yes.

So are you saying to us that you had an interest in the Doorsmart project via your interest that you would like to think you have in the Chanine Family Trust?---Correct.

Your father also had an interest. Is that right?---Yes.

40 Was your father involved in the – I do apologise. I withdraw that question for the moment, Mr Chanine. Yes, I withdraw that question. Now, have you received a distribution from the CZM Chanine Family Trust ever?---I can't recall. It may be possible.

If you did where would the distribution have gone?---If I did I would assume that it went to my bank account.

Or your wife's bank account?---Quite possibly.

So is it the case that your wife and her accounts were used to look after money that came to you from time to time?---Yes.

Now - - -

THE COMMISSIONER: Who was the accountant for the CZM Chanine Family Trust? I take it it's one of the - - -?---In that '14-16 period?

10 Yes.---I think it may have been Katos.

Katos.

MR BUCHANAN: Did you understand that the trust that Arguile Pty Ltd had in respect of the units in the BBCS Unit Trust was a discretionary trust?---No.

20 You said something earlier, though, about there being a distribution at the discretion of the trustee.---Correct. And like I said earlier, we have many trusts. Which is and which isn't a discretionary trust or a unit trust, or if I'm a particular trustee of that trust, I can't recall.

The CZM Chanine Family Trust, was that a discretionary trust?---To the best of my knowledge, I believe it is.

Generally speaking, in the relationship that your brother or your brother's company has had with your projects, how has he or his company been remunerated? Generally speaking.---By way of invoice.

30 By way of payment on invoice?---Yeah, sorry.

And that means that you or one of your special-purpose vehicles or C9 Developments received an invoice and paid on it?---Correct.

Now, in the case of the Doorsmart project, were invoices received from your brother's company for the provision of architectural services and design services and any other work they did on the Doorsmart project? ---They may have. I, I can't recall.

40 Who authorised payment of invoices that you or your company received from your brother or your brother's company?---Any payments would have been authorised by myself or my father.

And do you have a recollection now, thinking of the period 2014-2016, of authorising payment on any invoice from Chanine Design, for example?---It may be possible, as they were the acting architects on the project, but I just can't recall.

Is it possible there were no invoices on that project from Chanine Design?  
---It is possible.

Why is that possible?---From time to time we would not receive an invoice on a particular project or we'd receive it later on in the project. Every project was quite unique.

10 If I can take you up on that last answer, what was unique about the financial arrangements that were put in place or that operated in respect of the relationship between the work you did as a developer and the work that your brother or your brother's firm did in the provision of architectural services?  
---What was unique in relation to the work I did and my brother did?

In terms of the relationship between the two. I'm just trying to, you say each project was unique, is that right?---Correct.

20 Is it the case that the relationship was unique between you and any entity you were using on the one hand, and Mr Ziad Chanine and any entity he was using on the other hand, in respect of the Doorsmart project?---With regards to the Doorsmart project, I believe that that was a project where I used Chanine Designs architectural fees in lieu of my cash equity contribution into the country, into the company.

Which company?---The, the Arguile Trustee company.

30 What cash contribution was expected?---Generally the partners of the project put in equity to fund the project, and to the best of my recollection, if my memory does serve me correct, that particular project for a certain period of time I used the architectural services of Chanine Design, the amount that they would have earned in lieu of my cash equity, and if any further equity was required I would then supplement that with a cash injection into the special-purpose vehicle.

And was this written down anywhere?---I can't recall.

Is it likely to have been written down anywhere?---It is likely, yes.

40 And where would such a document if it had been created be likely to be held now?---On one of my notepads. I kept a file for every project of ours, handwritten notepads.

In hard copy form?---Yes.

Did it exist, had it been scanned and kept as an electronic copy as well?  
---I'm not sure. I don't believe so.

And would any such note have been countersigned by somebody, that is to say, for example your brother or a partner in Arguile?---No. No.

So you simply kept it, if you kept it, to remind you. Is that right?---Correct.

Now, do you have a memory of a – I withdraw that. Did you have a conversation with any of the members of the unit trust or of Arguile about such an arrangement?---If that arrangement was in place for that project yes, I definitely would have had a discussion with the partners.

All of them?---Yes.

10

Or one in particular or - - -?---I think it would have been all of them.

Did your brother have any such arrangement with Arguile?---Not that I'm aware of.

Now, was the fees to which your brother's firm might become entitled written down anywhere?---They would have been on my notes.

20

Notes rather than invoices?---I did write down notes. Whether they were invoiced or not I can't recall.

Did your brother have any equity in the project?---No, not that I'm aware of.

Mr Bechara Khouri, you knew him. Is that right?---Yes.

You had some history with him over a period of many years. Is that right? ---Correct.

30

For how long had you known Mr Khouri?---I'd say 15 possibly 20 years.

And did he have a role in relation to the work you did?---Yes, from time to time.

I'm sorry?---Yes, from time to time.

And what was that role generally speaking?---I wouldn't put it down as generally as he had many roles that he played. There was no particular general role that he played.

40

Can you please tell us what were the different roles that he played?---Yes. At times he assisted me with the management of my development applications. At times he worked to sell development sites of mine. At times he worked to put me in a position to purchase a development site. At times he would just put me in front of people in general to facilitate work between the two parties. So there was no one specific role that he, he ever played for us.

Was he on the payroll of any of your companies or you?---When you say payroll, as in a wage?

Yes.---No.

Or a salary?---No.

10 How was he remunerated for his work for you and/or your companies?---If he was working as a project manager he would have been paid a retainer fee. If he was facilitating to broker the sale of a development site, he would work on a fee as well. So generally it was fees and there was no fixed fee. It was all negotiated.

Negotiated between you and him?---Yes.

Thinking now the period 2014-2016, did you have a relationship with Mr Khouri on the Doorsmart project?---Yes.

20 What was that relationship?---To the best of my knowledge he was an actual partner in the trust.

Yes.---But it's, it's not shown there so it's a bit vague to me at the moment.

Well, that's okay. We can help you with that. But thinking of when the properties – there were four of them, I think – at 218-222 Canterbury Road and 4 Close Street were acquired by option, was Mr Khouri involved at that stage in terms of being a partner?---I think he was.

30 Can I ask the witness be shown, please, Exhibit 26 of Exhibit 69 at page 68.---What page, sorry?

Page 68, sir. And we should have – it's on the screen now in front of you. Although it's a two-page document, the critical bits are on the page 68. That's an allotment of additional units in the unit trust to the entities nominated from halfway down to the bottom of the page, and at the bottom of the page you can see K & H Bech Pty Ltd.---Yes.

40 B-e-c-h. 200 units. And does that name ring a bell?---That's one of Bechara Khouri's companies.

That's in August 2015, but the properties were acquired before then, I think it's fair to say. Is that right? They were acquired in 2014?---I can't recall.

But certainly your recollection is that Mr Khouri had an interest in the partnership itself from the outset?---Correct.

Did Mr Khouri play a role? Did he have work to do in the Doorsmart project?---He contributed equity into the project and he would have assisted myself with the development application along with Ziad.

Along with - - -?---Along with Ziad, the application, yeah.

Along with Ziad. Right. And what assistance did he give you in relation to the development applications?---He was present at various meetings.

10 Did he organise any meetings?---Yes, he would have.

Was that a role that Mr Khouri played from time to time in assisting in organising meetings with regulators, with particularly local government councils where they were the consent authority for a project?---It wasn't a specific role that he played for, for my firm but it was a role that he did play on that Doorsmart development, yes.

Now, did he play any other role in relation to the Doorsmart project?---No.

20 In 2014-2016, did you know Michael Hawatt?---Yes.

When did you first know or meet Michael Hawatt?---I believe it would have been 2014 or '15 that I first came to actually meet and know Michael Hawatt. I knew of him for many years prior to that, but never had the opportunity to meet him.

And had you known of him in the years prior to that because he was a councillor at Canterbury Council?---Yes.

30 And when was it that you met him in 2014-2016?---It would have been I believe around 2014 or maybe even 2013 when I first met Michael Hawatt at council and it would have been either just prior to or the day of a development of mine going up before council.

Was it this development?---No, it wasn't.

And did Councillor Hawatt vote in favour of that particular development?---I think he did.

40 Did you get to learn of his views about development in the Canterbury area?---After I had met him, yes.

And would it be fair to describe them as pro-development?---That would be a fair comment.

And what was the extent of your contact with him after that first meeting, sir?---There would have been further contact after that first meeting which was regards with, with which was regard to that particular application and

there would have been contact subsequent to that on other applications of mine in the Canterbury LGA.

And did any of those other applications in the Canterbury LGA include the applications in the Doorsmart project?---Yes.

How many times did you have contact with Councillor Hawatt in relation to the Doorsmart project?---I couldn't tell you.

10 Because there are so many?---Quite possibly.

And how would you describe the nature of your relationship with Councillor Hawatt on the Doorsmart project?---I would say it was a professional relationship.

And what was professional about it, why do you give it that description?  
---It wasn't a relationship that we would, we would socialise about, it was a relationship where I would discuss my issues and matters in that particular application to that particular councillor and obtain his feedback and his  
20 advice.

And what was the first contact that you can recall, sorry, what was the subject matter of the first contact that you can recall with Councillor Hawatt about the Doorsmart project?---I, I can't recall the first contact.

Did you have a social relationship with Michael Hawatt in 2014-16?---No.

Councillor Azzi, in 2014-16, you knew him. Is that right?---Yes, correct.

30 When had you first met or come across Councillor Azzi?---It was a similar time to when I had first met Michael Hawatt. I'd known of Pierre Azzi through the local community, through our church community, but when I first had the opportunity to formally meet him would have been around that time when I met him at council for that particular application around 2013-2014.

Can you tell us what that application was?---Yes, it was for a mixed-use development at 45 South Parade in Campsie.

40 And did you have contact with Councillor Azzi in relation to the Doorsmart Project?---Yes.

How much contact did you have with him in relation to that project?  
---I couldn't give you an answer on how much. There - - -

Because there was so much?---There could have been, yes.

And what was the nature of your relationship with Councillor Azzi in relation to the Doorsmart project?---In relation to the Doorsmart project it was a professional relationship.

10 And again if I could ask you what you mean by that, in what way do you say it was professional?---My discussions with Councillor Azzi regarding the Doorsmart development were one of where I would advise him of any issues I may have had or advise him of any processes I was enduring through the, through the development application and he would give me his advice and/or he would action something on his part in response to my information being given to him.

When did you first learn that Councillor Azzi would action something on his part in response to the information you had provided?---At times he would action them immediately in front of me via telephone.

20 And talking on the telephone, as you understood it, to whom?---It would have been the director of planning or of could have been the general manager. Yeah, I, I'm not too sure who it would have been at any particular time.

But those are two people that you can say Councillor Azzi, to your knowledge, would talk to in response to information you provided him about the Doorsmart project?---Most definitely, yes.

Now, did you, in 2014-16, did you understand that Councillor Azzi and Councillor Hawatt controlled the numbers on council?---No, no.

30 Did you believe that Councillor Hawatt or Councillor Azzi had influence on how other councillors voted?---I wouldn't use the word "influence". I knew that they would discuss various matters with the other councillors. I was not privy to that so I can't say whether they had influence or not.

You never understood that essentially, from the beginning of 2014 and at the end of their period of being not amalgamated, Councillor Azzi and Councillor Hawatt controlled the decisions that were made on council? ---No.

40 Did you understand that either of those councillors had influence with Mr Montague?---Apart from what I read in the press, no.

And did you understand that either of those councillors had influence with the director of city planning?---No.

Why did you talk to Councillor Hawatt and Councillor Azzi rather than other councillors about the Doorsmart project?---I spoke to Councillor Azzi primarily about the Doorsmart project, as he was someone that I could

confide in to share the information with and hope that he would understand our position.

Yes. Were you hoping that by confiding in him you would achieve a favourable outcome on the matters in which you were confiding?---Not specifically but I would rely on him to replay that message to his other councillors.

10 And from time to time to Mr Montague or to Mr Stavis or both?---Correct.

Would it be fair to say that you believed that Councillor Azzi was a person who did have influence with Mr Montague and Mr Stavis?---No.

Did you meet Councillor Hawatt anywhere other than council chambers?  
---Yes.

20 Where did you meet him, apart from council chambers?---I would have met him at Canterbury Leagues Club and I may have met him at another location at a café somewhere in the local government area but I can't recall specifically. So, there may be two or three places outside of council that I have met him.

Had you ever met Councillor Hawatt at a café called Frappe?---Not that I can recall.

Salvatores?---I'm not too good on café names but I do know their locations.

Any in Homer Street, Earlwood?---Quite possible.

30 Did you meet Councillor Hawatt in his office in Haldon Street, Lakemba?  
---No.

Did you meet Councillor Hawatt at Councillor Azzi's house?---I have seen him there on occasion, yes.

And how many times have you been to Councillor Azzi's house?---Quite possibly four or five times.

40 Have you been to Councillor Hawatt's residence?---No.

When you've gone to Councillor Azzi's house, was that in the period 2014-2016?---Maybe even after 2016. So, but definitely in that period of '14-16.

And what occurred when you went to Councillor Azzi's house? What type of event or function occurred?---Many a time it was a barbecue being held by Councillor Azzi and his wife.

And how did you end up there? That is to say I'm not asking whether you drove, I'm asking did someone extend an invitation or did you choose to attend on your own account?---I'm sure I would have been extended an invitation. I wouldn't just turn up to somebody's house.

Did you go to Councillor Azzi's house with your brother?---No.

Is there any reason why you didn't?---I didn't see reason to bring him along.

10 You worked quite closely with your brother on the Doorsmart project, did you not?---With regards to his architectural work, yes.

And with regards to design issues?---Yes.

And with regards to processing of his development applications in the Doorsmart project?---Yes.

20 And Councillor Azzi was a person that you were speaking to about issues to do with development applications in the Doorsmart project, wasn't he?  
---Correct.

Are you sure you didn't go with your brother to Councillor Azzi's house and discuss issues to do with the Doorsmart project with Councillor Azzi there?  
---I'm quite sure that I didn't go there with my brother. If my memory serves me correct there may have been one occasion where I called my brother to come and explain some issues that I couldn't quite articulate clearly enough for Councillor Azzi to understand.

30 Did you see Mr Montague at Councillor Azzi's house?---Yes.

How many times?---Once. Maybe twice.

Did you on either of those occasions, if it was more than one, discuss the Doorsmart project or any aspect of it?---With whom, sorry?

Mr Montague.---No.

40 Did you discuss any part of your business with Mr Montague at Councillor Azzi's house?---No.

Did you see Mr Stavis at Councillor Azzi's house?---No.

George Vasil. Did you know George Vasil in 2014-16?---I knew of him.

How did you know of him?---They owned a real estate, well, his family owned a real estate agency in Earlwood.

And was that the only way you knew of him?---Yes.

What did you know of George Vasil apart from the fact that his family owned a real estate agency in Earlwood?---To my knowledge, I believe he, he was a former councillor, well before my time, and his son was a councillor in that period of '14-16 as well. But most of my dealings with the Vasil family were over real estate through their office.

Had you had real estate transactions with George Vasil himself?---No.

10 You didn't know George Vasil as a person who was involved in council politics at Canterbury?---I did, yes.

And during 2014-16 did you know of George Vasil as a person who was involved in council politics at Canterbury?---Depends on how you define the word "involved". He was very aware of what was going on in Canterbury Council between '14 and '16, and still is. He's a very unique character. He likes to soak up as much information as he possibly can.

20 Did you have any dealings with Mr Vasil in relation to the Doorsmart project?---No, not that I can recall.

Or any contact with him in relation to the Doorsmart project?---Not that I can recall.

You didn't ever try and obtain from him information about council or council matters in relation to the Doorsmart project?---Not that I can recall.

30 However you did have two councillors and Mr Montague, the general manager, and Mr Stavis, the director of city planning, as potential sources of information about council matters in relation to the Doorsmart project didn't you?---Yes.

I note the time, Commissioner. I'm sorry, could you just pause it for a moment?

THE COMMISSIONER: Yes.

40 MR BUCHANAN: Commissioner, we would like to make an application under section 35 but need to preferably engross the contents of a requirement or at least settle on the formula, on the form of words. It would be directed to this witness if you were minded to acceded to the application. Would it be possible for us to have a short adjournment to allow settling of the form of words and for Mr Chanine to be asked to remain within the precincts of the hearing room to come back.

THE COMMISSIONER: No, that's fine. How long do you think you will need?

MR BUCHANAN: Five minutes.

THE COMMISSIONER: All right. We're just going to adjourn for five minutes.

MR BUCHANAN: Thank you, Commissioner.

**SHORT ADJOURNMENT**

**[4.31pm]**

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MR BUCHANAN: Thank you for that opportunity, Commissioner. I have provided to your staff a draft of the directions sought under section 35(2) and it reads, "To produce all documents including any handwritten notes, recording (a) any agreement or arrangement entered into by Marwan Chanine with respect to the making of equity contributions to Arguile Pty Ltd; (b) any amounts paid by or on behalf of Marwan Chanine, Tanya Chanine, Camile Chanine or Yvette Chanine by way of equity contribution to Arguile Pty Ltd in relation to the Doorsmart project or any payments  
20 made to Chanine Design Pty Ltd in view of equity contributions to Arguile Pty Ltd." And the second order or requirement sought is, "Any tax returns filed by or on behalf of Marwan Chanine for the financial years, ending (a) 30 June, 2015, (b) 30 June, 2016." I discussed with my learned friend a return date and time and I've proposed a return date of 5 July, that's this Thursday at 10.00am.

THE COMMISSIONER: That's doable.

MR O'NEILL: I was sceptical but on instructions I'm told that's doable, so -  
30 - -

THE COMMISSIONER: All right, thank you for that. Now, Mr Chanine, I order that you produce to the Commission, by 10.00am 5 July, all documents, including any handwritten notes, recording any agreement or arrangement entered into by Marwan Chanine with respect to the making of equity contributions to Arguile Pty Ltd; any amounts paid by or on behalf of Marwan Chanine, Tanya Chanine, Camille Chanine or Yvette Chanine by way of equity contribution to Arguile Pty Ltd in relation to the Doorsmart project; or any payments made to Chanine Design Pty Ltd in lieu of equity  
40 contributions to Arguile Pty Ltd. And, secondly, all documents – I'm sorry, I withdraw that. Any tax returns filed by or on behalf of Marwan Chanine for the financial years ending 30 June, 2015 and 30 June, 2016.

**SECTION 35 DIRECTION TO PRODUCE TO THE COMMISSION,  
BY 10.00AM 5 JULY, ALL DOCUMENTS, INCLUDING ANY  
HANDWRITTEN NOTES, RECORDING ANY AGREEMENT OR  
ARRANGEMENT ENTERED INTO BY MARWAN CHANINE**

**WITH RESPECT TO THE MAKING OF EQUITY CONTRIBUTIONS TO ARGUILE PTY LTD; ANY AMOUNTS PAID BY OR ON BEHALF OF MARWAN CHANINE, TANYA CHANINE, CAMILLE CHANINE OR YVETTE CHANINE BY WAY OF EQUITY CONTRIBUTION TO ARGUILE PTY LTD IN RELATION TO THE DOORSMART PROJECT; OR ANY PAYMENTS MADE TO CHANINE DESIGN PTY LTD IN LIEU OF EQUITY CONTRIBUTIONS TO ARGUILE PTY LTD. AND, SECONDLY, ANY TAX RETURNS FILED BY OR ON BEHALF OF MARWAN CHANINE FOR THE FINANCIAL YEARS ENDING 30 JUNE, 2015 AND 30 JUNE, 2016.**

MR BUCHANAN: Thank you, Commissioner.

MR O'NEILL: May it please.

THE COMMISSIONER: Now, your evidence obviously hasn't been completed. We're not adjourning until next Monday which will be 9 July, next Monday, if you can return on that occasion. So we will be adjourned until 9.30am on 9 July.

**THE WITNESS STOOD DOWN [4.48pm]**

**AT 4.48PM THE MATTER WAS ADJOURNED ACCORDINGLY [4.48pm]**