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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 THURSDAY 12 JULY, 2018

AT 2.00PM

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

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

THE COMMISSIONER: Yes, Mr Buchanan.

MR BUCHANAN: Commissioner. Mr Demian, before the luncheon adjournment you were telling the Commission that you don't recall a meeting with Mr Vasil and Mr Dabassis at all in your office. Is that right?
---Excuse me. What I said from recollection, there was a meeting scheduled
10 that didn't take place and I believe the document might have been dropped into my office and collected again.

Is it possible that you in fact had a meeting with Mr Vasil and Mr Dabassis in your office?---Look, from recollection, I don't believe so, no.

Is it possible that the agency agreement was provided to you in the course of a meeting in your office with George Vasil and John Dabassis?---Look, again from recollection possibly George, but not the two of them.

20 And if it was possibly George, did you talk with George at that time?
---Oh, look, as I said, I can't recall the, you know, precise conversations that would have taken place.

Or the subject matter of the conversation?---No.

Was there any understanding you had, looking at the, you don't have it in front of you, but the page 227 of volume 23, the first page of, I think it's, no, sorry, the second page of the agency agreement - - -?---Yes.

30 It's on the screen now, Mr Demian.---Yes, thank you.

Sorry, I'll reframe my question. My question is, looking at the item that is essentially in clause 2(iii), commission upon settlement 2.2 million, and is that someone's, after 2.2M - - -?---Inc GST.

MS RONALDS: Inc GST.

MR BUCHANAN: Ah, thank you. Including GST.---Yes.

40 Did you have any understanding as to who would ultimately receive that or any part of it?---Excuse me. Mr Dabassis' company, which is called, whatever it's called.

Galazio Properties.---Sorry?

Galazio Properties.---That's it. I would have expected that company to get the money.

Did you have any understanding as to who might share in the money once it was in the hands of Mr Dabassis' company?---No, we don't ask questions like that.

Did you receive any information, though, or have any indication as to who might share in that money once it was in the hands of Mr Dabassis?---Only once prior to the signing of this agreement, when I was informed that the purchaser's representatives are quite expensive. That's pretty much my knowledge.

10

Were you ever given any information which might have indicated that Mr Hawatt was going to receive or had an expectation of receiving some of that money?---No, never.

Were you ever given any indication to lead you to believe that Pierre Azzi was going to receive any of that money?---No, never.

20

Or any other introducer's commission which was generated consequent upon a sale effected to a purchaser introduced by – or at least in part – by either of those gentlemen?---No, never.

Were you – I withdraw that. Did you say in a meeting with George Vasil and John Dabassis that they should deal with Michael Hawatt from now on or anything like that?---I think from, again to the best of my recollection, after the meeting was cancelled early in June, I suggested I didn't want to have anything to do with those two, and going forward they shouldn't be making contact with me. So, that was, I think that, that SMS or email would have gone through John or George, I can't recollect.

30

You sent an SMS to John Debassis or George Vasil to the effect you didn't want to have anything to do with them?---Going forward, there was a communication at one point of time from the best of my recollection that I didn't want to continue discussion with John regarding the marketing of my property and not to contact me going forward.

And what's your best recollection as to when you sent that text?---Look, I, I can't recollect, I can't recall the, the nature of the communication but I would recall it would have been sometimes around, it would have been early in June, I would say.

40

Before the conclusion of the agency agreement you signed, dated 14 June? ---That's correct.

So, let me just understand this if I can. You told either George or John, possibly both, that you didn't want to have anything to do with them again and then after that, you signed an agency agreement for John Dabassis? ---Yep. I wouldn't suggest that strong term, never again, but what I did say, "I'm not interested," to the best of my recollection, not interested in

continuing discussion regarding the marketing of that project with John Dabassis at that time.

And was this a time before you provided this agency agreement that you had signed that is dated 14 June?---To the best of my knowledge, would have been prior to that date.

10 So, can you assist us in understanding why, having said that, you nevertheless provided an agency agreement to John Dabassis?---The reason to the best of my recollection is that he was insisting on a high commission and he was refusing to provide the information of the potential purchaser and hence those two reasons.

A higher commission than 2.2 million?---I think it was, he was still insisting on some 2.7 or thereabouts type money.

20 But you had a signed agency agreement which confined it to 2.2 million. ---Yeah, but I also said prior to the execution of that agreement. You asked me, if I understand it correctly, you wanted to know when I was likely to have to said that to him and I gave you the reasons of when and why.

So are you talking about - - -?---So prior to that.

I do apologise. I'm sorry to interrupt. I spoke over you. You finish your answer.---No, no. That's okay.

30 Well, are you saying that this arose from the meeting at the café?---No, no, no. Sometimes in early June, I've made my position very clear at the café that our commission will be no higher than a figure, I think, and I would have liked to know who the potential purchaser is to go forward with them. And I think in early June that was still outstanding, both, he was still insisting on a high commission figure and he was still not providing the information requested.

In what circumstances did you make this clear?---Well, in the meeting I've made that clear and I think - - -

40 Which meeting?---Ah, well, late May, the meeting I've had with them on the first instance.

In the coffee shop?---In the coffee shop.

Yes.---And there would have been other communication post that meeting regarding that.

And it was during those communications that you said you didn't want to have any further business relationship with John Dabassis and/or George Vasil.---Sure.

Is that what you say?---Well, the, the disagreement led to cancellation of a meeting that had been organised for early June with John Dabassis and I believe possibly George, so that meeting was cancelled, it didn't go ahead, we didn't continue with the agency agreement.

10 And that meeting you tell us now, so you did tell us before that a meeting was cancelled but you didn't tell us that it was because there had been a disagreement.---Well, no, no, I've always insisted that there were two requests, one, we can't pay commission beyond or above 3 per cent, that will be our maximum ever, it's not just viable otherwise, and two, I would like to know the identity of the potential purchaser or purchasers representatives for us to go forward. So they were the two points of issue.

20 So I'm still trying to understand. Having expressed the view, as you understood it, to at least Mr Dabassis, if not also Mr Vasil, that you didn't want to pursue the matter with them, why did you then execute an agency agreement in Mr Dabassis' favour?---Because I believe Mr Dabassis then accepted that the commission figure be reduced to what I've nominated.

And did he do that in a meeting with you in your office?---I honestly can't remember the communication.

Well, how was that change of position on the part of Mr Dabassis communicated to you?---Well, that was the only way he was going to get an agency, I understand.

30 No, how was it communicated to you?---Look, could have been a telephone discussion between me and Mr Dabassis.

But you say, do you, it wasn't in a meeting in your office?---No, no, it wasn't, not that I can recall.

Now, all of this arose from me asking you a question as to whether or not you had said to Mr Dabassis and Mr Vasil that any further discussions were to go through Mr Hawatt.---No, well, I - - -

40 So how does that relate to my question of you as to whether you said to Mr Vasil and Mr Dabassis that any further discussions were to go through Mr Hawatt?---Look, I don't know if I phrased it in those terms, but there was a time, sometimes in early June, that I did not wish to pursue the discussion re marketing with Mr Dabassis.

And are you saying to us, is that your roundabout way of saying to us that you indicated to them that you didn't want to have direct communications with them, they should go through Mr Hawatt?---No, see, you're rephrasing what I said. What I said is, early in June there was a time which I've made a decision that pursuing that marketing with Mr Dabassis was not going to

happen, and I didn't want to have any further communication with him at that time, and that's where I left it with him.

THE COMMISSIONER: But you were asked earlier on did you tell Mr Vasil and Mr Dabassis that in future you would only deal with Michael Hawatt, deal with them through Michael Hawatt, and my note of your answer was something along the lines of, yes, after the meeting was cancelled in June.---Commissioner, my intention was that the, the, I didn't know John Dabassis, he was actually introduced to me, the introduction I think came through George and Michael.

Yes.---And in discussions with George where we didn't reach agreement on the two points of issue, I've suggested I have nothing further to do with him.

So can I just stop you, that must be before 4 June?---Before 14 June. So it will have to be sometimes between the meeting I had with them at the café, late May, and 14 June. So it would have been around I would say, yeah, look, it will have to be the early days of June.

20 All right. And at that stage did you tell them, I'm not going to communicate with you anymore, any communication will be through Michael Hawatt? Did you say that or not?---To the best of my recollection I don't believe the words are like that, no.

All right. The words were not like that. Was that your intent or - - -?
---Well, the intent is I didn't want to deal with them any further.

MR BUCHANAN: Was the intent that you didn't want to deal with them directly any further and that instead they should go through Mr Hawatt?
30 ---No, no. What I said I will repeat - - -

I know what you've said, but the trouble is, you keep on saying this in response to me asking you a question about whether you ever said to Mr Dabassis or Mr Vasil, I've suggested to them both present in your office, that any further discussions were to go through Mr Hawatt, and what I'm trying to ascertain is, why are you giving us this answer when I'm asking you whether you ever indicated to them that any further discussions were to go through Mr Hawatt.---Based on my recollection I don't agree with you at all.

40 Okay. So you never gave either of them any indication that they were to conduct any further discussions with you through Mr Hawatt. Is that right?
---I can't recall the specifics.

Well, can I suggest that that leaves open the possibility that you did say that.
---I didn't say that. I said I don't recall having said that to them - - -

Yes.--- - - - in that fashion.

And what that leaves open is the possibility, as far as your memory is concerned, that you did say that but that you now can't recall it. Don't you understand?---What I'm suggesting is that sometimes in early June I did not want to continue dealing with those guys based on my recollection. And I honestly do not remember the specific words that were used back in 2016.

10 You knew that Mr Vasil was a person who was a close associate of Mr Hawatt's, didn't you, at this time?---I understood they had a relationship.

And you'd seen Mr Hawatt present at the coffee shop meeting with Mr Dabassis and Mr Vasil?---That's correct.

And you had in all likelihood gone to the coffee shop meeting because that meeting was organised, as far as you could see, by Mr Hawatt?---Look, from recollection, possibly, but the way I remember it was George Vasil organised the meeting.

20 And you had been talking, and I use that word to embrace text messages, telephone calls and what have you, for some time by May/June of 2016 with Mr Hawatt about the potential introduction of purchasers to you or of you to potential purchasers in respect of the Harrison's site, hadn't you?---There had been some communications back and forth regarding introductions to parties that could have potential purchasers.

And so you knew that Mr Hawatt was a person who could be an avenue of communication between you and those two gentlemen?---Not once the introduction has taken place.

30 Why not?---Because - - -

You told – sorry, I apologise, I interrupted. Go on.---That's okay. If we list a property with a real estate, we expect, you know, sort of almost daily correspondence back and forth advising of the interests and our communication comes directly with those marketing people.

40 Mr Demian, it's I suggest very clear on the evidence that you had a relationship with Mr Hawatt from late 2015 onwards that included talking to him and him talking to you about the introduction of purchasers for the Harrison's site to you, and that you obviously knew that at the time. ---Trying to work out the question. So the answer is, not correct, but there had been communication that had been made in early 2016 which I've rejected or didn't deal with. There had been further communications in late May or in May/June which I have attended several meetings as a result of.

Was there anything wrong with using Mr Hawatt as a medium of communication with potential purchasers so far as you were concerned? ---There's no reason and I didn't use him.

All right. There was no reason not to use him but you say you didn't, is that right?---Why would I use – I'll rephrase. I did not use Mr Hawatt at all for communication for my purposes. It can be other way around.

But it certainly did appear to you by early June 2016 that Mr Hawatt was a person who was a medium of communication from more than one potential purchaser?---Look, as I said, he, he, he made two introductions which I was very grateful to.

10

So he would at that time have been quite an appropriate person for you to consider as a medium of communication with potential purchasers, at least the ones that he had already introduced to you?---No. Look, that's not the case at all.

Could we listen please to a recording of a telephone conversation number LII 10902, recorded on 7 June, 2016, commencing at 7.44.

THE COMMISSIONER: I take it's that's PM.

20

AUDIO RECORDING PLAYED

[2.26pm]

MR BUCHANAN: Commissioner, I tender the audio file and the transcript of that recording.

THE COMMISSIONER: The audio file and transcript of LII 10902, recorded on 7 June, 2016 at 7.44pm will be exhibit 131.

30

#EXH-131 – TRANSCRIPT SESSION 10902

MR BUCHANAN: Mr Demian, you heard that recording being played and viewed the transcript while it was being played?---Yes.

Do you recognise the voices of yourself and Mr Hawatt as per the transcript?---Yes.

40

Does that recording bear a relationship between the decision that you were telling us about earlier?---It's consistent with what I said earlier based on my recollection where I did not want to continue with that deal and I was advising Michael as a courtesy, having been the person with George making the introduction to the marketing company.

Well, it was more than a courtesy, wasn't it, according to what you said to Mr Hawatt on that occasion. I'm looking at page 5 of the transcript. "Well,

put it this way, without you, I wouldn't have, you know, he wouldn't even get a chance to even sit down and even explain it to me, let alone get a deal out of it."---Exactly right. He wouldn't have had the opportunity to market on my project or even get to meet me had not the introduction not taken place via Michael and George.

Yes. Well, here you don't say that. You just simply refer to Mr Hawatt.
---As a courtesy as I said. To inform him that the will not be going forward.

- 10 Is it the case that to your knowledge it was Mr Hawatt who organised the meeting at the coffee shop where you met George and John Dabassis?
---Look, as I said based on my recollection, unlikely but possible, it was George that as far as I can remember that organised the meeting.

- 20 What otherwise could you have meant when you said on 7 June, "Without you he wouldn't even get a chance to even sit down and even explain it to me, let alone get a deal"?---Well, both he and George, over several weeks, tried to organise or arrange for an introduction with this marketing company and I've declined it over several weeks actually until pretty much the expiry of the exclusive agency when I was in transition between two marketing groups basically. So it was convenient.

Can I suggest to you that this conversation that you had with Mr Hawatt on 7 June is consistent with you having later, say on 14 June, told Mr Dabassis, possibly with Mr Vasil also being there, that from now on they were to deal with you through Michael Hawatt?---I'm sorry, if I understand correctly, I don't see that in this communication.

- 30 No, that is correct. What I'm giving you the opportunity of responding to is the proposition that it would be entirely consistent with the approach you were indicating on 7 June in this conversation with Michael Hawatt that you later told Mr Dabassis to his face, "From now on, please deal with me through Michael Hawatt."---I did not say that at all.

And of course you deny saying that to George Vasil as well, don't you, just to tie that off?---From recollection, I don't remember saying that to George at all.

- 40 The only other thing I just need to take up with you is page 2 of the transcript, towards the bottom of the page, the little hand is next to, "Demian."---Yes.

Thank you, yes. You told Mr Hawatt, "We all agreed on the deal. You were there. We agreed on 1.9 inclusive." Now, "We all agreed," that's a reference to Mr Hawatt as well as to Mr Dabassis and yourself, isn't it?
---I was talking about the discussion I had with Mr Dabassis in, in the presence of Mr Hawatt.

And 1.9 is a reference to the commission that was discussed at the coffee shop, isn't it?---From recollection I would have offered 1.9 as the figure for commission, yes, for the transaction.

10 Now, is it the case that Michael Hawatt came back and told you 300, 300 plus 1.9 equalling 2.2?---I don't recall but obviously the figure increased up to 2.2 million where I understand the reason behind that is the potential purchaser's representative will be charging a certain figure to Mr Dabassis and he needed to have some money for this, for this transaction. So that was the negotiation.

Well, you did recall on 7 June, because on page 3 of the transcript in the middle of the page you said, "No, look, Michael, one thing is I don't forget and when we were in the coffee shop we agreed on 1.9."---Yes.

And secondly, 2.2 is the figure that appears in the agency agreement dated 14 June.---That was my, my writing, yes.

20 So that's consistent with what you have recounted to Mr Hawatt on 7 June as being the deal that you all agreed to in the coffee shop.---There was a lot of figures that were – from recollection there was a lot of figures that were discussed in the coffee shop, starting at 3 million plus GST or including GST - - -

Yes, but that's not the question I asked you. I'm talking about what was agreed to which you said you hadn't forgotten.---I offered - - -

Not what was bandied around - - -?---Sure.

30 - - - but what was agreed to.---What I, from recollection I would have offered 1.9 million.

Thank you. Excuse me a moment.---Sure.

Can I ask whether we can have a look, please, at volume 23, page 177. Before lunch I took you to this text from Mr Hawatt on 9 May, 2016 about the potential Chinese buyers through the MP friend. Remember that? ---Yes.

40 Can I just pause for a moment, please. Can I take you to page 184 of volume 23.---Yes. Thank you.

That's not an email to which you're party but do you recognise the text under the words, "These are the available sites as promised?" That is to say the list of properties?---That's correct.

And the data there would have all come from you, wouldn't it?---Yes.

Mr Hawatt in this email to Mr Maguire, dated 11 May, 2016, says at the end, “However the owner wishes to meet to discuss further if you are happy to move forward with some or all of the above.” As at 11 May, we’re going back in time a bit now, I apologise for jumping around - - -?---That’s okay.

- - - but thinking now of the purchasers that were in play - - -?---Yes.

10 - - - if I can use that expression, via the MP, as far as what you were told by Mr Hawatt was concerned, had you indicated to Mr Hawatt that you wished to meet further?---I, from recollection I suggested to Mr Hawatt I would like to meet the MP.

Excuse me a moment. Can I ask you to have a look, please, at volume 23, page 257 and also 258. If we could also have a look at the next page. Do you recognise this table, Demian Project Sales Summary?---Yes.

Did you put the title on the document?---I don’t recall but I believe that’s possible.

20 But the data there is – I withdraw that. Essentially I’m asking you did you supply that table to Mr Hawatt?---Yes.

Do you recognise the handwriting at the bottom of the first page of the table?---No, I don’t.

30 You don’t. Thank you. Excuse me a moment. Volume 23, page 186. These are texts by Mr Hawatt to you on 12 May, 2016, 8.02am and then 11.40am. Mr Hawatt’s saying, “FYI, can you supply as below, thanks, Michael.” And what appears below that is, “I just need an indication of price before you and I meet with your man next week, ballpark guess on those not DA and a clear price on the ones already DA then I can progress the discussion.” I’d like you to assume that that was a forward of a text from Mr Maguire to Mr Hawatt.---I accept that.

Do you recall receiving that?---I accept that, yes.

40 Do you recall receiving it?---I don’t, I don’t recall the content, I mean it’s some time ago, but there was some, as I said, a few communications back and forth.

And Mr Hawatt followed it up with, “Any news about your text message?” But it doesn’t appear at least on what’s been extracted from Mr Hawatt’s phone that there was further text messages that day on the subject. ---Sorry, I don’t, I don’t follow. Do you mind reframing?

Yes, sure. It doesn’t appear from what’s been extracted from Mr Hawatt’s phone that there were further text messages that day - - -?---I understand.

- - - on the subject of these texts.---Sure.

But did you do anything in response to what had been provided to you by Mr Hawatt?---No, I wasn't prepared, from recollection I wasn't prepared to provide any financials or, or assessments of value of those projects.

10 And was that for market reasons or some other reason?---Oh, look, these properties were not on the market, I was more interested if and when possible whether we can have a financial investment in the portfolio of those sites.

Could you help us with understanding what you mean by that?---Okay. So a financial investment is one where someone will come in and take a percentage of one or more of those sites and they will get a certain return on their investment at the completion of the project.

20 And what vehicle would be used for that? Some sort of contract with you or one of your special purpose vehicles?---Well, it's either via the vehicles that we have set up or via an investment agreement which will provide those arrangements in place.

And was that something that you were interested in at that time?---At that time, I had, I had an interest in exploring that field.

And why did you have an interest in exploring that field at that time?
---Well, we needed investments in the portfolio to get it to fruition and to get it to developments and, look, back then that was on the back of a good market where it collapsed pretty quickly after that.

30 What sort of market?---Well, up 'til, up 'til the third period of 2015, the market was excellent for, you know, sales and rest of it and I think from November of '15 onward prices just crashed and kept going down basically.

40 If you'll excuse me a moment. Can I take you to, please, page 190 of volume 23. Excuse me a moment. This is a text to you by Mr Hawatt on 17 May, 2016, "Urgent information needed for tomorrow," signed Michael and then it says, "I meet Country Garden tomorrow. I need some indication of price for each deal just to start the conversation." Do you recall receiving this text?---I can see it's sent to me. I don't recall it from back then, no.

As at 17 May, did you know what Country Garden was or who Country Garden was?---From recollection, I have heard the name. They had purchased quite a number of, or they had a number of large transactions around Sydney but that's all I knew about them basically.

Can I take you, please, to page 192 of volume 23. This is a text by Mr Hawatt to you on 18 May, 2016. "Hi Charlie, please respond to below re properties. Michael." And then there's a text, "Meeting arranged for next

Thursday from lunchtime onwards with Country Garden 2.00pm or Friday at 9.00am. They are interested.”---Yes, I can see that.

Do you recall this text from Michael Hawatt?---Look, I can recall there were communications back and forth but I can’t recall the specific SMS itself but I accept it’s been sent to me.

10 We’ve seen now a few texts from Mr Hawatt which appear to be forwarding texts to him from someone, possibly the MP, in relation to potential purchasers that are not connected at all with George Vasil. You’d accept that?---I accept that.

And this is another reference to County Garden. Again, this is not at all connected with George Vasil, it’s more connected with Daryl Maguire, you agree, on the information you have?---Yes.

20 What was going back and forth? So, what we’ve seen is you’re being sent, it’s probably an exaggeration to call it a stream of texts but you’re being sent a number of texts?---Communications, yes.

By Mr Hawatt from if not Mr Maguire then someone connected with the Chinese interests that he was associated with and there’s talk of meetings with Country Garden. What was going back to Michael Hawatt at this time from you?---As I recall up to that date, I had only provided a list of properties and would not provide any other information, any other substantial information and I understand as of that date, he was trying to organise a meeting which I requested before with Mr Maguire, the MP.

30 And was that the extent of your communications with Mr Hawatt on - - -?
---That’s the extent of the, of the - - -

At this time?---Yes.

40 In fairness to you I need to take you to volume 23, page 194. On 19 May, 2016 there is a text to you from Michael Hawatt saying, this is at 10.00am saying, 10.02am saying, “Is everything okay? Not heard from you re my text messages and calls. The MP is waiting re our meeting in the city. Michael.” And your response a little later, indeed a fair bit later that day was, “Please call.” Is that right?---Yes.

Did Michael Hawatt call?---From recollection I remember that he had made the call or, I don't remember what time though or whether it's on the same or the following day.

What, was there some communication that you had with him after he’d been sending you texts in which you talked him through your position in relation to this potential contact?---Look, from recollection it would have been clarity of the correspondence that had taken place up to that time on the

basis that I will not be providing confidential information about my projects but I am interested in meeting the MP and should anything eventuate from that well, we'll cross that bridge when we get to it.

Can I take you, please, to page 204 of volume 23. This is two texts to you from Michael Hawatt on 26 May, 2016, the first one at 1.49pm, "Hi. Don't forget our meeting today 5.00pm in city. Michael." And the second one 4.41pm, "Are you coming?" Do you have any recollection of what this was about?---From recollection, no, I don't, I don't remember it at all.

10

If we look at the fact that it was a reference to a venue in the city, does that suggest that it was more likely to do with the Daryl Maguire contacts rather than the George Vasil/John Dabassis contacts?---I honestly cannot recollect. I can't recall what this was all about. I don't believe I, from, from, I don't recall attending a meeting around that time with, with Michael.

Do you recall attending a meeting in which you first met Mr Maguire before the meeting in the coffee shop in the city where you also met the representative of Country Garden?---It's just a bit long. Do you mind reframing it.

20

Yes, sure. You've told us about meeting Mr Maguire - - -?---Yes.

- - - in a coffee shop in the city and after that meeting had commenced a representative of Country Garden joined the meeting.---That's correct.

And Mr Hawatt was also there?---That's correct.

Before that occasion had you ever previously met Mr Maguire?---No, not that I believe so, no.

30

Had you ever previously met a representative of Country Garden before that occasion?---No.

It would seem though that from this text, the first one sent at 1.49pm on 26 May, 2016 that Mr Hawatt thought that there was an arrangement for a meeting that day 5.00pm in the city involving you and him.---Look, I can't recall. I can't recall.

40

Can I take you to page 211 of volume 23.---Yes.

Page 208, I'm sorry, I need to take you to. This is a series of texts extracted from Mr Hawatt's phone that were sent or received on 27 May, 2016. The first one is from you and it's a hang-up message at 8.34am. The second one is to you. It's 8.42am, and there's an address provided of 233 Castlereagh, and that's provided by Mr Hawatt, you'll see in that text message.---I can see that.

Yes. Was the address of the coffee shop where you met Mr Maguire and subsequently the Country Garden Representative 233 Castlereagh Street?
---It's possible. At the base or at the bottom of the building, ground floor.

And then there's a text to you at 8.43am, a minute later, "Level 6." Would that be where Country Garden had their offices, Level 6 of 233 Castlereagh Street?---Possibly.

10 Then there's a text to you at 9.57pm on 27 May. "Hi, Charlie. There is good interest on few of your projects from the Chinese. Can we catch up this weekend to discuss." And then at 10.07pm from you, "Hi, Michael. Good sign. May be late tomorrow or late Tuesday, whatever works. Let me know." And finally one at 10.48pm from Michael Hawatt, "Late tomorrow is good. My place around 4.00pm or, question mark, let me know. Michael." Now, just thinking back to that day, 27 May, and more to the point to the fact that you were provided with the address which might have been that coffee shop, do you think that 27 May, 2016 might have been the occasion when you had the meeting with Mr Maguire, Mr Hawatt and the representative from Country Garden?---Excuse me. From recollection, I
20 don't believe it happening in, in May. It may have been in early June. Possibly but very highly unlikely.

And why do you say that?---Look, I think that was the time where I had a lot on the go and I couldn't make it to the city for meetings during that period of time.

But what was the state of the CBRE agency agreement as at 27 May? Was it still current?---Was an open agency status.

30 So it would have been open for you to negotiate with a representative of potential purchasers on your own behalf.---Yes.

As at 27 May.---Yes.

When you went to the meeting where you met Mr Maguire and ultimately the representative of Country Garden, did you go there with Michael Hawatt or what was the situation?---No, from, I recall that he met me there so I was running a bit later and I think remembering he tried to call me or SMS me like, about where I was.
40

If you could have a look at what we're going to show you on the screen in a moment.---Sure.

This is a document which contains written data and a photograph. Can I just go to the photograph.---Yes.

Do you recognise the back of yourself?---Yes, I do.

And do you recognise Mr Maguire?---I'm trying to make sense of whether he was on my left or right. I can't tell by this picture that well.

Well, do you recognise Mr -- I do apologise, Mr Hawatt?---I think, I think Mr Hawatt was on my right with his back to me in that picture.

Yes. And Mr Maguire on your left?---I believe so.

10 And is that the representative of Country Garden to whom you are talking?
---That's correct.

And if we can just go up into the document itself, the date on this is 27 May, 2016. You can assume that that was data that was entered there by the person who created this product.---I accept that.

20 I tender the document. I tender it and I might need to make an application to redact some part of it at some stage and so I can't say at this stage that the document will be placed on the website if, Commissioner, you do accept it as an exhibit. So I'm just flagging that at the moment.

THE COMMISSIONER: There may be an application. And if I describe it as a document containing a photograph of a meeting that occurred on 27 May, 2016, is that all right?

MR BUCHANAN: At - - -

THE COMMISSIONER: At 233 I think it is.

30 MR BUCHANAN: Yes, it does say, at Café Noir 233 Castlereagh Street, Sydney.

THE COMMISSIONER: All right. The document containing the photograph of a meeting on 27 May, 2016 at Café Noir, 233 Castlereagh Street, Sydney will be Exhibit 132.

**#EXH-132 – PHOTOGRAPH OF A MEETING ON THE 27/05/2016
AT CAFÉ NOIR AT 233 CASTLEREAGH STREET, SYDNEY**

40 MR BUCHANAN: Now, at that meeting did you discuss with the representative of Country Garden a property of yours that was located opposite Canterbury Hospital?---From recollection I may have and from memory I don't believe they had any interest in that area.

But I'm talking about what you were offering.---I believe that was mentioned in the list that would have been provided earlier and we've had very brief discussions on, on those, on those days.

But the list provided earlier included 548-568 Canterbury Road.---That's correct.

What I'm just asking is whether you described it as a property opposite Canterbury Hospital.---I would say I, from recollection I probably have, yes.

And maybe at a slight angle, 548-568 Canterbury Road was opposite Canterbury Hospital?---It was, yes. I mean - - -

10

Is, sorry.--- - - - slightly up.

Yes. Thank you. Now, can I take you, please, to page 216. This is an exchange of text messages on 31 May, 2016, in the first instance from Mr Hawatt to you at 1.29pm, "Are we catching up today for discussion? Michael." You reply at 6.53pm with a hang-up message and then you sent a text, "Hi, Michael, please call when free." You see that?---Yes.

20

Excuse me a moment. Page 222. The next day, 1 June, 2016, there's a text by Mr Hawatt to you all right 3.32pm, "Hi Charlie, I have a migraine, unable to come. Can you come past my place later on your way home? Michael Hawatt." So, it sounds as if there had been an agreement that the two of you would meet and Mr Hawatt is asking for a change of venue to his place.---Possible.

And what would have been the occasion for the meeting? What was the reason for the meeting?---I, look, I can't recall.

30

It would have been about the introduction to your purchasers potentially in respect of at least the Harrison's property, wouldn't it?---Look, I, as I said, I can't recall. I think it would have been regarding the, the meeting with Mr Maguire.

40

Did you do follow-up work then, after the meeting with Mr Maguire and the Country Garden representative, in terms of providing material that the Country Garden representative could review in respect of your properties with a view to assessing whether Country Garden would be interested?---I recollect, or from recollection I recall that a, an assistant or a colleague of the Country Garden representative that tendered was provided with some planning materials on the property at Waitara, from recollection, and possibly another but I can't recall which one it was. There was an interest in one or two or three. I, I can't recall going back.

Ultimately no interest in 548, is that fair to say?---No.

That is fair to say, you mean?---That's correct.

Yes. If I can take you to page 224. On 3 June, 2016, Michael Hawatt texted you at 7.07pm, "Daryl is free on Tuesday, as on Wednesday he has an important announcement which he needs to prepare for. Let me know if it's okay for Tuesday? PS, he is meeting with the chairman of Country Garden end of next week. Michael Hawatt." And you responded, "Can't do Tuesday, let's consider Thursday." Can you see that?---I accept that.

10 Now, did that go anywhere? What happened in that regard?---Look, I think from recollection there was about two or three meetings with Mr Maguire and there was a number of communications via email and SMSs.

And where were the meetings held?---Mainly in the city.

Where, where in the city apart from Café Noir?---I don't recall to be quite honest. I don't recall where we met with the other occasions. It was in a café, though. They all were in a café.

20 Excuse me a moment. Page 240, please. This is a text from Mr Hawatt to you of 7 June, 2016. The message is, "Message from Daryl," and we can assume what follows from that is a forward from Mr Maguire.---Sure.

"Can we do later in the day as I won't arrive 'til 11. We can meet, have chat, lunch and I can go home." So, that might have been leading up to one of the meetings that you've just told us about?---Possibly, yes.

30 And then can I take you to a text on page 244. On 17 June, 2016 at 11.06am Mr Hawatt texted you, "Hi, Charlie. There is interest in the Parramatta tower. Do you have some indication of the price? Signed Michael."---Correct.

Was one of the properties you had a tower in Parramatta?---Excuse me. It's a proposed building in Charles Street in Parramatta.

Now, did you read that text as being something that Mr Maguire had told Mr Hawatt or that otherwise Mr Hawatt had gathered from Mr Maguire's contacts?---I don't know.

40 Did you have any contact with Country Garden in respect of a tower in Parramatta, in Charles Street, Parramatta?---Look, possibly said that. From memory I recall there was information provided for about three properties and the Charles Street property being the last project may have been one of them.

Did you ever get the impression that Mr Maguire had multiple contacts by way of potential Chinese purchasers not just Country Garden?---I understood up to that date is that Mr Maguire goes on Government business delegations to China and meets major investors that wish to invest in

Australia and I suppose at that time I assumed that Country Garden probably is one of those entities.

But did you understand from anything that you've been told by Mr Hawatt or Mr Maguire that he had potential purchasers other than Country Garden?

---No, not that I can recall.

You've had three or four meetings with him - - -?---With?

10 - - - on of them being with Country garden.---The first one?

Yes.---That's the only one that had potential party interested.

So what were the other three meetings about, two or three meetings about?
---There was, there was follow up. I wanted – okay, I'll rephrase. Based on my recollection I wanted to understand what those delegations are all about. I was pretty interested in that and what sort of entities can derive or investors can derive from that. I suppose as those discussion have taken place, Country Garden had expressed interest in some of those properties.

20

But what I'm, I suppose I'm trying to ascertain from you is did Mr Maguire give you to indicate that there were purchasers that he had who might be interested in one or more of your properties at these subsequent meetings?
---No. No, not that I, I can understand at that time.

So what was the purpose of these meetings as far as Mr Maguire was concerned after that first one?---Sure. I was more interested and keen on those offshore delegations and investors.

30 Yes, I understand that but what did you understand was the reason why Mr Maguire was meeting you on those subsequent occasions?---Okay. From recollection he wanted a list of the larger projects, specifically larger projects that he can actually take with him on one of those offshore meetings.

Providing more information than - - -?---Just a list.

- - - the Demian property table that we saw earlier?---Yeah, yeah. That, that table is only just a basic set of addresses.

40

Yes. I see.---So he wanted the actual planning merits, planning statuses and so on.

I see. Was Mr Hawatt present at any of the subsequent meetings with Mr Maguire?---I think from recollection in at least one. Probably the second one I would, I would recall.

And you had at least one more meeting with Mr Maguire but where Mr Hawatt was not present. Is that your recollection?---That's, that's as I remember it from recollection, yes.

10 And was that something that you were arranging with Mr Hawatt's knowledge or without Mr Hawatt knowing that you were meeting with Mr Maguire?---No, with – apologise. Yeah. At that stage I've started communicating directly with Mr Maguire and the correspondence or communication, whether it was SMSs or telephone calls, were directly with Mr Maguire.

Yes.---So the third - - -

To your knowledge did Mr Hawatt know about your direct contact with Mr Maguire?---Well, I would, I would hope so because he was the one who introduced me to Mr Maguire.

20 No, you could have been going behind his back. That's what I'm trying to find out.---I don't go - - -

Whether as far as you were concerned when you were having one-on-one meetings or meeting with Mr Maguire this was something that you were doing behind Mr Hawatt's back or with Mr Hawatt's knowledge?---Well, for the record, I don't go behind anyone's back so the answer is no.

But did Mr Hawatt know about the meeting?---I don't know. Not, not, I would assume that, okay, based on recollection I don't believe he was aware of the third meeting and if he was I didn't know about it.

30 Had Mr Maguire – I do apologise, I withdraw that. Had Mr Hawatt indicated to you that well, you've met him a couple of times now, you take over and deal directly with Mr Maguire?---From recollection there was no specific discussions. Once the introduction was done, business cards were exchanged, I pretty much took over and went from there.

Did you ever have contact with Bechara Khouri in relation to any potential purchase of the Harrison's site?---Not that I can recall the Harrison, but other sites, yes.

40 Other sites?---Yes.

Which other sites, sir?---With Bechara Khouri he introduced a purchaser or potential purchaser for a property I have in Milperra at the time.

Right. Any other site?---I think the Charles Street property in Parramatta.

Can I ask you to go to page 246 of volume 23. These are not texts involving you, they're between Mr Khouri and Mr Hawatt on 20 June, 2016, and I

take you to the second one, it's by Mr Hawatt to Mr Khouri at 1.02pm. "FYI, I'm meeting with the client this week and receive all the documents. I let you know." Mr Khouri then says, "I don't understand." Mr Hawatt then says, "The response is soon." Mr Khouri says, "Okay." And then Mr Hawatt says, "That's the message I forwarded to you." Do you know what any of that is about?---No.

10 Page 251. This is an exchange between Mr Hawatt and Mr Khouri on 21 June. 4.42pm Mr Hawatt says to Mr Khouri, "Can we meet with yourself and Charlie on Thursday AM? Michael Hawatt." The response at 4.43pm from Mr Khouri is, "I will have to get Charlie and come back to you." And Mr Hawatt says, "Okay." What was that about?---I can't recall.

Well, can I just ask, what were the dealings you were having with Mr Hawatt after he ceased being a councillor, apart from him making contact with you about purchasers of at least the Harrison's property, if not others? ---Look, from recollection, within the exception of the two introductions that he had been a party to, I don't recall there was really much else.

20 But you weren't a friend of his, or were you?---Of who?

Mr Hawatt?---No, I wasn't.

It would sound then in that case as if it must have been business that was being contemplated by Mr Khouri on the one hand and Mr Hawatt on the other hand in this exchange?---Well, Mr Khouri was a consultant of mine, Mr Hawatt, I have no idea what this SMS is all about.

30 Were you involved in any business with or potential business or discussions about business with Mr Hawatt after he ceased being a councillor, other than the contacts about the introduction of potential purchasers of the Harrison's property and some others?---No, not that I can recall.

But does that mean that there could have been business that was being considered - - -?---No, nothing - - -

- - - between the two of you?---Nothing ever transacted between me and Mr Hawatt.

40 Was any contemplated or discussed between you, apart from these George Vasil, Daryl Maguire potential purchasers.---Look, from recollection I think there was one stage – and I can't remember when – that he was interested in introducing building materials from China. I had an invite but I cannot recollect when. And I didn't (not transcribable) I didn't go to that invite.

Now, he ceased being a councillor by reason of the amalgamation announcement made by the State Government on 12 May, I ask you to accept, 12 May, 2016.---I accept that.

You would accept, wouldn't you, that you had influence with Canterbury City Council before that date by reason of your connections with Councillors Azzi and Hawatt?---No, that's not correct.

You would accept, wouldn't you, that before that date you had influence with council by reason of your connections with Jim Montague and Spiro Stavis?---No, that's not correct either.

10 You recall, of course, that amalgamation was a topic of discussion from late 2015 onwards at least through to mid-2016.---I accept that.

Were you, in the period late 2015/early 2016, concerned that the amalgamation of Canterbury City Council with any other council might have an impact on your business?---Never. Never crossed my mind, actually, because we had no idea what it was going to be.

20 Did it concern you before it occurred that amalgamation might result in a dilution, if not a complete loss of influence, that you had with Canterbury City Council, particularly in relation to planning decisions?---I had no idea.

Did it concern you, though, that there was a prospect that you would lose influence with Canterbury City Council if an amalgamation occurred?---The assertion made is not correct, so, but I had no idea what was coming and it was business as usual.

What were you going to do, given that you'd had hundreds of contacts with those two councillors - - -?---Hundreds?

30 - - - and Mr Montague, if they were no longer in a position to make decisions in respect of planning issues in the Canterbury local government area? What were you going to do?---Business as usual, as I said.

But it wouldn't be business as usual. You couldn't work through them. Or could you?---We work in almost, about, at least half a dozen council LGAs at any given time. So it's business as usual for us.

40 So you mean to say you would sell up everything you had in Canterbury once you no longer had any influence with their council?---No.

MS RONALDS: I object. That was not the answer.

MR BUCHANAN: Well, what are you meaning by your answer, when you say that you had business with other councils?---We - - -

What do you mean by that when I'm asking you about a concern that I suggest you must have had about a loss of influence with Canterbury Council?---It's an assertion that you have suggested and I said, no, that's far

from the truth. We work, at any given time, on a number of assets in a number of locations, council LGAs, at any given one time and it's business as usual for us.

Who were you going to ask to deal with your issues the way you'd been asking Michael Hawatt and Pierre Azzi to once amalgamation occurred?
---Again, look it's the normal processes, whatever applies.

10 On 11 May, 2016 you received a text from Michael Hawatt about amalgamation. So this is the day before amalgamation. Page 259. No, it's not. Page 183. Can you see the second text message that appears there that's been extracted from Mr Hawatt's telephone to you on 11 May, 2016, at 8.12pm? "Hi all. The feedback is councils which are targeted for amalgamation will be sacked and proclamation announced on Friday. Administrators have been appointed and we may stay on as advisers only with continued payment of fees. All power will be left to the administrators. That's what I have. Not good news so far. Michael Hawatt."---Yes.

20 Remember receiving that?---Oh, look, I concede that I have received that, yes.

And plainly in it Mr Hawatt was concerned about a loss of power on his part at Canterbury Council?---I don't know.

Well, how otherwise can you read his message to you that he may stay on? "We may stay on as advisors only. All power will be left to the administrators. Not good news."---I have no idea.

30 Did you share his view that it wasn't good news that he would lose power?
---I, I didn't make any comments.

Did you share that view?---I, no, I had no, look, I have no understanding of, of what his thoughts would have been when he sent this SMS.

That is simply a nonsense, isn't it, Mr Demian.---I think the - - -

You're not giving truthful evidence.---Other way around, but anyway.

40 Well, it just seems incredible, I have to give you the opportunity of responding to it, that you would suggest that it was a matter of no concern to you that these two men, Michael Hawatt and Pierre Azzi, that you had been relying upon, if I can put it that way, for your interest to be advanced at Canterbury Council would lose power on council?---With all due respect, I think it's a lot of rubbish.

And why is it a lot of rubbish?---Because you asserted so much in that and expected me to know the state of mind of an individual apart from myself and I think that's totally unreasonable.

No, no, it's you. I'm now asking - - -

THE COMMISSIONER: No, he's asking your - - -

MR BUCHANAN: Sorry, I'm changing the question. I'm now asking about you. It's not rubbish, is it, that you would lose influence once these men had gone?---I totally disagree with you.

10 Why do you disagree? Because plainly you would.---Because I have advised you half a dozen times, it will be business as usual for us and we work in at least six LGAs at any given time, we have numerous experts on our team and it will be business as usual.

What I want to suggest to you is the reason that you're giving nonsensical answers to these questions, as I have already put to you, is that you know that if you told the truth it would show that you relied upon these men, including Mr Montague, to assist your business interests with Canterbury Council.---That's another nonsensical assertion you made.

20

Do you have any understanding as to why Michael Hawatt sent that SMS to you?---I think it said, "Hi all," so he must have sent it to hundreds of people. I don't know.

Certainly. I'm certain he sent it to more than one person but why did he include you in the list?---You've got to ask him.

Well, no. At the moment I'm asking do you have an understanding as to why he would have thought you are a person who should be provided with this information?---Well, if I can suggest that it's a major change in Sydney as a whole, not just one precinct, and obviously no one understood what the future held. That's my state of mind at that stage.

30

Did you, after the amalgamation, rely upon Michael Hawatt or Pierre Azzi to further your business interests at council?---No.

Did you have any further contact with them?---Yes.

Other than the introduction of potential purchasers for the Harrison site or other sites? Did you have further contact with either of them?---Look, it would have, it would have been limited but there would have been some communication that would have happened, yes.

40

And what was the purpose of that?---Oh, look, I can't recall.

Well, you must be able to recall. You do recall that there was or would have been some further communication beyond the subject of the introduction of purchasers. What would that have been about?---So, with

Mr Hawatt, obviously there was the communication regarding the introductions.

Yes. We're putting that to one side. What else was there?---With whom?

You had outstanding, at the time of amalgamation, two section 96 applications in respect of 548-568 Canterbury Road, is that right?---548-568, we had two section 96s, that's correct.

10 And you had outstanding your DA to add two storeys to the approved six-storey development at 570-580 Canterbury Road?---And, and a section 96 as well for that property.

So, did you have any contact with Michael Hawatt or Pierre Azzi or Mr Montague in order to find out what was happening in relation to any of those applications after amalgamation?---From recollection, no.

Do you mean to say that possibly you did?---No. I said from recollection no, n-o, no.

20

Right. But do you say to us that you – I withdraw that. Did you think after 12 May, 2016 that Michael Hawatt might have contacts inside council still even though he was no longer a councillor?---My contact with Mr Hawatt were on a professional level for him being an elected councillor. He was no longer a councillor.

So that begs the question of what these other contacts were apart from the introduction of purchasers to your properties.---That's it as far as Mr Hawatt based on my recollection.

30

Can we play a recording, please, LII number 08791, and I should provide the further information that it was recorded on 12 May, 2016 commencing at 3.44pm.

AUDIO RECORDING PLAYED

[3.31pm]

40 MR BUCHANAN: I tender the audio recording and transcript of that recording.

THE COMMISSIONER: The audio file and transcript of LII 08791 recorded on 12 May, 2016 at 3.44pm will be Exhibit 133.

#EXH-133 – TRANSCRIPT SESSION 08791

MR BUCHANAN: And, Commissioner, I offer a suggestion for the possible correction of our copies of the transcript. Page 2 where in almost the middle of the page an entry by Mr Hawatt appears. The word “unintelligible” is there. What I heard is the word “only, he’s only second in charge” but I’m getting a nod.

THE COMMISSIONER: Anybody else have, hear another view?

10 MR ANDRONOS: I thought it might have been “gunna be”.

THE COMMISSIONER: Gunna be.

MR ANDRONOS: Gunna be.

MR BUCHANAN: I won’t press it.

THE COMMISSIONER: All right.

20 MR BUCHANAN: Thank you. Mr Demian, you heard that recording. Did you recognise the voices of yourself and Mr Hawatt?---Yes.

And the material that was spoken using Arabic is translated in the square brackets in the transcript. You’re content with that?---Yes.

Now, plainly you were concerned about that outcome in that conversation weren’t you?---No. I would have thought that was pretty normal actually.

If I can take you to page 2.---Yes.

30 The first entry contributed to you, “That’s ridiculous, man. That’s crazy.” It doesn’t sound as if you were feeling very calm and collected about it does it?---That would have been my state of mind on councillors being sacked.

And then you ask about Jim and Matt, Matt being the Bankstown general manager.---Yes.

40 And you’re told, “Jim is acting, he’s second-in-charge.” You say, “Okay, that’s fine.” Mr Hawatt says, “They talked to Jim but he doesn’t want to,” – sorry, “I told him they talked to Jim but he doesn’t want to. I said to him, “No, stay on.” And then you say, “I want to, I want to see him, I want to talk to him. He’s got to stay on, he’s the only contact.”---Yes, I can see that.

I’m suggesting that you’re expressing a good deal of emotion there about, as you saw it, the impact on you and your business if Jim Montague didn’t stay on as general manager or at least in a position of serious power at the amalgamated council.---No, I don’t agree with that. I mean my view of Jim is one thing and his performance at council is another.

You said, "He's the only contact." What does that mean?---Well, I've been working on five projects in his, in his LGA, so that's, that's what I was referring to.

10 Towards the end on the third page you say, sorry, Mr Hawatt says, "Talk to Jim, talk to him." And you said, "Will do, will do." Mr Hawatt seemed to be concerned that Mr Montague might resign, unhappy about his second-in-charge position, acting second-in-charge position, and you agreed that you would talk to Jim Montague. Why did you agree to do that?---Actually it was my suggestion I want to talk to him.

Yes, but here at this point you agreed with Mr Hawatt that you would talk to Jim Montague.---Only after I suggested I wanted to talk to him.

Yes. And why?---I had five projects in the precinct so obviously he had knowledge of those projects and, as I said, that's pretty much the only reason.

20 To say, "He's the only contact," indicates, I'm looking again at page 2. ---Yes.

Point 6 of the page indicates that you considered that he was an important point of contact at the council at the very least, doesn't it?---Well, he was the general manager of the council, so he was very important to everybody I suppose.

30 Essentially I want to suggest to you that you went into panic mode when you were told these things by Mr Hawatt because of what you foresaw as the impact upon your business - - -?---No, that's totally - - -
- - - of amalgamation.---Totally unreasonable to even consider.

Now, how much contact, apart from in relation to the introduction of potential purchasers, did you subsequently have with Michael Hawatt?
---Oh, look, from recollection it slowed down pretty quickly after, I would say after June.

40 Because you considered Mr Hawatt was no longer of use to you?---No. We didn't really have anything else beyond those introductions.

Well, that essentially means that you didn't consider he was of much use to you once he was no longer a councillor.---Well, that's your assertion, but obviously he was a good person and there would have been some - - -

But – sorry, go on.---Yeah, there would have been some communication that would have continued for some time after that.

Can we play, please, a recording LII 08988, recorded on 14 May, 2016, commencing at 11.00am.

AUDIO RECORDING PLAYED

[3.39pm]

MR BUCHANAN: I tender the audio file and the transcript of that recording.

10

THE COMMISSIONER: The audio file and transcript of LII 08988, recorded on 14 May, 2016, at 11.00am, will be Exhibit 134.

#EXH-134 – TRANSCRIPT SESSION 08988

MR BUCHANAN: You heard that recording being played.---Yes, I have.

20

Did you recognise the voices of yourself, Mr Hawatt and Mr Azzi?---I didn't hear myself, actually.

I'm sorry, I do apologise. You're absolutely correct.---Thank you.

You heard Mr Azzi say, "I'm still here with, with Charlie at the Lantern Club."---Yes, I did.

So do you recall meeting Mr Azzi at the Lantern Club on about two days after amalgamation?---Possibly, yes.

30

And what was the reason for that?---Councillor Azzi, or when he was councillor at least anyway, asked that I support the Lantern Club cancer fundraiser, and I believe I, I purchased a table and made certain donations in that fundraiser.

And do you tell us that the occasion on 14 May, 2016 was a Cancer Council fundraiser?---I don't, as I said, I don't recall when the fundraiser was, was on but I know they do prepare for it sometime before it takes place.

40

Did you ever meet Mr Azzi at the Lantern Club just to socialise with him? ---Look, I can't recall, but I have met him there probably two or three times, yes, or bumped into him as well there.

Excuse me a moment, please. I apologise for the delay, Commissioner and Mr Demian.---That's okay.

Excuse me, Commissioner. I'm going to be making an application for variation of a section 112 order made in respect of testimony given by the

witness to the Commission on 30 November, 2016 and I do apologise, I left behind my marked-up copy so I just need to establish the parameters of the application. So the parameters of the application, Commissioner, are page 464, line 13, sorry, line 14 down to line 19 and then if it's appropriate to do so can I indicate two other passages at this stage or would you prefer me to make the application - - -

THE COMMISSIONER: No. If you list all three, please.

10 MR BUCHANAN: Thank you. Page 467, sorry, commencing at page 466, line 31 and concluding on page 467, line, sorry, I'm just revising this in my head. It might be easier actually if I don't make it three and make it instead two passages and make the concluding passage on page 468, line 13.

THE COMMISSIONER: And the second section commenced at line 31 of page 466?

MR BUCHANAN: Yes, yes.

20 THE COMMISSIONER: Let me just have a quick look at it. The order made under section 112 of the Independent Commission Against Corruption Act on 30 November, 2016 will be varied to exclude the evidence of Mr Demian contained in the transcript at page 464, line 14 to 19 and then page 466, commencing at line 31 and finishing at page 468, line 13.

VARIATION OF SUPPRESSION ORDER: THE ORDER MADE UNDER SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT ON 30 NOVEMBER, 2016 WILL BE
30 **VARIED TO EXCLUDE THE EVIDENCE OF MR DEMIAN CONTAINED IN THE TRANSCRIPT AT PAGE 464, LINE 14 TO 19 AND THEN PAGE 466, COMMENCING AT LINE 31 AND FINISHING AT PAGE 468, LINE 13.**

MR BUCHANAN: Yes. Thank you, Commissioner. Mr Demian, could you listen to me, please, read from the transcript of testimony that you gave to the Commission on 30 November, 2016. Question, "Thank you. Now, did you ever have any discussions with Mr Hawatt about the potential sale
40 of 548 Canterbury Road?" Answer, "I didn't have discussions with them but he was in a meeting where an introduction had taken place." Question, "Okay, when was that meeting?" Answer, "It would have been around mid-2016 or thereabouts." You gave that evidence on 30 November, 2016, on the subject of having discussions with Mr Hawatt about the potential sale of 548 Canterbury Road.---Yes.

It was incorrect, wasn't it?---That wasn't, it's consistent with what I said.

It was false to your knowledge, in fact, I suggest to you?---No, no. That's not the case at all. I said there was a meeting around the middle of 2016, which is within, around a period of time in which that meeting took place and that's what I was referring to.

And are you saying that you never had discussions with him about the potential sale of 548 Canterbury Road?---No, from recollection that wasn't what I said. I mean, I, I had a meeting with him so I would have had to have discussions with him.

10

I'm going to read you another passage. This is at page 471 extending to - - -

THE COMMISSIONER: Hold on.

MR BUCHANAN: I'm sorry. I apologise. Thank you, I stand corrected. If you could listen to this reading from the transcript, please, of your evidence on 30 November, 2016. "Just going back to the meeting that Mr Hawatt attended. Was there a discussion about where the commission or the introducer's fee would be going?" Answer, "No. I think Councillor Hawatt was more of an observer and he didn't stay the whole meeting I don't believe. It was mainly John." Question, "Do you know why he attended?" Answer, "Look, it's either he was in the area, but I think he was with George at the time." Question, "Well, did it surprise you that Councillor Hawatt attended the meeting?" Answer, "No, no. It didn't surprise me at all. Why would it surprise me?" Question, "Well, did you know whether he had any involvement in this deal that John Dabassis was suggesting to you?" Answer, "No. Absolutely not as I understand it." Question, "Was Councillor Hawatt attending the meeting in relation to the deal?" Answer, "Again, he was with George so I have no idea whether it happened that he was there or he attended because of the introduction. I'm not sure." Question. "Did you ask him why he was attending?" Answer. "Why would I ask him." Answer. "No. Sorry, the answer is no." Question. "And did he tell you anything about why he was attending the meeting?" Answer. "No." Question. "Had you had any discussions with Mr Hawatt about the potential sale of your property prior to that meeting?" Answer. "No." Question. "Had Mr Hawatt ever made an offer to you or forwarded an offer to you in relation to the property?" Answer. "No." Question. "He's never given you any offers from any buyers who were interested in selling, interested in purchasing 548 Canterbury Road?" Answer. "No." Question. "And after that meeting did you have any discussions with Mr Hawatt about the potential sale of 548 Canterbury Road?" Answer. "Oh look, I think I have expressed concern with that individual. It just came up in a general discussion." Question. "So concern with which individual?" Answer. "John." Question. "John?" Answer. "John, yeah. I've expressed concern about, you know, the way he was proposing to do business and especially the express interest about the possibility that John may sort of circulate the property on the market without our consent and hence the outcome of only 14 days strictly for one buyer." Question. "Did

John ever circulate the property on the market without your consent?" Answer. "I understand that he did." Question. "What did you do about that?" Answer. "I put an end to it. Look, for 10 days it did not" – I'm sorry – "Look, for 10 days it did happen, it did go pretty quickly. I think it was - -" Question. "So the 14 day period expired?" Answer. "Expired. I think on the very last day he may have sent us a name of a potential purchaser and it was a - - -" Question. "What was the name?" Answer. "That was a solicitor's name. Actually it wasn't the purchaser themselves." Question. "And what was the name of the solicitor?" Answer. "Oh look, I can't
10 remember. Some shiny solicitor or purchaser's representative in the city somewhere. I've got their name again." Question. "Okay. And you said you expressed concern to Michael Hawatt about John's conduct." I'll just read that to make it clear. "And you said you expressed concern to Michael for what about John's conduct. What did you say to him?" Answer. "There was a discussion and I said, 'Look, this person doesn't come across as an individual we can do business with.' And he said, 'Look, up to you. It's your decision.'" Question. "Okay. And were there any other conversations with Michael about - - -" Answer. "No, there was, no." Question. "About the potential sale of 548?" Answer. "No." Question.
20 "Did Mr Hawatt ever suggest to you another buyer who might be interested in 548?" Answer. "Very unlikely." Question. "Did it happen or didn't it happen?" Answer. "No, it didn't happen." Question. "Did you ever discuss with Mr Hawatt the possibility of selling any of your properties?" Answer. "No, but I think it was common knowledge that 548 was on the market." You've heard me read that transcript?---I have.

You deliberately set out to mislead the Commission in that evidence about whether you had had discussions with Mr Hawatt about the potential sale of 548 Canterbury Road didn't you?---That's totally untrue.

30 What do you say – I withdraw that. You agree that that evidence is different from the evidence that you've both given here and seen presented here whilst you've been giving evidence?---My understanding is that in general terms it's very consistent and it's based or answered based on the questions that were asked at that time and the state of my memory at that time.

Such as the question, page 467, line 10, "Had Mr Hawatt ever made an offer to you or forwarded an offer to you in relation to the property?" Answer. "No." You say that's entirely consistent with the evidence you've given
40 today?---Well, he did not make an offer on the property. Absolutely not.

THE COMMISSIONER: No, or forwarded an offer to you?---Well, either way it would have been from him as I understood the question at that time but not an introduction to someone else. That's how I understood it.

MR BUCHANAN: Commissioner, I make a further application to vary a section 112 order in respect of the testimony given by the witness on the

same day, 30 November, 2016 commencing page 471, line 37, concluding on page 472 at line 1.

THE COMMISSIONER: I vary the section 112 direction under the Independent Commission Against Corruption Act made on 30 November, 2016 to exclude the evidence given by Mr Demian recorded at page 471 of the transcript, commencing at line 37 and ending at page 472, line 1.

10 **VARIATION OF SUPPRESSION ORDER: I VARY THE SECTION
112 DIRECTION UNDER THE INDEPENDENT COMMISSION
AGAINST CORRUPTION ACT MADE ON 30 NOVEMBER, 2016 TO
EXCLUDE THE EVIDENCE GIVEN BY MR DEMIAN RECORDED
AT PAGE 471 OF THE TRANSCRIPT, COMMENCING AT LINE 37
AND ENDING AT PAGE 472, LINE 1.**

MR BUCHANAN: Mr Demian, again I'm going to read to you from the transcript of evidence that you gave on 30 November, 2016. Question.
20 "Okay. Who put you in touch with Country Garden?" Answer. "Look, I think one of the directors at Abacus have or has done deals with them in the past." Answer [sic], "Okay. Did you talk to Mr Hawatt about Country Garden at all?" Answer. "No, I don't recall that at all." Question. "Did Mr Hawatt send you any information about Country Garden?" Answer. "No, look, during the, as I said, the campaign with CBRE there was a lot of attempts by people to deal with me directly and I've pretty much put them onto CBRE to negotiate with." Question. "Everybody that came to you, you referred to CBRE?" Answer. "Absolutely, yes." Question, "Absolutely everybody?" Answer. "Yes." That evidence was false or
30 misleading, wasn't it?---No, it wasn't false or misleading. I think the interpretation between working or introducing someone was, was the state of my question, answer at that time.

THE COMMISSIONER: I'm sorry, would you say that again?---The, the introduction to Country Garden or the work with Country Garden, that was directly by myself, directly with them, had nothing to do with Mr Hawatt within the exception of the introduction that was made to Mr Maguire. So he did - - -

40 Well, it definitely didn't come through Abacus, did it?---Well, don't know, Abacus had dealings with those companies and they may have, look, at the time, as I said, based on the memory which I had at that time, Abacus had done deals with that company and obviously there was an introduction by Mr Maguire to that company.

MR BUCHANAN: How do you know the introduction was by Mr Maguire?---Well, he's the individual as I understand it that invited the representative from Country Garden to attend.

How many state MPs have you dealt with in your life who have introduced you to potential purchasers of your property?---Only one.

And you'd forgotten, had you, on 30 November, 2016, that Mr Maguire had performed that function?---From just having heard what you, the, the evidence was, that was the state of the question and state of my understanding of the question and answer.

10 And it again was false or misleading to say that absolutely everybody that came to you, you referred to CBRE, wasn't it?---No, that's, that's very consistent with what my evidence of the last couple of days where I referred people, for example, like George and other people that contact me direct to CBRE for dealings with them during that marketing and tender process. Absolutely.

Did you refer Country Garden to CBRE?---Country Garden came after the event.

20 Did you refer Country Garden to CBRE?---The answer is no.

The question was asked of you on 30 November, "Did you talk to Mr Hawatt about Country Garden at all?" And you said, "No, I don't recall that at all." That was false or misleading, wasn't it?---No. I didn't talk to him about the deals I had with Country Garden at all.

No, that's not the question you were asked. You were asked, "Did you talk to Mr Hawatt about Country Garden at all?" And you said, "No, I don't recall that at all."---My state of mind would be the dealings with Country
30 Garden at that time.

Excuse me a moment.---Sure.

Did you have any discussions, whether by face-to-face or by email or by text or by telephone with anyone about paying a commission to Mr Hawatt in relation to the introduction to Country Garden?---No, never.

Did you have any conversation or discussion or contact with anyone about paying a commission to Mr Maguire for the introduction to Country
40 Garden?---Absolutely not.

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

THE COMMISSIONER: Mr Moses?

MR MOSES: Yes, thank you. David?

MR BUCHANAN: Oh, I'm sorry.

MR MOSES: Just to give you warning, I'll let you know before I get to that. Sir, I act for the council and some of the employees of the council. Mr Hawatt was a councillor, correct?---That's correct, yes.

He was not a real estate agent, correct?---Not that I was aware of.

No. And Mr Azzi was a councillor, correct?---That's correct, yes.

10 And he was not a real estate agent, correct?---Not that I'm aware of, no.

The company Sterling Linx Pty Ltd, you were the director?---That's correct.

Your son Christopher was secretary?---Possibly, yes.

Is your son Christopher, sir?---That's correct, yes.

Yes. And your son Christopher is the sole shareholder of that company?---I believe so, yes.

20

Yes. And Sterling Linx Pty Ltd is the entity that purchased 548-562 Canterbury Road from Harrison's on 14 November, 2014?---That's correct.

For \$14 million, correct?---That's correct.

And Sterling - - -

30 THE COMMISSIONER: Mr Demian, I'm sorry, I know you've got to look at Mr Moses but we also need to hear your voice picked up by the microphone.---I'm sorry. I'll try.

Thanks.

MR MOSES: And Sterling Linx sold 548-558 Canterbury Road on 5 June, 2017 for \$52.8 million?---\$47.5 million actually.

And that was to Arden TP Pty Ltd?---That's correct.

40 And who organised that sale to Arden?---Savills.

Thank you. And Sterling Linx Pty Ltd purchased, did it, the property which is 570-572 Canterbury Road for \$4.45 million on 11 April, 2016?---Sorry, do you mind repeating your question?

Did Sterling Linx purchase from a Mr Jai Lai, on 11 April, 2016, the property at 570-572 Canterbury Road?---Yes.

And it sold it again to Arden TP Pty Ltd, that is 570 Canterbury Road, for \$13.585 million on 17 July, 2017?---No, that's not correct.

How much did it sell it for?---It's not about the price, it's about the property. You had wrong property in there. So, the, there was four properties amalgamated starting 570 up to 580, so that was the factory and the three houses next to it.

10 For how much?---And that was sold for about \$12 point something million.

Thank you. Now, just going back if I can. Is this your position, you did not need Mr Hawatt or Mr Azzi to sell these properties for you, correct?---No, no, I did not.

And in relation to these properties, which had been the subject of development applications that you had put through the council, you had an entity already organised, for instance, to sell the Harrison site, which is the 548 Canterbury Road property, correct?---That's correct, yes.

20 And that entity, you had an exclusive arrangement with them to sell that property which you ended in May, 2016?---That's correct

And that was the entity, is it CR- - -?---CBRE.

CBRE?---That's correct.

And that was an entity which you had previously had dealings with?
---That's correct.

30 But the fact is, isn't it, Mr Demian, to be blunt, you needed the support of Mr Hawatt and Mr Azzi to assist you to get your development application through the council.---That's, that's not correct.

You wanted them on board in order to support the application, correct?
---Look, we've put our case to them from time to time and - - -

Well, let's not be shy about it.---Shy?

40 I'm not suggesting you've done anything wrong by approaching them. You wanted to get to councillors, sir, in order to get your point of view across to them as to why your development applications should go through in relation to the Harrison's site, firstly, correct?---I have put my case forward just by way of submission and made sure the two councillors in particular had that package of information from time to time.

And that was both in respect of the Harrison's site and the 570-572 site, correct?---570-580.

Correct?---Yes.

And why these two councillors? That is, why did you choose these two?

---Well, I think in my evidence I stated that I've attended one council meeting, and only one, sometimes in October of 2013 when the strategy for some, I don't know, 30, 40, 50 properties was being resolved or decided by council on that night. And I've noticed those two councillors seemed to be leading the debate regarding the increased height along the LGA as a whole, not just my two properties. And out of those, 548-568 was actually resolved to increase the height up to 25 metres from 18 metres that was the current control at that time.

And you told Mr Buchanan that you telephoned Mr Hawatt on his mobile phone for the first time in order to speak to him. Do you recall giving that evidence?---Sorry, what was that?

You told Mr Buchanan, Counsel Assisting, that you telephoned Mr Hawatt on his mobile phone - - -?---That's correct.

20 - - - for the first time to discuss with him your issues in relation to DAs that were before the council, correct?---Do you remember giving that evidence? ---Yes.

Where did you get his mobile number from?---The website. Council website.

The website.---It's got his picture and phone number on it.

30 And you called him out of the blue to say, "I need your help"?---I think it was, as it came out, late, very late in 2013, I think November/December of 2013, that I would have had the first contact with him. That was after the council resolution had been made for the Residential Development Strategy along Canterbury Road.

Now, Mr Hawatt, let's again be blunt about this, do you agree that what the evidence that's been shown to you by Counsel Assisting fairly shows is that Mr Hawatt pursued you in relation to putting forward people who could sell your properties, correct?---I wouldn't put it that way.

40 Well, was it you or Mr Hawatt who instigated discussions about the sale of the properties?---Mr Hawatt.

Yes. Yes. And in fact do you agree that at times Mr Hawatt was harassing you in relation to putting forward people such as Mr Vasil to sell your properties?---No, I disagree with that. I had a lot of respect for Mr Hawatt.

Mr Hawatt pursued you on numerous occasions to have you agree that your properties be sold on your behalf by Mr Vasil. Do you agree with that?

---No, I don't agree with that.

Mr Hawatt contacted you on numerous occasions to put forward people who could buy your properties, is that right?---Yes.

And you never asked him to do that, did you?---I did not.

10 No. And at the time that he was contacting you to do that, you had development applications that were still pending before the council in relation to the two properties we discussed, correct?---If you can specify the date, I can answer it.

Well, I'm talking throughout 2016 you still had development applications pending for both properties, didn't you?---Yes.

At the very same time he was pursuing you about your properties being sold, correct?---In the same period of time?

20 Yes.---He was referring certain people to be introduced, yes.

And you of course initially said to him, "I've got an exclusive arrangement with another company to sell the property."---That's correct.

And that was the Harrison's site property, correct?---That's correct, yes.

30 And you said to him, "You're going to have to go through them." Correct? ---That's correct. Well, sorry, I'll rephrase. I don't recall saying that to Councillor Hawatt himself, at the time I would have said any people that he was trying to introduce would have to apply through CBRE and place a tender if they wished to do so.

Okay. In your evidence that you've given to the Commission, I can give you the transcript reference, I thought you told Mr Buchanan initially in relation to that issue that you told Councillor Hawatt that, this is page 2000 of the transcript, that in relation to – and I withdraw what I said, this is in relation to Mr Vasil, you said that you referred Vasil to CBRE as they had the exclusive contract to sell. Is that right?---That's correct.

40 And did you ever say that to Mr Hawatt?---No.

And again I'm just trying to be fair to you.---No, that's okay.

In relation to Mr Hawatt when he was contacting you about people to buy your properties, you were concerned, were you, not to want to upset him because there were pending development applications that were before the council. Correct?---No.

Let's be blunt about it. Is that true, sir?---Well, being blunt the answer is no.

No. Okay. Right. So you were willing to have a discussion with him about the sale of your properties, were you, to third parties? I'm just trying to understand what, what your position is.---Would you like me to explain?

10 Please.---Sure. Councillor Hawatt and Mr Vasil wanted to introduce a Chinese purchaser as I understood at that time. I had an exclusive agency with CBRE from 12 February till about 20 or thereabouts of May.

Ah hmm.---So I've referred both, or George, sorry, Mr Vasil, that if he has any purchasers whatsoever he's got to put them onto CBRE to deal with.

So Councillor Hawatt and Mr Vasil approached you about Chinese buyers for your property. Correct?---That's correct, yes.

20 Did you think to yourself, why is a councillor trying to put me into contact with somebody to buy my properties?---Oh, look, I don't know, I thought he would have known the other marketing guy and probably doing him a favour. It really, didn't really cross my mind, didn't think much about it.

Right. It didn't cross your mind as to why a government official was trying to find a buyer for you?---He wasn't trying to find a buyer, he actually - - -

He wasn't? Oh. Okay.---He organised an introduction.

30 Well, did you think why a government official was wanting to organise an introduction to sell your properties, sir?---No. No, because I did not enter into any agreements or arrangements with him, it was merely an introduction.

And you didn't think about why that would be happening?---It didn't, as I said, it didn't even cross my mind. It was an introduction and I accepted that.

So when this discussion occurred in early 2016, there were still pending development applications before the council. Correct?---Yes.

40 And you didn't think about why it was that Mr Hawatt and Mr Vasil were both speaking to you about prospective buyers for your property?---It was mainly Mr Vasil. I mean he's the real estate agent, but I could not deal with him and I made that very clear via verbal discussions and I think an SMS that may have been sent to both Mr Hawatt as well as Mr Vasil.

So is this the position though, sir. Were you stringing Mr Hawatt along because you didn't want to upset him because you needed him to lead the

charge on the council to get your development applications approved?---
Absolutely not.

No. Are you sure about that?---Absolutely.

10 So I'm just trying to understand again what the position is because I want to
be clear to you. The Commission is investigating, as you know, whether or
not there was a dishonest or partial exercise of duties on behalf of
Councillor Hawatt, Councillor Azzi and others in relation to amongst other
things, the properties which were owned by your company. Do you
understand that?---I understand, thank you.

And do you understand – I want you to understand this, that at the end of
this inquiry if the evidence so permits I'll be seeking that the Commission
make a referral to the Crime Commission for the proceeds of crime in
relation to any profit which your company made as a result of dishonest
decisions by these councillors that you were complicit in. Do you
understand that?

20 MR BUCHANAN: Commissioner, I object. With the greatest respect to
my learned friend I am not sure that a referral to another body is necessarily
a matter that is within the scope of this particular inquiry. That's not to say
that it might not be sought but in my respectful submission the scope of this
inquiry is that which, Commissioner, you set out at the outset on the first
day and it's an investigation and at the end of the day, at the moment we're
simply trying to find out what happened. Whether someone or some party
or indeed even I as Counsel Assisting were to make a submission that the
Commission should take a particular course is an entirely separate matter
30 from the investigation that's being conducted into facts, the facts relating to
those two councillors, to Mr Montague and to Mr Stavis, and essentially
planning decisions that were made in the period 2013/2016 at Canterbury
Council. So the informing of the witness of what a party might intend to do
is not a matter that's going to assist in the conduct of this investigation in my
submission.

MR MOSES: Just two things in reply. I'm not sure what my friend's
objection is because as you would - - -

40 MR BUCHANAN: Irrelevance.

MR MOSES: Well, okay, thank you. As you would know, Commissioner,
in terms of the scope of the inquiry that is one thing, what you may do as a
consequence of it comes from your statutory powers which you're obliged
to follow. So the scope, the terms of the reference with all due respect to
my friend, his reference to that is misconceived because under the statute
you must do certain things if things arise as a result of matters that get
drawn to this investigative body's attention. So I don't understand the
objection from that point of view. Secondly, on the grounds of relevance.

The grounds of relevance of this is to put the witness fairly on notice as to what the position and what the concern is here to then ask him whether he's going to reconsider his evidence as to this issue, that is, was it Councillor Hawatt and Councillor Azzi who were in effect the ones who were putting pressure upon him in order to sell these properties through nominated individuals and one would assume so that they could get a benefit, or did he play along with this because he wanted their assistance to get the DAs through. That's the issue. So it's about - - -

10 MR BUCHANAN: Can I add to my objection. In my submission it is not an appropriate use of the power that a party has that's been granted leave to appear in an inquiry such as this to essentially inform them in terrorem with a view to getting them to change their evidence, that there might be a consequence outside the ambit of this inquiry.

MR MOSES: Commissioner, I'm going to address it this way. I'll withdraw the question. It's a matter for my friend. He's Counsel Assisting with conduct of the matter and charged with ultimately getting to the truth of what's gone on here but I'll withdraw my proposition and I'll put this to
20 the witness. I don't withdraw the earlier comment about the pursuit of the proceeds of crime. That will happen either with the assistance of this Commission or independently.

MR BUCHANAN: It won't as far as I'm concerned occur with the assistance of the Commission. That's not what the purpose is of this inquiry.

THE COMMISSIONER: Mr Moses, I am concerned. I understand you wanting to explore with the witness his evidence and whether ultimately I will accept some aspects of his evidence but I am concerned - - -
30

MR MOSES: I think it's more about this, Commissioner, and that is trying to find out what the position was. That is, if it's suggested that this individual was having inappropriate dealings with Councillors Hawatt and Azzi in relation to the sale of these properties and potential payments or commissions or introduction fees to be paid to them, the question we're trying to get to which hasn't really been explored yet and that is who instigated, who instigated these, these discussions. What we know from the witness, and I think he's accepted this, is that Mr Hawatt was the one that approached him in relation to putting people into contact with him to sell the
40 properties, as I understand it. The next issue that needs to be explored is whether or not it was Mr Hawatt or Mr Demian who instigated a discussion about who was to be paid in relation to the sale of these properties, because there is evidence that you have that there are discussions occurring about payments being made. What we don't know is who instigated that.

THE COMMISSIONER: My concern is that you've indicated what you want to explore and I have to say that some of that has been explored by Counsel Assisting. My concern was to raise that there might be a referral to

the Crime Commission with the consequence of Proceeds of Crime action to this witness in the context of the evidence he's already given. Is he going to maintain that? That was not appropriate.

MR MOSES: No. Well, we've withdrawn - - -

THE COMMISSIONER: You've withdrawn that?

MR MOSES: We've withdrawn that.

10

THE COMMISSIONER: Please don't pursue that further.

MR MOSES: I think I've made that clear, Commissioner, that we withdrew, going along those lines when Counsel Assisting objected, because he said that is not a matter that he's pursuing.

20

THE COMMISSIONER: But if in pursuing these two topics, if you can be minded – and we're coming up to the end of today – if you can review the transcript overnight and not duplicate questions and matters that Counsel Assisting has already referred to.

MR MOSES: Mr Buchanan and I have already had a discussion about this prior to the commencement. Sorry, Ms Ronalds I think wants to address you. I'm happy for her to address.

MS RONALDS: Sorry, I thought you'd finished.

THE COMMISSIONER: No, I think he's - - -

30

MR MOSES: No, no, I'm still on my feet.

MS RONALDS: I apologise, I thought you'd finished.

MR MOSES: It's not your fault, Ms Ronalds, I'm behind you so you wouldn't have known.

In relation to those matters, Mr Buchanan has already raised that with me so I'm very mindful of that consideration.

40

THE COMMISSIONER: Good. Ms Ronalds.

MS RONALDS: I have a separate concern, if I may raise it, which is that my understanding is that leave is given to counsel or solicitors and lawyers to appear in the interests of their client. My understanding from what Mr Moses said earlier is that the current council, which is not the council at which we are looking, is his client and I fail to see any connection between the questions being asked about payments to Mr Hawatt and his current

client. My understanding is leave has always been granted on that basis only, that questions from further back, if I may call it that - - -

THE COMMISSIONER: Yes.

MS RONALDS: - - - have to be in the interests of the client for whom they appear, they're not general, they're not at large, that's Counsel Assisting's role, it's not for another counsel to take over the role of Counsel Assisting and ask questions that are broad and of no relationship to the client for whom they appear.

THE COMMISSIONER: Now - - -

MR MOSES: I think just a point to be made about that. It's just strictly a legal question. I think if my friend reads the relevant legislation that dealt with the amalgamations we are the council for the purposes of the Act and we can provide our friend overnight with the relevant provisions if that would assist.

20 MR RONALDS: That doesn't assist me at all because if Mr Hawatt was going to be paid, what interest is that of the council? And as I understand it, that was the question that Mr Moses is trying to explore, is whether there was an arrangement between Mr Demian and Mr Hawatt to be paid. That's what he indicated the questions addressed, and in my submission that's got nothing to do with the new, the old, the amalgamated or any other council.

MR MOSES: I think very simply it's this, just to be clear in case anybody misses the point. If there was any agreement or arrangement whereby Mr Demian agreed that Mr Hawatt or Mr Azzi would be paid some form of money as a result of the sale of these properties, whilst they were still on council and the subject of deliberations in relation to pending development applications, that very much impacts upon the council because then you have a situation where there has been an improper influence in relation to and a conflict of interest in relation to their decisions which ultimately always have to be in the interests of the ratepayers of the council. And there is no evidence at all that these two men disclosed anything in relation to these, as it were, payment or other negotiations that were occurring in relation to properties that were owned by Mr Demian's company.

40 MS RONALDS: Well, I must have napped off somewhere but there's been no evidence in my understanding of any evidence of payments, contrary to Mr Moses' assertion that there's been evidence of payments. There has been none.

THE COMMISSIONER: All right. Can I propose – we're at half past 4.00. What I suggest is, Mr Moses, you mentioned that you'd had discussions with Mr Buchanan about avoiding duplication. I would be grateful if your team could review the transcript overnight, so we don't have duplication.

Mr Demian's been here for a while and we, we do want to eventually release him. I'd also remind you of our standard directions at paragraphs 12 and 13 about parties showing a substantial interest and that I may make enquiries about further description of what those interests are.

10 MR MOSES: To be clear so it's on the record, we forwarded to the Commission the list of documents which we would be proposing to ask questions of the witness about. I indicated to Mr Buchanan it would be thirty to forty minutes' worth of cross-examination as you know. For the record, we didn't commence cross-examination until after 4 o'clock. There's been, for the record, at least 10 to 12 minutes taken up with objections and the like in relation to the matter and I am very aware of the practice directions and I'm very aware that we're not here to repeat questions. There's been a lot of time taken up already in this inquiry, at great public cost and a lot of impacts upon the ratepayers of the client that I act for, and we will ask questions that are within our rights to ask those questions and it's a matter for you to rule upon them if you so choose, but that will be done in accordance with law and in accordance with procedural fairness. Please the Commission.

20

MR BUCHANAN: Can I just confirm that Mr Moses has provided the Commission with a list of documents. The only thing I would indicate at this stage, Commissioner, is that they are all, as Mr Moses quite properly indicated to me, documents that are in evidence. Accordingly it would be desirable that there not be repetition of evidence about what is in evidence or has already been the subject of examination on evidence so far as concerns those documents.

30 THE COMMISSIONER: Yes.

MS RONALDS: Mr Azzi and I were meant to be here three weeks ago and then earlier in this week. I have to be in court tomorrow and I cannot attend.

THE COMMISSIONER: Can Ms Walsh - - -

MS RONALDS: Ms Walsh can and Mr Demian wants to go on to end it and - - -

40 THE COMMISSIONER: Are you in court all day or - - -

MS RONALDS: Yes. Well, probably up until 1 o'clock but he wishes to continue and complete the matter. I just wanted to – but I apologise but there's absolutely nothing I can do about it. We've been in the hands of the Commission and as you know I've been bumped and bumped and bumped.

THE COMMISSIONER: Yes.

MS RONALDS: There's nothing I can do about it. The Federal Court judge is waiting for me and - - -

THE COMMISSIONER: All right. I'm sure Ms Walsh will - - -

MS RONALDS: She can more than adequately – but I just wanted to explain why I wouldn't be here.

THE COMMISSIONER: No, that's fine.

10

MS RONALDS: Just as a matter of courtesy.

THE COMMISSIONER: Any other issues anybody wants - - -

MR MOSES: Just one thing. You mentioned that transcript. We won't need it to ensure no duplication. We know where we're going but I'm informed that the website's down in terms of access to the transcript?

MALE SPEAKER: And the exhibits.

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MR MOSES: And the exhibits as well. So, you've got a puzzled look on your face, Commissioner. I think you should direct it towards them.

THE COMMISSIONER: I am relying on in particular Ms Ellis.

MR MOSES: Yes. No puzzled look towards me, it's all been - - -

MR BUCHANAN: I understand it's being worked on.

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THE COMMISSIONER: Oh, good. Well, we'll try and get that rectified.

MR MOSES: I just raised it for your information. Yes. Okay, thank you.

THE COMMISSIONER: All right. We're adjourned until 9.30 tomorrow morning.

THE WITNESS: Thank you.

MR MOSES: Thank you.

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THE WITNESS STOOD DOWN [4.34pm]

AT 4.34PM THE MATTER WAS ADJOURNED ACCORDINGLY [4.34pm]