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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC  
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

Reference: Operation E15/0078

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 9 JULY, 2018

AT 9.30AM

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: Mr Buchanan.

MR BUCHANAN: Commissioner, a matter of administration before we resume the evidence of Mr Chanine. Could it be noted that Exhibit 69 in volume 23 has had some pages added to it and I can advise that those pages are 168 to 177, 184 to 186, 189 to 194, 203 to 204, 207 to 208, 210 to 211, 223 to 224, 239 to 240, 243 to 244. I hasten to add that at volume 23 of Exhibit 69 does not contain documents that concern the current evidence. I am told that arrangements will be made for the version of volume 23 of Exhibit 69 on the public website to be updated by certainly this afternoon – if not already by this afternoon.

THE COMMISSIONER: All right, thank you. And we may have you re-sworn.

MR CHANINE: No problem.

MR BUCHANAN: Mr Chanine, in the period 2014-2016, how did you derive your income?---It would have been through I assume my salary.

Your salary?---Yes.

10 And who paid your salary?---It would have been one of my family special purpose vehicles.

And was it one such special purpose vehicle or more than one?---I don't recall.

How did you find out what your income was?---No doubt it would have been on my payslips and it would have been pre-organised through myself with my father and our accountant at the time.

20 So it would have been documented as to the sources of your income?  
---Most definitely, yes.

Where would that have been documented?---In my tax returns.

In your evidence on Monday, 2 July, you told the Commission at transcript page 1817 lines 3 to 6 that your occupation was that of property developer and that you had had that occupation for the best part of 15 years.---Correct.

Do you recall giving that evidence?---I do.

30 At the conclusion of proceedings on 2 July you were directed to produce certain documents. Do you recall that?---Yes.

On Thursday, 5 July, in response to that requirement, your solicitors produced copies of your income tax returns for the financial years 2014-15 and 2015-16. Do you understand that?---Yes.

You were aware of that occurring?---Correct.

40 Your 2014-15 income tax return, if we could show that on the screen, please.

MR O'NEILL: Commissioner, I've got an application to make in respect of this document. In relation to the details of this witness's income, my application is that you issue a non-publication order in respect of the number and any details in relation to information which would otherwise be protected under the privacy legislation.

THE COMMISSIONER: All right. So you've referred to numbers?

MR O'NEILL: Yes. So the details, the numerical details of this man's tax position and his income, obviously his private information, so his information in respect of his address, and that's my application in respect to that. There's no issue with questioning along these lines but it's in relation to the non-publication.

THE COMMISSIONER: We've got a general non-publication order over people's addresses.

10

MR O'NEILL: Yes.

THE COMMISSIONER: So the address would already be covered. Mr Buchanan, do you have any submission to make?

MR BUCHANAN: Commissioner, an application under section 112 has to satisfy you before you grant it, that the direction should be made in the public interest. I'm not sure that anything has been put to you yet which would support a conclusion that it is necessary to make or desirable to make the order in the public interest.

20

THE COMMISSIONER: Do you want to address that?

MR O'NEILL: Yes. I mean apart from the fact that legislation clearly indicates that this is personal information, and this is in the Privacy Act, so the legislature has sought to say that it's - - -

THE COMMISSIONER: Can I just stop you. Before you continue, for this to be transcribed you have to speak into the mike. You might have to - - -

30

MR O'NEILL: Bow down.

THE COMMISSIONER: Yes, bow.

MR O'NEILL: Bow down to you, Commissioner, as I should. So the legislature has sought that this type of information be protected by privacy legislation. That legislation recognises that there is a public interest in ensuring that people's tax affairs are privately held to themselves, otherwise the ATO could release everybody's tax returns to everybody, to anybody who requests them, and that cannot be the case. In circumstances where this witness comes under compulsion to the Commission and is required to produce documents which are relevantly his personal information and his personal tax information, there is a public interest in ensuring that that be kept private so that people feel that when they come to the Commission and they can disclose this information that their personal private information be protected as it is by the legislation outside of this Commission.

40

THE COMMISSIONER: Sorry, the other legislation you're referring to, is that the provisions of the Income Tax Assessment Act which in a sense protects – sorry I'll start again, that prevents subpoenas being issued to the ATO to get people's tax returns, is that what you're referring to?

MR O'NEILL: No. I think that legislation is designed, with respect, I think that legislation is designed to take the burden off the ATO from producing numerous hundreds of volumes of tax returns. No, it's really the privacy legislation. So, the ATO is under an obligation not to release that  
10 information under the Privacy Act unless it's ordered to do so. Here, there's been no such order. All that's asked for is that this witness is being compelled to provide his tax information to you and he had done so, he's happy to answer questions in respect of that, but it shouldn't be a case where then he is required to disclose that publicly to everybody. That's the part that should be protected. If one takes an example, say for example we were in civil litigation, which he brought civil litigation and that that issue was relevant, then he had waived that right in relation to privacy but here he is never consulted in respect of that. He is under compulsion to produce it and he does but it's produced for a different purpose. There's no articulation as  
20 to whether this man is in trouble with the Tax Office. That's not really the relevant purpose for this inquest, inquiry. Rather, it's produced for a collateral purpose, and so his privacy, it's in the public interest that his privacy be protected. That's the long way of saying what I tried to do in a short sentence.

THE COMMISSIONER: All right. Thanks, Mr O'Neill. Mr Buchanan?

MR BUCHANAN: I have nothing to add to my earlier submission.

30 THE COMMISSIONER: I am minded to make the section 112 order. The order I've already made, Mr Buchanan, that will cover the address.

MR BUCHANAN: It certainly will.

THE COMMISSIONER: And Mr O'Neill, it's numerical details?

MR O'NEILL: It's the numerical details.

THE COMMISSIONER: All right.

40

MR O'NEILL: Thank you, Commissioner.

MR BUCHANAN: It's all numerical details.

THE COMMISSIONER: All right. I direct that the numerical details contained in the tax returns produced by Mr Chanine - - -

MR BUCHANAN: Tax returns plural.

THE COMMISSIONER: Sorry, tax returns, and any evidence about the numerical details contained in those tax returns shall not be published.

MR O'NEILL: May it please the Commission.

10 **SUPPRESSION ORDER: COMMISSIONER DIRECTS THAT  
NUMERICAL DETAILS CONTAINED IN THE TAX RETURNS  
PRODUCED BY MR CHANINE AND ANY EVIDENCE ABOUT  
THE NUMERICAL DETAILS CONTAINED IN THOSE TAX  
RETURNS SHALL NOT BE PUBLISHED.**

20 MR BUCHANAN: Thank you, Commissioner. Could I ask that we show in the screen, sorry, I withdraw that. First of all, I should indicate that the documents produced have been paginated for the purposes of document retention by the Commission so I can refer to particular page numbers. Can I ask that in the first instance, we view page 4, please. That's the first page, sorry, that is the first page to be completed of the tax return for the financial year, 2014-15. Do you see that, Mr Chanine?---Yes.

And if we go to, I think it's page 16, no, I apologise, page 10, you can see there was provision for you to sign the document as being true and correct. Do you see the field for that a bit over halfway down?---Yes.

And did you sign it as true and correct?---There is no signature there, so no, I haven't signed that.

30 Yes, I know. Did you sign your income tax return for 2014-15 as true and correct?---I'm sure I would have.

Thank you. Can I ask you to also go to page 11, that's the front page for the tax return for 2015-16. Do you see that?---Yes.

And if we could go then to page 15, please. Do you see that there's a provision in the middle of the page there for your signature declaring that the information contained in it is true and correct?---Yes.

40 Did you sign the document, the original document indicating that it was true and correct?---I'm sure I would have, yes.

Thank you. Can we go back, please, to page 5. Towards the top of the page can you see that there's a heading, Income, the numeral 1. Against that the words, "Salary or wages." Underneath that, the words, "Main salary or wage occupation," and underneath that the words, "Office worker?"---Yes.

You told the tax office that your occupation was office worker, you told us that your occupation was developer. Which is correct, or is it the case that neither of them are correct?---It would be the case that both could be correct.

How, when you say could be correct, I'm asking you what was the case, what was your occupation in 2014-15?---It would have been both property developer and as it states there, as my accountant would have put in that field, and office worker.

10

And as you signed as true and correct.---Yes, correct.

Why did you not tell the Commission last Monday that your occupation was office worker?---Because I didn't recall that that was what was written on my tax return by our accountant.

20

But if it was true and correct you must have recalled it. If it was the fact that your occupation in 2014-15 was that of office worker, how could you not have remembered that last Monday?---Because this is a document that's put in front of me which has recalled my memory as to what's written there three years ago. So my tenure in my lifetime of work is as a property developer, but that doesn't preclude any other items that I may or may not have worked in as well. My main tenure would be as a property developer.

Essentially you didn't tell the tax office what your true occupation was in this document, did you?---To the best of my knowledge I did.

30

A little further down under the heading, Employer, the words appear, "Chanine Design Pty Limited." Do you see that?---Yes.

Was Chanine Design Pty Limited your brother's company?---At the time it may have been his company.

What do you mean by that? How could it have been anything else?---It could have been owned under the direction of somebody else.

Yes, but was it the company operated by your brother?---Operated by? Yes.

40

The architectural services company?---Correct.

You told the tax office you were employed by your brother's architectural services company. Is that right?---That's correct.

Was that the truth?---It was.

That wasn't one of your family's special purpose vehicles, was it?---It may have been.

That's not a true answer either, is it?---It is.

Your brother's company, Chanine Design Pty Limited, existed to and in fact did nothing else other than provide architectural services and design services. Isn't that right?---Correct.

Now, why did you sign this tax return in 2015 indicating that your employer was Chanine Design Pty Ltd?---Because that's where my income would have been derived from.

10

But did you in fact work for Chanine Design Pty Ltd?---Yes.

Providing what architectural or design services?---I wouldn't have provided any architectural or design services. It would have been more of a managerial role of any development applications.

So were you managing the development applications which your brother lodged for him?---I may have.

20

Oh well, please, Mr Chanine, can you just take a deep breath and I'll ask the question again, thinking back to 2014-15, did you manage the development applications that were lodged by your brother Ziad?---I may have.

Why aren't you prepared to tell us what you in fact did in 2014-15 in this regard?---Because I can't recall exactly what it was that I procured in that period.

Mr Chanine, that's not an honest answer either, is it?---No, it is an honest answer.

30

THE COMMISSIONER: Sorry, you said you can't recall what you procured?---The work I procured in that period.

MR BUCHANAN: What do you mean, "Procured"?---Undertook.

You have no recollection of the work you did in 2014-15, is that right?  
---No.

40

What is the case then?---Sorry, that is right. I, I don't have a recollection - -  
-

You have no recollection of what you did in 2014-15, is that right?---No. Mr Buchanan, I would have undertaken multiple tasks in that period so to pinpoint one particular thing I did, no, I can't.

You know why you've been required to come and give evidence to this inquiry, don't you?---Of course.

And did the names on the summons that required you to attend mean anything to you?---Yes.

Did they spark a recollection of your connection with those names in the period 2014-15, for example?---Most definitely.

And so you now recall what you did in 2014-15 in relation to those people, is that right?---In relation to those people, yes.

10 Was that providing design work?---No.

To put it bluntly, you lied on your tax return for 2014-15 as to what you did to earn an income and as to being employed by Chanine Design Pty Ltd, didn't you?---No.

20 And looking at your tax return for 2015-16, page 11, that's the front page. Can I take you to page 12, please. Although the boxes are slightly rearranged, the data is the same. Under the heading Income, subheading Salary or Wages, sub-subheading Main Salary or Wage Occupation is inserted the words "office worker". You signed this document indicating that that was true and correct, didn't you?---Yes.

Yes or no?---Yes.

But in fact you weren't an office worker, were you?---I was.

You were a developer, weren't you?---I was a developer and I was an office worker.

30 You indicated against the word, "Employer," that your employer – sorry, that you were employed by Chanine Design Pty Ltd. Is that right?  
---Correct.

You signed that as true and correct?---Correct.

And you mean to say that you derived – sorry, that Chanine Design Pty Ltd paid you an income?---Correct.

40 That you received no income from any other source, is that right?---Correct.  
At that point in time, that would have been correct.

And what did you do in 2015-16 as an office worker for Chanine Design Pty Ltd?---It would have been the same role, managing development applications.

But not as an office worker, was it?---How would you define officer worker so I can answer that for you?

Well, maybe I should ask you. You are the person who said that this was true and correct. What did you mean by office worker when you told the Tax Office that that was your occupation?---That was doing work out of the Chanine Design office for Chanine Design.

So the general manager of BHP in your opinion is an office worker and should indicate that on their tax return should they?---I'm not sure.

10 MR O'NEILL: I object to that question.

MR BUCHANAN: I'm just trying to test the – sorry.

THE COMMISSIONER: I'll hear - - -

MR O'NEILL: I object to that question.

THE COMMISSIONER: Yes. Why?

20 MR O'NEILL: Well, firstly, there's no evidence that this person understands who the CEO of BHP is, why it's relevant, how it could possibly be within the rubric of this man's knowledge and to do so in what is verging now in a little histrionic sense to test the evidence. He's entitled to test the evidence but it needs to be contained in relation to how – in my respectful submission it needs to be contained in relation to the motion that can be, this witness can fairly answer.

30 THE COMMISSIONER: It's not necessary for Mr Chanine to answer the question to know the identity of the BHP CEO. I'm going to allow the question because I have to say, Mr O'Neill, I am concerned with some of the answers we're getting at the moment. I don't think this witness is being truthful at the moment and I'm going to allow Mr Buchanan to ask that question.

40 MR O'NEILL: May it please. It may well be, Commissioner, that the way in which the questions are framed is why it is that you're getting the answers which you're getting and that is of course Senior Counsel Assisting the Commission's craft but if they were asked in an open, a more open way it may well be that Mr Buchanan could get some answers that would be a little bit more helpful because the witness isn't, in my respectful submission isn't trying to be evasive.

THE COMMISSIONER: Well, I'll let Mr Buchanan ask the questions in the way that he wants to ask.

MR O'NEILL: May it please.

MR BUCHANAN: So it would have been wrong would it for your brother to have described himself as an architect. He should have described himself

as an officer worker should he?---That's not my, that's not my decision what he does and doesn't disclose himself as.

But I'm asking for your opinion. It would have been wrong for your brother to have described himself as an architect. He should have described himself as an office worker should he?---If he was working as an architect most definitely.

He should have described himself as?---An architect.

10

And if you were working as a developer you should have described yourself as a developer shouldn't you?---I'm going off the advice of what my accountant put on the tax return.

But you're the one who signed it as true and correct aren't you?---Correct.

20

You didn't question your architect as to whether this was a correct or appropriate – I'm sorry. Thank you. You didn't question your accountant as to whether the words "office worker" were a true and correct or appropriate description of your occupation for the years 2014/15 or 2015/16 did you?---No, I didn't question him.

And in 2015/16 was Chanine Design Pty Ltd one of your family's special purpose vehicles?---Yes.

And in what way?---As an architectural firm.

30

Yes. You didn't – I withdraw that. When you've used the words "special purpose vehicle", it wouldn't have been correct to understand them to mean a company that was used for a particular project would it?---Sorry, can you ask that question again.

Yes. You've used the words "special purpose vehicle". Correct?---Correct.

And didn't you intend that those words denote a company that was used for running a particular project?---From the development perspective, yes.

40

Excuse me a moment. Now, in response to the Commission's 2 July requirement directed to you to produce documents, your solicitor has produced some other documents apart from those two tax returns. I could ask that we have a look, please, at page 16 and then 17 and then following. So on the screen if we could just blow it up a little bit larger, a little bit – thank you very much.

MR O'NEILL: Sorry, Commissioner, can I make an application in respect of this document. It's slightly different to the application I made before but again under 112 of the Act.

THE COMMISSIONER: Ah hmm.

MR O'NEILL: The substance of this email is, I'm instructed, and it may well be that, Commissioner, you wish to take evidence from the witness on this, but I'm in your hands, will be the subject of pending litigation in the Supreme Court. We seek a non-publication order in respect of the contents of this document. It would not be information which would be disclosed other than under compulsion by the Supreme Court in that litigation and revealing it now, or revealing the details of it now may in fact create a difficulty in respect of the strategic purpose of that litigation. So the public utility is recognising that there are rights that ought to be protected by private citizens in their commercial dealings. I'm happy for again the Commission to explore the details, but we simply seek a non-publication order in respect of, in respect of the contents of this document.

THE COMMISSIONER: What's the litigation?

MR O'NEILL: The litigation is in – again I'd need to seek a non-publication order in respect of the submission that I'm about to make, if, if I could at least have an interim non-publication order in respect of the submission. I'm deliberately being cautious because if it is that the Commission says you're not getting, you're not going to get your non-publication order, then anything that I say just contributes to the problem that I'm trying to protect.

THE COMMISSIONER: Can I ask, is the litigation on foot?

MR O'NEILL: No.

THE COMMISSIONER: So it hasn't even been commenced?

MR O'NEILL: No. But the parties, the parties are in dispute.

THE COMMISSIONER: And Mr Chanine is going to potentially be what, a plaintiff or a defendant?

MR O'NEILL: Plaintiff.

THE COMMISSIONER: A plaintiff. Mr Buchanan, do you have a view on this?

MR BUCHANAN: Commissioner, I would submit that there is a public interest in the due administration of justice and that parties should not be deterred from accessing the courts by reason of a concern that there will be some sort of retribution or other adverse impact on them which would deter them from accessing the courts. That much I would concede, that there would be a broad rubric which would properly ground an order under section 112 in relation to this general subject matter. On the other hand I'm

not, my submission is that, Commissioner, you haven't heard enough to indicate that the publication of the contents of this document would themselves mean that a party would be deterred from accessing the courts. Now, that doesn't mean to say that that couldn't occur, but it might mean that a little bit more has to be provided to satisfy you, Commissioner, that a section 112 order should go in this particular case.

THE COMMISSIONER: I agree with that submission. Can you develop it further?

10

MR O'NEILL: Not without, not without some protection in respect of it, and I think, to be fair, I think the person who should develop it, should take it on evidence on what would in an ordinary sense be a voir dire.

THE COMMISSIONER: A voir dire.

20

MR O'NEILL: But I'm trying to avoid that because I understand that the Commission's time is very valuable and there are probably more important things to continue on with, but if it is that that is the process that I'm required to do, then that would be my application, that we switch into private and do a private examination mode, I ask the witness questions, Mr Buchanan will get a chance to cross-examine and then I can re-enliven the application under 112.

30

MR BUCHANAN: Before that application is made, I would concede that an interim non-publication order in respect of the submission that Mr O'Neill is about to make would be appropriate to be reviewed after the submission has been made and any ruling given, if that would facilitate matters.

40

THE COMMISSIONER: If I make such an interim order, Mr O'Neill, will that facilitate and get us moving on this?

MR O'NEILL: The danger of the interim order is that if it is that it's lifted, then I have done – I have put my client in a position where the information that I'm about to give you, which is not public and may not become public by Mr Buchanan's questioning in relation to this document, I have put that on the record and now there is no protection for my client. So that's the bind I'm in and that's why I think, with respect, and I'm grateful for my learned friend trying to come up with a creative idea, but I think the only way to really do it is for there either to be a (not transcribable) because it can't be that I say something that then puts my client's strategic position in the litigation in jeopardy.

MR BUCHANAN: My friend and I have used the word interim. In fact there is of course no provision for interim orders and any order made can be

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THE COMMISSIONER: Revoked.

MR BUCHANAN: - - - varied or revoked. And so perhaps my submission is that it would be appropriate, in my respectful submission, for an order to be made but, as I say, I can't bind and the Commissioner – you, Commissioner – can't bind yourself as to the course you might take. It's all governed by the public interest.

10 THE COMMISSIONER: Mr O'Neill, I just feel you want your cake and you're trying to eat it as well. To make your submission, I will make an order under section 112, ordering that your submissions on why this document and any questions – sorry, I should just confirm, your first application under section 112 was over this complete document?

MR O'NEILL: Over the complete document.

THE COMMISSIONER: All right. And is that it?

20 MR O'NEILL: That's it for the moment. I can't make applications in respect of information that's not placed because then there is no substance to what I'm about to say. I've got to wait, unfortunately, the way in which I understand the law to work in respect of 112 is I have to wait until something's placed and then make the application for the nonpublication order.

30 MR BUCHANAN: Can I just – this is not actually going to assist but it might just nail things down. I tender the bundle of documents numbered 1 to 21, being copies of the documents produced by Mr Marwan Chanine's solicitor last Thursday, of which this is page 16.

THE COMMISSIONER: And that tender is subject to the section 112 order I've already made on numerical details.

MR BUCHANAN: It certainly is.

THE COMMISSIONER: From the two tax returns and you now make an application – it's page 16, is it?

40 MR BUCHANAN: Yes.

THE COMMISSIONER: Mr O'Neill?

MR O'NEILL: So, I make an application, that 112 application in respect of 16, oh, mine's not numbered so I'm just going to guess, 16 – thank you, I'm grateful – 16 and the numerical detail in 20 and 21. Not the identity of persons who are paid because I understand that may well be relevant.

MR BUCHANAN: And, Commissioner, can I just make sure that we're all on the same page. I am respectfully submitting that it is an appropriate – first of all I tender it and if, Commissioner, you are minded to accept the tender if it be subject to a 112 application in respect of those pages identified and the submissions that are going to be made by Mr O'Neill to support that order remaining in place in respect of those pages.

10 THE COMMISSIONER: Could I just see pages 20 and 21, please? Oh, it's the spreadsheets, is it? To try and progress things, what I'm going to do is make an order under section 112, protecting pages 16, 20 and 21. What I was going to propose is let's then hear the evidence because it may be that you want to make another – expand what you are seeking and then when I've heard all that, I may seek further submissions from you as to whether I should vary or revoke the order.

MR O'NEILL: It seems sensible to me, Commissioner. Thank you.

20 THE COMMISSIONER: All right. I make an order under section 112 of the Independent Commission Against Corruption Act that the contents – sorry, I'll start again. I'll mark it as an exhibit then I'll make the 112 order. So the bundle of documents produced by Mr Chanine consisting of pages 1 to 21 will be Exhibit 118.

**#EXH-118 – MARWAN CHANINE INDIVIDUAL TAX RETURN  
FROM 01/07/2014 – 30/06/2015**

30 THE COMMISSIONER: And then I direct that the particular contents of Exhibit 118 being pages 16, 20 and 21 not be published.

**SUPPRESSION ORDER: COMMISSIONER DIRECTS THAT THE  
PARTICULAR CONTENTS OF EXHIBIT 118 BEING PAGES 16, 20  
AND 21 NOT BE PUBLISHED.**

MR O'NEILL: May it please.

40 MR BUCHANAN: Thank you, Commissioner. Now, Mr Chanine, just so that you know what we're doing, what I'm doing is putting in front of you the page numbered 16 from the bundle of documents that were produced by your solicitor last week which has now been marked by the Commission Exhibit 118 and the email I put in front of you is dated 2 September, 2016 from Mr Barakat to you. Do you see that?---Yes.

Excuse me a moment. Mr Barakat I think indicated that he – oh, yes. Towards the bottom before the word “cheers” he indicated that he had attached an updated spreadsheet. Is that right?---Correct.

And then that spreadsheet, if we can go to that, please, was attached. And we’ll see if we can turn it around. Now, that’s of course not legible unless we enlarge a particular part of it but I’d like to take you to particular parts of it but in relation to that email date which was 2 September, 2016, did you look at this spreadsheet?---Yes, I would have.

10

And did you review it, that’s to say, not just see oh yes, there’s a spreadsheet, did you actually look at what it set out?---I wouldn’t have looked at the detail of every line, just the headline items.

Right. What would you have regarded as the headline items?---Any money that was put into the partnership and any money that was, apart from the process of invoices or bills, the money that was returned to the parties.

20

Did you form a view that the spreadsheet was an accurate representation of cash flows for the BBCS Unit Trust partnership as at 2 September?---Yes.

And has anything happened since you received the spreadsheet to change your mind about that, that’s to say, as to whether it’s an accurate representation as at 2 September, ’16?---To the best of my knowledge nothing has changed, no.

30

I’ll take you to some just particular details. If we go towards the bottom of the page, of the first page, please, and can you see there items “transfer to Barry DAG 18 November, 2015”?---Yes.

And under the Barry column is a negative item of \$340,000?---Yes.

The next item “transfer to Simon – Havly” H-a-v-l-y. That was his company. Is that right?---Correct.

On 20 November, 2015, again a negative item of \$340,000. Do you see that?---Yes.

40

And you see transfer to Bechara – B&H Bech, B-e-c-h, 20 November, 2015, negative item of \$340,000. Is that right?---Correct.

And then transfer to Chanines – Karantina, K-a-r-a-n-t-i-n-a, 20 November, 2015, a negative \$340,000. Do you see that?---Yes.

And that was a total of, by my calculations, \$1,360,000. Do you see that?---Yes.

And is that the respective shares of the item immediately above transfer to Barry on 18, sorry, on 13 November, 2015, deposit for assignment of option to, and then what's indicated is "Toplace," T-o-p-l-a-c-e. Do you see that?  
---Yes.

And the item is for \$1,376,000. Is that right?---Yes.

What was Toplace, if I pronounce it correctly?

10 MR O'NEILL: Commissioner, I may just indicate we are now into the area in which the litigation is about, so these questions are now directed to both whatever Mr Buchanan's purpose is, but also in relation to the application. I understand all of this is covered by the application in any event, but this is the information that you were after I think, Commissioner.

THE COMMISSIONER: All right.

MR BUCHANAN: Well, first of all I withdraw that question and just ask a preliminary question if I may. What was the transaction involving the  
20 deposit for assignment of the option to the entity indicated by the name Toplace?---The transaction was the sale of the Doorsmart site.

Of the Doorsmart site.---The Doorsmart site.

In total?---In, in its totality, yes.

And then the distribution of the proceeds of that sale to the four members of the partnership. Is that right?---Correct. Sorry, those were not the entire  
30 proceeds, those were the proceeds of a deposit that was released.

Right. And thus the word deposit?---Yes.

What, sorry, was the balance of the proceeds represented in this spreadsheet?---No.

Who received the balance of the proceeds?---They have not been paid yet.

Now, did the unit trust holders enter into a deed to assign the option?---Yes.

40 Now, on Monday last, page 1831 of the transcript, lines 7, 25 and 46, you indicated that Mr Khouri was an actual partner in the trust. Is that right?  
---Correct.

And when the properties were acquired by option, Mr Khouri was a partner at that stage and he had an interest in the partnership from the outset?  
---Most definitely, yes.

And that's consistent with the entries that are in this spreadsheet. If I can take you, not only to the ones we just looked at around 18 and 20 November, but also to the top of the first page of the spreadsheet, around 23 September, please. Sorry, 23 September, 2014. Thank you. Under the heading, Description, fourth row, deposit of funds, Bechara (paid into BB) account, 23 September, 2014, \$50,000. Do you see that?---Yes.

10 And there are similar items in the fifth row, the sixth row, and then possibly also the seventh row, payment of option fee – exchange (paid by BB cheque) balance of fund on 1 October. And then a few items down can you see, “Deposit of funds, Bechara, deposited into BB account at NAB and Trans,” T-r-a-n-s, against the date 20 October, 2014, and it's the sum of \$30,000. Do you see those items?---Yes.

So all of those items that I've taken you to in respect of Mr Khouri indicate that he was indeed a paid-up member of the partnership from the outset. ---To the best of my knowledge he sure was.

20 I'm sorry?---To the best of my knowledge he sure was, yeah.

Would you just excuse me a moment, please.

Commissioner, I make an application for a variation of a section 112 order in respect of evidence given in a hearing to the Commission on 28 February, 2018. Page 1407 going over to page 1408, and the application is to vary the order to exclude the material commencing at line 34 on page 1407 and continuing to and including line 16 on page 1408.

30 THE COMMISSIONER: Yes. Under section 112 of the Independent Commission Against Corruption Act I vary the non-publication order made on 28 February, 2018, to exclude the evidence given by Mr Chanine commencing at page 1407, line 34, and going through to page 1408, line 16.

40 **VARIATION OF SUPPRESSION ORDER: UNDER SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT I VARY THE NON-PUBLICATION ORDER MADE ON 28 FEBRUARY, 2018, TO EXCLUDE THE EVIDENCE GIVEN BY MR CHANINE COMMENCING AT PAGE 1407, LINE 34, AND GOING THROUGH TO PAGE 1408, LINE 16.**

MR BUCHANAN: Mr Chanine, I'm going to read to you from the transcript of evidence that you gave to the Commission on 28 February, 2018, and I'd ask you to listen to my reading of this extract from the transcript and then I'll ask you a question about it. The extract reads, Question. “Do you know a person called Bechara Khouri?” Answer. “Yes.” Question. “I think we mentioned him earlier. What's your

relationship with Mr Khouri in the last five years?" Answer. "I've known Bechara for the last 16 years and I've got a very strong business and social relationship with him." Question. "And when you say a business relationship, what's the nature of the business relationship?" Answer. "Sometimes he consults for me as a planning manager but in some projects he's been a shareholder as well." Question. "Has he been a shareholder in any projects in the Canterbury local government area?" Answer. "The project that I mentioned earlier at 433 Canterbury Road, he's a shareholder there." Question. "Do you know how much, what is the quantity of his interest?" Answer. "In that particular project, 25 per cent." Question. "And what's your interest in that project?" Answer. "25 per cent." Question. "Did Mr Khouri" – and then the Commissioner intervened. "Sorry, would that have been through another special purpose company?" Answer. "No doubt, yes, yeah." Question. "And do you recall the name of that company?" Answer. "No, I'm not sure." And then Ms Ellis resumed questioning. Question, "Did Mr Khouri have an interest at all in 212-218 Canterbury Road?" Answer. "Not that I'm aware of, no." Question, "What about 220-222 Canterbury Road?" Answer, "No." You gave that evidence to the Commission on 28 February, 2018?---Correct.

20

It wasn't correct was it?---At the time it was correct but since the time and since being here for the last few days no, it's not correct.

It was false evidence when you gave it on 28 February, 2018 wasn't it? ---No. To, just to explain, to the best of my knowledge at that time I couldn't recall whether Bechara was or was not involved and my recollection at the time was that he wasn't because there are multiple projects that I've undertaken with this group of people where some Bechara has been involved and some he hasn't been involved.

30

There were only four members of the partnership. Is that right?---Yes.

And you had forgotten that Bechara was one of them, your good friend? ---Yes, because I couldn't recall whether on that project he was an actual partner or whether he was actually consulting.

I want to suggest to you that that evidence is also not true?---No.

40 When you gave evidence on 28 February were you trying to conceal from the Commission Mr Khouri's financial interest in the project?---No.

You gave evidence that you met Mr Hawatt at the Canterbury Leagues Club. Do you remember giving that evidence?---Yes.

How many times did you meet him there?---Possibly two or three times.

And when you met him there was there anyone else present on any of those occasions?---Yes, there was.

On how many of those occasions was someone else present?---I think it was all, all occasions.

So thinking of the first occasion, when was that?---I, I honestly can't recall. I do recall the meetings quite clearly but the timing of them I really can't recall.

10 All right. Can you tell us about the first of the meetings, please?---Whether it was the first or the subsequent or then subsequent after I can't recall the actual timing.

Can you tell if that's - - -?---In, in chronology, sorry. So I don't want to be seen as trying to evade any questions. I can recall the meetings quite clearly but whether it was the first or the third - - -

20 What was the subject of one meeting?---The subject of the first meeting that I would have organised with Michael at Canterbury would have been about the Doorsmart project.

And who was present apart from you and Mr Hawatt?---I think that may have been one of the meetings where there was nobody present.

30 THE COMMISSIONER: I thought you said at all occasions somebody else was there?---There, there was potentially one occasion where nobody else was there. Sorry, I'm trying to, because there were multiple meetings at that same place there's different factions within that club and we did sit and meet at different areas so I'm just trying to put together my recollection as to where we sat and, and who was there and what was discussed.

MR BUCHANAN: How many meetings did you have with Mr Hawatt at the Canterbury Leagues Club about the Doorsmart project?---It would have been one or two.

On the occasion of the other meeting about the Doorsmart project with Mr Hawatt who was present?---It would have been a gentleman called Godfrey Vella.

40 Was there any other meeting that you had with Mr Hawatt about the Doorsmart project at the Canterbury Leagues Club?---No.

What other subject was discussed at any meeting you've had with Michael Hawatt at the Canterbury Leagues Club?---Just to make it completely clear, in the presence of anybody else I wouldn't discuss anything on the Doorsmart project with Michael so of the, to the best of my knowledge of the two meetings one was not in the presence of anybody else so we would have discussed the Doorsmart project. The other time would have been an intention to discuss the Doorsmart project but because there were other

people around I didn't like to discuss the project with Mr Hawatt at that time and any other meetings that were held there would have been with regard to Michael's property in Penrith and potentially another meeting was organised with Mr Vella and Michael to discuss Mr Vella's business.

So how many times were you at the Canterbury Leagues Club with Mr Hawatt and discussing the property at Penrith?---It would have been once.

10 Why did you have a meeting with Mr Hawatt at the Canterbury Leagues Club and discuss the Doorsmart project?---No particular reason.

Was there a reason why the meeting was held at Canterbury Leagues Club rather than, say, council chambers?---No. No particular reason.

Whose idea was it that the venue for a meeting to discuss the Doorsmart project be the Canterbury Leagues Club?---I can't recall. It would have been his or mine but I just can't recall.

20 Why would you have suggested the Canterbury Leagues Club rather than council chambers?---No particular reason.

Did it surprise you that Mr Hawatt was happy to discuss the Doorsmart project outside of council chambers?---No, it didn't surprise me.

Why not?---It just really didn't surprise me.

Well, is that because you discussed your business with him on other occasions outside of council chambers?---Quite possibly.

30 When you say, "Quite possibly," do you mean yes?---Yes, I do.

Thank you. When did you first have contact with Pierre Azzi about the Doorsmart project?---It, it would have been sometime in 2015.

Can you recall whether it was about a particular stage of the project or a particular development or event that spurred the conversation?---Sorry, I'm taking time. I'm just trying to think about it.

40 That's okay. Take your time.---It would have been around the time of the assessment of the particular development application and, if I was to speculate, it would have been about three-quarters of the way through the application process.

Yes. And thinking of your contact with Councillor Azzi about the Doorsmart project, to what extent was the contact face to face, to what extent was it over the phone?---Most of the contact would have been face to face.

And when you had face-to-face contact with Councillor Azzi about the Doorsmart project, where was that contact had, what was the venue?  
---Majority of the time, it would have been at Mr Azzi's house.

And why was the contact had there rather than say, the Canterbury Leagues Club or council chambers?---Good question. I, I don't know, I've never thought of that to be honest. I was invited to Pierre's house on occasions and that's where I guess we would have a discussion but a lot of the, the meetings there were social.

10

Did you go to Councillor Azzi's house in order to discuss the Doorsmart project or did the subject just simply come up in conversation?---I, I recall once where the Doorsmart project was a subject topic. The other times, it, it may have just been brought up in conversation.

Now, all my questions are endeavouring to get from you your best recollection, of course, but what is your best recollection of how many times you had contact with Councillor Azzi about the Doorsmart project?---I, I wouldn't be able to pinpoint the number.

20

Is that because there were quite a few?---There may have been quite a few or there may not have been. I, I honestly can't recall.

It certainly was more than one occasion?---Most definitely more than one.

And can I ask you this, did you ever get any indication from Councillor Azzi of an intention on his part to do something in relation to what you were raising with him about the Doorsmart project?---Yes.

30

How many times did he indicate to you that he was prepared to do something or intended to do something in relation to what you were raising with him about the Doorsmart project?---On all occasions.

And was that why you had approached Councillor Azzi in the first place, to get him to do something?---It wasn't the intention all the time for him to do something but it, it was a, it was a process that did transpire, that he would action something.

40

But I take it you spent your time talking with Councillor Azzi about the Doorsmart project because you thought it was a useful use of your time, is that fair to say?---Yes.

And you thought it would advance your interest in the project, would that be fair to say?---Fair to say, yes.

Did Councillor Azzi ever do something about what you were raising with him in your presence, such as turn to somebody else and say something or make a telephone call or write on a document?---Yes.

He did?---He, he would have made a telephone call in my presence.

And how many times did he do that?---To the best of my knowledge, it was once.

10 And what was that occasion? Sorry, I withdraw that. You can't recall when, I take it, but what was it about?---It, it was at Councillor Azzi's house. I can clearly recall that and I can clearly recall that I was trying to get a message across to him about my development application on the Doorsmart project.

And what was the message?---That I felt we weren't – there were particular items that weren't being assessed fairly.

20 And what was the particular item or items?---I think it had something to do with the setbacks. I can't recall whether it was a side setback at the time or a front setback because setbacks became an issue two or three times. And this, the term "setbacks" I use quite loosely because one of the main reasons we first ventured into this project was because we found there were issues in council's documents on this site with regards to setbacks. So, that's why the setbacks were a very, very big thing for me with regards to this project but I think it was the – I may be guessing but I think it was with regard to the front setbacks where I felt we were not being treated fairly.

30 And what do you recall Councillor Azzi doing?---He definitely made a phone call about the matter. I can't recall whether it was to Spiro or to Jim, but he definitely made a phone call about the matter asking it, it be looked into further, as his understanding was it wasn't being looked at fairly.

And was this an occasion where anyone else was present?---No. There wasn't anybody else there.

Was your brother present?---Not at that time, no.

And had you previously endeavoured to have that issue addressed, let's say it was front setbacks, with Mr Stavis to Mr Montague?---Quite possibly, quite possibly.

40 Well, my question is why did you raise it with Councillor Azzi when you had available to you Mr Stavis and Mr Montague?---I would have worked up the chain, so to speak. So, if it was an issue that I'd raised with either Spiro or Jim and I wasn't receiving what I thought would be fair feedback or fair criticism, I'd then turn to Councillor Azzi for his assistance.

Could you explain to us, please, why were setbacks an issue for you?

---Sure. If I, if I can take it back to probably 2014 when we were first looking at this site. This site was brought to me by one of my partners as an opportunity for us to look into and through - - -

10 I'm sorry, I am going to interrupt and I do apologise. It's my mistake. I asked you a question which invited that answer. I'll reframe it. Given that setbacks were raised as you've described them in council documents and you saw them as an issue for you, how did they affect you? Why was it an issue? Do you understand what I'm asking?---Yes, I do, yeah. It would have affected any potential yield that could be achieved on the project.

Now, thinking of that particular occasion where you can recall Councillor Azzi making a phone call to either Mr Stavis or Mr Montague after you had ventilated the issue with him, had you previously raised it with Councillor Hawatt?---I can't recall.

20 Was there a reason why you raised it with Councillor Azzi as against Councillor Hawatt?---No. I can't recall if I did raise it with Michael Hawatt. There's no doubt I would have pronged both the councillors about certain issues.

Was Councillor Azzi a person you approached more frequently than Councillor Hawatt over issues with council in relation to the Doorsmart project?---Yes.

And why was that?---I felt more comfortable with Mr Azzi.

And why was that?---Um - - -

30 Sorry, I'll ask a different question. I withdraw that question. What was it about Councillor Azzi that made you feel more comfortable dealing with him than dealing with Councillor Hawatt?---Councillor Azzi was someone that I had known of first and foremost through the community, through our church community as well, so that's where I drew the comfort from and after meeting with Pierre Azzi time after time after time I, I actually grew, grew, for lack of a better word, friendly with Mr Azzi so that's where the comfort came from. He was someone that I, I felt easier approaching as opposed to approaching Councillor Hawatt on that constant basis.

40 Now, can you recall any earlier occasion than the occasion when you raised setbacks, possibly front setbacks with Councillor Azzi and he did something, made a phone call in front of you on that occasion, can you recall any earlier occasion that you raised an issue in relation to the Doorsmart project with Councillor Azzi?---I can't recall. There may or may not have been, I'm not just not sure, but that recollection stems clear in my mind.

Now, thinking if you can, please, of your contacts with Councillor Azzi in relation to the Doorsmart project and then thinking of your broader business of conducting development in, proposed developments in the local government area, the Canterbury local government area, were there other projects on which you were working that you also talked to Councillor Azzi about with a view to solving issues either that are raised or that you thought might arise in relation to a project?---Yes.

10 How many other projects?---Sorry, I'm just trying to count them through the suburbs.

That's okay.---Potentially six other projects.

And all of them before the Doorsmart project or some of them after?  
---Some would have been before, some during and quite possibly some after.

20 And did you talk to Councillor Azzi about issues in relation to the Doorsmart project more than you did in relation to any other project that you raised with Councillor Azzi?---I would say yes. I would say yes, I would have.

And can you just give us a brief explanation, if you can, please, as to why you think that was the case, why more so with the Doorsmart project?---Oh, it was the largest project in that particular LGA that I was managing at the time or that I had involvement with at the time, so there was a lot more at stake than the other projects.

30 Okay. Now, can I ask you similar questions, please, in respect of Councillor Hawatt. How many occasions were there where you had contact with Councillor Hawatt about the Doorsmart project?---There would have been a couple of occasions. Once or twice in person, maybe three times in person, quite possibly over the phone, via email, via text, there would have been multiple communications.

And did you approach Councillor Azzi, going back to him, with your brother when you spoke to him face-to-face?---There was one, there was one instance where I clearly recall it, yes.

40 And what occasion was that, sir?---It was a particular occasion, it would have been very, very close to the, the finalisation of the application where I was at Pierre's house, at Pierre Azzi's house, trying to articulate some issues in the council report that I wanted him to look into for me, and I couldn't quite articulate them the best way, so I sought the attendance of my brother to come to Pierre Azzi's house and try and explain it to him because he had procured or his office had procured the actual amendments that the report was referring to.

And was that an occasion when anyone else was present at Mr Azzi's house?---It may, there may have been other people there. I, I, I just can't recall. Sorry, I'm trying to picture that occasion. I think Bechara was there at the time, and yeah, apart from any of Pierre's family members, I think Bechara was there at the time.

And was he there because he'd come with you and your brother or was he there independently of you and your brother?---He, he was already there independently prior to my arrival.

10

And do you know why he was there?---No. I, I assume he was eating because Bechara ate at Pierre's house a lot.

Were there occasions when you and your brother jointly approached Councillor Hawatt and had a face-to-face meeting with him about the Doorsmart project?---Not that I can recall.

Now, I want to go back to Mr Khouri and his involvement in the partnership, please. Did he ever to your understanding have an interest in the partnership by reason of a contribution he was making of a non-pecuniary kind, that is to say, other than a financial stake?---Apart from his role in helping me with the day-to-day management of the application, no.

20

Did he have an interest in the partnership by reason of his relationship to Councillor Hawatt or Councillor Azzi?---No.

And what was it that Mr Khouri did to help you in the day-to-day management of the applications?---The biggest thing and the, the most contributing factor that Bechara brought was being able to organise meetings for us and having the ability to organise the meetings promptly.

30

Meetings with whom?---People such as the GM who was not always easy to organise a meeting with.

Did you understand Bechara to be a friend of Jim Montague's?---Yes.

Was there anyone else that Mr Khouri organised meetings with?---With Councillor Azzi and with Councillor Hawatt, yes.

40 Anyone apart from those two councillors and the general manager?---No.

So the approaches to Mr Stavis were made by yourselves, you and your brother directly?---To the best of my knowledge, yes.

And were there approaches made to anyone else at all by Mr Khouri than the two councillors and the general manager?---Not that I'm aware of.

And this work was done by Mr Khouri, was it, with as you understood it any prospect of remuneration specific to the work he was doing - - -?---No.

- - - as against his financial interest in the partnership?---No.

So during the currency of the Doorsmart project or at any time afterwards, has to your knowledge Mr Khouri ever received remuneration for efforts that he made in relation to the Doorsmart project?---No.

10 Now, can we go back to the spreadsheet, please, which is I think page 20 of Exhibit 118, and if we can look in the top left-hand corner, we went through the entries for deposit of funds on the part of Mr Khouri, Mr Srour and Mr Barakat. Do you see those items?---Yes.

Is there an item there for deposit of funds on your account?---There would be further down.

I can see underneath the yellow highlighting is RTGS fee for Chanines funds transfer. That wouldn't be the deposit?---No.  
20

Is it referable to the deposit - - -?---Yes.

- - - that you're thinking of?---Yes.

It is. And can you indicate to us is that shown on the screen at the moment? ---Yes, it's the line above it that's highlighted. That's part of it.

Thank you. If we go along that line we can see that there's an indication of \$42,000, my mistake, yes, \$46,200 by way of expenses. Do you see that?  
30 ---Yes.

That's the item you're talking about?---That's one of them, yes. Yes, it's tied to them.

Well, it's expenses though, not a deposit referable to equity.---Yeah. If I can clear that up.

Yes.---You cross-reference this table with the written email.

40 Yes.---It clearly depicts what each item is and, and what it relates to. So if you can look at the two in tandem I can talk you through it.

Okay. If we could go then to the preceding email. So this is the email - - -?---Yeah.

- - - of Friday, 2 September, 2016, from Mr Barakat to you.  
---Yes.

To which we can see Doorsmart cash flow's spreadsheet attached.  
---Yes, correct.

Which Mr Barakat's has handily given numbers to the various paragraphs.  
---Correct.

10 Which number will you take us to?---To be honest, if you start at item 1 and work your way through to item 8 it should clearly depict any contributions that are made towards the project from the Chanines, and the way we operated our structure in this joint venture was for a certain amount of our equity we used Ziad's architectural services in lieu of cash equity that we would inject. So - - -

We being you and your brother?---We being the Chanines, in inverted commas.

Is it more than you and your brother?---It is, it is my father who was the shareholder through the family trust.

20 And you and your brother?---Yes.

Yes.---So what we did in this particular project, which is not uncommon with what we do in other projects is rather than contributing cash to the joint venture and that joint venture then paying Chanine Design for its fee at that point in time, in order to assist with cash flow we would use the architectural services of Chanine Design in lieu of equity to contribute our shares. So in this particular project at the time, and this is all fresh in my mind because I was able to dig all this up last week, each party agreed to contribute an amount equally and because the architectural fees were an amount higher than what each party needed to contribute equally, a payment was made from the group to Chanine Design in order to make it equal across the board in relation to what equity had been invested.

30 So if we go to two documents after this email at page 18 and there's an invoice there from Chanine Design dated 25 February, 2015. Do you see that?---Yes.

And it's for \$46,200.---Yes.

40 Was a payment made for a proportion of that invoice or for the whole invoice?---That entire invoice was paid. So that entire amount of \$46,200 was paid to Chanine Design and at the time of that payment that would have equalised the amount of equity that each party has contributed.

And what happened after that payment was made in respect of your equity, you and your brother's and your father's equity?---It would have equalised at that point in time.

Yes. Thereafter what would have happened so far as the contribution to the project?---Yeah, yeah. So if there were further design amendments, which there were, that would be charged accordingly and that was further used as further equity along the way and then subsequent to that as well there were no further design or architectural design services required. There was a minor cash contribution from our part later on in the piece.

10 There hasn't been produced by you any invoice other than this invoice of 25 February, 2015. Was there another invoice or were there other invoices?  
---No.

How then was the subsequent equity which was in your favour and your brother's favour and your father's favour accounted for?---To the best of my knowledge it should have been provided to you but in lieu of that there was a figure of \$11,000 which was transferred from Karantina to the joint venture account.

20 Thank you. Mr O'Neill has drawn my attention to page 17. Is this the document you're referring to?---No.

Excuse me. Mr O'Neill is quite right. I just should be looking at the exhibit rather than my copy. Thank you. Page 19. Is that the right document?  
---Yeah, correct.

And that's a Commonwealth Bank receipt from \$11,000 from Karantina to Arguile dated 4 April, 2016. Is that right?---Yes.

30 Excuse me a moment. Did you and your brother have joint equity in the project?---Sorry, what do you mean by joint equity?

Well, the difficulty is that the invoice is from your brother's company or the company your brother operated.---Yes.

It's not from you. Is that right?---Correct.

But you were seen as having been a partner in the project.---Yes, correct.

40 So how was your personal interest in the project protected?---As I think I may have stated last time I was here, there was no assurance that my personal equity – sorry, my personal share was secured, but I would assume it was secured through our family trust. And as I said last time, I would strongly like to think that I'm a beneficiary of that trust that is run by my father, but because it is a discretionary trust it is at the discretion of the trustee who and where funds are allocated to if a profit is made.

Would you know of any reason why the trustees would not have distributed funds to you in respect of the Doorsmart project?---Only for the fact that no money was made that no funds would have been distributed to me.

Was there an agreement, a written agreement, as to equity in the project on the part of you or your brother or your brother's firm?---There wouldn't have been a written agreement but there – if I can elaborate on that through my understanding of how our accountants have set up the structures in order to help us with cash flow. The general rule of thumb that I undertake with Chanine Design is that they will put their architectural services into a project, and one that project is then realised by either onselling the project or taking the project into construction phase, Chanine Design would be paid on invoice the amount equal to their architectural services. So - - -

THE COMMISSIONER: By whom?---Sorry?

By whom?---By the special-purpose vehicle that would have been established for a particular development. So if I can take you and use this Doorsmart project as an example. It would, it would have always been the intention that Chanine Design get paid its full fee for this project through the Chanine Trust once the project is onsold or moved into development phase. Because the project's onsale is sitting in abeyance, an invoice for the balance of work has not been raised. So there are other projects that we work on where we would have onsold a project and then Chanine Design would have invoiced for it and been paid at that later stage, rather than at the DA preparation stage, and there are other projects that we've taken through to construction that they get paid once a project starts construction.

MR BUCHANAN: Thinking of the protection of the interests of the other three members of the partnership in the Doorsmart project, what control was there that they could exercise over the value of the architectural services claimed by your brother's firm in this arrangement?---Sorry, can you ask that question again?

A bare invoice for 42,600 was rendered in this case.---Yes.

How did the other three members know that they weren't being gouged?---It would have been through an agreement, and in this venture most agreements are verbal because it would have been approximately our sixth or seventh venture at the time. So there would have been an amount nominated by Chanine Design saying this is how much the architectural services would be and everyone would agree on that from the outset and then we'd move into how it gets broken up and when and how it gets paid.

In the case of the Doorsmart project, was there such an agreement at the outset?---Most definitely, yes.

And so was the sum of 42,600 agreed between the partners, you say, of the project before your brother's firm started performing work on the project? ---No, there would have been a – without seeing the email – there would have been a fee of approximately \$200,000 agreed on by the partners that

that is the architectural fee for preparing the documents for the DA, and that physical payment would have been made to Chanine Design to equal our, the equity contributions, because the other partners at that stage, if my memory serves me correct, hadn't contributed \$200,000 worth of equity, so there was a payment made to equalise the equity contributions made.

Did you - - -?---So that, sorry, that \$42,000 doesn't represent the architectural services provided, it represents a portion of it.

- 10 Of the architectural services provided to the date of the invoice? Sorry, are you telling us that that invoice for \$42,600 did not represent the value of the architectural services that had been rendered by Chanine Design to the date of that invoice?---Correct.

How was the figure of \$42,600 arrived at?---Sorry, I explained that earlier but maybe I wasn't clear. So - - -

- 20 It might be my fault and I'll accept full responsibility.---No, it's a, it's a tricky, it's a tricky one. So, there is four parties involved with the transaction through the shareholdings and there is always an agreement in place or an implied agreement in place that we contribute equally into each venture. So, the Chanine contribution at the outset was architectural services to the value of, I think it was \$200,000, whereas the other members of the joint venture had physically contributed let's say \$150,000 each. So, Chanine, and I'm rounding off the figures, had over contributed \$50,000 at the outset, so an invoice was raised to the joint venture for that \$46,000 figure, so Chanine Design was paid a portion of what their fee would be in order to equalise the equity contributions from the outset.

- 30 THE COMMISSIONER: So, Chanine Designs would have got money in the \$46,000 odd and then the rest of, I think it was 210 was the architectural fees, that represented you and your brother's equity in the project?---Yeah, so the 210 as an architectural fee, was the total architectural fee at the outset. So, that 46 or 42 odd thousand comes off that figure. So - - -

- 40 Yes. And so then the rest is equity?---The rest is equity in the project which through our family trust, we would subsequently pay that to Chanine Design, at either the sale of the project or through the construction of the project. Sorry, does that, is that a little clearer?

MR BUCHANAN: Yes. Can I just clarify, though, so far as the invoice is concerned it wasn't really for architectural services?---No, it was.

But it was for architectural services referable to an agreement in relation to equity provided by way of architectural services?---Sorry, you've confused me.

Well, I'm trying to ascertain what your evidence is. Are you saying that the invoice was for equity referable to the provision of architectural services?--- So, the invoice was raised for architectural services provided on the project but it doesn't cover the entire amount of the architectural services provided on the project.

To the date of the invoice, is that what you're saying?---Yes. So, without seeing the - - -

10 Because usually an invoice is for services rendered to the date of the invoice.---Yes.

Are you saying that this was for services rendered to the date of the invoice?---Yes, correct.

THE COMMISSIONER: Can we have the invoice up again, please?

MR BUCHANAN: Thank you.

20 THE COMMISSIONER: Were you going to ask a question?

MR BUCHANAN: Not on the subject of the invoice to the arrangement.

THE COMMISSIONER: It's described as first progress claim which would suggest the evidence you've given because the, and let's use round figures, the previous 150,000 was equity, was attributed – sorry. The first 150,000 of architectural fees incurred was paid as your family's trust's equity contribution to the partnership.---Correct. It wasn't physically paid. It - - -

30 No, no, no. It was an - - -?---Correct. So this would have been the first - - -

Cash.--- - - - tax invoice raised for architectural services on this project. Correct.

MR BUCHANAN: And is that because 42,600 – sorry, 46,200 exceeded the equity contributions that the other partners had made by the date of the invoice?---Correct.

40 THE COMMISSIONER: Thanks, Mr Buchanan.

MR BUCHANAN: Can I change the subject, Mr Chanine, to a different subject all together. You had a friendship with Michael Hawatt in the period of the currency of the is project. Is that right?---I wouldn't use the term friendship.

What term would you use?---I would use the term association.

I'm sorry?---Association.

What sort of association was it?---It would have been a business association.

And what was the nature of the business association that you had with Mr Hawatt during the Doorsmart project?---It would have been discussing items pertaining to that particular development application.

You had social events that you and Michael Hawatt attended together. Is that right?---Correct.

10

Will you excuse me, please. This is Exhibit 69. Go to volume 25 and if I can take you to page 254. Mr Chanine, this is a page from a schedule of SMSs, text messages extracted from Mr Hawatt's telephone which involve you.---Yes.

And there are quite a number of them but what I'd like to take you to in particular is 18 December, 2015. This is item 43 at the bottom of page 254. It's a text message from you to Mr Hawatt at 1.19pm and it reads, "Hi, Michael. Are we definitely meeting tonight?" Do you see that?---Yes.

20

And 18 December, 2015 if you can accept from me is the Friday before Christmas.---I remember it quite clearly.

And do you remember that it was a dinner and then going on to a club in the city?---It, it was drinks. I was never invited to a dinner.

You didn't go to the Felix restaurant beforehand?---No.

30

And if we can go to page 255, item 44. Mr Hawatt texted you, "Yes, everything is okay. Let me know who is coming." At 1.38pm from you, text message number 45, "Myself and Ziad. Please push the other guys to come." Text message number 46, Mr Hawatt says, "Okay." Number 47, at 2.46pm, you ask Mr Hawatt, "What time and where are we meeting?" Text message number 48, to you from Mr Hawatt at 2.48pm, "Ivy, level 6 at 9.00pm. Jim, Daniel, Pierre, Bechara plus others are attending." Then there's a few more, and then at item 52 Mr Hawatt says to you, at 7.17pm, "8.30pm we will be at Felix in the laneway downstairs." Item 53 from you to Mr Hawatt, 7.20pm, "Okay. See you there." And that's the end of the messages between you on the 18<sup>th</sup> of December. You didn't meet up at the Felix restaurant downstairs - - -?---No.

40

- - - with Mr Hawatt beforehand? Did you indicate to either Mr Azzi or Mr Hawatt that you wanted all the boys to come?---Sorry, can you ask that again?

Yes, sure. Did you indicate in respect of that night, 18 December, 2015, to either Mr Azzi or Mr Hawatt that you wanted all the boys to come?---Who do you mean by "all the boys"?

That was going to be my second question.---Sorry. No, I didn't, I don't recall indicating to him that I wanted all the boys to come but I do indicate that I, I did want, Pierre Azzi and Bechara attending, yes.

10 And why was that?---If I can take you back earlier where you referred to my association with Pierre Azzi and Michael Hawatt and I said to you my relationship with Michael wasn't a, a friend. It was more of a business association. My association with Pierre became friendly, so I would associate myself as a friend of Pierre, and being invited to a social outing, as such, at the Ivy, I would have felt more comfortable that Bechara and Pierre were in attendance.

Now, you did go there with your brother?---Yes.

And was Mr Khouri and Mr Azzi there as well as Mr Hawatt?---No, they weren't. Only Mr Hawatt was.

20 Was there anyone apart from Mr Hawatt?---Yes.

Who was that?---There were many others that were there.

Was George Vasil there?---Yes, he was.

30 Could I ask you to go to page – could we go to page 256, please (not transcribable) of Exhibit 69. The one at the top of the page is item 62. It's from you to Mr Hawatt. It's on 22 December, 2015. I should perhaps take you to the preceding texts at item 59, 60 and 61 on page 255. And can you see that there's a discussion there by you and Mr Hawatt as to when Mr Hawatt's going overseas. Do you want to catch up before he left. He gave you a date when he was going in January. You said, "Let me know when you are free." You see that?---Yes.

Then over the page in this schedule, at item 62, you said to Mr Hawatt at 3.43pm, "If not tomorrow with boys, just after Christmas if that's okay with you, mate." You see that?---Yes.

40 What did you mean by, "With boys," there?---I would have meant Bechara and Pierre Azzi.

And did you have an understanding that Mr Hawatt would know that's who you were referring to by using the words, "With the boys"?---I, I think he would, looking back at it, yes.

It wasn't uncommon for you to meet up with Mr Azzi and occasionally Mr Hawatt at Mr Azzi's when he hosted his get-togethers of numbers of different people, is that right?---Correct. To the, to the best of my

knowledge, I think Michael Hawatt was there on one occasion when I was there.

And those get-togethers were often, if not usually, on a Friday late afternoon-evening, is that right?---Correct, yes.

And did you understand that there were often politicians there, particularly Labor Party politicians?---No, no.

- 10 Did you understand that there were people there who worked or were affiliated with or associated with the Labor Party in the Canterbury-Bankstown area?---At the times that I would attend and see certain people there I would know, yes.

And did you see people that you understood to be associated with the Labor Party in the Canterbury-Bankstown area at Mr Azzi's house at his get-togethers on Friday nights when you attended?---The only member of the Labor Party that I can recall being there, would have been Pierre himself.

- 20 Now, can I ask, what as your understanding, going back now to 18 December at Ivy in the evening, as to why George Vasil was there?---I have no idea.

Did it surprise you to see him there?---Yes, it did.

You didn't understand him to have an association in particular with Michael Hawatt?---I knew that he did have an association with Michael Hawatt but I found it quite intriguing that he was actually there.

- 30 And what was the nature of the association that you understood that Mr Vasil had with Michael Hawatt at around that time?---At around that particular time, I'm not sure but I, I do recall him and Michael having a, a lot of association together with regards to issues that George may have had – George Vasil, that is – may have had with Council's DCP document.

Did you have contacts with George Vasil about any of your projects?---No.

To your knowledge, did your brother have contacts with George Vasil about any of your projects?---Not that I'm aware of.

- 40 Now, in 2014-16 you knew Mr Montague?---Yes.

For how long had you known Mr Montague as at that time?---As at that time, possibly three to four years.

And how had you come to know him in the first place?---I always knew of Jim as the general manager of Canterbury but as a, if you'd like to call it formal introduction, it was through Bechara.

And in what circumstances did you have the formal introduction by Mr Khouri?---It would have been at, at a function. Which one, I can't recall.

It wasn't at a meeting where a project that you or your brother had was being discussed?---That would have been the first formal meeting at council chambers that I would have had with Jim Montague but I, I would have, I, I'm quite certain I would have been introduced to him prior to that.

10 Can I ask you, what was the extent of your contact with Mr Montague in the period 2014-16?---There would have been a lot of contact in that period.

Can you give us a figure, please?---I couldn't. I'd be, I'd be speculating to say maybe 15 or 20.

And why was there a lot of contact as far as you were concerned?---At that point in time I would have had up to half a dozen development applications in the council that I would have discussed with the general manager at that time.

20

And why did you discuss them with the general manager?---It wasn't always the first port of call. If I felt that I couldn't get somewhere with the director of planning in order to get a point across, I'd go to his superior. It would be the general manager.

So it was only if you weren't satisfied with the outcome of your contact with the director of city planning that you would go and see Mr Montague?  
---Correct.

30 You wouldn't see Mr Montague in his own right?---If it was relating to a planning matter, I wouldn't see Jim without first speaking to the staff about a planning matter.

Would you go and see Mr Montague in the hope that he would have a staff member, a planner – such as the director of city planning – with him at the time of the meeting?---Yes. Yes. If it was for a planning matter, most definitely.

40 Including Canterbury, how common was it for you to meet with general managers of councils before lodging a DA?---I can't recall meeting a general manager prior to lodging a DA.

And so you can't recall meeting Mr Montague prior to lodging either of the development applications in the case of the Doorsmart project?

MR O'NEILL: Commissioner, can I object to this question? What's not clear by the question is the subject of the meeting, so it may well be that that answer – I think it just conflates two - - -

MR BUCHANAN: I'm happy to reframe it.

MR O'NEILL: - - - just conflates two ideas.

MR BUCHANAN: I'm happy to reframe the question. Did you meet with Mr Montague about the Doorsmart project prior to lodging, prior to the DAs being lodged?---I don't recall but it may have been possible because we did make approaches prior to the DA being lodged to make inquiry about the land owned behind the site that was owned by Canterbury Council. So whilst I don't recall a meeting, it may be, it may actually be possible that we did meet prior to the submission of the DA.

Did you ever have a meeting with Mr Montague – whether or not the director of city planning was also present, or any other planner, council planner, was present – to canvass issues of compliance with development controls in the design for the proposed development, whether it be the Doorsmart project or any other project?---It may be possible but I don't recall it, only because there were, one of the setback issues was raised with setbacks adjacent to council-owned land, so it may be possible that we did raise it prior. I just, I just can't recall.

This particular project, the Doorsmart project, involved from the outset issues of compliance with development controls, is that right?---Correct.

Can you just help us understand, please, why did you not ensure that your project involved designs for a development which would comply with development controls?---It would have resulted in a lower number of yield achievable on the site.

And what did you understand to be the function of the development controls that - - -?---This was a unique site, if I may use that term, with regards to how you translate council's controls into what you would develop on the site. And if I can elaborate a little further – and I keep referring to these setback items – in a nutshell there's four sides to the land, one which is governed by a prescriptive setback under council's code and the other areas which are not covered under council's code with regards to a prescriptive setback.

With regard to?---A prescriptive setback. So council has a Development Control Plan.

Yes.---And in that Development Control Plan with regards to the way this site sits in particular there is only one setback control that we could adopt if we were to adopt the control of the front setback and that was a setback that we challenged as the site directly across the road had been approved and to the best of my knowledge I think was under construction at that time. It was approved and under construction with no secondary setback as we had

proposed. The other areas of contention with regards to the setback were the boundary to the railway which had not prescriptive setback identification and the rear which had no setback identification to land zoned recreational which was owned by the council. So that's what really drew my attention to this site which was if you want to call it a high-risk, high-reward type of project, if you could get your DA through and your justifications were accepted.

10 But you knew didn't you that there were controls that were not council controls but LEP controls or SEPP 65 controls or both?---Yes, correct.

And in respect of the LEP there was FSR. Correct?---Correct.

And that applied to this site, or rather to your – sorry, it applied to this site and thus to the proposed development?---Correct.

And the SEPP 65 controls in terms of the Residential Flat Design Code also applied to your proposed development.---Correct.

20 Is that right?---Correct.

Why not design the project to comply with those controls?---There's a particular reason why with regard to that. At the time we were canvassing the area for potential development sites and all along Canterbury Road the council code, which is the LEP, allowed for a height limit and had no FSR control, yet this particular site and all of Canterbury Road had no direct access to public transport. This particular site was on the doorstep to Canterbury Station on Canterbury Road, so we saw that it would be a risk but we thought we had some sound justification in order to design a project on this site with no, without looking at the FSR control. So when this site was first brought to my attention by Barry, when I, when I looked at it all I actually saw that the site had a lot of controls that the council had that didn't apply to this particular site, it was quite a unique site, and I saw that the legislative controls that govern the site were contradictory to the rest of the Canterbury Road controls, so that's where the idea came to design this project, or my brief was, if we were to take this project on to design this project with basically a site-specific design rather than going in there, trying to comply with the, a numeric number.

40 The consequence of that strategy however was that you would need to get council on side for your plans.---Correct.

And that meant that you needed to persuade the decision-makers, you and your brother needed to persuade the decision-makers at council to avoid the strict application of the controls. That's correct, isn't it?---That is correct, but it would have been a process that would have taken a lot of time and it would have been a process that would have seen many design changes along the way and it wasn't just simply a process of trying to have the decision-

makers just make a decision on the spot, it was the process of working towards getting a decision made, obviously one that we were looking in our favour, over a certain period of time.

Thank you. I note the time, Commissioner.

THE COMMISSIONER: Yes. All right. We'll adjourn for morning tea. We'll be back here about 10 to 12.00. Thank you.

10

**SHORT ADJOURNMENT**

**[11.35am]**

MR BUCHANAN: Mr Chanine, last Monday, 2 July, transcript page 1833, line 26, you said that in 2014/16 you had no social relationship with Mr Hawatt. Was that correct?---I'd say that is correct.

And that's despite having gone to a nightclub with him on 18 December, 2015?---My interpretation would say it's still correct, yes.

20

Why is that?---I wasn't really socialising at all with Michael Hawatt at that event nor was it something that was organised by Michael Hawatt so I, I'm comfortable enough to say I didn't have a social relationship with Michael Hawatt.

Who did you understand was organising that event?---A gentleman by the name of Godfrey Vella.

Why did you attend?---I was invited.

30

Yes, but it's within your power to refuse particularly if you think you don't have a social relationship with a person. Why did you attend?---A week out before Christmas I just decided to walk over from my office and, and attend the actual function.

It does sound like a social relationship, Mr Chanine, doesn't it?---It may sound like it but I wouldn't define it as a social relationship with that particular individual.

40

Was there a reason why you didn't have a social relationship, that is to say, was there any difficulty or awkwardness or history that you had with Mr Hawatt?---I wouldn't say any awkwardness or any history, just wasn't the type of person I envisaged myself having a friendship with in order to have a social relationship.

Now, I asked you questions before the morning adjournment about – sorry, in the context of having meetings with the general manager of a council within whose local government area a proposed development fell and in

particular the Canterbury local government area, but it was in the case of the Doorsmart project you spoke with Mr Montague as part of, if I can use your words as I understand it, a process of working towards decisions being made on the part of council?---Correct.

That process was part of essentially your business plan or your business model when running a project which involved a design which was non-compliant with development controls. Is that right?---I wouldn't say it was part of a business plan.

10

Or a business model?---No, just each particular application has its own merits. No one particular application complies more than the other or non-complies more than the other so it's all on a case-by-case process as to what we do.

In the case of the Doorsmart project then, it was part of your business model that you would be spending effort and time lobbying council decision-makers?---I wouldn't use the term lobbying but most definitely spend my time trying to get my message across to decision-makers, yes.

20

But it's more than trying to get your message across, you're trying to procure decisions on the part of council that would mean that development controls that applied to your project, which if enforced would result in the development application being rejected, or in the design having to be amended to reduce the bulk of it for example, that was all something that you had to do in order to achieve those goals, wasn't it?---Most definitely, yes.

30

And in essence you were lobbying decision-makers, that is councillors, the general manager, the director of city planning, in order to maximise your potential lot yield. Would that be fair to say?---Correct, but you can't just look at it in isolation, there's a process to get to that point.

But the process entailed that lobbying.---Of course, yes.

40

Can I ask you to just take a step back from your own business and ask you in the period 2013-2016, how common a practice do you understand it to have been in the development industry in Sydney to lobby, if we can continue to use that word, decision-makers at council level in order to avoid the strict application of restrictive development controls?---If I was to use the term lobbying, as you suggest, quite loosely, it, it would be a very common practice, but not just with regard to the particular controls, there are many an occasion where an application would be recommended for approval and it wouldn't get through the floor for an approval on a, on the evening of a council application. So to the best of my knowledge from what I can see in the industry, it happens quite frequently on various levels.

Now, you had – tell me if I’m wrong, you had a general practice of lobbying general managers to achieve the outcomes you needed to achieve in respect of your projects. Is that right?---If a particular door was being shut in my face with regards to an application by somebody in a ranking lower than the general manager, yes, I would turn to a general manager.

And did your practice of lobbying extend to councillors?---Yes.

Not just Canterbury Council, but other councils?---Yes.

10

Now, on how many occasions when you met with Mr Montague about the development applications in the Doorsmart project were other councillors, sorry, were councillors present?---A very small portion of the time.

Can you give us a figure?---If I was to pick a figure of 10 meetings with the general manager I’d say there might have been two occasions where councillors were present.

20

And on the occasions that you’re thinking of, were those councillors Councillor Azzi or Councillor Hawatt or both?---Yes.

Were any other councillors present on those occasions?---Not that I can recall.

Can you recall any specific meeting that you had with Mr Montague at which Councillors Azzi or Hawatt were present?---Yes, I can.

30

What occasion was that, sir?---It would have been I think in 2014, maybe 13, where a development application of mine was going before council and there were certain recommendations made an IHAP panel at the time that were completely contradictory to what was being proposed in the council planning report, so we were seeking the support of the councillors and the general manager that particular night to override the IHAP recommendations because they didn’t gel with the recommendations made by council.

Was that in relation to the DAs in the Doorsmart project?---No.

40

Can you recall that particular project, what the address of the site was? ---Yes. It was the 45 South Parade in Campsie.

And on that occasion how had it come to pass that those councillors were present or either of them?---I think at that particular point in time, that meeting at Jim’s office, it was the afternoon of the council meeting or the early evening of the council meeting. My friend Bechara had organised that for me at my request.

And were both Mr Azzi and Mr Hawatt present on that occasion?---Yes.

Thinking now of the Doorsmart project, can you recall a particular occasion or occasions when you met with Mr Montague and either Councillor Azzi or Hawatt were present?---I, I can't recall a meeting when the councillors were present, no.

Not even just one of them?---It may be possible but I, I just can't recall it.

10 Can you recall any meeting you had with Mr Montague in relation to the Doorsmart project with any councillor other than Councillor Azzi or Hawatt were present?---No.

THE COMMISSIONER: Sorry, you can recall a meeting with Mr Montague at which Mr Hawatt or Mr Azzi were present?---No. I can recall many meetings with Mr Montague but I can't recall if the Councillors Hawatt at Azzi were at that meeting or at those meetings. I just, I can't recall.

20 MR BUCHANAN: In relation to through Doorsmart project?---In relation to the Doorsmart project.

THE COMMISSIONER: So, your previous evidence of 10 meetings and at two of those meetings Mr Hawatt or Mr Azzi were present, that was generally to do with any development - - -?---Yeah, one of them Mr Buchanan questioned earlier, which was the 45 South Parade and I remember that quite clearly and there may have been, I just can't recall their presence at another meeting.

30 Sorry, thank you.---Thank you.

MR BUCHANAN: So, I just want to revisit, if I can, at one stage I think before morning tea you indicated that you had had about 10 to 15 meetings, if you were to pick a figure, with Mr Montague. Was that generally or in relation to the Doorsmart project?---Generally.

Thank you. Can I change the subject now, please, and ask you questions about Mr Stavis?---Yes.

40 When did you first come across or hear about Mr Stavis?---It would have been I think, if I was to pick a date, around 2012 or '13 when he was the assessing officer or manager of planning at Strathfield Council on one of my development applications.

Yes. And was that an occasion where you met face to face or you had a telephone conversation? What's the contact?---Oh, it would have been multiple occasions face to face, telephone, email. All forms of communication.

Had you heard of Mr Stavis before that occasion or those occasions?---I hadn't heard of, I hadn't heard of him before, but subsequent to that I realised that he was a consulting town planner many years prior down the hall from my old office in Drummoyne.

And when you say your old office in Drummoyne, how long were you there for? What was the commencing and the concluding period in terms of years?---I couldn't, I couldn't recall but I'd say it was for a good period of three to four years there.

10

And beginning in what year and ending in what year?---If I was to guess, I'll take the ending first because that's the easier one. It would have been around 2014, maybe '15, and I think we were there for the best part of four years, so it may have been about 2010 that we had moved there.

And when you say we, that's you and your brother. Is that right?---Yes, we shared an office space.

20

Did you have any conversation with your brother about Mr Stavis during the time that he was performing assessment for Strathfield Council of the development application in that case?---Yes, many a time.

And did you and he talk about Mr Stavis, that is to say, what sort of person you assessed him to be?---Yes.

30

And can you tell us what your opinion was at the time that you were dealing with him at Strathfield Council?---My opinion was that I, I held his knowledge in planning with very high regard to the way he would understand and interpret items.

Did you get any impression from your dealings with Mr Stavis while he was at Strathfield Council as to his approach to dealing with problems in relation to the assessment of development applications?---Yes.

Problems from developer's point of view?---Yes.

40

What was your impression?---He looked at things with an open mindset. He wasn't specifically looking at something being prescribed in a document that could be interpreted either way. He was always interpreting things from a positive point of view rather than from a negative point of view in relation to how it would transpire with a particular application.

When you say a positive point of view, what do you mean?---I can take you to a great example.

Yes.---That particular application that he was assessing at the time it was by and large a complying development. There were breaches to the controls but by and large it was complying development and because of the setbacks

to the north where it was a lower density residential zoning we complied with those setbacks but because the residents still weren't comfortable with those setbacks the suggestion was made from Spiro at the time to cut that yield off the building and place it on an additional level which would breach the height closer to the main road and from our point of view we thought it was a great approach because it appeased what we wanted to achieve as developers in relation to yield and it appeased what the residents were after with a greater, a greater separation distance and we wouldn't come across many assessing officers that would be brave enough to make that recommendation to a developer.

And this is in respect of a project at 549-557 Liverpool Road, Strathfield?  
---It was Liverpool Road. I'm just not sure of the numbers.

Was the input that you received from Mr Stavis as you've illustrated there something that assisted you in getting the development application over the line?---I wouldn't, I wouldn't say it assisted us in getting the development application over the line. It definitely assisted us with retaining the amount of yield that was being proposed on the project.

And in doing what you've described he did on that occasion he was performing a role that would normally be provided by your own designer?  
---I guess it would be a collaborative approach. It wouldn't be something specifically that our planner or architect would suggest. It did take me by surprise like I said that he was so brave to suggest it and I, and we thought it was a great outcome at the time.

THE COMMISSIONER: Why do you say brave?---Because most, in my dealings most assessing officers would look at the DCP which is a discretionary document and even the LEP which through clause 4.6 can be challenged at times. The reason I say it was brave is most of my dealings the assessing officers would look at that document and not look outside that document at all whereas I found it very brave for the planner at the time to suggest to cut particular portions of the building off and place that bulk to the southern end which was on Liverpool Road. I thought it was a great idea. I thought, I thought it facilitated an amazing outcome for all stakeholders but I thought it was very bold and very brave.

MR BUCHANAN: But courage is usually demonstrated in the face of risk. Do you accept that?---Definitely.

So what was the risk that you saw that Mr Stavis was taking by providing this input?---I saw he had no risk at all. I saw that the risk was, as the applicant, the risk was always on us and whilst even it was, it was redesigned in that way based on his advice, and it was supported by his superiors at the time and a recommendation was made to council for the approval of it, the risk was always borne by us as the applicant, and even with that particular application I think it went before two, quite possibly

three council meetings before that recommendation was adopted, that is the recommendation of approval with the breach.

Sorry, when you say brave in respect of that particular occasion, you mean that he was providing you with assistance to overcome planning obstacles to your project, don't you?---I wouldn't say it was providing assistance, I'd say he was definitely looking at options rather than shutting down a problem, he was definitely exploring other options.

10 And I take it from your evidence that it certainly at that stage wasn't your experience that council planners performed such a role in their work?  
---Correct.

And is it the case that leaving Mr Stavis aside, that's remained your experience, that council planners don't normally perform that sort of role?  
---Leaving Mr Stavis aside, I'd say that a good 60 to 65 per cent of them don't exercise that role, but there are some planners out there that do.

20 Do you think council planners who are assessing applications should more commonly perform that sort of assistance to developers when they come up against restrictive planning controls?---I think that would be a great idea.

Why?---Because it basically takes on board all stakeholders' concerns and it gives the, it give the, for lack of a better word, it gives the power to a particular body to try and look at ways of alleviating everybody's concerns in order to give for example the developer what he's seeking, which is ultimately an approval at the end of the day, and other stakeholders which are council and any public objectors by appeasing any of their issues that they may have, and it's, it's, it happens quite frequently and I've had many  
30 applications both this year and last year in other LGAs where councillors have looked at issues that have, sorry, council staff have looked at issues and they've looked at ways where we can work together to try and alleviate those issues.

And do I take it from your evidence that it's legitimate in your opinion for a council planner to take that sort of approach, but only where all the stakeholders' interests are truly in balance, that is to say it's not just advantaging the developer?---Correct.

40 Can I ask that the witness be shown Exhibit 116, please. We're showing you a series of photographs of screens on a mobile phone. The mobile phone is that of Spiro Stavis. These are emails that you're seeing in these photographs and the emails photographed on the pages are in roughly chronological order, except to the extent that the bottom is sometimes cut off and you've got to go to the next page to see the bottom. Do you understand that?---Yes.

These emails commence on Saturday, 25 October, 2015 at 10.20am, when your brother sent an email to Spiro Stavis saying, "I've got a job of ours I would like you to act on. When could we meet? Homebush address." Do you see that?---Yes.

Now, did you have any conversation with your brother before he sent that email?---Yes.

10 And when did you have that conversation in relation to the time that the email was sent?---I can't recall but it would have been within the week prior to that email being sent.

And where were you when you had that conversation with him?---I can't recall.

When this email was sent, where were you?---I can't recall.

20 Were you in the same building as your brother?---I, I don't know, I don't know where I was at that time.

MR O'NEILL: Is that question related specifically temporally as at the date of that, the time stamp and date of that email or generally in the - - -

THE COMMISSIONER: I assume yes.

MR BUCHANAN: Yes.

MR O'NEILL: So, as in at 10.20 on 25, okay, I understand.

30 MR BUCHANAN: Just trying to ascertain whether you were together at the time or not?---No. I, I, I can't recall but I doubt we were together at the time.

And who raised the subject with you within the preceding week, your brother or – sorry, did he raise it with you or you raise it with him?---I raised it with him.

40 What did you say to him?---To, because at that point in time, if my memory serves me correct, Spiro had left Strathfield Council and that was made known to us because we were advised he was no longer – I think it was at that time he was no longer the assessing officer on one of our applications at Strathfield. So, through further enquiry, we were made known that he obtained a job at Mascot, at Botany Council, and we had another project in Homebush at the time under Strathfield Council and I thought it would be a good idea to employ Spiro as the town planner on that project as opposed to the usual town planner we use because his knowledge of the Strathfield planning regime would have been sound as he was assessing the DAs there

day in, day out. So, I raised it with Ziad to approach him to see if he'd like to work as our consultant town planner on that project.

Now, do you know why it was your brother that sent the email rather than you?---I suggested that it come from Ziad as, from a consultant to a consultant rather than approaching him direct.

10 I'm sorry, I don't quite understand that. When you say, "Consultant to consultant" - - -?---As a professional consultant, as a professional architectural consultant to a professional town planning consultant. That's why I suggested it come from Ziad rather than from myself.

But who did you envisage would retain Mr Stavis?---It would have been either Chanine Design or our special purpose vehicle for that particular project.

20 Was there any discussion at the time about whether it would be a good idea to try and get Spiro Stavis onside, given developments in the Canterbury local government area?---No.

If you could turn the page, to page 2 of Exhibit 116, please. You can see that there is Mr Stavis' reply, "I can meet you on Monday for lunch around Botany/Mascot. Name the time and place if it suits." Can you see that? ---Yes.

30 And turning the page, excuse me a moment. That was at 10.45am, that's on page 2. At page 4, can you see that there's an email from your brother at 11.22am, saying that Monday wasn't good for him, how was he placed Tuesday lunchtime.---Yes.

And then if you go back to page 3 you can see that Mr Stavis told your brother, "Sounds good. Name, time and place." Do you see that?---Yes.

On this occasion he has cc'd in you. Do you see that?---Yes.

Do you know how come that occurred?---I have no idea. I can speculate as to why but is, are you asking, or sorry, are you stating that Spiro included me or Ziad included me?

40 Well, it would appear that from page 3 going over to page 4 the message at 12.09 was from Spiro Stavis to Ziad cc'ing in you.---Yes.

And what I'm just trying to ascertain is how come all of a sudden you're in the conversation when you hadn't been previously?---Yeah, I could only assume that a discussion was held between Ziad and Spiro or myself and Spiro and I was thrown in the email subsequent to that discussion. Quite possibly - - -

So did you have a conversation?---I don't recall having a conversation.

On the phone I mean?---Yeah. I don't recall having one, no.

And you weren't with Ziad at the time?---Not that I can recall, no.

And then if I can take you to page 5. You took over the conversation indicating you're the, to Spiro you're the new man of the area. Location of your choice Please advise. Lock in 12.30.---Yes.

10

So how had it come to your attention that Mr Stavis had a job at Botany Bay Council?---It would have been through, I think it was the assessing officer that took over our application on Liverpool Road would have advised us of where Spiro had moved on to.

It wasn't through Bechara Khouri?---No, not that I recall.

And then if we go to page 6 Mr Stavis at 12.54 says, "Tennyson Hotel at 12.30pm on corner Botany Road/High Street. See you on Tuesday." Do you see that?---Yes.

20

You had lunch with your brother and Mr Stavis at the Tennyson Hotel at Botany on Tuesday, 28 October, 2014. Is that right?---I do recall that but whether I actually ate lunch on that day I don't recall.

And how did you get there?---No doubt I would have driven.

With your brother?---I think we would have gone together. I, I can't accurately say but I think we would have.

30

And would you have driven from your office at Drummoyne?---Oh, quite possibly.

Why did you attend the lunch?---Because it was my development application that was the, the topic to be discussed.

And it was not Ziad's development application. Is that right?---He would have been the applicant if my memory serves me correct but it wouldn't have been his development application, no.

40

Meaning that you were the developer?---Once again we go back to the special purpose vehicles that act as trustee for our trust. I would have been part of the development through the trust but it wasn't Ziad's particular development per se.

In terms of people performing the role of developer for the project concerned, you were that person?---So I was running the day-to-day process of the development. On actual paper, on documents my father would have

been to the best of my knowledge the director and one of our family trusts would have been the shareholder and no doubt he would have been the trustee of that family trust.

THE COMMISSIONER: Sorry, how many family trusts do you have?---I don't even know. Many, many family trusts.

10 And is it your understanding that for each development a separate family trust is established or - - -?---From my understanding there are multiple trusts set up for each development. Yeah, so there, there, to the best of my knowledge there wouldn't be one trust, one family trust or unit trust that rolls over to another project.

MR BUCHANAN: What about the CZM Family Trust?---Yes.

What was its relationship to all these other family trusts?---There was, the relationship would have been the common trustee of the trust.

20 Common trust deed, did you say or - - -?---Sorry, common trustee. - - - trustee?---Trustee, double E, trustee.

Can I ask you to think back now, please, to the meeting at the Tennyson Hotel on 28 October, 2014. At that time what work were you or Ziad doing or hoping to do in the Canterbury local government area?---What date, sorry?

What work?---Sorry, what date?

30 Sorry, 28 October, 2014.---Yes. If my memory serves me correct, we would have had two or three projects that we were either commencing or looking to commence in Canterbury at the time.

One of them would have been the Doorsmart project?---Yes, yes. If my memory once again serves me correct, I think we negotiated that transaction in mid-2014.

40 Now, if I can just skip ahead briefly to page 7 on page 116, that is an email from Mr Stavis to you and your brother dated 30 November, 2014 at 4.26pm. Do you see that?---Yes.

And its subject heading is 1-9, Kanoona Avenue, Homebush, Draft Report and Final Invoice. Do you see that?---Yes.

So there was discussion, was there, at the Tennyson Hotel meeting about a project at Kanoona Avenue, Homebush, is that right?---Most definitely, yes.

And what was the work that Mr Stavis was being asked to consider undertaking?---To prepare a statement of environmental effects report.

Who retained Mr Stavis for that project?---At that point in time I think it would have been Chanine Design.

Who paid him?---If my memory serves me correct it would have been Chanine Design.

10 Why was Mr Stavis approached rather than any of the other town planner consultants available in Sydney?---As I said earlier, he had just finished his tenure at Strathfield and I actually thought it was a good strategy to employ him on that particular project at Strathfield, or sorry, at Homebush under Strathfield Council, because he would have been highly involved with understanding all the development controls on the Strathfield LGA.

When did you learn that Mr Stavis was either considering or had applied for appointment as director of city planning at Canterbury City Council?

20 ---I think it came from either Spiro himself or from Bechara.

And which came first?---I can't recall, but, I can't recall which came first and I can't recall if it came from Spiro or Bechara. Actually I can recall. I was asked a question by Bechara if I knew anything about Spiro Stavis, so yes, it did come from Bechara, it didn't come from Spiro himself.

And on that occasion where were you and Mr Khouri, assuming you were face-to-face?---Yeah, I can't recall.

30 Was your brother with you on that occasion?---No.

And what's your memory of that exchange between you and Mr Khouri?  
---I think he was asking me what I, if I knew who Spiro Stavis was and what I thought of him, because I think he had either obtained the job of director of planning at the time or he was looking to submit his application for the director of planning, I can't recall if it was prior to or after the date of when he was given the, the job there.

40 Did Mr Khouri ever say anything to you to the effect that the position of director of city planning at Canterbury Council was about to fall vacant or was likely to fall vacant or had fallen vacant?---No.

Was one of the things that Mr Khouri did, in relation to your brother and your business, that he provided intelligence about how the council – the consent authority in an area in which you were doing business – was operating, what it was doing?---No.

What people were there, who was making decisions, nothing like that ever provided by Mr Khouri?---No, no.

He never provided information to you or to your brother, to your knowledge, about how councils were operating in any particular respect?  
---No.

There was no discussion in which you were involved with Mr Khouri about how a council was operating in any particular respect?---Not that I - - -

10 Or any person that the council was operating in any particular respect?  
---Not that I can recall, no.

So Mr Khouri never supplied you or your brother in your presence with information about how Canterbury Council was making decisions in respect of planning or how positions were being filled or anything like that?---There were items of planning that he would have discussed with us.

20 What sort of items?---To the extent where somebody like the gentleman, George Vasil, would question certain aspects of the DCP and certain aspects of grey areas in council's codes. Bechara would, at times, provide myself or my brother with information that he would have obtained I assume through George direct. So, he, he would provide some of that information with regards to planning, yes.

And are you saying that Mr Khouri never supplied you with any information of that sort that he had, or appeared to have obtained, from anyone related to the council, such as a councillor or Mr Montague?

30 MR O'NEILL: I object. I think there's an attempt – this could be quite confusing because that question didn't follow from the question that was just asked and that question used the word "that" as the subject of it. If it could just be clarified what it is, what "that" was in that subject, because the question before the witness elicited an answer where he said there was some information that was provided. The question that learned Senior Counsel Assisting asked then proceeded on assumption that information wasn't provided but used the word "that". So, it was very difficult to understand what "that" was if it wasn't linked to the question before.

THE COMMISSIONER: Mr Buchanan, can you identify what "that" was?

40 MR BUCHANAN: That is the sort of information that you've indicated that Mr Khouri provided that he said, as you indicated it, Mr Vasil provided him.---Yes, yes, he did.

So, my question is did Mr Khouri ever provide you with that sort of information from anyone inside council?---Not that I can recall, no.

Never ever?---No.

Mr Khouri, did he ever discuss with you Mr Montague?---Yes.

Did he discuss issues Mr Montague was having at any time?---No.

Did he discuss with you any pressure that Mr Montague was under at any time?---Yes.

10 What did he discuss with you in that regard?---It, it would have been at the time where I think it was the councillors were working to oust the general manager from Canterbury and that he would have brought up that topic with me, in general, a discussion.

And was there no other topic that Mr Khouri raised with you or in your presence about how council was operating?---No.

20 THE COMMISSIONER: Can I just go back to one of your answers. When you were asked about Mr Khouri providing information to you, you said that they're items of planning and that you assumed that the source was Mr Vasil.---Yes.

Why did you assume that?---I assumed that because Bechara would have said to me George said this or George explained this. Whether it was said to him or whether it came as second-hand information to him I'm not sure but my source of the information was through Bechara.

But Mr Khouri would preface it by Mr George Vasil said X?---Yes.

30 MR BUCHANAN: You say do you that it never came to your attention before you found out that Mr Stavis had either obtained or was going to apply for the position of director of city planning that the position was vacant?---To the best of my knowledge, correct.

That seems a little surprising can I suggest, Mr Chanine, in view of the interest that you had in the identity of the person who filled the position of director of city planning at Canterbury City Council?---Sorry, can you ask that again.

40 It seems a little surprising that it never came to your attention that the position of director of city planning at Canterbury Council was vacant given your interest in the identity of the person who filled that position.---It's not surprising at all. I don't focus on who's employed in what particular job. We just, or I focus purely on targeting a particular property and preparing a development application on that particular property for the highest possible yield that I think can be achieved on it. I wouldn't target a particular development or prepare an application in a particular way based on who's employed in council.

But if you had ongoing developments or proposed developments in a particular local government area then it was obviously useful intelligence for you if you had a pro-development or an anti-development person who was filling or going to fill the position of director of city planning wasn't it?---Oh, most definitely but I don't get involved in who is and who isn't employed at particular councils. I just deal with the people that are there before us.

10 You say it most definitely is something that affects your business but you say you do nothing to try to find out intelligence about that?---Correct.

That doesn't make any sense I want to suggest to you, Mr Chanine.---What would you like me to clarify for you to help you with that?

20 Well, I'd like you to clarify the disconnect between your interests on the one hand and your evidence as to having no interest on the other hand.---I don't have any interest whatsoever with who works at council or who's about to be employed by council. I have interest in dealing with the issues that I face at hand with the development applications that we lodge or that we prepare to lodge.

Had you met Mr Marcelo Occhiuzzi?---Many times.

And you obviously met Spiro Stavis?---Yes.

30 Did you find that they had different approaches to the assessment of development applications when it came to conflicts between the dimensions of the proposed development for example and development controls on the other hand?---Yes, very different approaches.

And certainly the approach of Mr Occhiuzzi wasn't as favourable to that sort of situation for the developer as was Mr Stavis's approach was it?---I wouldn't agree with that, no.

Why not?---They used, in my experience with my dealings with them they used different approaches and different strategies which in my dealings ultimately led to recommendations for approval from both of them but they just went about the way they did their business differently.

40 Mr Occhiuzzi wasn't a person who would redesign one of your proposed developments with a view to you achieving approval was he?---No, I wouldn't say he'd redesign it.

But you knew as at the time you were meeting Mr Stavis at the Tennyson Hotel on 28 October, 2014 that Mr Stavis was such a person didn't you?  
---Yes.

So obviously you would have been pleased to learn that Mr Stavis was applying or considering applying for the position of director of city planning at Canterbury, wouldn't you?---When I found out that he was, most definitely, yes. I'm a very big supporter of Spiro.

And did you tell him that you were very pleased?---When I saw him, I'm sure I would have said to him that I'm happy he got the job.

10 So did he say anything to you at the meeting at the Tennyson Hotel on 28 October, 2014 about applying for the position?---No.

You're quite sure about that?---Yes.

20 If I tell you that on 25 October, 2014 he had applied for the position, does that cause you to question your recollection about the meeting on 28 October with this man who was applying for a serious decision-making position in relation to developments you had in the Canterbury City local government area?---Not at all. At that point in time I wouldn't have even been thinking about my other applications other than that one at Homebush.

But once you found out that he was applying, you were obviously thinking about your applications in the Canterbury area, weren't you?---Yes.

Because you thought that that would facilitate your applications.---I wouldn't use the term facilitate but I'm sure that it would have been a better working environment that there was somebody there that I knew from past dealings.

30 Why wouldn't you use the word "facilitate"? What's the difference between what you've just said and the word "facilitate"?---Because there were many applications that I had in Canterbury Council at the time under Spiro's watchful eye that I felt he didn't facilitate for me. I actually felt he was hindering me.

That's not what I'm asking. I'm asking about the time that you were talking about, the 28<sup>th</sup> of October. I apologise if I didn't make that clear.---Okay.

40 28<sup>th</sup> of October, 2014. Why wouldn't you have been pleased if you had learned at that meeting that the man who had put in an application three days earlier for the job of director of city planning was applying for the job?

MR O'NEILL: I object. That's not (not transcribable). This witness's evidence is that that is not what he understood at the time. So this now has been temporally located as at the date at the Tennyson Hotel.

MR BUCHANAN: I take my friend's point. I don't press the question, Commissioner.

THE COMMISSIONER: Can I just say, I know you're meeting at the hotel on the Homebush, the Kanoona Avenue project, but it's at a hotel. It's a lunch. I would assume that you met, you wouldn't get straight into discussing the project, that there'd be a little bit of chit-chat, and I would assume something like "What other DAs or what other projects have you got" - - -?---Correct.

10 - - - "on your books at the moment?" "A couple in Canterbury." That would elicit from Mr Stavis, "Hey, I've just put in for this position. Did you know it was vacant?" or anything like that. You don't have any recollection of such a general conversation?---It's something from four years ago so I don't recollect these small chit-chat that was undertaken, but there was small chit-chat undertaken and one thing that I do recall that I found quite interesting was when we were asking Spiro about his time at Botany compared to his time at Strathfield compared to his time in private industry. He said how it was exciting working at Botany because he was assessing applications where the applicant would have been somebody like Meriton, so they were very large applications and he was excited to be working on, on large applications and bigger things. But nothing in particular at all to  
20 Canterbury that was discussed on that day.

MR BUCHANAN: And nothing personal in respect of Mr Stavis in which he indicated, "Well, I might not be at Botany for very much longer. I'm applying for, believe it or not, director of city planning in your area"?---No.

Nothing said?---Nothing at all.

THE COMMISSIONER: Are you ruling it out or are you saying you've got no recollection?---I'm ruling it out because I have no recollection. So, no, I  
30 won't rule it out but I don't recall at that time anything at all discussed to do with Canterbury Council.

MR BUCHANAN: Can I ask you to consider this possibility. Is it possible that you and your brother decided to approach Mr Stavis and offer him this consultancy with a view to ingratiating yourselves with him in view of the vacancy in the position of director of city planning at Canterbury?---I can see where you're coming from, it would be a very clever move, but that was not the intention at all. The intention, as I stated earlier, was that he was a planner at Strathfield prior to that, he had assessed our application there, I  
40 was very impressed with his planning intel, with the way he interpreted the code at Strathfield, and it was my suggestion that we employ him as a consulting town planner on the job at Homebush.

Did you or your brother to your knowledge have anything to do with Mr Stavis applying for the position of director of city planning at Canterbury?  
---Nothing at all.

THE COMMISSIONER: Sorry, can I just ask you about another date. When he was at Strathfield Council and came up with the brave suggestion about, what was it?---Cutting a section of the building off and putting it over the height limit.

Putting it on top. When was that?---As in date?

Yes.---Oh, I can't recall. It was, it was during the application process.

10 So are we talking – sorry, just roughly, 2013?---It would have been either 2012 or 13.

All right. ---I'm just not sure when that application was in council.

MR BUCHANAN: So can I just ask another question about this question of your knowledge of Mr Stavis and the position of director of city planning at Canterbury. You say that you found out from either him or from Mr Khouri that either he was applying, that he, Mr Stavis, was applying or had obtained the position. Did you discuss with Mr Stavis anything with a view to  
20 assisting him in obtaining the position?---No. As I said earlier, I'm pretty sure the knowledge of his appointment came to me from Bechara and I'm pretty sure it was at the time that he was appointed. It might have been prior but I'm pretty sure it was at the time he was appointed and Bechara was asking me if I knew who he was and what I thought of him.

Was there any contact between you and Mr Stavis, or to your knowledge, your brother and Mr Stavis during the time that he was applying for the position and about him applying for the position?---No.

30 Did you refer him to anyone to assist him in learning about how to perform as a candidate for the position?---No.

Did you give him any pointers yourself about how to perform as a candidate for the position?---Not at all. I didn't even know he was applying for the job.

If you'll just excuse me a moment.---No problem.

40 I'm about to move on to another subject and it might take more than three minutes, Commissioner.

THE COMMISSIONER: All right. We'll have a slightly early – oh, I'm sorry, Mr O'Neill.

MR O'NEILL: Commissioner, in relation to the application that I made for the nonpublication, what I propose in relation to the transcript, if this is okay with the Commission, that I review the transcript for the parts of which I say are caught by the order that Your Honour, sorry, that you made,

Commissioner, such that we can then have a debate about whether I can maintain 112 in respect of that evidence that was given from the document over which you have provided the order.

THE COMMISSIONER: All right. I should foreshadow, when Mr Buchanan finishes with his questions, of course other questions can be asked and a question may be asked that you want to include under your application.

10 MR O'NEILL: I'm in the Commission's hands as to when that's done. I was just trying to do it in a streamlined way and say that I am happy to forgo my lunch in order to have it done so that I can try and do it in a quick bow if this witness is finished by today or however it is to facilitate the Commission.

MR BUCHANAN: Commissioner, I'm informed that we can't say that the transcript will be available over lunch.

20 MR O'NEILL: Okay, that's the answer to my - - -

THE COMMISSIONER: Yes.

MR BUCHANAN: Sorry.

THE COMMISSIONER: All right. Look, I think on that basis, it may be a matter – let me just have a think over lunchtime, all right?

MR O'NEILL: May is please.

30 THE COMMISSIONER: All right. We'll adjourn until 2 o'clock.

**LUNCHEON ADJOURNMENT**

**[1.00pm]**