

DASHAPUB02262
13/07/2018

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pp 02262-02324

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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 FRIDAY 13 JULY, 2018

AT 9.30AM

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MR MOSES: Commissioner, I just wanted to raise one matter in the absence of Mr Demian. Yesterday, there was an exchange in relation to an objection that was taken to a question - - -

THE COMMISSIONER: Mr Moses, could you just pause for a minute? I just need to check if - - -

FEMALE SPEAKER: Mr Demian is outside, Commissioner.

10 THE COMMISSIONER: No, no, no. That's fine. I just wanted to check everything's fine. All right, sorry, Mr Moses.

MR MOSES: Sorry, Commissioner. No, that's fine.

THE COMMISSIONER: Continue.

MR MOSES: You might recall there was an objection taken yesterday in relation to a proposition that I was putting to Mr Demian in respect of a submission which would be made by the council at the conclusion of these
20 proceedings, and during the course of the exchange I think Counsel Assisting may have said that this Commission would not be assisting the council in relation to, as it were, any matter or reference in relation to the NSW Crime Commission concerning any moneys that may have been inappropriately the subject of benefit of Mr Demian's company or Mr Demian as a result of any decisions that may have been made that were influenced by corrupt conduct, and I think we may have been across purposes in terms of myself and Senior Counsel.

30 I want to just put on the record that, so it's clear, that that's what we'll be putting to you at the end of the case, Commissioner, because ultimately it's your decision as the Commission about whether under section 53 you refer a matter or make recommendations as to what action should be taken by an authority, and you can do that before or after an investigation. When my learned friend said "we" would not be assisting, it's not really his position to be saying that as Counsel Assisting. That's your decision. And we just wanted to be clear so that we know from our client's perspective as to whether you had actually made a decision yourself, Commissioner, that you would not and you had already decided that if we were to ask that you refer
40 this matter to the Crime Commission in respect of any proceeds of crime that may have been the subject of benefit – and we've heard evidence of approximately \$40 odd million profit in respect of these two rezonings – that there had already been a decision made that there wouldn't be a reference, because we haven't been heard on that.

We just wanted to say in accordance with our position and our instructions that that's something that we'll be putting to you at the end of the case. I won't be taking the issue of proceeds further with Mr Demian but we just wanted that clarified this morning. I wanted to do it in his absence because

given the sensitivity of the response to the objection taken yesterday that we just wanted to ascertain whether you have actually decided that, before hearing from us, that that wouldn't be the subject of a reference. I don't think it - - -

THE COMMISSIONER: No. Well, I hadn't made that decision at all.

MR MOSES: Thank you.

10 THE COMMISSIONER: My understanding from your submissions was that depending on what the evidence ultimately is - - -

MR MOSES: Correct, that's right.

THE COMMISSIONER: - - - that may be included in your submission.

MR MOSES: Thank you, Commissioner.

20 THE COMMISSIONER: And my understanding from Mr Buchanan's submissions would be you deal with that submission if and when it's ultimately made in your submissions to me as well.

MR MOSES: Thank you, Commissioner.

THE COMMISSIONER: And I assume, Ms Walsh, you'll be also making submissions if it is raised as well.

MS WALSH: Yes, Commissioner.

30 MR MOSES: Thank you, Commissioner. That assists us greatly and I can say it forms no part of our role here to in any way get into the minutiae in respect of what actual profits were made or otherwise in relation to these matters. It's just we'll deal with whatever flows from the evidence that Counsel Assisting leads on it. That's all I wish to say in his absence. So, with your leave, Commissioner, we're ready to proceed with completing Mr Demian's cross-examination and I have taken on board what you said yesterday. We had prepared our cross-examination on that basis. Thank you.

40 THE COMMISSIONER: Good, thank you. All right. Now, Mr Demian's outside, can we bring him back in.

MR MOSES: Just so that the Commission knows, the first reference point I'll be taking the witness to after putting some general propositions to him, is transcript page 2205, line 17, in respect of an answer that he gave to Counsel Assisting. Thank you.

MR MOSES: Thank you, Commissioner. Mr Demian, yesterday you might recall I asked you a question about whether it was you who asked Mr Hawatt to find potential buyers for the Harrison site property and indeed other properties or whether it was he who came to you with that suggestion, and your evidence was – but please correct me if I am wrong – that it was Mr Hawatt who approached you, was that right?---I'll rephrase my
10 evidence. It was Mr Hawatt that suggested that I meet a marketing agent.

And when Mr Hawatt was pursuing you with ideas as to either who could be the agent for the Harrison's site or potential buyers for Harrison's site, did you have those discussions with Mr Hawatt because, and I want to put three propositions to you and tell me whether any of these three propositions are the reasons you were doing it. Firstly, because you didn't want Councillor Hawatt and indeed Councillor Azzi to treat unfavourably the applications which were still pending on properties that your company had an interest in before the council, that's the first proposition, the second proposition is that
20 you wanted Councillor Hawatt and Councillor Azzi to treat favourably those applications, or thirdly, that you didn't think about any of that when you were having those discussions with Councillor Hawatt?---I think none of the above applies.

Thank you. So when he was pursuing you in relation to either an agent or potential buyers for the Harrison's site, why did you have those discussions with Councillor Hawatt?---I would use the word pursuing.

Okay.---I would use the word that there was a suggestion that someone is
30 interested in a property I had on the market and it was during that process. So it's quite typical that you get calls from everywhere where people want to short, will come directly to the vendor instead of dealing with the listed agent.

But why did you think that it was appropriate to have those discussions with a councillor who would be also determining a development application for the very site that he was raising potential buyers with you?---Well, the wording you've put is not, not appropriate. The councillor actually merely introduced a marketing agent that he may, as far as I'm aware, he may or
40 may not have been doing other works with, I have no idea.

Okay. Is that your evidence, sir?---Yes.

Thank you. You certainly agree don't you that you didn't think it was part of a councillor's job to provide a full service of not only assessing a development application but finding an agent or a buyer for your property, did you, sir?---No, again, I wouldn't, I wouldn't suggest that. What I said is, the councillor merely introduced a party or a couple of parties to me.

Can I ask that the witness, Commissioner, be shown transcript page 2205, commencing at line 17. It'll come up on the screen shortly I think, Mr Demian, if you just bear with us for a moment. You've just been provided a copy of that by the associate to the Commissioner. I thank the associate. It's coming up on the screen now. You'll see at about line 30 there was a question that was put to you in relation to the motivations of Councillor Hawatt in discussions with you about purchasers. Do you see that?---Yes.

10 And you said in response to Counsel Assisting, "I suggest it was no business relationship, he was merely doing what he believed was right for him. There was no agency, there was no payment, that's how it works." When you told Counsel Assisting that Councillor Hawatt was "Merely doing what he believed was right for him," what did you mean by that, sir?---Well, people behave in a manner they believe is appropriate for themselves and I can't comment on that. So my understanding, he did, he was involved in an introduction or two to marketing, marketing people. There was no agreements with them. That's precisely what I meant.

20 Did you think that by saying he was merely doing what he believed was right for him, was that if he was getting some benefit out of it, that was a matter for him, but as far as you were concerned, there was no agency or agreement between you and Councillor Hawatt. Is that what you were meaning to suggest?---No.

No. So what were you meaning to suggest?---Well, I think you've taken the word context, business out of context.

30 Okay.---What I suggested is that Councillor Hawatt was doing something he believed was reasonable for someone and that someone probably was the marketing agent that wanted an introduction as I wouldn't really talk to those types of marketing agents based on, on sales like that.

Well, we've heard evidence already from you in terms of a telephone intercept that you regarded what Mr Dabassis was doing towards the end as being amateurish and not professional, correct?---Well, I mean that's what I said, yes.

40 Yes. And trying to pay a compliment to you, you're a sophisticated businessman who had dealings with high-end property agents, correct? ---Thank you.

And you dealt with high-end financiers as well, such as Abacus, correct? ---Thank you,

And it's fair to say in respect of – and I'll come back to Mr Dabassis in a moment – towards the end you were getting upset because you regarded him to be amateurish and not professional, correct?---I think in my evidence

I've, it's been consistent up to now that I can only deal with a proper due process via a tender process and that falls outside that category, and that's one of the main reasons I wasn't prepared to deal, not just for the sake of John Dabassis, I didn't even know him, but the smaller real estate agencies by reference.

Thank you. I'll come back to Mr Dabassis but what I want to suggest to you is, when you answered Counsel Assisting, "He was merely doing what he believed was right for him," the reason you said that to Counsel Assisting yesterday was because you knew that Councillor Hawatt was getting involved in this because he was going to get a benefit out of the sale of your property, do you agree with that?---No, that's rubbish.

Thank you. Now, you also said, page 2206, you also said at the top of page 2206, after Counsel Assisting, "Can you suggest a reason as to why he would do it?" The Commissioner said it. I apologise, Commissioner, it was you. "I honestly don't know and that's honest. I have, I don't know how he runs his business. That's his prerogative." Now, Councillor Hawatt, you were saying you don't know how he runs his business. He's not running a business, though. He's a councillor, correct?---Well, I would suggest, again, it's taken out of context. He is a councillor as, I would take that as a part-time job I suppose but he does do a job somewhere I suppose, doesn't he?

Do you know what he was doing?---I have no idea.

Well, when you told the Commissioner, because the Commissioner was quite specific with the questions that she was putting to you in relation to this at page 2205, when you answered the Commissioner, "Can you suggest a reason as to why he would do it?", and you said, "I honestly don't know and that's honest. I have, I don't know how he runs his business. That's his prerogative," were you meaning to convey to the Commissioner that that really was a matter for Councillor Hawatt or Mr Hawatt as to what he was doing in relation to his business and these introductions? Is that what you were meaning to tell the Commission?---For, for, for clarity, no, for clarity, I don't know what he does for a job, I don't know how he makes his living.

Thank you. Now, can I then ask that you be shown Exhibit 131, this is the TI transcript, Commissioner, it's page 2. So, Mr Demian, yesterday Counsel Assisting played the recording and this is the transcript and you'll see at the second last entry on page 2 these words are attributed to you in response to Councillor Hawatt, "Oh, look, we all agreed on the deal. You were there, we agreed on one point inclusive then you came back and said, look, we need some more for ABC. I said that's fine." Do you see that? ---Yes.

Now, if you thought you were just dealing with Mr Dabassis, who is the "we" that you were referring to in this telephone conversation with

Councillor Hawatt?---The people that were at the meeting which occurred at the introduction to Mr Dabassis.

And these were Mr Vasil?---That's correct.

Councillor Hawatt?---That's correct.

And who else?---Myself and Mr Dabassis.

10 Thank you. And when you're referring to the "we" you're referring to those three men, being Mr Dabassis, Mr Vasil and Mr Hawatt, correct?---Well, I was referring to myself and Mr Dabassis as a discussion but I understand that Mr Hawatt and Mr Vasil were witnesses to that discussion.

But did you - - ?---I was - - -

I apologise, I interrupted you.---Sure. That discussion that you're referring to over the phone here was a follow-up from, from recollection, the best of my recollection, from an SMS that was forwarded to me from Dabassis or
20 something of that nature where I think 2.7 million in commission was still on the agenda and when I referred to we, it was the people at that meeting, both witnesses and the discussion directly between me and Mr Dabassis regarding his agency agreement.

But do you agree that in respect of what you said in that conversation, you said, "Oh, look, we all agreed on the deal," do you accept that the "we" that you were referring to who agreed on the deal was Councillor Hawatt, Mr Vasil and Mr Dabassis. Do you agree with that?---No, no, I don't actually.

30 You don't. Okay.---I use the word we on very regular basis, even sometimes to be myself, I still refer to it as we, we suggested.

As the royal we. Okay. Thank you. And why was Councillor Hawatt communicating the terms of the deal or the terms of the offer to you in this telephone conversation, sir?---Well, he was, he, as far as I understand, he wasn't, he was just referring to a SMS that probably was forwarded to him and he on-forwarded it to me for my information.

40 But in your words in this telephone, just using your words - - ?---Sure.

- - - you say, "Then you came back, said, 'Look we need more for ABC.'" Now, you're telling Councillor Hawatt, "Then you came back and said, 'Look, we need more for ABC.'" They're your words. So did Councillor Hawatt come back to you and say, after this meeting, "We need some more?" Did he say that to you, sir?---No, he did not.

But that's what these words say.---No.

Well, sir, but, but - - -?---Well, I wasn't - - -

But read the words to yourself. Just read them. Can you read them, please?
---I have read them.

They say, "Then you came back, said, 'Look, we need more for ABC.'" Are they your words?---That's, they are my words.

10 So isn't that the case that Councillor Hawatt came back and said, "Look, we need some more for ABC?" Is that right?---That's not the case.

Okay. So these words don't mean what they mean. Is this Alice in Wonderland?---Absolutely they mean what I mean but it's - - -

No, okay.--- - - - my intention and that's what they mean.

20 THE COMMISSIONER: I'm sorry, I didn't hear that?---What I suggested, it was always referring to the purchaser's representative and Mr Dabassis' company and group and that's the ABC reference I was making in general terms, there are two parties to be paid, one is the representatives for the purchaser and one is the vendor's real estate, and I didn't want to get involved in that.

30 But Mr Moses isn't asking you about the identity of ABC, he's drawing your attention to the commencement of that second sentence, "Then you came back." And reading that, the "you" must be a reference to the person you were talking to who is Mr Hawatt.---Look, I understand the wordings from, from that could, could infer a reference like that but it was the, I think as I understood it there was 2.2 million, that would go to the purchaser's representatives, which I really didn't want to know about, and there was 300 to go to Mr Dabassis and this is how I understood the conversation was all about at that time.

MR MOSES; Mr Demian if you just then go to the next passage. "You came back, told me 300 okay." Now, again that was Councillor Hawatt who came back and told you 300 okay. Is that right?---(No Audible Reply)

Is that, is that, is that correct, sir?---He, he might have said that word, yes.

40 So can you help the Commission understand, why was Councillor Hawatt negotiating with you as to the price to be paid as an introduction to either an agency or a marketing company? Can you explain that?---I'll try.

Please.---I think – sure. I think he was trying to say that John Dabassis asked for 300 for his commission on the transaction and Michael may have been saying that that's what they said, as far as, and that's the reference I've made for a quick conversation, "You've said 300." Okay. But on behalf of

Mr Dabassis' real estate agency, which I crossed out at the end and I never agreed to it.

And sitting here in the witness box, is this your evidence, you do not know – is this your evidence as to whether Councillor Hawatt was to get any payment or benefit out of doing these negotiations. Correct?---Absolutely not.

Thank you. That's your evidence?---That's my evidence.

10

Thank you. Now, can I then ask that the witness be shown Exhibit 133, which is a telephone intercept transcript that my learned friend took the witness to yesterday. It's page 2 of the transcript and it's the second-last entry. So Councillor Hawatt is recorded in this conversation with you on 12 May, 2016, saying, "Yeah, yeah, but listen, did you get my message? I need something. No, these people need something." And then your answer was, "I know," and there as some Arabic. "I was in the city today. Oh, yeah, look, that's fine, things should be all right from here on." And then Hawatt, Councillor Hawatt says to you, page 3, "Okay then. All right, so." You say, 20 "I'll get something tomorrow, god willing," you said that in Arabic, "I'm back in the office tomorrow." Do you see that?---(No Audible Reply)

Sir?---Yes.

Okay.---I'm trying to read it, if you don't mind.

Thank you. And after you've read it, could you tell me you've read it so I can ask you a question?---Yeah. Can we go back to page 1?

30 Page 2, sir.---Page 2, can we go back to page 2, please.

Yes, of course.---And can you reframe your question again, please.

Yes, of course. So I haven't asked you the question yet, but in the second-last entry Councillor Hawatt says, "Yeah, yeah, but listen, did you get my message? I need something. No, these people need something."

---Understand.

Do you see that?---Yes.

40

Are you okay if I ask you a question now?---Sure, absolutely.

Okay. Councillor Hawatt is saying to you that these people need something. ---Yes.

And you said you'll get something tomorrow. What, who were the people he was referring to and what was the something they needed?---Look, to the best of my recommendation that would have been that list of properties he

was requesting from me to be provided to other people to look at and again from my recollection he wanted some further information on those properties which I was not prepared to provide.

And was this the list that was to be given to the member of parliament, Mr Maguire?---From the best of my recollection I would believe so, yes.

Okay. And then at the end of page 2 you said, "I know. I was in the city today. Yeah, look, that's fine, things should be all right from here on."
10 What were you referring to?---I was referencing my busy schedule for the last period of time from that date back.

Okay.---And I was saying that I should be okay over the next, or the intention was that I would be okay over the next period of time from a time management status.

Okay. Thank you. Now, yesterday Counsel Assisting showed you an agency agreement entered into with Galazio Properties Pty Limited.---Yes.

20 If the witness could just be reshown that on the screen. It's volume 23 page 226. Now, this agreement between Sterling Linx Pty Limited and Mr Dabassis trading as Galazio Properties and there he's given an address of Marrickville, is this your evidence, that you understood that this agreement was between you and – withdraw that – Sterling Linx and Galazio and John Dabassis trading as Galazio Properties, correct?---Yeah, principal and agent, yes.

Okay. Now, can I ask this. Did you know that at this time Mr Dabassis was actually employed by Ray White Earlwood which was operated by George
30 Vasil?---No, I had no idea.

Are you sure about that?---Absolutely.

Okay. Can I ask that the witness be shown – I'll come back, sorry, just in a moment, it's going to be Exhibit 92, but just before it gets shown on the screen – you didn't want to deal with Mr Vasil, is this correct, because there was problems with conflicts of interests. Is that correct?---I don't think I've suggested that. What I suggest in my evidence is Mr Vasil tried to put forward a potential purchaser and I referred him to CBRE.
40

But the conflict – you didn't want to deal with Mr Vasil. I just want to ask you the question, you tell me if you agree or not. Because there was a conflict because Mr Vasil's son was a councillor who would be voting on development applications that would benefit your company, correct?
---There was, there was, no, that's not the case at all.

Thank you. Could the witness be shown in Exhibit 92, this is a telephone intercept between Councillor Hawatt and Councillor Azzi, it's page 2 of the

transcript, the intercept, and you said – sorry withdraw that. Councillor Azzi and Councillor Hawatt are having a discussion and they say this – it's Exhibit 92, page 2. Might not be the right one on the screen. I'll just read it out to you. He says, "And then I called George. I said to him what, and now when I see you I will tell you what the situation. He said to me he doesn't want to deal with him directly because there are issues, there's conflict, you know? But what he promised in the early days through CBRE it's going to be happening." Now, Councillor Azzi, in this telephone call said that he'd met with you yesterday before he said that in the conversation with Councillor Azzi. It's up on the screen now. Just have a look at it.
10 ---Well, that's not a discussion with myself though, is it?

No, I know that but just have a look at it.---I can't comment on that then.

Well, I'm going to put this proposition to you. Did you ever suggest to Councillor Azzi that you could not deal with Mr George Vasil because there are conflict issues?---I didn't use the word conflict. I said I couldn't deal with George and we've got to go through a due process which is a tender process by one of the major real estates and that's how we sell our
20 properties. So that was actually from the word, from the outset.

Well, Mr Dabassis was, you now know, is an employee of Ray White Earlwood.

MR TYSON: I object to that.

MR MOSES: I'll withdraw the question.

MR TYSON: There's no evidence of that.
30

MR MOSES: Well, I can tender a newspaper article, I'm surprised that my learned friend's objecting, of 18 November, 2015 which is a newspaper article in the Valley Times which announces the appointment of Mr Dabassis to the team at Ray White Earlwood. If I could tender that and I've provided a copy just this morning to the Commission solicitor.

THE COMMISSIONER: Mr Buchanan, you have a copy of this?

MR BUCHANAN: I do.
40

THE COMMISSIONER: Ms Walsh?

MR MOSES: It was only provided this morning, Commissioner.

THE COMMISSIONER: Do you have a copy?

MS WALSH: I don't, Commissioner.

MR MOSES: We've got copies, yes. It's up on the screen too, I think, Commissioner.

THE COMMISSIONER: Oh, good. Thank you.

MR MOSES: It's on the second page. That's Mr Dabassis on the screen? ---Looks a bit different there.

10 I just wanted to ask you again the question, were you aware that Mr Dabassis worked at Ray White Real Estate Earlwood?---No, absolutely not.

And I want to put a proposition to you. Was this agreement that you entered into with Mr Dabassis really a sham in order to hide the fact that you were entering into an agreement that would benefit Mr Vasil and Councillor Hawatt and Councillor Azzi?---That's rubbish.

Thank you.---My evidence speaks for itself.

20 So you disagree with that?---I totally disagree with that.

Thank you. I have no further questions for the witness, Commissioner. Thank you. I seek to tender that newspaper article.

THE COMMISSIONER: Can I just ask you, the Valley Times, is that like a local newspaper or - - -

MR MOSES: It is, as I understand it, Commissioner.

30 THE COMMISSIONER: Mr Buchanan?

MR BUCHANAN: I will tender it, Commissioner and we'll make enquiries as to the source but that, I don't think means that it can't be tendered at this stage?

THE COMMISSIONER: Any objection? Sorry, Mr Tyson.

40 MR TYSON: Sorry, Commissioner. I don't object to the tender but my learned friend used the phrase "employee". Now, there's no evidence in this that Mr Dabassis was an employee at Ray White Real Estate.

MR MOSES: How about I use the term, to take care of my friend's objection, where I said "employee" you can say that whether he was working at Ray White Real Estate Earlwood. I'll leave it at that. Ultimately it's a matter for records that will no doubt be obtained as to exactly what he was doing at that company.

MR BUCHANAN: Well, with the greatest respect, it might be necessary when considering what the inference is that's available on the face of this

document is that there was an association. Having regard to what we already know about how real estate agencies operate, and I'm not suggesting it's very much, but to the extent that we do, to say that someone is joining a team in that industry could mean all sorts of different things. At the moment, probably the safest thing to say is, at the minimum, there was an association. That is an inference available from this document.

MR MOSES: I'm content with that observation made by Counsel Assisting.

10 MR BUCHANAN: We've had, if I can just remind myself as well as the Commission, evidence about conjunctions between agencies and agents. That's one illustration of the type of association that we know exists.

THE COMMISSIONER: All right. On that basis I'll admit the extract from the Valley Times of November 18, 2015, with accompanying photo, dealing with Mr Dabassis being a new member of the team at Ray White Real Estate Earlwood as Exhibit 135.

20 **#EXH-135 – EXTRACT FROM THE VALLEY TIMES DATED 18 NOVEMBER 2015 WITH ACCOMPANYING PHOTO**

THE COMMISSIONER: Now, Mr Tyson.

MR TYSON: Thank you, Commissioner. Mr Demian, I am appearing in this proceeding for Mr George Vasil. My name is Tyson. Commissioner, can the witness be shown, please, volume 21 of Exhibit 69.

30 MR BUCHANAN: If you could give us a page number, we can help people put it on the screen.

MR TYSON: Sure. It's page 212.

MR BUCHANAN: Thank you.

THE COMMISSIONER: Mr Tyson, could you put up the microphone so it catches your voice?

40 MR TYSON: I hope that's better.

THE COMMISSIONER: That's better, thank you.

MR TYSON: Mr Demian, do you have in front of you volume 21?---Yes.

Can you go, please, to page 212 in that volume?---I can see that on the screen now, yes.

You'll see that there's a text message at item 1 in that.---Yes.

And you'll see that there's some text there, "What figure will it take for owner to exchange on Harrison's? We will lose a big client." Do you see that?---Yes.

Do you remember that Mr Buchanan was asking you some questions about that two or three days ago?---Yes.

10

And do you remember that when he asked you about that your initial response was that you honestly had no idea where that came from and what was the source of that message. Do you remember that evidence?---Yes.

And that was true and correct, wasn't it?---Yes.

Can I ask you now to, please, in the same volume go to page 152. And you might want to keep page 212 open because I'm going to go back to that. But for the moment if you could go, please, to 152.---Yes.

20

Can you look, please, looking at the items that are numbered down the left-hand column, can you see item 90?---Yes.

Can you see that that purports to be an SMS from a person called Laki, L-a-k-i? Do you see that?---I can see that, yeah.

And do you see the date of it? Sorry, the date and time?---Yes, yes.

On the 8th of the 10th at 1.26.---I remember now.

30

And do you see, please, in the right-hand column the text, "What figure will it take for owner to exchange on Harrison's? We will lose a big client." Do you see that?---Yes. Yes, I can see that.

And do you recognise that that text appears to be exactly the same text of the message that is on page 212?---Yeah, I can see that too, yeah.

40

THE COMMISSIONER: Did I just hear you say, "I remember that now"? ---Yeah, yeah. I can't remember who introduced me to Laki, but he's a very aggressive individual and very persistent individual, and he tried to see whether I had intention of selling properties, and I told him on a number of occasions I didn't want to deal with them and the property wasn't on the market for sale.

And this was - - -?---But I remember the individual now.

And this was around October 2015?---Yeah, it would have been around that, yeah.

And who introduced you to Laki?---I can't recall. I think it was a, whether it was someone in Parramatta, I honestly can't recall. But I, he did come across very aggressive and very persistent, and I suggested that he doesn't contact me anymore.

Sorry, Mr Tyson.

10 MR TYSON: Thank you, Commissioner. Mr Demian, so you'll see, then – if you stay, please, at page 152 of volume 21 – you see the next entry also on 8 October, 2015, but quite some hours later at 9.47, there's then a message that says, "Deadline for Harrison's tomorrow before they commit elsewhere." Do you see that?---Yes, I do, yeah.

Now, if you then please go back to page 212, you'll see that the message at item 2 on that page was sent to you at 10.52 on the 8th of the 10th. Do you see that, sir?---I'm trying to. I'm waiting for the screen. Yeah, I wasn't making reference to a time but I, I, I accept that.

20 And you accept that that's quite a late time in the evening to be sending SMS messages to people?---I agree with you.

Now, then you've made the response, "Hi, Michael. Hope you're enjoying the party. As I explained, my joint venture is a public company, just like a government agency." Do you see that message there?---Yes.

30 Now, did you authorise Michael, your addressee, to pass that message on to anyone else? Or did you expect him to pass that message on to anyone else?---I was making it pretty clear right up front that I have no intention of dealing with any of those smaller real estates and we have to go by a proper process as a tender process.

And just while we've got that there, the reference to a public company, you agree, don't you, that there was a company known as Abacus that was involved in funding the Harrison's site?---That's correct.

And you agree, don't you, that Abacus is a public company that's listed on the Australian Securities Exchange?---That's correct.

40 THE COMMISSIONER: Sorry, is that the public company you're referring to?---That's correct, yes.

And that was because they were funding - - -?---They were funding the project, and for integrity we go through the main real estate agents, explore the market to the best we can and go through our due process.

You say there you're a joint venture. I was under the impression that it was just a finance relationship with Abacus. But it's - - -?---Well, it is and they

also get profit margins from within. They're, they're actually a, it's sort of a loan and investment at the same time.

Sorry, Mr Tyson.

MR TYSON: And just to follow up on that, it's really hybrid loan equity finance, what we might call mezzanine finance.---Okay, it's sort of an investment finance, that's correct.

10 Now, sir, if I can ask you, please, to go back to page 152, and if I can ask you to go to entry 92 on that page. And can you see that at 10.54pm? It appears, does it not, that your message that you sent to Michael at 10.52 has been forwarded to Laki? You can see that, can't you?---I can see that there, yeah.

And just to complete the chain, it is on the next day, but if you look at 93 – so this is the next day, 9 October – you'll see there's a message from Laki that says, "Just saw your SMS, dot, dot, dot, okay, reasonably good news." Do you see that?---Yes, yes. I can see that.

20

Right. Now, can I ask you, given that you're on the page, if you look further up the page you'll see from 83 down to 89 – so just prior to item 90, which was when Laki introduced the topic of Harrison's – you'll see that whoever sent that text was having correspondence with a person called Michael about a person called Mr Steve Spiridonidis about a site in the Bankstown Council area. Can you see that?---I can see that on the screen, yes.

30 So what seems to be taking place, a person called Michael and Laki are having communications between themselves about that, and then at box 90 the issue of Harrison's is raised. You can see that?---Yes.

And then if you go to 93, the next morning Laki makes a reference back to the SMS that seems to relate to the Harrison's site and then he returns to the topic of Revesby.---Yes, I can see that.

40 Now, when Counsel Assisting was asking you the other day about your assumptions about who was behind the text message that was forwarded to you and that was recorded at page 212, have you studied that evidence in detail before you gave those answers about your assumptions about that?
---(No Audible Reply)

It would be fair to say that you hadn't studied it in the detail that I've taken you to?---No, absolutely not.

Correct. And you're quite prepared to accept that the person, Laki, sent that text message to Michael?---Yes.

Right. Now, I want to take you please back to this issue of a meeting in a café in Earlwood in May 2015.---Yes.

And you've given some evidence about that insofar as concerns my client in two respects. You've said at the outset of the meeting he introduced John Dabassis?---That's correct.

And then John Dabassis talked about his own expertise and his potential purchasers for this site. That's correct?---That's correct.

10

And you've also used the term in your evidence that Mr Vasil was then a witness to the discussions that took place between yourself and John Dabassis.---That's correct.

Would you also be prepared to accept that there was, well, you would be prepared to accept, would you not, that there was a fourth person at that meeting, i.e. a person in addition to Mr Hawatt, Mr Vasil, Mr Dabassis?
---Sorry?

20 MR BUCHANAN: Sorry, I might have missed what was being asked there, could you just reframe that question and ask it again?

MR TYSON: I certainly can. I apologise. At the meeting that took place in a café in Earlwood in May 2016 that was attended by, amongst others, Mr Dabassis - - -?---Yes.

30 - - - Mr Hawatt and Mr Vasil and yourself, do you accept that there was an additional person there?---No, I think I was asked that question and I said I don't recall, but I remember that Mr Dabassis was sitting on my left, Michael was sitting on my right and George was in between the two of those people, but I don't remember a, I don't recall, recall a further person that was there on that day.

Well, just to try to help you, sir, can the witness be shown please the transcript at page 2169, or I can read it to you.

THE COMMISSIONER: Which line, Mr Tyson?

40 MR TYSON: I'll read you some evidence at lines 22 to 23 on that page. When my learned friend was asking you questions about this he asked you the question, "And was there anyone else present?" You said, "I can't recall. I think there could have been a fourth one with John but I can't recall."---That's, that's correct.

You gave that evidence.---That's correct, yes.

And would you accept that it's possible that Laki Konistis was at that meeting?---Look, again from the best of my recollection I doubt it because I

didn't like the personality of Laki and had told him not to communicate with me in the past, so highly, highly unlikely.

Now, just to go back again to your evidence at page 212 in volume 21, I was asking you some questions where you gave an answer, "As I explained, my joint venture is a public company, just like a government agency we must sell via and expression of interest." Do you remember that evidence?---Yes, yes, I do.

- 10 Is it not the case that prior to say late May 2016, as far as you were concerned CBR Ellis was going to be the vendor's agency for this site at Harrison's?---So CBRE were the agency or the agent for marketing from 12 February, 2016 and up until about 20 May of 2016.

And they're a competent property firm, are they not?---Absolutely.

And you were very content with them to be in charge of the marketing of the property?---For that period of time, yes.

- 20 And it's true to say that you weren't particularly interested at all in actively exploring or pursuing the prospect of some other buyer coming along?
---No. Look, we get hundreds of calls every week about people sort of knocking on your door, look, we've got someone and we've got someone and we've got someone, so it's pretty typical of the industry that we're in.

So your position was very clear, that you put your faith in CBR Ellis to be in charge of the marketing - - -?---It was - - -

- 30 - - - of the site, the Harrison's site.---It was an exclusive agency.

And would it be the case that if there were people who were conversing with you about potential other purchasers or potential other investors, you didn't give those conversations much credence or pay much attention to them?---No, I didn't, but you know, in business you never, you never cut your bridges, you be respectful and polite to people and you have the discussions but not necessarily intend to do anything with them.

So you listened to what was said but you had no genuine intention - - -?
---Intention, that's correct.

- 40 - - - to actively pursue those prospects.---Look, within the exception of late May, on the back of a failed marketing campaign, as I said, I was reviewing or in discussions with another number of other firms that might have different exploration means within their marketing teams, I think the only reason, and, and it wouldn't be any other reason, is that we were in between and the understanding I had is Mr Dabassis had a ready, willing and able person who was a potential purchaser. So that's the only, and no other reason but that.

Mr Demian, I now want to turn to another topic. Can the witness be shown, Commissioner, please, still in volume 21, page 167. And I don't know whether you want to look at it in hard copy or on the screen, but it's easier for you.---Preferably on the screen if possible.

10 Okay. Well, at volume 21 page 167, can you see at the very foot of that page, item 342 in the left-hand column, there's a message from Laki. It says, "PS, let's not lose Harrison's. Need answer before 5.00pm, mate." Do you see that?---Yes.

And just before we turn over the page, you'll notice if you go up to 336, these are the entries on 27 May, you'll see again that there seemed to be contact between Laki and a person called Michael about another topic relating to someone called Steve. Do you see that?---I can see that.

And then after that, "PS," introducing a new topic, "Let's not lose Harrison's."---Yes.

20 And can I ask you, sir, please, to look over the page at page 168.---Yes.

Now, you see a number of entries there first, item 343, "Let's all have a coffee now with Charlie driving to Earlwood." Do you see that?---Yes.

Mr Demian?---Yes.

And you see further down at 346, "The deal is accepted. He said let's move on it, Michael." Do you see that?---Yes.

30 And then a person called Laki at 347 enthusiastically responds with a test, "Fantastic." See that?---Yes.

And then you see he then says a minute later, "Tell George." Do you see that?---Yes.

Now, I want you to accept from me that this date, 27 May, is a Friday. Understand?---If that's what it is, that's what it is.

40 Right. Now, you've given some evidence that the best of your recollection was that the meeting that took place in Earlwood was a Saturday - - -? ---That's correct.

- - - in late May, 2016.---That's what I said, yes.

Having regard to these text messages, is it likely that that meeting took place the next day, namely 28 May, 2016?---Look, honestly from recollection I, I can't recall. I recall it as Saturday but there is a possibility it could have been Friday. I just don't know.

So it could in fact have taken place on a Friday afternoon?---Look, it, it, it may have, but from my own recollections it was Saturday morning.

All right.---But I, yeah, that's, that's, that's it.

10 Can you look please at item 346. You see the text there, "The deal is accepted. He said let's move on it." Can you explain if you can what that is a reference to?---I think, look, it, it may have been, and look, I'm only
relying on my memory now, either an SMS that was sent to me or post the
discussions at that meeting at Earlwood. I think, I don't agree that there was
a deal because I've never agreed on the commission agency and I was
insisting that the purchaser be, or the purchaser's details be provided to
determine whether it's a legit or just a way to get a listing of the property,
which could be dangerous for us from a marketing point of view.

20 Either at the coffee shop meeting in late May 2016 or at some other point in 2016, did you become aware of a business relationship between Michael Hawatt and Mr Dabassis in regards to a site outside the Canterbury local government area, in Revesby?---No. I, I had no discussions or understanding of it whatsoever.

You didn't know of a significant potential business agreement that they entered into in December 2015, Mr Dabassis and Mr Hawatt?---No. I had no idea. The only thing I heard back then is that Michael was involved in some hospital of some sort but I, but I honestly have no idea.

30 So, and you didn't connect – did you connect the hospital with the site at Revesby?---No.

Was it ever your understanding that investors in a hospital project were also interested in looking at the Harrison site at 548-568 Canterbury Road?---No. I never had that information or understanding.

40 Right. Well, you certainly knew, did you not, in early 2016 that Mr Hawatt had some connections with hospital investors?---No. Honestly, the information I knew was very, very limited. The only thing I knew that he had a involvement in a hospital of some sort but that's as far as I was made aware and I can't even remember by whom.

Well, can I ask you please, sir, to have a look at Exhibit 126. Now, you recall you were asked some – well first, just note please that this is a transcript of a conversation that took place on 4 March, 2016. Do you see that?---With whom?

At the top part of the document in a table.---I understand that but the conversation – sorry, I must be looking at the wrong page.

Sorry, you can see that, so it's 4 March, 2016.---The screen has gone off again. Just, just a moment please.

All right. So, please, Mr Demian, if you could just look at the top of the document in the table, you'll see a call date/time which is 4 March, 2016. Do you see that, sir?---I'm trying to see that date. It's got 17 May on this date here.

Go two lines above that.

10

THE COMMISSIONER: See the cursor's near it?---Oh, yes, I can see that, yes. March 2016.

MR TYSON: So, just to put that in the context of what we're talking about, that is seven weeks or so before, or six weeks or so before late May 2016, you understand that?---Yes, of course.

20 Now, I just want to take you, if you look please, at the bottom of that page, the dialogue attributed to Mr Hawatt, the last piece of dialogue he says to you, "Yeah, yeah listen, I, I spoke to this guy. There's a group of them, they want to meet up with you on Tuesday direct." Do you see that?---Yes, I can see that.

You say, "Do you know who they are?" he says over the page, on the second page of that exhibit, "Oh, look, I know, I know the background. They're involved in hospitals, they're involved in investment super funds, everything else. They've got a lot of money behind them."---Yeah, I can see that.

30 And then you see the next thing he says to you, he says, "They were looking at – they're interested in your site but not the ridiculous offer though."
---Yes.

So, he was bringing along to you in March potential investors who had a background of investment in hospitals.---That's correct.

And it seemed too that he actually knew the people and that he knew the price level that they were interested in at the site.---I can't comment on that.

40 But he conveyed that to you. You accept that, don't you?---He conveyed they're hospital people, yes.

And then if you look towards the bottom of the page, again the last portion of dialogue attributed to Mr Hawatt, he was proposing that a lunch be had in the city on the following Tuesday, or asking you whether you wanted to have such a lunch?---Yes.

And you rejected that?---Yes.

And again, can you explain please again why you weren't interested in pursuing that at that time in March, 2016?

MR BUCHANAN: Well, I object. The answer not only has been given by the witness numerous times - - -

MR TYSON: I don't press this, Commissioner,

10 MR BUCHANAN: - - - and it is apparent in the transcript itself.

THE COMMISSIONER: Yes. I think we know the answer, Mr Tyson.

MR TYSON: Yes. I don't press it, Commissioner. Mr Demian, I want to take you to another topic now, please, and this concerns a meeting in June, 2016 with Mr Vasil and Mr Dabassis at your office in Parramatta. Now, you've already been asked some questions about that by Counsel Assisting, haven't you?---Yes.

20 Now, when Mr Vasil gave evidence in this public inquiry, when Mr George Vasil gave evidence, you weren't present in the Commission, were you?
---No.

Are you aware that he gave sworn evidence that he met with you in the company of Mr Dabassis at your office in Charles Street, Parramatta?---I wasn't aware of that.

Can I ask you, I'll just read some transcript to you. I'll come back to that, page 2001 in the transcripts. I'll read you some evidence that you gave a couple of days ago, please, Mr Demian. Three days ago.---Sure.

30 Beginning at line 8, you were asked this question, "And so how many contacts did you have with Mr Vasil in 2016 about purchasing property to someone purchasing property?" You said, "I'd say possibly about three or four times." My learned friend said, "And that was 548?" And you said, "That was 548, that's correct." Mr Buchanan then asked you, "Was there ever a conversation with you and Mr Vasil about whether he could get the seller's agency for the sale of 548, the Harrison site?" You said, "No." And then Mr Buchanan said, "Did he seem to want to get the vendor's agency for the Harrison site?" You said, "Not that I'm aware of, no." Now, just to focus on your answer at line 9 and 10, you said that you had three or four contacts, possibly had three or four contacts with Mr Vasil in 2016.---Yes.

40

That evidence was true and correct, wasn't it?---Yes.

Now, at that meeting, just stepping back a little bit in time, by way of further background, at the meeting at the coffee shop in Earlwood in May, 2016, is it true that Mr Dabassis did not actually identify the identity or the

name of the prospective purchasers for the Harrison site?---That's correct. He did not.

And certainly prior to late May 2016, you weren't in direct contact with Mr Dabassis, were you?---No.

And you mentioned something in your evidence yesterday morning about you actually chose not to have direct contact with Mr Dabassis for some time. Do you remember that?---After that meeting.

10

Well, was there any reason why you were reluctant about having direct contact with Mr Dabassis for at least some period on early 2016?---So, it would have been, it would have been in early June of 2016 and Mr Dabassis was not willing to provide the details of a purchaser and was insisting on some humungous commission, and for that reason I didn't deem it to be appropriate to continue dealing with him.

And in fact he – there was some delay in him even having your telephone number, is that correct?---That's correct.

20

And perhaps if you can look, please, sir, at volume 21 again, at page 166. Sorry, at page 167, item 328 on the page. You'll see that that message, and just read it to yourself, but you'll notice in particular – and you might want to go back to 166, look at the sequence. So it was actually started as a text message from John Dabassis in 327, which has then been forwarded to you in 328. And you note the last sentence in it, which says, "I'm happy to talk to Charlie if you wish, once you've sent me his number."

---That's correct, yes.

30 So that seems to suggest, which you say is the case, that there was no telephone contact between you and John Dabassis at least until sometime later in May 2016, after 13 May.---That's correct, yes.

But he did subsequently get your telephone number, didn't he?---I think after the meeting that we had in, in late May.

Now, I want to take you back to a potential meeting in June 2016 in your office at Parramatta. Now, you understand Mr Vasil's evidence is that he met, he took John Dabassis to your office in Parramatta in June 2016?

40

---Look, that's, look, from recollection it's possible but I don't recall the meeting.

Do you recall that there was a proposal for such a meeting?---I do recall clearly there was a meeting organised which got cancelled in early June of 2016.

Well, sir, again if you just stay with volume 21. I'll ask you to go to page 169. I'm going to ask you about a series of text messages. Now, again, feel

free to – you'll see that the top of page 169 relates to text messages that were sent on 1 June, 2016, right. And if you go down to 368 you'll see that there's a text from Michael Hawatt that says, "Hi, John." You know that Mr Dabassis's Christian name was John. You know that, don't you?---Yes.

It says, "Hi, John. Do you want to go together to see Charlie in Parramatta? Michael Hawatt." You see that?---Yes.

10 So you see there's a suggestion, well, perhaps not a suggestion, a question being posed by then Mr Hawatt about a meeting. You see that?---Yes. Yes.

Now, you can then see Mr Dabassis's response. He says, "Happy to do so once we have commitment." Further down he says in that text, "If not, we're wasting our time." You see that?---Sorry, I'm just trying to read that.

Yes. Please, take your time.---Which one was it? Which, you're talking about - - -

20 The item at 369.---369.

You see that? Then if you read to yourself 371, you'll notice that this is a message sent to you or it on-forwards a message sent to you and it includes within it, about three-quarters of the way down, "Send me your address and confirm with me." Do you see that?---Yes.

And then 372 you can also see another suggestion for the meeting was that it was an opportunity to actually pick up documents. You see that?---You're talking about 373, did you say?

30 372.---372. "Why don't we pick up all these documents as well?" Yeah, I can see that.

40 All right. And go over the page. And again what I'm just, I'm showing these to you, whether or not they help you to recall that – well, you certainly, you recall that there was a proposal to have a meeting, don't you? ---Yeah, there was, there was actually a scheduled meeting to take place which got cancelled. But if you look at these texts, yeah, they don't even, they don't even, like, you look at them and sort of want to run away from them. The guy's asking for a signed contract to be handed over to him without providing who the actual purchaser is. Now, you never do that with real estate. You provide documentations for a property. And this is one of the reasons I didn't want to continue discussions with that particular person because it came across as a non-experienced individual in larger transactions.

THE COMMISSIONER: Haven't you ultimately signed that agency agreement on about 14 June?---No, no. He's talking about a signed contract. If you look at the emails in there - - -

But the one at 371, "Please have contract ready to sign and I will bring the agency agreement also to be signed." That's the one that ultimately you signed on 14 June, isn't it?---As I understand the SMS, Commissioner, that he wanted a contract for sale to be signed and his agency signed and provided to him so he would go and deal with it.

And your point is the contract for sale you're not willing to sign until the identity of the purchaser - - -?---Well, you cannot.

10

No, no, no, no. That's your position. But I'm just trying to confirm the agency agreement that he's talking to with the 2.2 million commission. That's the one you ultimately signed on the 14th.---That's correct.

MR TYSON: And, sir, if you look at page 170, the item at 377, in the middle of that text message do you see this?---It says, "Charlie called me last night re this meeting." Do you recall a telephone conversation about another meeting, a meeting in June 2016?---With, with whom did I make a phone call? So, I, look, I can't tell who, where that message is from.

20

Well, that's quite correct. All we know is that it's a message going to Laki. ---A message going to Laki?

THE COMMISSIONER: I think it's from Mr Hawatt's phone so I think we can infer that it's Mr Hawatt texting Laki.---Mmm, mmm, okay.

MR TYSON: And there's certainly, as you've seen, that there are references to Mike and Michael in this sequence of text messages. You can see that, don't you?---Yes.

30

Now, feel free to read the rest of the messages if you like, but what I want to take you to specifically is on page 171, 386. Can you see that, sir?---Yes.

Can you see that it begins this, "Dear George, Michael and Laki. Just as I expected, the meeting was a total waste of time."---Yes.

Do you note the grammar in the text there? The definite article is used. "The meeting was a total waste of time."---Is that from Mr Dabassis?

40

Yes.---Okay.

So does that help you to remember that a meeting in fact took place on 7 June, 2016 between Mr Dabassis, Mr George Vasil and yourself?---Look, it may have. As I said, it's not making reference to a meeting with myself, though, in that top part of that email or SMS. But I do accept, look, I think my evidence has been continuous. It may have happened but to my recollection I remember that an agency was at my office. I completed it,

I've signed it, and from recollection again I believe Mr Vasil collected it from my office.

I just need to put my instructions in my client's evidence. You're certainly accepting the possibility that a meeting took place on 7 June, 2016 at your office at Charles Street, Parramatta, between Mr George Vasil, Mr Dabassis and yourself?---That's possible, yes.

10 And furthermore I'm suggesting to you that it took place after 4.30pm that day.---Yes.

You accept that that's possible?---If the meeting would have taken place, it would have been late in the afternoon, yes.

THE COMMISSIONER: Sorry, Mr Tyson, that was 7 June?

MR TYSON: Yes, Commissioner. Now, to put that meeting in further context, I'd like you to go, please, to the agency agreement, which is in volume 23. If the witness could be shown that, please, Commissioner.
20 Volume 23, page 230.---Yes.

I just want you to note that on page 230 you'll see that Mr Dabassis signed this on 4 June but there's a 10-day gap between you then executing the document or the document, pardon me, being executed on behalf of your interests on 14 June. You see that?---Yes.

And you understand I've just been asking you about a meeting that took place in the middle of that time period on 7 June?---I accept.

30 Right. Now, I think you've given some evidence about the marketing campaign by CBR Ellis.---CBRE.

CBRE. Can you just explain the results of that, was it that you didn't have sufficient purchasers or there weren't sufficient prospective purchasers at a price you want?---We had from, again from recollection, probably had about half a dozen plus that were interested in purchasing the properties but the appropriate individual that we wanted to deal with wanted conditional subject to further progressing of DAs and, and other conditions which we were not prepared to accept. We, the intention was to sell the property as is
40 where it is with all the documentations that we had with it.

But you'd certainly accept the obvious proposition that the marketing campaign had been unsuccessful?---Yeah, I've, I've, I've said that in my evidence that the marketing campaign has failed.

All right. So if we go back to the vendor's agency agreement I want to ask you two questions about that and before I do can I just ask you to note page 227 in volume 23. You will see or you may recall that the agency period

that you granted to John Dabassis was for a period of only 12 days.---That's correct.

Can you please explain why you granted the agency agreement to John Dabassis and for that fairly limited period?---The reason behind it is the agency was supposed to be an agency for a one-purchaser type agency. So he will actually list the name of the potential purchaser in this, in this agency and didn't want to afford him the opportunity to go and market it on the market which will be more damaging to us. He refused to provide the name of the, or to provide the details of the potential purchaser that he said that he had at that time and for that reason I gave him strictly 12 days to see whether he can actually bring forward that purchaser to a contract for sale.

And of course he didn't bring forward a purchaser in that period?---Look, sometimes, I think sometime after the 26th, either on the 26th or after the 26th there was an email referring to a person that he believes was a potential purchaser but within a day or so from that I was contacted by JLL who informed me that it was a conjunction agreement signed with them and they wanted to confirm whether, you know, it's a general agreement or not that listing with Mr Dabassis. So I confirmed that with them and I believe on 7 July or thereabouts I terminated the agreement and warned Mr Dabassis not to market the property or sign any conjunction agreements anywhere.

So you became aware after you had granted the agency opportunity to John Dabassis that it appears that he sought to then get another agency involved - - -?---That's correct.

- - - in conjunction with him?---Which is exactly what I was fearful of. So I understand he signed a conjunction agreement with JLL and as I said, around the 26th, plus or minus a day, he might have tried to nominate a purchaser and I have become aware at that time that he had signed that conjunction. I've emailed him from recollection. I've informed of my disappointment in that and I advised him not to try and market the property any further.

And you would certainly agree with this would you not that Mr Vasil then came to your office in Parramatta a second time in June, 2016 to pick up documents?---It would have been on the 14th.

40 On the 14th. Correct.

THE COMMISSIONER: So you now have a recollection of that, of Mr Vasil coming?---Look, to the best of my knowledge Mr Vasil was the one that collected the - - -

The signed papers?--- - - - the signed agreement, signed agency agreement.

MR TYSON: Well, just to follow up on that you now have – the Commissioner’s question was you now have a recollection. You recall you did give evidence on the 12th, which was yesterday, at page 2216 at line, beginning at line 36, you were asked this questions, “On 14 June then you had a meeting with George Vasil and John Dabassis. Is that right?” You said, “No, no. I said George Vasil on the 14th of the 6th coming to my office and collected the document, the signed, the signed agency agreement. That’s what I had set up for them.”---That’s correct, yes.

10 So the evidence that you have just given me now is consistent with what you said yesterday?---Yes.

Now, my learned friend Mr Buchanan was asking you about another topic yesterday which was along the lines of you not wanting further contact from John Dabassis. Do you remember those questions?---There was a period, yes.

And he also asked in those questions a suggestion that you did not want further contact with George. Do you remember those questions?---I’m trying to remember how it was put to me but I can’t recollect.

Well, you certainly – do you recall your evidence yesterday that there came a point in June, 2016 where you were quite explicit that you did not want further contact from Mr John Dabassis and you communicated that?---Yeah. I did not want to continue those marketing discussions any more with Mr Dabassis. That’s correct.

And that was – now, is it the case though that in regards to Mr George Vasil you never ever communicated to Mr Vasil that you did not want any further contact from him?---From George. No, I did not. I don’t, I, no, that wouldn’t be the case.

At all times you maintained a proper professional, good relationship with Mr George Vasil?---Yes, until, until now basically.

And indeed you were happy to, you were happy for him to meet you at your Parramatta office weren’t you?---When, anytime?

40 In June, 2016.---Oh, he was invited to collect the agreement. Absolutely.

Correct. And you certainly had no problems engaging in email communications with him. Correct?---No. Look, I have a lot of respect for George’s knowledge and George.

And just to confirm that. If the witness can be shown volume 23, page 241. Sir, can you have a look, please. You can see that document on the screen. You will see that there are two emails.---Yes, I can see that.

Now, you'll notice, if I go to the second one.---Yes.

There's an email dated 14 June, 2016 at 3.12pm and it was sent to a George Basil, spelt with a B. Do you see that?---That's correct.

But you then see above that at 6.45pm that evening you've now sent the email to George Vasil, spelt V. Do you see that?---Yeah, I can see that.

10 And you've provided him with a link containing information regarding the Harrison site 548 Canterbury Road, Campsie. You see that?---Information. That's correct, yes.

So you never had any difficulties in communicating with Mr George Vasil at any time?---No.

At all times you trusted him?

MR BUCHANAN: I object. I think we've - - -
20

THE COMMISSIONER: I think he's confirmed your initial questions, Mr Tyson. I think we can move on.

MR TYSON: Thank you, Commissioner. There's nothing further.

THE COMMISSIONER: Thank you. Mr Andronos?

MR ANDRONOS: Yes, Commissioner. First, there is an administrative
30 matter. I'm not sure if this is just me or if other people have this problem as well but looking at the website it appears to me that what's on the website is Exhibits 133 and 134 appear to be the same document and also appears that Exhibits 130 and 131 are the same document. I don't know if anyone else has had that trouble but I'd be grateful if Commission staff could have a look at that.

MR BUCHANAN: We'll look into it.

THE COMMISSIONER: Maybe over morning tea we'll have a look at that.

40 MR ANDRONOS: Yes. There was potentially one of those documents which I haven't been able to locate on the website which I may have needed to cross-examine on but - - -

MR BUCHANAN: Can you tell us which one it is? We might be able to help him out.

MR ANDRONOS: Yes, it's the, yes, perhaps if there's a hard copy that would - well, it's either, I think it's 131. It's the May - - -

MR BUCHANAN: 121.

THE COMMISSIONER: 131.

MR BUCHANAN: 131.

MR ANDRONOS: It's the May conversation. I think that's the - - -

10 THE COMMISSIONER: Did you say 131?

MR ANDRONOS: I'm indebted to my friends, Commissioner. Having put them to all that trouble I might not actually use it. Mr Demian, my name is Andronos and I'm here representing Mr Montague. On Wednesday of this week you were asked some questions concerning a meeting which was put to you took place on 9 November, 2015 at council chambers between you and Mr Montague and Mr Stavis. Do you recall those questions?---Yes.

20 And I think your position generally was that you recall there being such a meeting but you weren't so sure of the date.---That's correct.

Now, you were asked some questions concerning a marked-up plan. I'm not going to ask you questions specifically about the contents, but perhaps if page 199 of volume 13 could be made available just in case Mr Demian wants to refer to it at some stage.---Yes.

30 Now, the mark-up of that document took place in the course of a discussion between you and Mr Stavis about the setbacks and the proposed FSR of 998 Punchbowl Road.---That's correct. Yes.

That was a technical discussion, wasn't it?---Yes.

And you and Mr Stavis were discussing matters of town planning expertise. ---That's correct.

Now, Mr Montague, as you know, has no town planning expertise.---Totally agree.

40 Beg your pardon?---I totally agree. He doesn't have any planning expertise at all.

Yes. And he made no contribution at all to that technical discussion.---No, he did not.

Now, his reticence in that regard would accord with your understanding of his lack of expertise in that respect?---Sorry, I couldn't hear the question.

MR BUCHANAN: I wonder if “reticence” could be reframed. Some other word?

MR ANDRONOS: Yes, well - - -

MR BUCHANAN: Have we established that he was in fact reticent according to the witness?

MR ANDRONOS: Yes. Yes, we have.

10

THE COMMISSIONER: He didn't contribute to the technical discussion, I think.

MR ANDRONOS: Yes. Well, Mr Montague's failure to contribute to the technical discussion was consistent with what you would understand to be his lack of expertise in the subject.---That's correct, yes.

20

And while you and Mr Stavis marked up the document, which is on the screen before you at page 199 of volume 13, Mr Montague didn't make any contribution to the mark-ups on that document?---No, he did not.

He wasn't provided with a copy of the document?---He was, he was, he was watching the discussions take place between me and Mr Stavis on the terms and consistency with the ADG that had come into effect at that stage, and the character and the shape of the building. Mr Stavis, for example, was talking about a - - -

30

MR BUCHANAN: I object. If we can – I think we've had an answer to the question.

THE COMMISSIONER: Well, I think the question actually was, “Was Mr Montague given a copy of the marked-up diagram?”

MR ANDRONOS: Yes.

THE COMMISSIONER: We haven't got an answer to that.

MR BUCHANAN: Sorry.

40

THE WITNESS: On that day he was present at the meeting when we were discussing this, and I don't believe or I can't remember whether – when I emailed a copy of that back to Mr Stavis – whether I copied Mr Montague. I can't remember that.

THE COMMISSIONER: You took the marked-up copy with you?---This, this was my writing, yes, so I didn't want to forget it.

That's okay. And then you have given evidence that you emailed it back to Mr Stavis.---Mr Stavis requested a copy of it.

And you're unsure whether you copied Mr Montague into that email.
---That's correct. That's correct.

MR ANDRONOS: But when you left the meeting on that day, you took the only copy of the marked-up document with you?---That's correct, yes.

10 Now, in the course of that meeting, you were cross-examined at some length about this, but is this a fair summary of the position as between you and Mr Stavis at the end of the meeting, that you had between the two of you arrived at a common position with respect to setbacks and the FSR in relation to 998 Punchbowl Road?---That's correct. That's what I understand.

Because you had described the meeting as a meeting re the understanding, is that correct?---It's a, it's a, it's a typical meeting. We call them pre-submissions, and if there are any other issues you go back and amend
20 whatever is necessary or review whatever is necessary.

And so far as you were concerned, if there was any problem, as between you and Mr Stavis concerning the setbacks and the FSR, that problem had been resolved by the end of the meeting?---That's correct.

Now, what I want to suggest to you is this, Mr Demian, that Mr Montague never said to Mr Stavis in your presence words to the effect that Mr Stavis had to find any solution to any problem concerning 998 Punchbowl Road.
---Sorry, do you mind repeating the question so I can answer it? Just in
30 case.

Yes, sorry, I've put it in the negative, so - - -

THE COMMISSIONER: And you're putting to the witness at this meeting Mr Montague did not say - - -

MR ANDRONOS: Yes. Yes. Do you agree with this proposition, that Mr Montague did not in your presence at this meeting say to Mr Stavis words to the effect that he had to find a solution to any problem?---No. No, he did
40 not.

So you're agreeing with my proposition that he did not say it?---He did not say it. That's correct.

Yes. We've established he didn't say it at the meeting. Are you aware of him saying it at any other time?---No, look, Mr Montague - - -

THE COMMISSIONER: No, is that your answer, "No"?---No.

MR ANDRONOS: No. Thank you, Mr Demian. In fact, what Mr Montague said at the meeting were words to the effect – sorry, I withdraw that. What Mr Montague said to Mr Stavis at the meeting were words to the effect of, “All right, go away and work on this and come up with something that can be put to council that complies.” Do you recall him saying that?
---Yes, yes. And he, I think I recall something being said - - -

10 THE COMMISSIONER: So you – sorry, go on.

THE WITNESS: Yes. Yes. The answer is yes.

MR ANDRONOS: Yes. And he said that after you and Mr Stavis had reached this common position?---Absolutely, yes.

Now, Mr Demian, I'm going to ask some questions now about the contents of a conversation which are recorded in Exhibit 125. Perhaps if that could be just made available on the screen. I'm not going to ask you a lot about the details so you may not need to refer to the transcript, but do you recall
20 Exhibit 125, Mr Demian, is a transcript of a telephone conversation on 29 March, 2016?---Yes. Yes.

And in that telephone conversation you refer to – this is a conversation between you and Mr Hawatt and you say that you had had four meetings with Mr Stavis.

THE COMMISSIONER: Sorry, can I just stop.

30 THE WITNESS: That's the wrong, wrong page.

THE COMMISSIONER: I'm sorry. Continue. It commences with Mr Khouri and then Mr Khouri hands over the phone. Sorry, Mr Andronos.

MR ANDRONOS: No, no. It threw me as well, Commissioner. That's why I hesitated. I thought I had the wrong document. That's a conversation that commences between Mr Hawatt and Mr Khouri, and Mr Khouri passes the phone to you and you continue the conversation with Mr Hawatt.---Yes, yes.

40 Now, in that conversation you refer to having had four meetings with Mr Stavis, always in the presence of Jim, and Jim chairing the meeting not him, not me. Do you recall saying that?---Yes.

Yes. Now, sitting in the witness box today, do you recall four separate meetings? Or might there have been fewer meetings?---There was definitely a few meetings. Whether it was four or less, I mean, according to this it was four meetings I had.

Sorry, I missed the - - -?---I said according to this it seems that I've had four meetings with Mr Montague and Mr Stavis.

Yes, but my question to you is slightly different. It's this. Sitting in the witness box today, do you recall four separate meetings?---I can't clearly recall the meetings, no.

Might there have been fewer meetings?---Possibly.

10 MR BUCHANAN: Can I just intervene, just for clarity. The words that the witness used were "since December to date".---To that date.

MR ANDRONOS: Yes, certainly that – my question to you, Mr Demian, is whether or not there might have been fewer meetings in the period December 2015 to March 2016. I think you understood that was the import of my question?---Yep. Look, I, I, I don't recall whether it was four or less but we would have had, you know, sort of a number of meetings in that period of time.

20 Now it was suggested to you the day before yesterday that at these meetings you sought to intimidate Mr Stavis by – sorry, sought to intimidate Mr Stavis. Do you recall those questions?

MR BUCHANAN: Well, I object. I don't know that I suggested that the witness tried to intimidate Mr Stavis at the meetings that had been chaired by Mr Montague between December and the date of that telephone call.

MR ANDRONOS: Commissioner, if we could go to the transcript at 2148.

30 THE COMMISSIONER: Sorry, can I have that reference again?

MR ANDRONOS: 2148, please the Commission.

THE COMMISSIONER: And which line?

MR ANDRONOS: Well, this is the cross-examination in relation to – well the examination I should say in relation to his document and from line 6 and in particular line 17, "You hadn't organised the meetings with Mr Stavis to occur in Mr Montague's presence, had you?"

40 MR BUCHANAN: I'm perfectly happy for the witness to be reminded of that question and answer.

THE COMMISSIONER: All right. Do you want to remind - - -

MR ANDRONOS: Yes. You were asked whether or not you had organised the meetings with Mr Stavis to occur in Mr Montague's presence in order to

endeavour to intimidate Mr Stavis. Do you recall being asked that question?---Yes, I recall that.

And you said, “Absolutely not”?---Yes.

Now, it’s the case, isn’t it, that Mr Montague on more than one occasion had intervened in meetings between you and Mr Stavis on Mr Stavis’ side to the extent of a disagreement. Do you recall that?---Yeah. He was always on Mr Stavis’ side, but when I say that, like, there was never, if there was a disagreement obviously he supported Mr Stavis.

THE COMMISSIONER: But he had no technical ability. So, when you say he was always on Mr Stavis’ side, what issue would it be?---I recall once in a meeting I was requesting a series of appointments and Mr Montague declined and I think he used the term or the expression, “It’s like the tail wagging the dog.”

Oh, I know, but that’s Mr Montague saying to you, you’re not going to get further meetings.---Yes.

Mr Andronos said to you that he would intervene in meetings and he would always would be on Mr Stavis’ – sorry, intervened in meetings and would always, your answer was, “And would always be on Mr Stavis’ side.” ---Would support his staff, yes.

But he didn’t have technical knowledge, so what type of matter was he supporting Mr Stavis on?---Well, for example, there was an agree to disagree on an item, he, he accepts Mr Stavis’ argument, not my argument.

All right.

MR ANDRONOS: Yes. There were times in those meetings when you were critical of Mr Stavis, do you accept that?---I wouldn’t say critical, just agreed to disagree with certain things.

Yes, but you sought to persuade him to your point of view?---Persuade who?

Mr Stavis to your point of view.---No, absolutely not.

No. Did you ever tell Mr Stavis that you thought he was wrong?---On, on, on one or two issues, yes.

Yes. And did you ever attempt to give direction to Mr Stavis about what he should do in order to be correct?---Well, you can’t. I mean, no. I mean, I, I’ve put my point forward and I think it was only once that happened. He put his point forward and I said, “Well, where is the document?” It was a separation in accordance with the ADG and I said, “Well, why don’t you

refer to the, to the ADG guideline,” because you can’t remember all of those items and he said he wasn’t going to do it.

Yes. And putting it neutrally, these discussions could sometimes get quite heated, couldn’t they?---Oh, absolutely. I mean, like, there’s a lot of interest from both sides but not disrespectfully heated. It’s all technical, you know, sort of agreements and disagreements. That’s pretty normal in our business.

10 Yes, of course. You could each get frustrated with the other?---Yeah, look, planners are pretty good in what they do.

THE COMMISSIONER: No. Do you agree that you could get frustrated with each other?---Not the word frustrated.

All right, you don’t like frustrated?---No, but I agree that there had been heated debates. I would probably prefer that term.

20 MR ANDRONOS: And whenever there was a heated debate in Mr Montague’s presence, Mr Montague took Mr Stavis’ side, didn’t he?---Well, he wasn’t - - -

Please just say yes or no.---Yes.

Yes. In fact he said, he said to you words to the effect, “You back off, I won’t have that.”---Look, I can’t recall that but I said he declined to arrange further meetings.

THE COMMISSIONER: I think that’s a different issue.

30 MR ANDRONOS: That’s a different issue. In the context of a heated debate between you and Mr Stavis, in which you’ve accepted Mr Montague took Mr Stavis’ side, Mr Montague said to you words to the effect, “You back off, I won’t have that,” didn’t he?---Look, from recollection, possibly.

Sorry, Commissioner. I’m just looking for the – there it is. Nothing further, Commissioner.

THE COMMISSIONER: Thank you, Mr Andronos.

40 MR ANDRONOS: Thank you, Mr Demian.

THE COMMISSIONER: Ms Bennett?

MS BENNETT: No questions, Commissioner.

THE COMMISSIONER: Mr Drewett?

MR DREWETT: Commissioner, I have no questions, thank you.

THE COMMISSIONER: Mr Pararajasingham?

MR PARARAJASINGHAM: Thank you, Commissioner. Mr Demian, can you hear me all right?---Yes, I can.

I appear for Mr Stavis.---Yes.

10 Look, I just want to ask you some questions that also arise out of Exhibit 125. Just before I do that, Commissioner, if we can just go to page 4 of Exhibit 125, I saw an error that might be relevant.

THE COMMISSIONER: Hold on. Page 4?

MR PARARAJASINGHAM: Yes, page 4 of Exhibit 125 and about halfway down, it says, "Khouri," and then some words are attributed, I think that should read, "Demian."

20 THE COMMISSIONER: This is after the telephone has been handed over, hasn't it?

MR PARARAJASINGHAM: Yes, that's right. Yes.

THE COMMISSIONER: I think, look it makes sense and my recollection when we listened to it yesterday was that suddenly the phone wasn't handed back to Mr Khouri and we had that comment and the context makes sense. Does everybody agree with that? Oh, sorry, Mr Buchanan.

30 MR BUCHANAN: No, I agree, with respect.

THE COMMISSIONER: All right. Thank you for that.

MR PARARAJASINGHAM: Mr Demian, just staying with this document, if you just go to page 3 of the document, can I just draw your attention to the first entry from you that is attributed to you, where you say, "So, what we did, he said he wanted, so I, we did, we went and the two sections, we changed them to meet the new," I take it that should read ADG, "by, so we used a new architect, we changed the two levels and we got a compliance statement." This is a conversation about the property at 570-580 Canterbury Road, correct?---Yes.

40

And it's a development application concerning the addition of two levels?
---That's correct.

Can I just ask, in the passage I've just taken you to, you're relating something that Mr Stavis has said to you?---Yes.

Can you just explain for me, what is it that Mr Stavis was asking you to do?
---Sure. The application was for two extra levels above the approved
building of six levels and there was two things he had to do, one is
obviously make sure we have a compliant set of plans for the extra two
levels that comply with, at that dating, with the new ADG. The six levels
below, Mr Stavis got his red pen and crossed quite a number of sections of
the building below for it to be changed and what I tried to put to him,
“Look, this is under the old RDG and if we make the changes it becomes a
brand new application for the building as a whole. Not for - - -

10

No.

THE COMMISSIONER: No, no, no. What did Mr Stavis - - -?---If I
understood the question.

- - - want you to do?---Say to me, yeah, okay. He wanted me to cross or cut
off a lot of sections of the building below which had already an approval in
place and to amend it to those changes. I said, “Well, that’s impossible, it
couldn’t be done.”

20

MR PARARAJASINGHAM: I understand your response. So those were
two tasks that Mr Stavis put to you. Correct?---Yes, that’s correct.

And you understood that from his point of view, those are two things that
needed to be attended to before this could progress?---From his point of
view, yes.

Yes. You recall you were asked some questions about the marked-up plan
at 998 Punchbowl Road?---Yes.

30

A moment ago Mr Andronos took you to that?---Yes.

We don’t necessarily need that back up. Is your evidence that but for the
words next to three asterisks, the rest was your handwriting?---That’s
correct.

And actually in fact perhaps that can be put up.

THE COMMISSIONER: Could you just repeat the - - -

40

MR PARARAJASINGHAM: Sorry, that’s volume 13, page 199.

THE COMMISSIONER: Thank you.

MR PARARAJASINGHAM: And do you see there, Mr Demian, next to
those asterisks on the bottom left-hand corner reads, “Urban design peer,”
and something’s scratched out, “needs context analysis then traffic report
and then planning report.” Do you see that?---Yes, I do.

And again, is that another example of some additional things that Mr Stavis needed to be sourced before the application could progress?---Yes.

They were in effect action items, weren't they?---Yes, you could say that.

That can be taken down. So the examples that I've taken you to concerning the development application at 570-580 and the 998 Punchbowl Road property - - -?---That's correct.

10

- - - those are examples of the kind of - - -?---Discussions.

- - - demands that Mr Stavis placed on you throughout your working relationship with him at Canterbury Council. Correct?---That's correct.

He would impose conditions on you which from his point of view needed to be satisfied.---Yes.

20 You understood that Mr Stavis needed you to satisfy some criteria that he felt was important.---Yes.

Correct?---Yes.

And is it fair to say that in your mind that criteria was different to what you deemed to be appropriate criteria?---On some of the, on some of the topics, yes.

30 Okay. So if we come back to Exhibit 125, and if I just take you to page 9 very briefly, it should be up on the screen now, do you see, so it's page 9, Exhibit 125, do you see at one-third of the way down, it says, "Demian. I think, I think they're going to have a meeting, it pays for me to have that because I have all this evidence and plans and information because, look, I'm not saying anything against them but sometimes he," referring to Mr Stavis I'd ask you to accept, "changes the story to suit his, his criteria." Do you see that?---Yes.

And that is perhaps an example of you forming the view that Mr Stavis wanted to satisfy himself of this criteria - - -

40 MR BUCHANAN: I object. I object. The witness has given this evidence, essentially what we're hearing now is a submission.

MR PARARAJASINGHAM: I'll move on.

MR BUCHANAN: This is not adding to the point.

MR PARARAJASINGHAM: I'll, I'll, I'll move on.

THE COMMISSIONER: I think you've made the point.

MR PARARAJASINGHAM: Yes, thank you, I'll move on.

So you accept that from time to time Mr Stavis in fact pushed back against things that you wanted to be done?---Yes, he has.

And from time to time, Mr Stavis proved to be an impediment to your development objectives?---I wouldn't say that.

10

Sorry, you would or you wouldn't?---I wouldn't say that, no.

Why wouldn't you say that?---Well, the word impediment, to which application are you talking about?

Well, at this stage I'm just asking you generally. My question is, from time to time did you find Mr Stavis to be, and I'll use a different word, to be getting in the way of your development objectives?---No, I didn't.

20 Did you find that he was messing things up for you from time to time?
---I wouldn't put it that way either.

Are you sure about that?---Absolutely.

Yes. I mean but it's the case, and you've agreed with this, that some of the conditions that Mr Stavis was asking you to satisfy, can I suggest that those were things that you didn't think were necessary, correct?---I disagree with that as well.

30 Well, sorry, didn't you agree earlier that you formed the view that Mr Stavis was imposing conditions on you and that you didn't agree with some of those conditions?

THE COMMISSIONER: I think the evidence was he would ask Mr Demian to comply with criteria Mr Stavis thought was important but Mr Demian didn't think was important on the same topic.

MR PARARAJASINGHAM: Yes.

40 THE COMMISSIONER: Is that what you're referring to?

MR PARARAJASINGHAM: That's what I'm referring to. So accepting that evidence, doesn't it follow that you regarded Mr Stavis from time to time as getting in the way of your development aspirations?---No, absolutely not.

Because certainly you understood that until the things that Mr Stavis wanted you to do were done, nothing was going to happen with your development

application. Correct?---Yeah, he can sit on it for a year if he wanted to, that's correct.

Right. And you didn't want that to happen, did you?---Of course not.

You were interested in progressing the thing as quickly as you could, correct?---That's what we do.

10 Right. So it follows, doesn't it, that in imposing such conditions on you, Mr Stavis was halting or delaying the progress of your development application from your point of view?---You can say that.

Say that again, sorry?---You can say that.

THE COMMISSIONER: But do you agree with it?

MR PARARAJASINGHAM: Yes.---It's a, it's a difficult one to answer. The majority of things that Mr Stavis put forward were reasonable, but on a couple of occasions they were totally unreasonable and had nothing to do
20 with the planning principles and they're the couple of times that we had disagreements on outcomes. But in general there was no issue.

But on those occasions that you've just described, you formed the view that Mr Stavis was getting in the way of that particular development application? ---I wouldn't say getting in the way, I would say he was wrong.

30 Okay. But by imposing that requirement on you, he was halting the progress of your development application.---Of that particular application, yes.

You agree with that. Okay. And in your view, what he was asking you to do was unreasonable.---Only on those two occasions.

THE COMMISSIONER: Only on those two occasions?---Two occasions, that's correct.

MR PARARAJASINGHAM: Which two occasions are you referring to? ---570 and 998 Punchbowl.

40 Can I suggest that you regarded Mr Stavis certainly with 570-580 Punchbowl Road, as messing things up for you. Do you agree with that? ---No. I wouldn't use the word messing up, I'd use the word - - -

THE COMMISSIONER: I think you've put that and he's disagreed.

MR PARARAJASINGHAM: Well, I'm, yeah, but I'm going to take him to something, Commissioner.

THE COMMISSIONER: All right.

MR PARARAJASINGHAM: Can I take you to page 2 of Exhibit 125. Let's start at the top. Or just before we do that, this was a call made – were you at Mr Khouri's house?---When?

10 Sorry, this is Exhibit 125. I'm taking you to the conversation that you had with Mr Hawatt that initially Mr, that Mr Khouri starts the call and then hands the phone over to you. My question is, were you at Mr Khouri's house?---Unlikely.

So was he at your house?---Unlikely too.

Unlikely too?---Would have been, no, would have been a meeting that we would have had somewhere. But I can't, from recollection I have no idea where from.

20 And the conversation at the top of page 2 commences, it's in brackets, "Because," sorry, in fairness to you let's, we'll go back to page 1. Mr Khouri's talking to Mr Hawatt. He says, bottom of the page, "But Charlie should be there. There's a couple of issues you need to clarify. You know what I mean. They're talking about a meeting." Hawatt says, "Okay, look." Then if we turn over Khouri says, "Because he is messing up a bit, Spiro. Between you and I, really he is messing up. Like, here. Speak to him. Speak to him." And then Bechara Khouri gives the telephone to Charbel Demian. Do you see that?---Yes.

30 Do you know what Mr Khouri meant by Spiro "messing up"?---I think it could have been a reference to the approved six-storey building at 570 that he wanted to chop sections off.

Sorry, is it not a reference to the additional requirements, or the additional conditions, that Mr Stavis was imposing on you? That's what he's referring to, isn't he?---I have no idea what you're talking about.

Well - - -?---What conditions and what applications are you talking about?

Well - - -?---That's too generalised.

40 Well, you've agreed that this is a conversation about 570-580 Canterbury Road and the two extra levels to be added to that property, correct?

THE COMMISSIONER: Sorry, can I just – the conversation that Mr Demian then has with Mr Hawatt concerns 570?

MR PARARAJASINGHAM: Yes.

THE COMMISSIONER: Right. Okay.

MR PARARAJASINGHAM: I mean, I've asked you about this five minutes ago, sir. This is the subject matter of this conversation, isn't it? ---570. Is that what you're saying to me?

THE COMMISSIONER: Yes.---I can't see that anywhere on this conversation here.

10 MR PARARAJASINGHAM: Sorry, this conversation concerns the addition of two levels to a property at 570-580 Canterbury Road, doesn't it? ---I don't know. Can you refer - - -

Well, do you want to just - - -?---Read it?

Well, yes, perhaps you could be provided the exhibit and you can familiarise yourself with it.

20 MR BUCHANAN: Towards the bottom of the second page. Yes. Mr Demian speaks, "Now this application for those 21 units." Might assist Mr Demian.

THE COMMISSIONER: You were asked, when Mr Pararajasingham started his questions, he took you to page 3 and you did say that it was about 570 and the addition of the two levels, so at least at pages 2 and 3 it seems that you were discussing with Mr Hawatt 570.---I'm just looking for the reference, Commissioner.

30 That's okay.---Mr Buchanan made a reference. I can't, I can't see it. I'm just trying to have a look at the conversation where it actually refers to 570.

It may not in actual terms, but Mr Buchanan's referred you to page 2 of 10. Do you see you say, "The application for the 21 units"?---Yes.

Sorry, it's about point 7 of the page, on page 2.

MR BUCHANAN: Where the cursor is.

40 THE COMMISSIONER: Yes.---Oh, yes, I can see that, sorry. Yes, I can see that now. And that would have been for 570. That's correct.

That would have been about 570?---Yes.

MR PARARAJASINGHAM: And in this conversation you were telling Mr Hawatt about these additional conditions that Mr Stavis was asking you to comply with, correct?---I was referring to the six levels in the discussion and how Mr Stavis wanted to chop sections of the approved building, which we didn't want to interfere with.

Yes. I understand. But this is a conversation about the tasks Mr Stavis had set for you, correct?---Yes.

10 Right. So coming back to where I was a few minutes ago with Mr Khouri, where Mr Khouri says, “He is messing up a bit, Spiro. Between you and I, really he is messing up,” the question is, do you accept that what Mr Khouri is referring to there is the fact that Mr Stavis was asking you to attend to these additional tasks?---He would be making reference to the colouring on the plans that were sent, which is chopping or changing the whole of the six levels underneath.

THE COMMISSIONER: So when Mr Khouri says in substance, “Spiro is messing up,” your construction of that is that Mr Khouri was referring to where Mr Stavis was requiring you on a plan to change the six lower levels, and your point has always been that had already been approved?---That’s correct.

20 MR PARARAJASINGHAM: Do you know where Mr Khouri sourced the idea that Mr Stavis was messing things up?---I probably would have informed him about the issue that, of concern I had, yes.

30 So is it likely that that expression “messing up”, that came from you?---I’m just trying to recall. Mr Khouri did attend two meetings with me to Mr Stavis’s office, and I believe that was one of them when Mr Stavis handed the plan which is marked in red and yellow. And I think he had about – this is the approved building we’re talking about, the set of plans for that – and I think he had about, like, something like 12, we call it chopping because, like, cut sections of the building, which meant the whole building had to be redesigned and resubmitted as a whole from the beginning.

THE COMMISSIONER: Around 29 March did you ever say to Mr Khouri, “Spiro’s messing up”?---No, I would never use the word or have never used the word.

MR PARARAJASINGHAM: But you see here in this conversation, at the end Mr Khouri says, “Speak to him, speak to him,” and then the phone’s handed over to Mr, it’s handed over to you. Do you see that?---Yes. Yes, I can see that.

40 So isn’t it likely that the source of that expression “messing up” was from you? That you had just told Mr Khouri that?---No, no. I don’t use terms like that.

You don’t use terms like that?---No.

You see, sir, it’s the case that Mr Stavis was proving to be a bit of a thorn in your side, wasn’t he?---I don’t agree with that at all.

Well, he was making life difficult for you, wasn't he?---Oh, look, that's rubbish.

In getting you to do various things, he was getting in the way of your development ambitions, wasn't he?

MS WALSH: I object.

THE COMMISSIONER: Yes, Ms Walsh.

10

MS WALSH: Commissioner, we've gone through this line of questioning for quite some time. Mr Demian's made it very clear that he doesn't agree with these propositions, and no amount of repeatedly putting them to him appears to get him to change his answers.

THE COMMISSIONER: Mr Pararajasingham, you've put, if I can adopt, "thorn in side", et cetera, on a number of occasions and Mr Demian doesn't agree with you. You've made your point with two occasions, 570 and 998, where Mr Stavis was requiring certain things - - -

20

MR PARARAJASINGHAM: I'll move on.

THE COMMISSIONER: - - - which Mr Demian didn't agree with, and there seems to have been disagreement between the two of you on that.

MR PARARAJASINGHAM: Yes.

THE WITNESS: Sure.

30 THE COMMISSIONER: So I think - - -

MR PARARAJASINGHAM: I'll withdraw that. I'll move on. I've noticed the time.

THE COMMISSIONER: I am really keen, love having you in the witness box, but I am keen for you to go. Can I just ask, now, Ms Gall?

MS GALL: Yes, Commissioner?

40 THE COMMISSIONER: Will you have any questions of Mr Demian?

MS GALL: No. No, Commissioner.

THE COMMISSIONER: All right. And, Ms Walsh, at the moment do you have any other questions?

MS WALSH: I just have one question in re-examination but that's it.

THE COMMISSIONER: All right. Can I just then pause.

MR BUCHANAN: One, possibly two.

THE COMMISSIONER: How much longer do you think you'd be?

MR PARARAJASINGHAM: Perhaps another 10, 15 minutes tops.

10 THE COMMISSIONER: Would you prefer to proceed now and finish, say, in about 15, 20 minutes? Or we could have a morning tea break and come back.---I'm happy to proceed, Commissioner.

All right, Mr Pararajasingham. Would you continue, please.

MR PARARAJASINGHAM: Mr Demian, you understood that Mr Stavis's boss at Canterbury City Council was Mr Montague?---Yes.

20 And you understood that Mr Stavis had to follow all lawful directions of Mr Montague?---I don't know. I can't comment on that.

But you would assume that wouldn't you?---No, I can't assume anything.

Sorry, you wouldn't assume that his, that he had to follow the reasonable direction of his boss?---I assume that Mr Montague is the GM. I don't know how he does his job. That's up to him.

That's not what I'm asking and you know that.---You asked me to assume and I said I don't assume.

30 Sorry, but do you accept that Mr Stavis would have to follow all lawful directions of his boss?---I honestly can't comment on that.

Do you employ staff?---Yes, I do.

Right. Do you expect your staff to follow all your reasonable directions? ---Only if they're appropriate.

40 MR ANDRONOS: Objection, Your Honour. There's an inconsistency that's crept in between lawful directions and reasonable directions. I just invite my friend to pick a formulation and stick with it.

MR PARARAJASINGHAM: I was using them interchangeably but I take my friend's point.

THE COMMISSIONER: I think they may be different.

MR PARARAJASINGHAM: Sure, sure. Well, okay. Mr Demian, you employ staff.---Yes.

Right. You expect your staff to follow all of your lawful directions?
---Within reason.

Okay. So in the same way you would accept don't you that Mr Stavis, you would assume that Mr Stavis is obliged to follow the lawful directions of his boss, Mr Montague?---If I'm to assume I'll say within reason.

10 You also understood that at Canterbury City Council Mr Hawatt and Mr Azzi took a hands-on approach to many developments?---I can't comment on that.

And you were cross-examined at length about your interactions with Mr Hawatt. Is it your position that you are unable to say whether Mr Hawatt or Mr Azzi took a hands-on approach to many developments?
---Look, I can't comment on that. I don't understand the question even.

I think you understand it full well, Mr Demian.---Oh, do I?

20 In your experience did you find that Mr Hawatt and Mr Azzi took a hands-on approach to many developments?---Look, I can't comment on that. You're asking the wrong person.

And, Mr Demian, you understood didn't you that Mr Hawatt and Azzi would give Mr Stavis directions about his work and the developments that Mr Stavis was working on?---Again, I can't comment on that.

Are you sure about that?---Absolutely.

30 I mean you understood that part of Mr Stavis's role was to respond to councillors wishes and demands. You knew that.---Again, I can't comment on that.

THE COMMISSIONER: Sorry, when you're saying you can't comment, you have no knowledge of that, is that - - -?---I have no knowledge how they operate. No involvement or knowledge.

40 MR PARARAJASINGHAM: Well, in Exhibit 125, this is a conversation in which you are, you're having a whinge about Mr Stavis to Mr Hawatt. That's what you're doing aren't you?---I'm putting my case forward to Mr Hawatt, yes.

But you're complaining about what Mr Stavis is making you do. Correct?
---I said we were putting my case forward.

Right. And you were putting your case forward to Mr Hawatt?---That's correct.

Right. And you were doing that because you knew that Mr Hawatt could do something about that?---That's not correct.

Well, why were you, why were you putting it to Mr Hawatt?---We always provide as much as we can information to councillors prior to a decision so they can be informed if and when they make a decision for or against. That's, that's, that's pretty much all we do.

10 You were cross-examined up hill and down dale about this and I won't repeat things but can I suggest that the only reason you were having a whinge to Mr Hawatt was because you knew that Hawatt would do something about it?---No, I can't, I can't agree with that.

That he would pull Mr Stavis into line?---I don't agree with that.

And it's the case that in fact you were having problems with Mr Stavis from about March or April of 2015 weren't you?---I think that's when he started isn't it?

20 Well - - -?---I think I met Mr Stavis sometime down in the middle of the year. I can't remember but it would have been around June sometime from, from memory.

So sorry, what is your answer to my question? You were having problems with Mr Stavis from about March or April, 2015?---No.

And were you engaging Mr Hawatt and Azzi at that point?---I didn't even know one of the councillors at that point.

30 Can I take you to transcript page 2033. This is from Tuesday afternoon. Can I just refer you to lines 33 to 39. I'll just read them to you. So this is page 2033 of the transcript, line 31 to 39, sorry, line 33 to 39, "Were you ever told anything by Mr Hawatt or Mr Azzi about Mr Stavis before say April, 2015?" Answer. "Oh look, sometimes. Look, as I said, to you I can't remember the first (not transcribable) we had with Mr Stavis as I had a lot of meetings with them at council regarding those applications but I can't remember the first time I met him, no. And there was no discussions with councillors I would say until about May/June, 2015 regarding some of my projects with Mr Stavis's assessment of those or processes of those." You see that?---Yes.

40

So what you're saying there in the last three lines is that from about, or at least as at May/June, 2015 that's when you started having some discussions with councillors about some of your projects regarding Mr Stavis's assessment of those or processes of those. Correct?---Yes.

Right. And the reason that you were approaching the councillors was because you wanted to councillors to basically pull Mr Stavis into line?---I don't agree with that.

Why were you approaching them then?---I've approached the councillors to organise a meeting for myself actually with, with Mr Stavis and, and the general manager at that time. That was my evidence.

10 And what was the point of that?---The point of that so I can discuss the topics of concern at that point and, and decide where to go from there.

But you wanted, you wanted Mr Hawatt and Mr Azzi to put pressure on Mr Stavis to do what you wanted to do didn't you?---No, that's not correct.

Look again, you were cross-examined up hill and down dale about this so I'm not going to cover the same material. Just moving on to my last point. You were taken to by Mr Andronos some comments made in the – I withdraw that. Can I just take you back to Exhibit 125, page 2 and just
20 there in the middle you refer, you say, "Good, mate. Good, mate. Just so you know the right, the last four meetings I've had with Spiro since December to date I've had them in the presence of Jim." Can you then have a look at page 8 at the bottom where you say in the third-last line, "And I said to you the last four meetings I've had with them each and every one of them was, was in Jim's office in Jim's presence for the simple reason like, since our going over last meeting when you were present I haven't had a single meeting with Spiro on his own at all. It was always in the presence of Jim so that that way Jim is chairing the meeting not him, not me. You know what I mean." Just taking a step back, over the course of your dealings with Mr Stavis how many physical meetings did you have with Mr Stavis?
30 ---Over the period, look, I had a few meetings with Mr Stavis.

Sorry, you said a few?---A few with Mr Stavis in 2015. My, and I probably would have had further meetings I think in 2016 as well. Those four - - -

Can you put a number on it?---Look, I can't put a number. It's in the diary. But those four were a reference to one period of time.

40 Yes. I'll ask you about that in a moment but right now just your best to answer the questions that I'm asking you.---I'm trying to.

So your position is you can't put a figure on it - - -?---No.

- - - in terms of the number of meetings you had with, the number of physical meetings you had with Mr Stavis over the course of your working relationship with him at Canterbury Council?---Look, as many, as many as possible I would have liked but I can't recall the number of meetings I've had but there would be, there would be quite a number of meetings.

And of that, of those meetings you had with Mr Stavis are you able to say what percentage of those meetings Mr Montague attended?---I think only when requested and there would have been probably five meetings I would say or six, six meetings let's say. I'll rephrase. I can recall probably around five meetings.

So you're saying that of the meetings you had with Mr Stavis, of which you can't think of a figure, five of them involved the presence of Mr Montague. Is that in position?---From recollection, yes.

10

And so it's the case that at some point you asked Mr Montague to attend these meetings?---I think one of the meetings was the councillors organised that meeting. We're talking '15-16 now and the other four I would have requested meetings through either his office or Mr Stavis's office and request if he was available to attend.

Okay. So one meeting you say the councillors effectively directed Mr Montague to attend?---Arranged is the word I used.

20

Arranged, okay. And the other four meetings, at your suggestion it was arranged that Mr Montague would attend?---I requested Mr Montague.

You've requested, your request, sure.---Yes.

30

Can you just explain for me, what was the need to request Mr Montague's attendance at any meeting?---Mr Montague from memory attended meetings of strategical importance going back to 2013 where I've had at least two or three meetings with Mr Montague back then regarding the strategy and our proposals along the strip and extent for our proposals. So that's, that's when I've actually, Mr Montague attended. So 2013 two pre-submission meetings and probably a couple post-submission meetings.

Sorry, so you're saying that there were two meetings in 2013 with - - -?
---I'm saying there were several meetings with Mr Montague who attended with the then planning director regarding the strategical merit discussions that we had on the projects that we had back in 2013, yes.

40

Okay. So you're talking about, there you're giving an answer about Mr Montague attending meetings with the previous director of planning?
---Planning director, that's correct.

Right. And you say that he attended those meetings for strategic purposes?
---That's correct.

He had no technical skills of course.---No, he doesn't.

So just explain to me, what is he contributing?---The, the meetings in 2013 were strictly regarding height, whether we started with, and I think I said in

my evidence 10 storeys is what our desire or our urban outcomes suggested, and I think back then Mr Montague said not a chance, you're not going to, no one's going to support that. I think the then director of planning suggested possibly 21 metres will have a pretty good chance, possibly one more, and that's where our submission was dropped back to 24.6 metres in height, which is eight storeys.

Right.---Above the 18 that were current at that time.

10 I mean that's technical - - -?---Height is not technical.

Okay. So - - -?---So eight storeys, 10 storeys, that's not very technical.

Okay. So when you said earlier that he had no technical expertise, that didn't include discussions about for example variations to heights of particular applications?---No. I was referring to ADG requirements where it goes to building separations, cross-ventilation, solar access, open space and the likes. They were technical applications.

20 Okay. But what you described as to his, what you described as to the contents of the meetings with the previous director of planning, you don't classify that as technical expertise?---Well, part of it would have been technical, but height wouldn't be technical.

Okay. But - - -

THE COMMISSIONER: Is FSR technical?---Those zones didn't have an FSR - - -

30 No, no, no, no, no, just generally.---Sorry, yes.

If you were discussing FSR at a meeting and Mr Montague was there, would he contribute as he did with that question of height on that occasion? ---I think once in one single meeting, and that was the 998, when I was suggesting what our urban design outcome was, I think Mr Stavis didn't agree with that and Jim made one comment, "Look, what's everyone else getting? Just keep it consistent."

40 MR PARARAJASINGHAM: Okay. So is that an example of Mr Montague in fact contributing to the discussion?---The comment I just said is, "What's everyone else getting? Keep it consistent."

And you don't regard that as a contribution to the discussion, is that - - -? ---Not a specific contribution, it's a merit contribution.

It's a what contribution?---It's, it's - - -

THE COMMISSIONER: Merit.

MR PARARAJASINGHAM: Merit. Okay.---An outcome contribution.

Yes, no, that's fine. Okay. So I actually wasn't asking about meetings that you had with Mr Montague and the previous director of city planning, I'm asking about the meetings you had with Mr Stavis, and I think your evidence is that you can think of five. Correct?---Yes.

10 And from Exhibit 125 we know that four of them occurred from December 2015?---Yes.

Okay. So for those meetings my question is, what was the need to have Mr Montague with you at those meetings?---Well, the last time I checked he was general manager back then of the council.

Okay. And?---And he can attend any meeting he desires to as I understand it.

20 Sure. He can do a number of things, but why did you want him there?
---The reason behind that, or one of the reasons is that once, the way we try and work in planning, you have your pre-DAs, you reach certain understandings, which may vary but slightly vary, so you reach certain understanding and then you go away, do your plans and submit them. That's the way which we work. At that stage we were experiencing in where you sit down, you have your meetings, you disappear for three or four months, do your work, come back and it's changed again, so you've got to go back (not transcribable) start again.

30 When you say "it", "it has changed again", what are you referring to?
---Well, the, the, the direction from council may change again or have changed again.

So are you saying that you have a sit-down pre-DA meeting.---Yes.

There would, at the end of that meeting there would be some sort of plan of action that council has suggested?---Understanding, understanding.

An understanding.---Yes.

40 And then you say you go away and down the track you learn - - -?---Well, it takes you month to prepare, right.

I'm not being critical of you.---Yeah.

So just listen to my questions.---Sure.

And then are you saying that down the track when you come back together, as it's transpired the understanding has changed or you formed the view that

the understanding had changed from council's point of view?---That's correct.

So, okay, now that we understand why you had the concern, what role did the general manager play, how did having the general manager present address that concern?---No, look, I don't understand the question. Can you please reframe it?

10 You've explained to us the concern you had, right, with the way the understanding would change over the course of time. Yes?---Look, you've got to be more specific.

THE COMMISSIONER: No, no. You just gave evidence.---I said, I said on, on, on, there's been two things I've said so far, one in relation to chopping the sections of the building - - -

No, no, no, no, no.--- - - - and one if something changing after we come back from pre-DA.

20 You had this concern, as you've said, that you'd have a pre-DA and there'd be agreement, then, as Mr Pararajasingham said, over time you'd come back and it would appear to you that council had changed its position - - -? ---That's correct.

- - - or the understanding you formed - - -?---That's correct.

- - - had changed.---That's correct.

Okay.

30 MR PARARAJASINGHAM: And is it your evidence that that's why you wanted the GM present at those pre-DA meetings?---You can say that.

Well, I'm not saying anything. Is that what you're saying?---I'm saying I invited the GM to, to attend and he attended.

Okay. And the reason you invited him was to address this particular concern that you've just articulated seconds ago. Correct?---One, one of the concerns, yes.

40 Well, what other concern did you have?---Well, as I said, you know, he is the general manager so obviously he's the highest authority and if he was willing to attend, that would be a good outcome for any applicant.

Okay. Sorry. I thought you said that there were other concerns that you had that - - -?---Yeah, chopping the building is one concern, that's - - -

THE COMMISSIONER: All right. That, that - - -?--- - - -pretty much the major concern I had.

That was specific to 998.---Yeah, no, sorry, 570.

Sorry, 570.---570.

Okay.---And that was the project that had been discussed in those period of time.

10

Okay.---That and 998 being that drawing that you saw.

Okay.

MR PARARAJASINGHAM: Sir, my question is this. How did the GM's presence at these meetings address the particular concern that you had? ---It actually, okay, the best outcome out of that is that when an understanding is reached, I use, putting the understanding in point form and basically emailed it back as an understanding of that meeting, so you can call it minutes of the meeting.

20

Right.---So those minutes of those meetings were verified were in my opinion unlikely to change in due course.

Are you saying he was there as some, what, sort of witness to the agreement?---He was there as general manager.

But are you saying that by him being there, there was a witness to the agreement that yourself as a developer and Mr Stavis as the council representative had come to, is that what you're saying?---I'm saying he is the general manager, which I requested to attend and he did.

30

But that is not responsive to my question, sir, and you know this.---Well, your question doesn't make sense, I'm sorry.

Because the reality is you're unable to tell us why the GM attended these meetings, aren't - - -?---I just did. Hopefully, the, the discussions in a meeting would be likely to stick if the GM is present, where another person may or may not stick to those arrangements or discussions at a later stage.

40

If it was just, if it was in fact just a witness you needed - - -?---No, it's not a witness. I didn't suggest that at all.

See, was the reason you requested the GM to attend these meetings with Mr Stavis was to, at the very least, signal to Mr Stavis an association between yourself and the general manager?---You've got to reframe that question, I'm sorry. I can't make sense of it.

Well, is the reason you requested the GM's presence at these meetings that you were having with Mr Stavis – in the context of, in your point of view, understandings were changing – was it to signal to Mr Stavis that, look, the general manager, he is with me on this? Is that why?---No. Absolutely not. That's rubbish.

10 Was it to convey the impression to Mr Stavis that your objectives were the same as the objectives of the general manager?---I'll tell you one more time. I had issues, specifically issues that were not reasonable in my opinion at that time and request that he general manager would attend a meeting I requested.

So, those unreasonable requests, they were from Mr Stavis?---Yes.

And so your response is to go and get his boss and bring his boss or arrange or request that his boss attend the meetings?---That's pretty normal in council business. You do request meetings with authorities, the high authorities. That's pretty normal.

20 Because you knew that you and Mr Montague were on the same page - - -?
---That's rubbish.

- - - with regard to your development objectives, correct?

THE COMMISSIONER: So you - - -

THE WITNESS: That's very false actually, very false.

30 MR PARARAJASINGHAM: But did you expect the presence of Mr Montague to change the unreasonableness of what was being foisted upon you?---I had no idea what Mr Montague would decide in those meetings.

That's a nonsense, isn't it, Mr Demian?---From you, yes.

Sorry?

THE COMMISSIONER: No, no, no. You don't agree with the proposition?---I don't agree.

40 MR PARARAJASINGHAM: You had Mr Montague there so that your wishes had the imprimatur of the GM's office?---Please reframe?

I'll move on. I've put – can I just - - -

MR MOSES: (not transcribable) a coffee break soon or is he buying coffee at morning tea? I'm going to make sure of that. All the barristers will be ganging up on him.

MR PARARAJASINGHAM: Mr Demian, just before I sit down, accept this, just assume this for one moment, assume that you and Mr Stavis were butting heads about the conditions to be imposed on a particular application moving forward, just assume that.---I can't assume.

THE COMMISSIONER: No, no, no. Come on, Mr Demian.---I can't assume.

No, no, no, no. Come on, just assume - - -?---I, yeah okay.

10

MR PARARAJASINGHAM: It's an intellectual exercise.---I've stated Commissioner - - -

THE COMMISSIONER: No, no, no, no, no. Come on. Assume Mr Stavis has, as you gave evidence, had put forward particular criteria for - - -? ---Okay, I assume.

And you don't agree with that.---I assume.

20

MR PARARAJASINGHAM: So assume that proposition. Assume also, that there is at least a perception out there that you and Mr Montague share the same development objectives.---See, I can't do that.

I'm not asking you to agree with it. I'm asking you to assume it because I'm going to ask a question shortly.---And I can't assume either.

No.

30

THE COMMISSIONER: Mr - - -?---I can't. It's not correct,

No, no, no, no, no. Just hear Mr Pararajasingham out, and if at the end of it you have a particular position on whether you can answer the question or not, I'll hear that, but let's hear the whole question.---Okay.

40

MR PARARAJASINGHAM: Okay, so assume that second proposition. And assume this third proposition that in the context of you and Mr Stavis butting heads, you request that Mr Montague attends meetings, all right, assume these three things. Do you accept that in those circumstances, it would be reasonable for Mr Stavis to conclude that you had the backing of his boss?---So, if I understand this correctly. One, if we were butting heads. What was the middle one?

Are you being smart here, Mr Demian?---No, no. I'm actually really trying to verify.

THE COMMISSIONER: No, no, no, no. That you, that you and Mr – hold on, you asked what the second assumption was, it was that you and Mr Montague shared planning objectives?

MR PARARAJASINGHAM: No, that there was a - - -

MR BUCHANAN: Can I hopefully cut it a bit short?

THE COMMISSIONER: Yes.

MR BUCHANAN: In my respectful submission the question could be asked without any of those assumptions.

10

THE WITNESS: Exactly.

MR BUCHANAN: That is to say would it be reasonable for Mr Stavis to have drawn a conclusion - - -

THE COMMISSIONER: Mr Pararajasingham, could you put that question?

MR PARARAJASINGHAM: Well, I mean that is the question that I am putting but respectfully I'm entitled to ask the witness to assume certain things so that he can answer that question in light of those assumptions. I mean, this has been done the last few days. It's - - -

20

THE COMMISSIONER: All right. Do you remember the three assumptions?---I thought, that's what I was trying to clarify (not transcribable) I think you said head butts, and the middle one was something to do with Mr Montague, if I remember it correctly,

Mr Montague and you, it was perceived that you and Mr Montague shared - - -

30

MR PARARAJASINGHAM: Let me try again, Commissioner, if I may.

THE COMMISSIONER: Yes.

MR PARARAJASINGHAM: Please listen, Mr Demian. First, assume that you and Mr Stavis were butting heads at meetings, right?---That's number one.

Two, assume that there was a perception that you and Mr Montague shared the same development objectives.---Sure.

40

Three, assume that, in that context of the two things that I've just said, assume that you request for Mr Montague to attend meetings, right? Assume those three things.---Yes.

In light of those three assumptions, do you accept that it is reasonable for Mr Stavis to conclude that you had the backing of his boss?---It's, I can't answer on behalf of Mr Stavis.

That's not what I'm asking you to do and you know that full well. I am asking you to comment on the reasonableness of a proposition.---No, that's totally un-correct, incorrect.

THE COMMISSIONER: You don't agree?---I don't agree.

MR PARARAJASINGHAM: I have nothing further.

10 THE COMMISSIONER: Thank you. Ms Gall, still no questions?

MS GALL: Yes, Commissioner. No questions.

THE COMMISSIONER: Thank you, Ms Walsh?

MR MOSES: Commissioner, there's one issue I raise with Counsel Assisting, just a matter that I wanted to raise with the witness in respect of volume 21, page 171, which is a text message which my learned friend, counsel for Mr Vasil, took the witness to. It's item number 386 and it's, with your leave, Commissioner, I just wanted to ask the witness about a statement that is made in that text message from Mr Dabassis to Mr George Vasil, Mr Michael Hawatt and Laki which is, it's about halfway down the page, Mr Demian.

MR TYSON: Well, Commissioner, can I just make a - - -

MR MOSES: Well, let me first elaborate it. My learned friend's right - - -

30 MR TYSON: Just one thing that my learned friend said, the text message I think the evidence suggested went to Mr Dabassis.

MR MOSES: Correct. No.

THE COMMISSIONER: No, no.

MR MOSES: No, no. It's from Mr Dabassis.

THE COMMISSIONER: From. It's item 386, isn't it?

40 MR MOSES: I'll clarify that for my learned friend. It's just these words, Commissioner, and that is, "I'm very disappointed that all this time you told me you control the owner and now it's up to you two to make sure he lives up to whatever promise he made to you." I just want to ask a question about that, if I would.

THE COMMISSIONER: All right. Can I just confirm you've got item 386 in front of you?---Yes. Yes, I'm looking at that now.

You were taken to that before Mr Moses has just indicated the sentence he wants to ask you about.---Yes.

MR MOSES: Mr Demian, I just want to ask you this question. Do you know why Mr Hawatt or Mr Vasil or indeed Laki would have suggested to Mr Dabassis at some time that they controlled you?---I can't comment on that. That appears to be nonsense.

10 And can I ask you this question, then, was it because that there were DAs pending before the council that Mr Hawatt and Mr Vasil's son would be voting on?---Totally unrelated. And the answer is, no, I don't agree with that.

Thank you. I have no further questions. Thank you. Thank you, Commissioner.

THE COMMISSIONER: I should just check. Mr Tyson, you don't need to ask anything, do you?

20 MR TYSON: No, thank you, Commissioner.

THE COMMISSIONER: Ms Walsh.

MS WALSH: Thank you, Commissioner. Mr Demian?---Yes.

30 I just want to take you back to some evidence you gave this week on Tuesday the 10th, and I'm referring specifically to transcript reference 1982 at line 19. So at this stage Counsel Assisting was asking you about a specific development, which was 548 Canterbury Road.---Yes.

And what you were expecting from Mr Montague when you had meetings with him in which you discussed that particular development. Does that make sense?---Regarding 548?

Yes.---Yes.

So you spoke about attending meetings over a period of time just in relation to that particular development. Okay?---Yes.

40 All right. And I just want to quote back to you what you said in response to a question from Counsel Assisting.---Yes.

In the context of this question, I think the word "intervene" was used by Counsel Assisting and you had not agreed with that term.---That's correct.

And you said, "RMS had resolved but the council staff were not dealing with it, and that was pretty major on our part."---I think what I intended to say is that I believed the discussions of, I had with the council staff, that

they were not dealing with the RMS request as far as modelling is concerned, but we had provided our own modelling and RMS had supported our application or density request for that site.

10 All right. And so can you explain for the Commission why it is that you felt that that was an issue that ought to have been raised to the general manager of the council at that time?---Well, I've had a discussion with the town planning director regarding RMS supporting our application, typically for the use of a rear lane and for trucks and cars, the like, and restricting access into the street to being left in, left out or just strictly left out. So it's up to RMS. RMS had, so RMS asked our consultant to provide a, I think it's called a SIDRA modelling, traffic modelling, which was provided for that site and submitted. And shortly after that submission RMS supported our site but they wouldn't give us anything in writing because that usually goes back to council, even though we went directly to RMS. I've suggested that to the town planning director that RMS is supporting and has excluded our site from the strategy as far as the RMS is concerned, and the planning director does say, "We'll see about that." So his wording to me said, "We will see about that."

20

THE COMMISSIONER: Why did you describe it as "major on our part"? ---Well, the, the reason the Residential Strategy was delayed is because of RMS .

All right. And you say RMS you had provided the models and they were supporting or in agreement with you?---They supported our application.

30 MS WALSH: And so with that in mind, what was the reason why, why did you feel that that was an issue that you ought to raise with, specifically, the general manager of the council?---What I requested, so I requested a meeting with the town planning director and Mr Montague, and I asked or I informed Mr Montague that RMS had supported our application and requested whether it would be permitted to extract our site from the strategy and continue forward, now having RMS and the council resolution, to the Department of Planning. And Mr Montague declined that, saying, "Look, if we do it with one, we've got to do it with everyone." So it's got to stick together, basically, is, is his final outcome at that stage.

40 So did you think that - - -?---Well, that's it. That was the end of it.

That was it?---Yeah, we couldn't do anything else.

So you're bringing that to Mr Montague's attention, in other words?---So I brought the, well, I, I brought the issue of RMS supporting our site, and for that reason it can be, it can be taken away from the rest of the strategy – which had to await a comprehensive traffic-modelling outcome – and asked whether we can actually proceed with that in its own right to the Department of Planning instead of waiting for years and years. And he said strictly –

and I can remember that as it was, you know, pretty much now – he said, “Look, we do it for you, we have to do it for everybody.” And he apologised they had to decline that request or couldn't support. He used the word he “couldn't support that request”.

Thank you. Nothing further.

THE COMMISSIONER: Mr Buchanan.

10 MR BUCHANAN: Thank you, Commissioner. Mr Demian, did you tell Abacus that you had given an agency agreement to John Dabassis?---I don't have to.

THE COMMISSIONER: No, that's not your question.---Okay. You're right.

MR BUCHANAN: That's the answer to my next question.---The answer is, the answer is no.

20 Thank you. And my next question is, why not?---Because it's my responsibility.

That does suggest that, as far as you were concerned, there wouldn't have been an obstacle to dealing with third parties with a view to seeing whether you could reach an agreement with a potential purchaser, notwithstanding the nature of your agreement with Abacus, doesn't it?---No, there was no such agreement with Abacus. The decision was one at all times, it was a policy of, of, for my companies that for integrity and best outcome that a property for sale should go on the open market and explore the market,
30 whether it's here or even overseas. And for that reason I would not just deal with a one-on-one person or through a smaller marketing team, for example.

But you nevertheless did in the case of John Dabassis?---As I said, that was on the back of a failed marketing campaign, so I knew what the market had established.

Well, all you're doing is explaining that there were circumstances in which you were prepared to do so.---That's correct, yes, Commissioner.

40 Thinking of the number of meetings you had with Mr Stavis, where Mr Montague was present, is it possible that you had perhaps nine or 10 such meetings?---I'm sorry, over what period of time are we talking about.

Between 11 March, 2015 and 27 April, 2016.---Between 11 March, '15 and April '16?

Yes.

THE COMMISSIONER: Sorry, nine or 10 meetings that Mr Stavis and Mr Montague attended?

MR BUCHANAN: Yes.---Look, from recollection it's possible but I can't, I can't recall.

That's the examination of Mr Demian, Commissioner.

10 THE COMMISSIONER: Can he be excused?

MR BUCHANAN: As far as we are concerned, yes.

THE COMMISSIONER: Thank you very much. You can be excused.
---Thank you.

THE WITNESS EXCUSED

[12.18pm]

20

THE COMMISSIONER: We will now take our coffee break.

MR BUCHANAN: Can I make a suggestion?

THE COMMISSIONER: Yes.

MR BUCHANAN: I propose an option, Commissioner, and that is that we take an early lunch, and maybe a slightly truncated lunch period, and that we then sit until the usual closing time but perhaps with a 10 or 15 minute
30 break in the middle of that afternoon.

THE COMMISSIONER: If we took a lunch break now, when would you propose that we restart?

MR BUCHANAN: Maybe at 10 past 1.00, five past 1.00. I'm just concerned that we do have availability issues with the next witness.

THE COMMISSIONER: Yes, we've got Mr Maguire. All right. What I propose, if we have an early lunch break but we're back here at five past
40 1.00. And then, as Mr Buchanan indicated, we will then start and we'll have a 10-minute break during the afternoon.

MR BUCHANAN: No cries of anguish.

THE COMMISSIONER: Mr Andronos has leapt to his feet.

MR ANDRONOS: So long as there's enough time to get downstairs for a coffee in the afternoon break.

THE COMMISSIONER: All right. I will take that on board.

MR MOSES: Mr Buchanan's paying for that one.

THE COMMISSIONER: I'll take that on board. Ms Gall, if when we come back after the lunch break, if everything can be ready to start Mr Maguire, that would be very good.

10 MS GALL: Yes, of course, Commissioner. And I'm grateful for the change in timing. Thank you.

THE COMMISSIONER: Right. We stand adjourned for the lunch break.

LUNCHEON ADJOURNMENT

[12.19pm]