

DASHAPUB02849
20/07/2018

DASHA
pp 02849-02898

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

Reference: Operation E15/0078

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 20 JULY, 2018

AT 2.00PM

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

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

MR BUCHANAN: If Mr Maroun could be recalled.

THE COMMISSIONER: Could we, just before Mr Maroun comes back, Mr Maroun, could you excuse me for a minute. I just want to raise a matter of administration with everybody. As you know we've got a couple of weeks listed but just in case we don't finish the evidence in the time we have allotted already, we have put aside, and don't scream when you hear this, three additional weeks and when I say three additional weeks, this is just for abundant caution, just in case something happens or if a witness isn't available or something occurs like that. They are the weeks of 8 October and 15 October and then the week of 10 December but what I hope is that number 1, we won't need any additional time but if we do need any additional time, it will be in that first week of 8 October. All right, Mr Maroun.

MR BUCHANAN: Mr Maroun, before we adjourned at lunch, I played you the recording of a telephone conversation which Mr Hawatt initiated on 4 March, 2016 starting at a minute past 1.00 in the afternoon in which a meetup at the gym was organised. What I want to take you to now, think bearing in mind that that was a meeting on 4 March that was being organised, is page 123 of Exhibit 149. This is more financial records. This is a copy of a statement of account where Mr Azzi held with the Commonwealth Bank, the account number ended in the digits 0-9-9-1. On page 124, an entry on 7 March, 2016 is highlighted, where there is a cash deposit at the Roselands Branch of the bank in the sum of \$4,000. On page 125 is a bank trace on respect of that amount of money. As you can see in the middle there, the posting date and the value date of 7 March, 2016 and the amount is cash \$4,000, where the cursor is at the moment. There is a time in which that transaction occurred, recorded where the cursor is on the middle column, the one commencing with the date, 07/03/2016 and if we go halfway down that column, the time of 1.04pm is indicated.

Can I take you to page 126. That is a copy of a statement where the name of the account is Ozsecure Home Loan Pty Ltd and the last four digits of the account number are 2-2-1-8. That page itself shows the highlighted entry for a cash deposit on 9 March, 2016 in the sum of \$3,000 and you know that Mr Hawatt owned Ozsecure Home Loan Pty Ltd. Turning then to page 127, that's a copy of a deposit slip. The name of the account is Ozsecure Home Loans Pty Ltd, the date of the deposit is 9 March, 2016. The last four digits of the account number are 2-2-1-8 and the amount of the deposit is cash \$3,000. If we go to the rear of that deposit slip, you can see that an entry has been made indicating that the \$3,000 was in \$100 notes.

Turning to page 129, this is a statement of account where the account is in the name of Mr Hawatt. The last four digits of the account are 9-9-9-5, the

account is held with the NAB. Going over to page 130 the flagged entry is for 9 March, 2016, cash, and it's a credit of \$2,500. And if we go over the page to page 131, the deposit slip appears there, the name of the account is the same, the date is the same, the last four numerals of the account are 9-9-9-5, the amount deposited is 2,500, it's indicated that it's in cash, and on the back of the slip has been written 2,500 against the printed number \$50, indicating that the deposit was made comprising notes of the denomination of \$50.

- 10 I'll take you to page 133 of this exhibit. That's a copy of an account in the name of Mr and Mrs Hawatt with the NAB. The last four digits of the account number are 3-4-2-7. Going over to page 134 the second page of that statement of account shows that on 9 March, 2016, a cash deposit was made in the sum of \$2,500. On page 135 the deposit slip is copied and the account name is the same, the date is the same, the last four numerals of the account number are 3-4-2-7, the amount is cash, \$2,500, and the breakdown of that deposit is on the back of the deposit slip and it's got 2,500 against the numerals \$50, indicating that the denominations of the note were \$50 notes.
- 20 Finally as to deposits, after the meeting that you had lined up with Mr Hawatt on 4 March, 2016. Can I take you to page 137 of the financial records. Looking at the machine-generated printouts on the right-hand side, not the left-hand side, on the right-hand side, there is indicated there a receipt by the Greenacre agency of Australia Post and that it's a payment for Tax Office payment and it's in the sum of \$300 and it's made on 10 March, 2016. There is some data, you won't be able to read it, but I can tell you that there is data the Commission has entered against that particular sheet of paper in the top right-hand side on the screen, and that is the property number that has been entered by the Commission, and that indicates that the
- 30 pieces of paper were obtained by the Commission when executing a search warrant on Mr Hawatt's residence.

Mr Maroun, was any of that cash that we have seen recorded as being deposited for the benefit of Mr Azzi or Mr Hawatt, given to them by you?
---No.

- Can I take you to page 119 of Exhibit 149. This is a copy of a statement of account in your name. The last four digits of the account number are 2-7-2-6. The account is held with the NAB. And on that page it's indicated that
- 40 there was a withdrawal on 4 March, 2016 in the sum of \$10,000. If we go over the page we can see that there is a bank trace which includes a copy of the withdrawal slip. The bank trace indicates that the transaction occurred at 12.04pm on 4 March, 2016 which is before the time that you had the telephone conversation with Mr Hawatt marking the arrangement for him to come to your office/gym. Do you see the, in the withdrawal slip, if we can enlarge it a little bit more perhaps. Thank you. Can you see on the left-hand side of the withdrawal slip your signature?---Yes.

Thank you. And the withdrawal slip has the account number 2-7-2-6 the same as the account number of the statement that we looked at and the date is 4 March, 2016. The amount withdrawn is \$10,000 and against the denomination number of \$50 appears \$10,000 indicating that you were given \$10,000 in \$50 notes on that date at that time. Was any of that money given to Mr Hawatt or Mr Azzi on the occasion that you saw them pursuant to the arrangement made to meet up with Mr Hawatt on 4 March, 2016 at 1.01pm?---No.

10 Can I take you to page 121. This is a statement of account for Lonestar Constructions Pty Ltd, one of your companies, with St George Bank. The account number the last four digits are 7-8-0-4. If we go over the page we can see that there's a cash withdrawal on 4 March, 2016 in the sum of \$4,500. There's no other data that I can put in front of you but we do know from the entry that appears on page 122 that the withdrawal of 4,500 on 4 March was a cash withdrawal and that Lonestar Constructions Pty Ltd was one of the companies you controlled. Is that right?---Yes.

Was any of that money given to Mr Hawatt or Mr Azzi?---No.

20

Can we play recording, please, 05077 recorded on 7 March, 2016. I should have said LII, Commissioner. Recorded on 7 March, 2016 commencing at 11.47am.

AUDIO RECORDING PLAYED

[2.18pm]

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

THE COMMISSIONER: The audio file and transcript of the recording LII 05077, recorded on 7 March, 2016 at 11.47am is Exhibit 171.

#EXH-171 - TRANSCRIPT SESSION 05077

MR BUCHANAN: Mr Maroun, you heard that recording being played?
---Yes.

40

Did you recognise the voices of yourself and Mr Hawatt?---Yes.

From that recording it would appear that by the time of that recording, you had found out that the recommendation of the IHAP was to refuse your DA. Is that fair to say?---That's what he said, I think. Yep.

Well, he didn't actually say what the recommendation was, all he said was, "We had a discussion regarding that. They're not happy with the, with the

IHAP anyway so we're gonna, we're gonna to go as, as officer's recommendation. I think it's the right thing to do." So, he didn't actually identify what the IHAP had decided, which tends to suggest that he thought you already knew. Do you understand?---No. My understanding it has been refused for him to say what, what he said. He's not happy with IHAP decision. If it was approved - - -

Was that the first – I'm sorry, go on.---If that was approved by IHAP, he wouldn't say that. to my interpretation.

10

So, do you have a memory at this time of having these calls with Mr Hawatt and having these discussions with Mr Hawatt about the IHAP meeting and its recommendation and what needed to be done so far as concerned the council meeting or the CDC meeting?---More than likely, yes and as you heard, he referred that to the staff to, to, to the actual council staff.

I'm sorry, I didn't quite understand that. If you could just explain what you meant there?---He referred it, he said it's been referred to the council staff or something.

20

THE COMMISSIONER: In this conversation?---Yes.

MR BUCHANAN: He said, "We're gonna go as officer's recommendation."---Officer's, yep.

THE COMMISSIONER: That's what you're referring to?---That's what I'm referring to.

30

MR BUCHANAN: Rightio. When Mr Hawatt said to you, "We had a discussion regarding that. They're not happy with the IHAP anyway," who did you understand he was referring to when he said, "We"?---Council. As in the, I call them staff or officers.

Well, the council meeting hadn't occurred by this stage. This is three days before the council meeting. Do you think he's talking about a discussion that he'd been involved in with other councillors?---Then no but for him to refer to the officers at the end, I believe he spoke to them or he'd be talking to them.

40

Do you think it's possible that you would have understood at the time that he was talking about him and Pierre Azzi, that they'd had a discussion AVO it?---Maybe.

And decided to go with the officer's recommendation?---Maybe.

When he said, "So, we're gonna go as officer's recommendation," you would have understood him to mean, "Me and Pierre," wouldn't you?---No.

Why not?---Because Pierre isn't an officer, he's a councillor.

Wouldn't you have understood him to mean we, Pierre and I, the councillors, when this matter comes before us in three days' time, are going to go with the officers' recommendation, that is to say follow the officers' recommendation of approval?---Yes.

Now, can I play another recording, please. LII 05398, recorded on 10 March, 2016, commencing at 12.28pm.

10

AUDIO RECORDING PLAYED

[2.26pm]

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

THE COMMISSIONER: The audio file and transcript of the recording LII 05398, recorded on 10 March, 2016 at 12.28pm is Exhibit 172.

20

#EXH-172 - TRANSCRIPT SESSION 05398

MR BUCHANAN: Mr Maroun, you heard that recording being played, did you?---Yes.

Did you recognise your voice and Mr Hawatt's voice?---Yes.

30 Do you remember making that call to Mr Hawatt just before the council was to meet to consider your DA?---Well, obviously, yes, because I just heard I call him.

You indicated that you wanted to show him something and get his opinion on it, and that it was urgent in that call.---Yes.

40 Can you tell us what it was that you wanted to show him and get his opinion on?---Maybe the plans, maybe to change, to change part of the plans. I don't recall. If IHAP recommended for disapproval just to instruct my architect maybe what Michael thinks is, is, is, is good enough so I can speed up the process.

If I can take you now to volume 17 of Exhibit 69, page 273. This, we looked at this earlier. The IHAP report – sorry, this is part of the business papers for the meeting of the City Development Committee on 10 March, 2016. That was the meeting that occurred a few hours after that telephone conversation where you'd asked Mr Hawatt to drop around before he went to the, he told you that he was going to the council meeting. And remember

I showed you on page 272 there's extracted in the business papers the IHAP assessment and recommendation? But now if I can take you to page 273, what this is, is the minutes of what the City Development Committee decided and in respect of 538-546 Canterbury Road, Campsie, and the DA for construction of two additional floors, the resolution was, moved, Councillor Hawatt, seconded, Councillor Kebbe, that the clause 4.6 submission to vary clause 4.3, that's the height limit provision of the Canterbury LEP, be supported and development application DA 243/2014 be approved, subject to conditions. So that went through and then if I could just take you to page 291 just so that you can see it. On this page – just for completeness I should take you back to page 288. Still in the business papers of the City Development Committee meeting of 10 March, 2016, "Here is the IHAP recommendation for your section 96 application for modifications to the approved development." And it says essentially that it recommends that the application be approved. If we go to page 291 we can see that the City Development Committee on 10 March resolved that that section 96 application be approved, moved Councillor Hawatt, seconded Councillor Kebbe. You found out about the outcome I want to suggest the next day on 11 March?---I'm not too sure if I went there to that meeting or I didn't.

Well, I'm going to suggest you didn't go and I'll play if we can LII 05454 because it answers your question. This is a recording made, Commissioner, on 11 March, 2016 commencing at 9.03am. Commissioner, I'll just place on the record this is an extract of a recording. It's cut off after the relevant passage so it commences with the beginning of the conversation and then the recording, sorry, the recording that is being tendered ceases at the end of the relevant material.

30 **AUDIO RECORDING PLAYED** [2.32pm]

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

THE COMMISSIONER: The audio file and transcript of the extract from recording LII 05454 recorded on 11 March, 2016 at 9.03am will be Exhibit 173.

40 **#EXH-173 - PORTION OF TRANSCRIPT SESSION 05454**

MR BUCHANAN: Can I ask that we listen to another recording LII 05487 recorded on 11 March, 2016, the same day, but commencing at 1.54pm.

AUDIO RECORDING PLAYED [2.34pm]

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

THE COMMISSIONER: The audio file and transcript of the recording LII 05487, recorded on 11 March, 2016 at 1.54pm will be Exhibit 174.

#EXH-174 – TRANSCRIPT SESSION 05487

10

MR BUCHANAN: Do you remember after learning – I do apologise, Mr Maroun, I should have gone through the formalities. In both the last two recordings did you recognise your voice and Mr Hawatt’s voice?---Yes, I did.

Thank you. In that last recording, that’s the one that commenced at 1.54pm on 11 March, so it’s the same day you learnt the result of the outcome of the meeting of the City Development Committee the night before, did Mr
20 Hawatt turn up at the gym at 3 o’clock in the afternoon or thereabouts?
---I don’t remember.

Can we play another recording, please, LII 05960, recorded on 18 March, 2016, commencing at 1.44pm.

AUDIO RECORDING PLAYED

[2.37pm]

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

THE COMMISSIONER: Audio file and transcript of the recording LII 05960, recorded on 18 March, 2016 at 1.44pm will be Exhibit 175.

#EXH-175 - TRANSCRIPT SESSION 05960

40 MR BUCHANAN: Did you recognise your voice on a message machine?
---Yes.

And Mr Hawatt’s voice leaving a message for you?---Yes.

Can we play, please, another recording, LII 05961, recorded also on 18 March, 2016 at 1.55pm, about a few minutes later.

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

THE COMMISSIONER: Audio file and transcript of the recording LII 05961, recorded on 18 March, 2016 at 1.55pm will be Exhibit 176.

10 #EXH-176 – TRANSCRIPT SESSION 05961

MR BUCHANAN: Mr Maroun, you heard that recording?---Yes.

Did you recognise the voice of yourself and Mr Hawatt?---Yes.

Did Mr Hawatt come round to the gym that afternoon, 18 March, 2016?
---I don't remember.

20 Excuse me a moment. Can I take you to another set of financial records in
Exhibit 149, to page 140, where there appears a copy of a statement of
account, the account holder being Pierre Azzi. The last four numerals of the
account number being 1-7-9-2 and this is with the Commonwealth Bank and
on page 141, the entry against the date 21 March, 21016 for payment
received, Mastercard and the amount being \$1,000. On the next page is a
bank trace and the account number can be seen in the bottom left hand side,
where the cursor is. It ends in numerals 1-7-9-2 and the date of the event is,
excuse me a moment, oh it's staring me in the face, I do apologise. I don't
know if the cursor's wiggling around but it's on the left hand side on the
30 bottom, the posting date and the value date are 21 March, 2016 and just
above that is the transaction amount and it's indicated that it's a credit that
was made in cash for \$1,000. Now, I don't have a denomination breakdown
for you of that transaction but if I can take you then to page 143, the
statement of account for an account held in the name of Mrs N Azzi with the
Commonwealth Bank, the account number ends in the numerals 7-1-8-0. At
page 144, can be seen an entry against the date also of 21 March, 2016, a
cash deposit made at an ATM in Roselands of \$1,000 and the bank trace is
on page 145. The account number appears in the bottom left hand column,
the last four digits are 7-1-8-0, the transaction amount is \$1,000, it's a
40 deposit made in cash and the posting and value dates are both 21 March,
2016. Again, I don't have the denominations but you can see that they're
deposits made by Mr and Mrs Azzi of cash on that date. Did Mr Azzi
obtain the amounts of cash that are recorded in those deposits from you?
---No.

Can I take you to another record, which is at page 138 of Exhibit 149. This
is a statement of account for Lone Star Constructions Pty Ltd. The last four
digits of the account held with the St George Bank are 7-8-0-4. On page

139, the highlighted entry against the date 18 March, 2016 is a withdrawal from the ATM in a sum of \$2,000. Did that money end up with Mr Hawatt or, to your knowledge, Mr Azzi?---No.

And you didn't give it to them on 18 March, 2016, pursuant to a visit to your gym by Mr Hawatt?---No.

Can I play please two more recordings. The first recording is LII 06258 recorded on 23 March, 2016. The call commenced assault 5.13pm.

10

AUDIO RECORDING PLAYED

[2.45pm]

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

THE COMMISSIONER: The audio file and transcript of the recording LII 06258 recorded on 23 March, 2016 at 5.13pm will be Exhibit 177.

20

#EXH-177 – TRANSCRIPT SESSION 06258

MR BUCHANAN: Mr Maroun, did you hear that recording being played? ---Not fully but I did. I didn't understand what the, what words are being said about Port Macquarie if I am interested. I didn't hear what I said back to him.

30

Can I just first of all cover off that you've heard your voice and Mr Hawatt's voice?---Yes.

And I can assure you that the transcript indicates that what you heard as inaudible or unintelligible is recorded as being inaudible or unintelligible so the record shows that what you had difficulty hearing can't be heard. ---Okay.

Okay?---Yeah, yeah.

40

And so where Mr Hawatt asked whether you got the material he sent you for Port Macquarie what is recorded is that you said something that's not audible and then you said, "Yeah, I got it." He said, "Are you interested in the, 'cause I just spoke to them now and", and then what you said in response to that is simply in audible. And then Mr Hawatt said, "I can't, I'm, because I'm going up the Gold Coast Pierre", and then something that's unintelligible, "Pierre will, is gonna be in the area." And then you said, "When are you going?" And then it's something that's inaudible and Mr Hawatt said, "I'm on my way now." You said, "Okay", something that's

inaudible, “next week.” Presumably about okay, catch up next week or something to that effect. Would that be fair to say?---Yes.

That would be likely?---Yes.

You had received material from Mr Hawatt about a proposed development at Port Macquarie. Is that right?---More than likely, yes.

10 You don’t remember receiving material about such a proposed development?---As I said, more than likely, yes, but I’m not 100 per cent.

Right. You don’t have specific memory of it. Is that right?---That’s right.

Can we play, please, a recording LII 06919 recorded on 5 April, 2016 commencing at 8.12pm.

AUDIO RECORDING PLAYED

[2.49pm]

20

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

THE COMMISSIONER: The audio file and transcript of the recording LII 06919, recorded on 5 April, 2016 at 8.12pm will be Exhibit 178.

#EXH-178 – TRANSCRIPT SESSION 06919

30 MR BUCHANAN: Mr Maroun, you heard that recording being played?
---Yes.

Did you recognise the voices of yourself and Mr Hawatt?---Yes.

Do you remember meeting up with Salim?---Slim I think his name.

S-l-i-m?---Yeah, Slim.

Thank you.---Yeah, I think I did meet with him.

40

Right. And you understood him to be Mr Hawatt’s nephew?---Yes.

Can I just take you to a part of the conversation which is recorded on the second page of the transcript where after talking about that, about Slim being a valuer, you said, “Good. Also, you heard anything about what we discussed last night?” And Mr Hawatt said, “Yeah, yeah. I’ve got a meeting now, we’re in council now.” And then in Arabic he said, “We just finished,” and then in English he said, “From the workshop.” What was it

that you and he had discussed the previous night that you were referring to there?---I don't remember. Must have been for the DA, for the approval.

Well, council had in fact resolved to approve it by then. Was there something else that you had discussed with Mr Hawatt by way of business of council or that you had before council?---At one stage I was trying to do a medical centre at the bottom. I don't know if he was involved in that.

10 Was that in the Canterbury local government area?---Yes, at 538 on the ground floor.

On the ground floor of 538.---Yes.

I see.---I'm not too sure if I discussed that with him or not about that.

And did that require approval from council?---Yes, and straight - - -

And did – sorry, go on.---Straight across from the hospital.

20 Yes.---I think that did happen actually, they did give me the approval but I can't recall if Michael was involved in that.

Do you know by whom the approval was made, was it - - -?---Mine.

- - - approval by – I'm sorry?---Mine Kocak.

She did it herself?---I think so.

30 Yes. I'm not suggesting she didn't, I'm just asking.---I'm not 100 per cent but as far as I remember, that's what I was trying to do and I've got it, I've got the, I'm 90 per cent sure I've got the approval.

40 Thank you. Commissioner, that is my examination of the witness, but before I sit down, can I refer back to the evidence that I've been leading and to Exhibit 149, the evidence I've been leading in respect to the contents of Exhibit 149, the bundle of financial records. Commission staff have prepared a spreadsheet which if I can provide it to you, Commissioner, I don't think there's any point in putting one in front of the witness, for more than one reason. This is not a – Mr Maroun, we're just dealing with a document now that I'm not going to be asking you questions about. It's a summary of those financial records.---That's fine.

Commissioner, it sets out in a form which is tabulated 1 through to 9 down the left hand side. There's a 4 missing between 3 and 5, but you can see that that's a slightly unusual set of records there because there is no corresponding withdrawal identified, simply a deposit and a meeting but what it seeks to do is to set out in tabulated form the records to which I took the witness as well as the nature of the occasion on which I have suggested

to him in evidence that he had the opportunity of passing cash to Mr Hawatt and/or Mr Azzi and asked him whether he did so. And there is a reconciliation under the major heading on the right hand side of details of cash transactions. There's a reconciliation of denominations of notes where the evidence allows for a conclusion to be drawn as to denominations of notes that were either withdrawn by Mr Maroun or deposited by or for Mr Azzi or Mr Hawatt and then there's a reconciliation of the total amounts in respect of each, I'm going to use the word payment, I appreciate that the direct ecstasy doesn't rise to that level but the inquiry is not over yet and there will be the opportunity for submissions. So, unless, Commissioner, there's a particular question you'd like to ask me, I tender as a separate exhibit, a spreadsheet in relation to the records contained in Exhibit 149 and the occasions in evidence of a meeting between Mr Maroun and Mr Hawatt and/or Mr Azzi relative to the transactions referred to in those records.

THE COMMISSIONER: All right. the spreadsheet which summarises the financial records in Exhibit 149 and also the occasions of meetings between Mr Maroun and/or Mr Hawatt and Mr Azzi as raised in the evidence will be Exhibit 179.

20

#EXH-179 – SPREADSHEET SUMMARISING THE FINANCIAL RECORDS IN EXHIBIT EXH-149 AND OCCASIONS OF MEETINGS BETWEEN MR MAROUN AND/OR MR HAWATT AND/OR MR AZZI

MR BUCHANAN: And Commissioner, the staff of the Commission have been working busily outside of the hearing room whilst the evidence is being taken from Mr Maroun in respect of, in particular the call charge records for contact between Mr Maroun and Mr Hawatt. A couple of days ago I think it was, you admitted into evidence Exhibit 147, which was a version of those call charge records. Additional records having been identified, they have been inserted into the same table and so the table has been expanded. So that you can see what I'm talking about, Commissioner, I should hand up a copy. And if I can just indicate at this stage, to assist you Commissioner, and the parties, page 7 is the page which contains records of telephone contact between Mr Hawatt and Mr Maroun which were not in exhibit 147. Sorry, I'm told we can't tender it in substitution for 147, so could I tender it as a separate exhibit?

THE COMMISSIONER: All right. The more complete schedule of call charge records for contact between Jimmy Maroun and Michael Hawatt covering the period 11 July, 2013 to 5 April, 2016 will be Exhibit 180.

#EXH-180 – COMPLETE SCHEDULE OF CALL CHARGE RECORDS FOR CONTACT BETWEEN JIMMY MAROUN AND

**MICHAEL HAWATT COVERING THE PERIOD 11/07/2013 TO
05/04/2016**

MR BUCHANAN: And as I indicated, Commissioner, that is my examination of Mr Maroun.

THE COMMISSIONER: Mr Moses?

10 MR MOSES: Yes. Thank you, Commissioner. There are just five areas that I'm wanting to cross-examine Mr Maroun on. Mr Maroun, I act for the council and I have some questions I want to ask you. The first area relates to your relationship or association with Mr Hawatt and Mr Azzi. You told Council Assisting that you had known Mr Hawatt for 20 years. Do you recall giving that evidence?---Yes.

And you said that you were friends. Correct?---Yes.

20 How did you first meet Mr Hawatt, sir?---I think I met him in a function or a council meeting. I can't remember.

Well, he wasn't in the council 20 years ago. Do you recall when you first met him 20 years ago, sir?---It must be in a function.

And what about Mr Azzi, did you first meet him when he was a councillor with Canterbury Council?---No, way before then.

30 Way before then. And how long have you known Mr Azzi for, sir?---A good 10 years.

And you told Counsel Assisting that you went to the horse races with Mr Azzi.---Yeah, the TAB.

Do you recall giving that evidence?---I recall going to the TAB with him a few times.

What about the casino?---I don't remember.

40 Did you go with him to the TAB when he was a councillor?---Yes.

And did you give him any money to place bets on horses?---No.

Now, the other issue that I want to discuss with you is what Mr Hawatt and Mr Azzi were doing for you as councillors in relation to the property 538-548 Canterbury Road, Campsie. You said to Mr Buchanan that Mr Hawatt, it was his duty as a councillor to provide you with services in relation to how council dealt with your applications. Do you recall that evidence?---Yes.

And you said to Mr Buchanan in answer to this question. I'll just remind you of this. "It would seem that you were happy to use Mr Hawatt's services to either obtain a favour from Mr Montague or meet with Mr Montague at the time from those two SMSs wouldn't it?" And you answered, "Yes." And what you were shown, and I'm happy for it to be shown to you again because I'm going to ask you some questions about this issue, is page 305 of volume 17 of the ICAC brief which is messages 99 and 102. Would you like to look at those again?---No. I'm more than happy to listen to what you have to say.

Thank you. What was the favour from Mr Montague that you were seeking to obtain by using Mr Hawatt's services?---Okay. In most, most times you call Mr Montague you can't get through to him. You leave him messages to call you back. He's snowed under. You can say he's got too much on. So the next thing I do I speak to Michael. Michael, I need to see Jim Montague about a certain thing. Can you arrange for him to call me or I'll go and see him. That's the sort of services I'm referring to from Michael Hawatt.

20 So the services or the favour was to have people return your calls or to have meetings with them?---Mainly, yes.

When you say mainly, yes, were there other favours or services that were provided to you by council officials as a result of Mr Hawatt or Mr Azzi intervening?---No, when he moves a motion or when he's for the motion or for the approval, that's, that's another favour as well.

That's not a favour?---That is a favour.

30 That is a favour. Why is that a favour, he's doing you a favour by doing that?---Again to speed up the process.

Right.---Because there's times with Canterbury Council and any other council, they don't want to approve anything, and most developers nowadays, maybe you'd know that, they lodge with the council and the Land and Environment Court at the same time, because council got six weeks to respond back, it takes them six months, 12 months, going backwards and forwards without any, any response back.

40 Okay. And the meetings that you would have at your home office, the gym, which is behind the pool at your house, correct, that's the gym you're referring to?---Yes.

The gym, the office?---Yes.

The meetings you would have with Mr Hawatt where you would, where he would come over to your gym or the home office, do you agree that at those meetings you would discuss with him your problems or your thoughts about

what was going on with your development application with the council. Do you agree with that?---From time to time, yes.

And you wanted him to do something about it. Correct?---Yes.

And did he tell you that he would help you to deal with these problems?
---Only through the right channels.

10 Okay.---Like, he'll talk to Spiro Stavis or whoever officers involved to see what, what can be done to speed up the process.

20 In your evidence that you gave to the Commissioner at page 279 of the transcript, line 7 to 24, what you said to Mr Buchanan was, and if you want this to be shown to you, happy for it to be shown to you, was that you had been to council and they hadn't done anything about the delay in relation to your application and there's so many times where you think what you're doing is logic, some of the staff they refer to their team leaders or the general manager, you never get an answer, so what do you do, you go back then to someone that can help you which in this stage either Michael or Pierre. Do you remember giving that evidence?---Yes.

And is this the case, that you were frustrated with your application being dealt with, so you went to Mr Hawatt and Mr Azzi to get them to cut through what the council staff were doing. Let's be blunt about it, that's what you were doing, weren't you, Mr Maroun?---No, not cut through.

No? To do what then?---To find out what's the delay, if it can be, if it can be sorted.

30 Okay. Let me put this to you directly. It's the case didn't you, that you told Mr Hawatt, is this the case, that you wanted support for your section 96 application in Earlwood and on your site on Canterbury Road. Correct?
---In Earlwood?

You wanted support, yeah, is that right?---Which Earlwood?

40 Did you – I'm going to show you an email in a moment – did you ask him to seek support, let me restrict it to this, for your site on Canterbury Road?
---(No Audible Reply)

Did you ask him for support?---Maybe, yes.

So, you're doing more than just asking him to speed up the process, you wanted him to support it, correct?---To me it means the same.

The same, is it? Okay.---To me it's the same.

Well, could the witness be shown, Commissioner, the text message which, just to put it into context, the text message of 25 August, which appears at volume 17, page 304. It's item number 81. Do you remember Counsel Assisting asked you a question about that?---Can you read out the question for me?

Yes. I'll just read it out. "Hello Michael, if possible I need to see you at the gym today. Thank you." Do you see that?---Yes.

10 And you then met with Mr Hawatt, didn't you, on 25 August?---Maybe.

Maybe. And you asked him to support your application for Canterbury Road, didn't you?---Maybe.

Well, could the witness be shown volume 17, page 122. You see, on the next day, on 26 August, Mr Hawatt sends an email to Mr Stavis where he says this, "Mr Jimmy Maroun is seeking support for his section 96 in Earlwood and his site on Canterbury Road." Do you see that?---Sorry, read that out to me again.

20

Mr Hawatt sends an email to Mr Stavis the day after 25 August.---Which year?

2015. He says, "Hi Spiro, Mr Jimmy Maroun is seeking support for his section 96 in Earlwood and his site on Canterbury Road. Firstly, how did you go with the traffic report for RMS? Once we get a positive response from them, can applications like Maroun apply for a DA? He also wishes to meet with us and his architect this week if you have the time." Did you ask him to do those things?---Yes.

30

Yes. So, you're asking him - - -?---More than likely, again.

I'm sorry?---More than likely, I did, yes.

Well, he wouldn't have been making that up, would he?---That's right yes.

In terms of just going along to get that support unprompted by you, correct?---Yes.

40 So, you wanted him to seek council support for this, correct?---Yes.

And when you were having discussions with Mr Hawatt about seeking support for what you wanted, whether it be the Canterbury Road property, and I'll come back to Earlwood in a moment, did he ever ask you for anything?---No.

Are you sure about that?---A hundred per cent.

You see, and again, this is not in any way meant to threaten you at all, so just be clear about that, the Commissioner was very careful when you were first called to give evidence on Wednesday to give you the warning about not giving untruthful evidence to the Commissioner. Do you recall the Commissioner doing that?---Yes.

And what you were told fairly, was that if you told untruthful evidence, that could be used to prosecute you, correct?---Yes.

10 But any anything evidence you Avenue here about anything you may have done that constituted a criminal offence could not be used against you. Do you recall the Commissioner explaining that to you?---Yes.

So, now is the best time to come clean about this, Mr Maroun. Did you ever have a situation where Mr Hawatt asked you for money?---No, never.

Are you sure about that?---A hundred per cent.

Now, can I then ask you a question if I can about this issue of Earlwood.
20 Do you know what he's referring to in that email to Mr Stavis of 26 August, where he is talking about seeking support in relation to Earlwood? The section 96 in Earlwood, do you know what that's about?---Is that in Gueudecourt Avenue? Do you know the address?

I can't tell you that, sir. All I can do is go off the section 96 report, off the email, I'm sorry.---I don't remember, I don't remember the, the date if Spiro was there but what happened, we exceeded the height on one of the houses. We built two houses there and we still within the council heights that we are allowed to do, that we see what's on the plan and that wasn't a major issue.
30 I'm not too sure of Spiro was there or someone before him.

THE COMMISSIONER: And what address was that again?---Number 1 and number 3 Gueude, G-u-e-u-d-e, court Avenue, Earlwood.

MR MOSES: Can I also ask that you look at, I'll just ask for this to come up on the screen. It's page 304 of volume 17 and it's item number 84 on that page. There is a text message from you saying, "Hello, Michael. Need to see you at gym if possible. Thank you." And Mr Hawatt responded that I'm at Bardwell Park RSL if you want to come there. Did you have a
40 meeting with him? You did didn't you?---I remember being there with him on more than one occasion at Bardwell Park.

And do you recall at that meeting that you discussed with him that you needed an urgent letter from the council in relation to a property at 445-459 Canterbury Road, Campsie?---Sorry, which year was that?

2015.---Maybe, yeah.

When you say maybe, you did didn't you?---No.

No?---I'm not, I'm not too sure.

Well, on the same page item 86 Mr Hawatt sends a text message to Mr Stavis saying, "Hi, Spiro. The Jimmy Maroun site, the old Robbo at 445-459 Canterbury Road, Campsie he needs an urgent letter from council. Mr Maroon needs our assistance. Thanks. Michael Hawatt." That would have been something wouldn't it that you told Mr Hawatt that you needed help from?---Yes. On - - -

And now me having read that out to you does it refresh your memory as to what that was about, what you wanted him to do?---Yes.

So what was it?---Yes. I've sold that property to a Chinese investor.

Is this prior to September, 2015?---Yes.

And having sold that property to a Chinese investor why did you need a letter from the council?---If you allow me to finish I'll answer the question.

Yes, please. I apologise for interrupting you.---No problems. I've sold that property to a Chinese investor subject to an approval, for a DA approved for that site and I remember I've submitted those plans in 2014, late 2014, around December or November, 2014 and I was asked to withdraw the DA in January, 2015.

Who were you asked to withdraw that by?---I got an email from council. It's an Asian name. I can find out the exact name. I can get back to you on that.

Okay.---So what happened during 2015 the purchaser of the site wants to know what's happening. I was waiting on an RMS issue to be sorted so I can resubmit to get the DA in time because I've only had 12 months from November/December, '14 to the following November/December the following year so I was seeking a letter from Spiro Stavis or maybe Jim Montague for the purchaser's solicitor to let them know that we can't, I can't submit the plans because the RMS issue wasn't sorted. Then I had my lawyer involved in that as well where he went more than once and met with Spiro Stavis as well.

And was the letter sent to you, the letter that you asked for?---I don't remember.

You don't remember. Okay. Was that something that you needed in order to complete the sale with the Chinese investor?---Yes.

Okay. Now, and you had direct discussions did you with Mr Stavis as well as Mr Montague in relation to problems you were having with council. Is that right?---Yes.

And that was because Mr Hawatt assisted you to be in contact with them. Correct?---He directed me to go and speak to either Jim or Spiro.

10 Okay. And I think with Mr Stavis, I think you've agreed with this already, you had a discussion with him on 4 January of 2016 to review an amended development application in relation to the Canterbury Road property. Correct?---Yes.

And did you ever receive any feedback back from Mr Stavis about what was going to happen with the amended development application?---No, when I met with Stavis and he went away and gave the file to Hargreaves, I've involved Urban Link and the town planner to take care of that, so they were chasing things up with council officers, council staff, whatever.

20 Okay, thank you. I'm just going to go to another topic now, which is this issue of the Port Macquarie development site. Was that, and Counsel Assisting's already asked you questions about this, was that the only time that Mr Hawatt asked you whether you were interested in purchasing development sites or did he bring other proposals to you in relation to development sites that you might be interested in?---That's the only one I can recall.

Okay. And did you proceed with that investment?---No.

30 Did you feel under pressure to have the discussion with him about the Port Macquarie development site because you wanted to keep him happy in relation to his position as a councillor and his impact on your business? ---No, it appeared to me that he's selling it or he's, or he's trying to sell it for someone else.

Mmm.---Like, he knows this developer or got a DA-approved site, wants to sell it, and he mentioned it to me.

Okay.---Then he mentioned that his nephew, he's involved.

40 Yes.---So it's his nephew that probably owns the site.

Yes. But did you think you needed to think about this proposal, because you didn't even know where Port Macquarie was, according to one of the telephone discussions, because you didn't want to upset him because he was doing favours for you with the council? Was that why you had the discussion with him?---I don't recall why I should go out of my, out of my way or do something I'm not comfortable with and invest, like, millions of dollars because he's doing me a favour at council?

Yeah.---I wouldn't do that.

But nonetheless you were thinking about the site, you told him that, didn't you?---Sorry?

You told him you were thinking about it, didn't you?---Yeah, I'll look at it, I said to him.

10 Did you ever tell him you weren't interested?---I think I did, yes.

When?---When?

Yeah.---Don't know.

Okay. I've just got to ask you just three things before I finish, just to give you an opportunity to answer these, because these are matters that the Commission may or may not be looking at. Okay. First of all, in relation to your dealings with Mr Hawatt and Mr Azzi, did they ever ask you for money - - -?---No.

Let me finish – or favours in return for them dealing with your applications? ---No.

Did you ever ask Mr Hawatt and Mr Azzi to treat favourably your applications before council and in return you would give them money or a benefit?---No.

30 And did you think, is this your evidence sir, did you think it was part of their role as councillors to in effect be at your beck and call to come over and see you at any time of the day that you called them in order to discuss with you council business. Is that what you thought their job was an councillors?---No. Their job an councillors, their job is council but when, when you've got a good friend, that doesn't mean everything you want to do for your friend, you want to ask him to pay you for a favour. Like, we drink together, we eat together, we go out together, we train together. I think that's more than enough than paying someone hourly or daily or whatever the case may be to, to, to do some work for you.

40 Well, they weren't on your payroll, were they?---Sorry?

They weren't on your payroll, were they, these councillors, Hawatt and Azzi, were they?---No they on Canterbury Council, yeah.

They were there for the duty that they owed to the rate payers, correct? ---Yes.

Not to you, Mr Maroun, correct?---Correct.

So, are you saying because you had meals with them and you drunk with them that somehow that gave you special access to them?---No. I didn't ask them to bend the rules or do anything.

No. So, why did you think it was okay for you to call them at any time of the day and tell them to come over and see you? What was that about?
---It's all about friendship.

10 All about friendship?---Yes.

Well, the truth is you were discussing your properties, weren't you?---Yes.

And you wanted them to do something about it?---Yes.

And then did, didn't they?---Yes. In some cases they did.

Thank you. I have no further questions for the witness.

20 THE COMMISSIONER: And that friendship continued throughout 2015 and some of 2016?---Until it break up with an argument over Jim Montague, yes.

All right. Mr Moses asked you about the Port Macquarie investment. You never invested in that, did you?---No.

30 Could we just get up volume 17, page 305, please, and item 106. Mr Maroun, these are the text messages between you and Mr Hawatt and if you go done to 106, this was sent on 2 April, 2016 and it's Mr Hawatt texting you saying, "Are you interested in the Port Macquarie development sites? Let me know." So, at the beginning of April, he still seems to be pursuing you about Port Macquarie?---Yes.

And Mr Moses asked you about when you said to him, "I'm not interested," using that, the beginning of April, was it around that time you said to him, "I'm not interested"?---I can't recall, Commissioner, as to when I told him that but all I can, all, all I can assure you of, I didn't go to Port Macquarie, never saw the site. I saw the plans very, very vaguely. When I me with - - -

40 No, no. That's okay. My next question is, you realised by the beginning of April that Mr Hawatt and Mr Azzi were no longer councillors, didn't you?
---I don't know the exact date.

MR BUCHANAN: May, Commissioner.

THE COMMISSIONER: Oh, I'm sorry. I withdraw that question, sorry. It was May. It's Friday afternoon, I'm getting confused. All right. Sorry, Mr Maroun.---No, you're all right, Commissioner.

All right, but you can't remember when you said no re. Port Macquarie?
---That's right. I don't, I don't remember and my policy is to work where I know the area. Even if he sent me far west or south west, I wouldn't go. I'm only in certain areas, sorry.

10 But forgetting about my mix-up with the dates, you did know that from 12 May, 2016, Mr Hawatt and Mr Azzi were no longer councillors?---I'm not a hundred per cent, I think, I think I received a text message from Michael Hawatt saying either he's no longer a councillor or he's not running for council.

But you knew about the amalgamation of council?---Yes.

And that when the amalgamation occurred the State Government put in administrators to the council?---Yes.

20 And all the councillors lost their position?---Is that Canterbury and Bankstown or Canterbury?

Yes, both.---Both. No, I'm not, I'm not familiar with that.

All right.---I'm familiar with the administrators but - - -

And you knew Mr Hawatt wasn't a councillor from that time?---I know at one stage he wasn't a councillor. Maybe before the election.

30 All right. And I think you were asked this by Mr Buchanan. The election that you're referring to was the one held last year was it?---Is that the last one?

You know there were council elections last year I hope, last year?---Not too sure.

All right. Mr Tyson, any questions?

MR TYSON: No questions thank you, Commissioner.

40 THE COMMISSIONER: Mr Andronos?

MR ANDRONOS: No questions, Commissioner.

THE COMMISSIONER: Mr O'Gorman-Hughes?

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

THE COMMISSIONER: Mr Drewett?

MR DREWETT: Commissioner, I have no questions but there is one issue I would like to clarify being mindful of the fact that this is an inquiry. I didn't object when Mr Moses put the proposition as a positive assertion to the witness but it was put to the witness that my client, Mr Hawatt, was not a councillor 20 years ago. I understand as part of my instructions and I think this Commission could take judicial notice of the fact that he was elected as a councillor in 1995. I stand to be corrected in relation to that but that's my understanding I didn't raise it when Mr Moses was talking because
10 it was a matter of small moment I suspect but if that is indeed the case then that should be - - -

THE COMMISSIONER: My note was that on his relationship with Mr Hawatt, Mr Maroun said that he had known for Mr Hawatt for 20 years and were friends but he first met him at a function or a council meeting and then it was put he wasn't a councillor.

MR DREWETT: That's right.

20 THE COMMISSIONER: And then Mr Maroun said oh look, it must have been at a function.

MR DREWETT: That's right.

THE COMMISSIONER: So I think that's all consistent with the proposition you're, what you're raising at the moment.

MR BUCHANAN: And if it's of any assistance then so far as we're aware that is correct. It's about '95/'96.
30

MR DREWETT: That's my understanding, Commissioner.

THE COMMISSIONER: Are you fine with that, Mr Moses?

MR MOSES: I'm happy with that, Commissioner. Thank you.

THE COMMISSIONER: Mr Pararajasingham?

40 MR PARARAJASINGHAM: I have no questions, Commissioner.

THE COMMISSIONER: Mr Grant?

MR GRANT: Thank you. Mr Maroun, on Wednesday you gave evidence in relation to the sequence of events for 538 Canterbury Road that you believe that it was the council who recommended approval to IHAP. Now, at the time that you gave that evidence what was your belief as to its truthfulness?---I believed it was the truth.

Then Counsel Assisting then took you through the sequence of events in regard to that application and showed you that it went to IHAP with a council officer recommendation and then to 10 councillors sitting as the City Development Committee. Do you now accept that that was the sequence of events?---Of course I do, yeah.

And what do you say about the evidence you had given before you were taken through that sequence?---I was mistaken.

10 Thank you. Now, when you were asked some questions by Counsel Assisting about the development application for 457 Canterbury Road you told us you made a commercial decision to withdraw the application. What did you mean by that?---Because the amount of money for submission was close to about \$100,000 and the email said to me, in the email they stated if I don't withdraw my submission it's going to be recommended for disapproval and I lose whatever it is, 80 or 100,000, where if I withdraw my submission I will lose a portion of it. So I tried to call council or Jim Montague. Without RMS you can't submit the application so I thought on a commercial decision rather than fight that with council, the Land and
20 Environment Court or whatever, withdraw it.

And save yourself a lot of money?---Save myself about \$80,000.

I can understand now your commercial decision. You told us on a number of occasions about how you employed consultants because that was their field of expertise. I just want to ask you some questions about your background. Which country were you born in?---Originally in Lebanon.

30 And how old were you when you came to Australia?---I was 14 years old.

And when you lived in Lebanon until you came to Australia when you were 14, what was your language of choice?---Arabic and French.

Okay. And when you came to Australia at the age of 14 did you attend school here in Australia?---Only till the year 10.

And after year 10, what was the first job you had?---A labourer.

40 And what type of labouring work was it?---In the building game.

And how long did that go on for before you changed jobs?---For about two, three years.

And what's the next job you had?---Making beds, Sleepmaker.

Okay. As a factory process worker?---Yes.

And how long did you do that for?---About five or six years.

And the next job after that?---Start driving taxis.

Right. And as a result of driving taxis, is that where you got to know Mr Azzi?---Mr?

Mr Azzi?---Yes.

10 Tell us the story about how you moved from being a taxi driver to a property developer, how does that happen?---My dad started the industry back in 1971. Didn't do good back then. So I've always had that in mind to please what he wanted to do, and I started off with a small project and things went my way, kicked off like, good.

And why the need to use architects and town planners and people such as that?---Sorry?

20 Why the need to use architects and town planners and people such as that as a property developer?---Well, you need to, you are a property developer, like, you are a QC or a lawyer, you're not a doctor or an accountant, so everyone's got a job to do.

Understand. Commissioner, thank you.

MR BUCHANAN: Nothing arising, Commissioner.

30 THE COMMISSIONER: Just one final series of questions. You spoke, sorry, you gave evidence yesterday and you also said something when I asked you some questions recently about ending your friendship with Mr Hawatt and Mr Azzi.---Yes.

When did that occur?---Again I don't recall the date, but it started to decline bit by bit.

40 All right.---That didn't take much, but it started off with I was against, one night when they were talking about Jim, Jim Montague, being a person that served the community of Canterbury Council for quarter of a century and he's very well-known in the area, anyway, I thought I'd better break my, my, my relationship with them rather than gets worse. If I see them somewhere I'll talk to them.

When you broke it off, was that a clean break and you said I'm not speaking to you again, you're not coming over to the gym?---No, it went a lot further than that, using other language, which - - -

All right.---Yeah.

But it was I'm not, you're not coming over to the gym, we're not going to go out, we're not going to go out drinking, you're not going to come to the TAB with me anymore.---Similar to that effect.

All right.---Yes, Commissioner.

10 And because we've had, we've seen those, I'm sorry, either we've heard phone calls or seen text messages where either you're inviting them to come to the gym or they're coming to see you at the gym, this clean break must have occurred after that.---Yes, after the argument you can say, or the fight.

All right. So that must have been sometime in 2016.---Maybe. I don't recall the dates.

Anything arising?

MR BUCHANAN: Would you just excuse me a moment, Commissioner.

20 THE COMMISSIONER: Yes.

MR BUCHANAN: Just one matter. Just on that same subject that the Commissioner was asking you about, Mr Maroun, the cause of the dispute with Mr Azzi and Mr Hawatt was as you told us I think, but please tell me if I have misunderstood your evidence, that you disagreed with their attempt to have him sacked?---No. The words, they tried to get him sacked then they got him back in. From time to time they talk about him in a bad way which I didn't like. I'm that kind of a person, if someone I'm talking to doesn't behave himself, don't behave himself, I go my way, they go their way. I try to stop that from happening but I couldn't so I decided not to proceed, not to go ahead anymore. Plus I've got the job done at Canterbury, so seeing each other, it's only going to be based on training, drinking, eating, stuff like that. There's no more discussion or anything to do with, or any favours if you want to call it, about speed up the process with Canterbury Council.

40 Can I just ask though, what was the blow up between Mr Montague on the one hand and Hawatt and Azzi on the other hand as you understood it? What was it about?---I don't know. I've heard, I've heard numerous words and reasons and arguments and stuff like you either stop that or, or fix it.

Can I ask you think back to – you told us that they said bad words about Mr Montague, but were they saying why they thought - -?---He delays things.

- - - badly about him?---He delays things. They think he delays things, he slows things down and stuff like that. That doesn't look good for the council. That's the main, what I can recall the reason.

And when the Commissioner asked you whether there was a clean break, you said, "No, it went a lot further than that." Were you meaning to indicate that you'd had an actual row with Mr Azzi or Mr Hawatt or both of them?---Yeah, using, using words that you normally don't use. That's what I meant by wasn't clean or clear as in, "I don't want to see you anymore, goodbye, no." It went further than that.

10 It was a loss of temper on at least your side if not also their side?---Yes. On both sides.

On both sides?---Yep.

And I just need to explore a little bit more if I can, you'll just have to excuse me because the Commission has evidence that there was a real big split between Mr Montague on the one hand and Mr Azzi and Mr Hawatt on the other hand but that it was in December, 2014 to February, 2015. Now, that's a period that is long before the time when they were working with you
20 on getting an approval for 538 and they worked with you in a regular basis to assist you in getting 538 approved, is that fair to say?---Yes.

And that's in 2015, long after they had tried to get Mr Montague sacked.
---Yes.

And so, what we're trying to ascertain from you if you wouldn't mind is, what the thing was that was causing – what it was that they were saying about Mr Montague that you thought was something they shouldn't say about him?---Again, how it started in the beginning, in late '14, he's not
30 doing what, what they think he should do like, do his job fast enough. Like, he's not cooperating with them the way they want him to cooperate with them. So, he went back to work like you said - - -

Mr Montague went back to work?---Yeah.

Yes.---In February I think.

Yes.---But there was never ever cleared out between Michael and Pierre towards Jim. They're still talking to him, he's talking to them but it's not
40 pure, it's not clean.

THE COMMISSIONER: And were they being rude about him behind is back?---That's what I'm trying to say.

MR BUCHANAN: Right.

THE COMMISSIONER: Right. So you'd be having a conversation with them at your gym office and they might make some rude comments about Mr Montague?---Yes.

MR BUCHANAN: I see.

THE COMMISSIONER: And you put up with this over a period of time and then finally you said enough is enough?---It's on and off, like it slowed down. Sometime they give it for a month or two they don't talk about it.
10 It's mainly when we're having a drink they start talking about it or we socialise it, socialising is when they start to talk about it. I didn't like that.

But it got to the stage where you just said enough is enough. I'm not going to be your friends anymore?---It went more than that, like - - -

And sorry, and you - - -?--- - - - we start, we start an argument that night and that was it.

All right. But that was after your Canterbury job had gone through and was
20 approved?---Correct.

MR BUCHANAN: I don't know whether that might interest parties or not. Excuse me a moment, Commissioner. Sorry.

MR GRANT: It's pretty clear to me what sort of falling out there was.

MR BUCHANAN: Can I just, just see if you can come back to, was it a particular night at the pub where this row occurred between you and Mr - - -
30 ?---It happened at my place.

At your place. Rightio.---Yes.

Can you remember whether what was being talked about by Mr Azzi and Mr Hawatt that caused you to react in that way was about something that they had done - - -?---Not about, not - - -

- - - or something that Mr Montague had done?---Not about specific things but generally speaking about - - -

40 Just generally?--- - - - your general manager not doing his job which I thought he was.

Was there anything in particular which you can recall - - -?---No.

- - - they were complaining about, any particular incident or event or subject or property or person that - - -?---No.

- - - was the subject of their, of what either Mr Montague was not doing that they thought he should do or that was the cause of their complaint - - -?
---There wasn't - - -

10 - - - against him?---There wasn't a specific subject. As I said, generally speaking the guy is not doing his job. Because I was asking about what happened with let's say 457 Canterbury Road. I was told six weeks then it took six months. It's now more than two years and nothing happened and I've been promised it'll be done within let's say six weeks and two years later it hasn't been done. They put, you can say they put all the blame on him. I've already sold the land so I'm not, I'm not too fussed whether the RMS gets sorted or not but they put all the blame on him. Something like that which I know because I spoke to, I spoke to Jim. I trust him. So I trust them but I don't like rubbishing people or hear, hear someone rubbishing others especially Jim to me.

20 And can I ask you, thinking of the time that 538 got approved, the additional two storeys on 538 got approved, 10 March, 2016 we know is the date but you just think of the time that you knew, you found out it was approved. How long after that was it that this row occurred at your place?---Again I don't remember the time (not transcribable) because we've been talking about this for the last two days, three days.

I'm sorry but - - -?---I wish, I wish I didn't get the approval.

Well, that's another matter.---Yeah.

30 But can I just ask you, how much time had elapsed?---I'm not too sure. I don't remember. The reason I'm saying that because I didn't do my sums right to add an extra basement, an extra lift and change the design for six units. I probably lost money on that job. That's what I'm referring to. Commissioner need to understand whether it's one unit or five or six units, everyone should, should understand the ramification behind this. Now, I didn't - - -

Sorry, the what behind it?

MR GRANT: Ramification.

40 THE WITNESS: Ramification. I didn't know the costs for an extra basement and extra lift in the re-design and so on, and everything else associated with that. I've lost money on adding those six units.

MR BUCHANAN: I think that's about as far as I can take it, Commissioner.

MR MOSES: Commissioner, perhaps I'll just raise one issue with the witness, if I could.

THE COMMISSIONER: Yes.

MR MOSES: You said that you didn't like the way that Councillor Hawatt and Councillor Azzi had rubbished Mr Montague. Do you recall giving that evidence?---Sorry?

10 You didn't like the way that Mr Azzi and Mr Hawatt rubbished Mr Montague, is that right?---Yes.

And because you told Mr Buchanan because they were saying that he wasn't doing his job, correct?---Something to that effect, yes.

And that was a discussion you say you had in 2016 after your application had been approved by council?---I don't remember the dates.

Was it after or before, sir?---I don't remember the date.

20 Well, you told the Commissioner that this blow-up occurred after the application had been approved. Do you remember you said - - -?---For these, for the, for the, for the two levels?

Correct.---Yes, yes, yes.

So that had gone through, correct?---Yes.

30 But isn't this the case? You actually yourself were rubbishing the council, weren't you, saying that they weren't, Mr Montague wasn't getting back to you and there was no logic in relation to what they were putting to you?---I'm sorry, I, I - - -

Do you recall giving that evidence?---I didn't rubbish Jim Montague.

Didn't you?---All I said, the guy is snowed under. He's got too much work to do. Sometimes he can't get back to me. I don't, I don't talk like that.

You don't talk like that?---No. I don't rubbish people.

40 You don't rubbish people. Okay. But you were upset because you never got an answer from the general manager, is that right, sometimes?---Yes.

And you told Mr Hawatt and Mr Azzi that?---Yes.

See, can I just ask you – this is a hypothetical question I want to ask you and you can answer it. Did you have a falling out with Mr Hawatt and Mr Azzi after your application was approved by the council – this is just a question I'm asking you, I'm not suggesting it's the case – because they wanted something from you?---No.

Thank you. No further questions.

THE COMMISSIONER: Mr Maroun, thank you for coming to give evidence. Excuse me for a minute. Can Mr Maroun be excused?

MR BUCHANAN: Yes.

10 THE COMMISSIONER: You are excused.---Thank you, Commissioner.

THE WITNESS EXCUSED

[3.53pm]

MR BUCHANAN: Could we call Mr Zreika, please.

THE COMMISSIONER: Now, Mr Zreika, do you take an oath or an affirmation?

20 MR ZREIKA: I will take an oath. Can I have the Koran, please?

<TOUFIC THOMAS SAADELDINE ZREIKA, sworn [3.54pm]

THE COMMISSIONER: Now, if you can put your phone away.---Yes, of course.

Because we had somebody's phone going off today. Disgraceful.---I thought that was yours.

10 It was.

MR MOSES: (not transcribable) Commissioner.

THE COMMISSIONER: It's been indicated by Commission staff the punishment that will be - - -

MR MOSES: Understood.

20 THE COMMISSIONER: - - - that's been imposed on me. I'm sorry, Mr Zreika. Section 38 of the ICAC Act, are you aware of its effect?
---Is that the protection from, for, yes.

Yes. And do you wish me to make a direction in respect of your evidence?
---Yes, please.

30 I say this to every witness. There is a very important exception as you would realise. If you gave false or misleading evidence to this inquiry, you would possibly be prosecuted for an offence against the ICAC Act and the section 38 protection does not apply. It's a very serious offence, it's a form of perjury with a period of full-time imprisonment as a maximum penalty. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

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

THE COMMISSIONER: Yes, Mr Buchanan.

MR BUCHANAN: Mr Zreika, could you give the Commission your full name, please?---Toufic Thomas Saadeldine Zreika.

And how do you spell your first name?---T-o-u-f-i-c.

10 Thank you. Your occupation is that of solicitor of the Supreme Court?
---Yes, Your Honour. Sorry.

And for how long have you been a solicitor?---18 years.

And you practiced for a time in a firm called Sterling Legal, is that right?---I still do, yes.

Are you the principal of that firm?---Yes.

20 And when did that firm form?---I would say 2014, '13. I'm not too sure about that bit it, it took over another, another practice which I was also the principal of.

How many legal practitioners were there in Sterling Legal in 2015-16?
---Two.

And how many offices did the firm have?---One.

30 And where was that office?---Officers or offices?

Offices, locations.---Oh, locations. I had a, a satellite office in town which is one of those like, you pay the monthly licence fee and you get to use the premises and also at Bankstown.

You know Michael Hawatt?---I do know him, yes.

For how long have you know Michael Hawatt?---I suppose or about ten years.

40 And how did you come to know Michael Hawatt in the first place?
---Through the Liberal Party.

And in 2015-16, what was the nature of your relationship with him?---I was just an acquaintance. It's someone you bump into at, at state conferences and what have you.

Had you done legal work for him in that period 2015-16?---Yes, we did.
Yep.

Do you recall a property 31 Santley Crescent, Kingswood?---Yes.

Was that a property in which you did some work for Michael Hawatt?
---Yes.

He retained you to act for him, did he, as the owner of that property?---Yes.
He retained the firm, yes.

10 He retained the firm, thank you. And what was it that he retained the firm to do?---Initially to prepare a simple contract, a contract for the sale of land. Later on it grew into something else so, we ended up preparing an option deed. That's all.

And did the property sell?---It sold initially, is in it, it exchanged initially. So, with options, they don't complete unless the purchaser exercised that right. So, in the first instance we got the deposit, the contract, the option was exchanged but I believe they pulled out and another purchaser stepped in, paid another deposit and they've, they've also relinquished that right.
20 They didn't exercise the option to go, to, to purchase.

THE COMMISSIONER: You just said it sold initially and it exchanged.
---Exchanged on an option, not on a contract for the sale of the land.

That's what I wanted to clarify.---Yes.

MR BUCHANAN: How many option agreements were there that you were aware of in respect of that property?---We prepared one, then another one was prepared by Hall & Co.
30

And do you remember who the purchasers were for these agreements?
---Unless I look at my notes - - -

Well, have you brought a copy of your file with you?---Yes, I have.

And is this the same file that you produced in response to a summons to produce that the Commission gave you?---Yes.

40 If you have it there, please do take it out.---Yes. Okay. You have no copy of this?

THE COMMISSIONER: I had - - -

MR BUCHANAN: Well, what I - - -

THE WITNESS: Yeah, sorry.

THE COMMISSIONER: Sorry, I'm - - -

MR BUCHANAN: No, that's all right. If I can ask you to have a look at this folder, you keep your documents there, but have a look at this folder, and a copy for the Commission.---Mmm. Thank you.

You can see that in the folder that I passed to you there is a letter from Sterling Legal, over the page there's a summons to appear and produce documents.---Yes.

10 And then after that is a property delivery advice and then after that there is a series of documents that although they've got a property number up the top which has been added by the Commission, would appear to be documents from your file. Is that right?---That's right. Yes.

Now, looking at the summons, the schedule to the summons is on – these pages have now been paginated.---Ah hmm.

20 There's tiny numerals in the bottom right-hand corner. Page 4 you can see the schedule up the top of that page. You're asked to produce copies of all files and documents, including but not limited to file notes, diary entries, correspondence and emails relating to A, the sale of 31 Santley Crescent, Kingswood by Michael Hawatt and/or B, an option agreement concerning 31 Santley Crescent, Kingswood.---Yes.

Do you see that?---Yes, I do.

And you produce, did you, all of these documents in response to that schedule?---I did.

30 And can you just have a very quick flick through just to satisfy yourself that what you've brought today - - -?---Ah hmm.

- - - is a copy of what you supplied to the Commission in response to that summons. I'm not asking you to look at each document but just flipping through does it appear to be about the same quantity of documents?
---No, it's not the same.

40 Not the same?---With the addition, since that time, as I said, the, the, the purchaser hasn't exercised the option, Michael's come back to the, to the office and requested from the girls to prepare a contract. So the only addition is this, this is the contract, if you'd like a copy. It's exactly the same thing except there's a new front page on it.

That would be very kind of you, thank you very much. If you wouldn't mind producing that to the Commission, please.---Let me just make sure there's no other document in it, yep, that's it.

It's one contract, is it?---Yeah.

Is it executed?---No, no.

It's not executed?---No, it's in draft.

It's simply drafted.---Yeah, it's in draft. It's a reproduction of the initial document without the, without the option sheets at the front and it includes an updated title search, that's all.

10 Updated part of the?---Title search, sorry.

Whilst the Commissioner's looking at that, I wonder if I could ask for the witness to be supplied with a copy of Exhibit 105, please. So the Commissioner can look at what you're looking at and - - -?---Sure.

- - - you can have a look at another document.---Yeah.

THE COMMISSIONER: Sorry, can I just ask, the instructions that you received from Mr Hawatt to prepare this - - -?---Yeah.

20

- - - when were they received?---Um - - -

Your land title search is dated 2 May, 2018.---That's right. Sorry. On 20 April we received a letter from Hall Partners saying, "Our client is not proceeding with the option." Shortly after that we received a telephone call on 2 May asking us obviously to prepare a contract, and the file note here is from one of my staff members asking, "Is there a purchaser?" and he said no, just prepare it in draft, just as a blank document.

30 MR BUCHANAN: Commissioner, the question that occurs to me is whether the document that's been produced is within the scope and purpose of this inquiry, having regard to the date.---The dates, that's right.

THE COMMISSIONER: The only issue or matter that I would raise is there is a caveat on the property held by – I'm sorry, I've just lost it – Nifitsa Pty Ltd, and my recollection is Nifitsa Pty Ltd was the company that held the second option that might have been associated with Mr Chanine.

MR BUCHANAN: Mr Christou.

40

THE COMMISSIONER: Mr Christou. Sorry, I'm getting confused.

MR BUCHANAN: Not necessarily, Commissioner. But it's Mr Christou legally.

THE COMMISSIONER: I don't know, just looking at it now, whether that has any repercussions.

MR BUCHANAN: Probably not, Commissioner. My respectful submission would be, on what the witness has said and what you've identified – and with respect thank you very much – my submission would be it could be returned to the witness and wouldn't need to be regarded as having been formally produced consequent upon notice.---Okay.

THE COMMISSIONER: Let me just – and as you said, it's a draft really, with no details.---Nothing on it, yeah.

10 All right. I'll return that to you.---Thank you.

MR BUCHANAN: If you can put that to one side.---Yes.

Thank you, yes. Indeed, on the floor, so it doesn't get mixed up, is my suggestion. Now, I just want to clarify one thing. You reviewed the documents that you've produced pursuant to the summons that the Commission gave you, I take it, before you produced them to the Commission.---Yes.

20 And there was in it no executed contract for sale of 31 Santley Crescent, Kingswood, was there? Is that right?---No, that's right. Yeah. I said it wasn't exchanged. Mmm, yeah.

Commissioner - - -

THE COMMISSIONER: Sorry, wasn't exchanged? I thought you said - - - ?---No, no, he's asking for a contract for the sale of land.

30 Yes. I just - - -?---A contract for the sale of land was not executed. An option deed was executed.

MR BUCHANAN: Well, we'll come to that in a moment.---Yeah.

We're talking about a contract for the sale of land. No contract for sale of land was produced by you in response to the summons?---Yeah, I produced what I had in my possession.

No executed contract for sale of land, sorry, was produced, correct?---Yeah. Yeah. That's right, yeah.

40

Now, so what I'm going to do is ask can you return to me, please, the folder that I gave you with the copy of the summons and the documents you produced in it. I won't be tendering it, Commissioner, because the witness has given the evidence that was needed in response to that. You've got Exhibit 105 in front of you. This is something that you produced.---Yeah.

Or a copy of it. And if you go to page – you can see that it's an unexecuted put-and-call option between Michael Hawatt and Alae Osman. Do you see that?---Yes, yes.

And page 8. The vendor is identified as Michael Hawatt and the property, the land address is identified as 31 Santley Crescent, Kingswood. Do you see that?---Of course.

Page 7, however, it has not been executed.---Yes.

10

Correct. And if I can take you to page 9 however. There's some writing on the attachment to the unexecuted put and call option.---Ah hmm.

The attachment is a contract for sale of land in respect of 31 Santley Crescent, Kingswood. Correct?---Yes.

Now, the writing on it appears against the word completion date very faintly. Do you see that?---Yes, yes.

20

It is an actual date.---Yeah.

It looks as if someone's gone and calculated a date which is 42 days after something.---Yeah, that's my writing.

Right. It looks like 12 February, 2016.---Yeah.

THE COMMISSIONER: Is that correct?---Yes, that's my writing, yes.

30

No, no, and you wrote 12 - - -?---Yes.

MR BUCHANAN: And then underneath that down on the line for signature by the purchaser appears a signature. Do you see that?---Ah hmm.

Alae Osman has given evidence that that's his signature.---Yeah.

40

Can you tell us the circumstances in which that document, the contract for sale of land which is attached to the put and call option which it hasn't been executed came to be signed by Alae Osman?---Sure. Initially Michael Hawatt approached the office saying I need a contract. The usual, usual process.

Contract for what?---Contract for the sale of land.

Yes.---And - - -

Did he say why?---No. People want to sell property and they ask for a contract. It's usually very, very straightforward. The girls in the office prepare these contracts en masse and it's like a production line.

Who did Michael Hawatt make this request of?---He, he, he's contacted me. He's asked me can you please prepare, have a contract prepared. I want to give it to a potential purchaser. We prepared that. It's gone off to, a copy has gone off to Michael. A short time after that a young fellow who I don't know and I've never, I've never seen him attended our office, and I know this because the, the conveyancer in my office said a young man came in, obviously this is hearsay, came in and signed the contract in readiness for the purchase. He wants to proceed with it. That was it.

10

Now, were you there when the young man came in?---No.

Were you told whether he came in alone or with anyone?---I believe he came in on his own.

And when was your attention first drawn to the fact that this had a signature on it and there was this account given to you that a young man had come in?---On the, I believe on the same day or the next morning. When I'm outside of the office it's either that I'm in court or, you know, and if I've come back I've checked the, checked the mail and, you know, it would have been sitting on my desk.

20

When you say would have been sitting on your desk, this contract?---Yes.

Or the option together with the contract?---No, no. At this point there was no option.

Right. And does that mean that the unexecuted contract form had already been prepared and was sitting in the firm's files?---Yes.

30

Can I ask, was anything done with the document that you found with this signature on it?---No.

Did you contact Michael Hawatt and say I've got a purchaser's signature on this contract?---I understand by conveyancer rang Michael and he said wait for me. I'm going to come in and sign it and we can do the exchange. So we're acting for the vendor. We produce another copy of the contract, have the vendor sign it and we can exchange it.

40

If the witness could be shown volume 8 of Exhibit 52, please, page 131. You see that page, Mr Zreika.---Yes.

It appears to be printed on an empty email or a print of an email from Sterling Legal to you in the first instance, but a forward perhaps of an email from Talal El Badar to Sterling Legal.---Yes.

In each instance dated 11 November, 2015. Do you see that?---Ah hmm. Yes.

And this handwriting on the page, can you see that?---That's mine, yeah.

Were those notes of a conference you had with Michael Hawatt on 14 November, 2015?---Yes.

10 Before that conference, had you had any instructions from Mr Hawatt in relation to 31 Santley Crescent?---Yeah. As I said, my recollection is he's contacted me and asked me to prepare a contract as, as I said is the usual process with contracts. Then he's come in and I've spoken - - -

Had he actually come in?---Yeah, he was in person there.

Yes. And what was he doing apart from giving you the instructions you recorded on that page?---I believe giving me further instructions on the contract.

Right.---And that's, that's all I remember.

20 What other instructions were there that aren't recorded on that page?---I can't recall, I'm sorry, and I won't, I won't guess.

And did all the information on that page after the conference with Michael Hawatt come from him?---Yes.

30 And – sorry.---Sorry. There is – he did approach us to act on a Queensland purchase and I said to him I'm not registered in Queensland and I'd, I'd prefer not to act on it. I'm not comfortable acting on a Queensland conveyance. It's best that you speak to somebody else.

He said that on the occasion of 14 November, 2015?---Either on that day or before it.

And what did he tell you about the Queensland purchase?---Nothing. He just said, "I'm thinking of purchasing something up in Queensland," and that's it. "Can you do the conveyancing?" and I said no.

40 And can I just ask you, in how many matters had Mr Hawatt instructed you or your firm before the occasion that you'd had this conference with Mr Hawatt on 14 November?---Probably two others. When he purchased one of his units in Lakemba and another sale I think. So it was purely, two, two conveyancing transactions.

Now, were you made aware of an option – I do apologise. Were you made aware of an agreement between Michael Hawatt and Martha Robson dated 9 November, 2015? If you could turn to page 127 in this folder.---Yeah.

Yes? Are you saying, “Yes, I've had a look at it,” or “Yes, you were made aware of it”?---I've had a look at it, yeah. No, as to being made aware of it, I, I believe it was related to – obviously we prepared the contract, we've found that there was a caveat on that title, we've said, “Look, you need to remove it,” and he's, he said, “Look, I've got this, I've got this deed with this lady.” That's it.

10 Mr Zreika, you're not just saying things, are you, I hope, in order to try to explain material that's been put in front of you?---No.

You have a memory of what you've just told us about, do you?---Yes.
There was - - -

An actual memory?---There was a caveat on the title. In order to remove it, he approached me at, at the office and he's asked me, look, this is the – I've got this deed with this, with this lady. That's it.

20 And when was that occasion compared to the occasion on 14 November when you made those handwritten notes of instructions in conference with Michael Hawatt?---I'm not sure with certainty because - - -

When was the first time you saw Mr Hawatt face to face in relation to 31 Santley Crescent, Kingswood?---In relation to that property, I believe it was the 14th because that was the night, that was the day that I made the notes about the contract.

There are no notes there about a caveat, are there?---No.

30 Are there any other notes?---My person notes?

That you made on 14 November?---Can I have a look at my file?

I'm relation to the conference you had with Michael Hawatt?---Yeah, there's only the, in - - -

THE COMMISSIONER: In your file.---In my file, sorry.

40 MR BUCHANAN: Are you saying that you don't know or that you do think there are notes and you're looking for them?---No, I'm saying I'd like to have a look at my file if you don't mind. You're asking me to recollection a file note, a contested file note from 2015 or '16.

THE COMMISSIONER: A contested?---In the sense that I don't know whether there is one or there is two.

Oh, sorry.---So, I don't know.

Looking at your file, when was the file opened? Like, I take it you're contacted and you automatically open a file for new matter?---Yep. I can I bring all that up on, online. If that would help, I can pull up my software.

10 MR BUCHANAN: Do you mean to say you have electronic records that were not copied on to paper and provided to Commission in response to the summons?---No, no. Everything in this pile was given but I'm just saying that we've got an electronic version of this file and it'll record, instead of my flicking through it, it records when was this document opened, for example.

But won't the file tell you when it was opened?---It'll say when we ordered things. For example, yep, this was ordered at 1.57 on 22 September, 2015.

THE COMMISSIONER: Hold on, what was ordered?---The title search. So, that's a good indicator of when we, when we received the instructions. It's either that day or the day before.

20 MR BUCHANAN: And sorry, can I just ask for that date again, please? ---22 September, '15.

Thank you. And so, if we can return to you perhaps the folder that we took from you which is the paginated version of the papers that you produced in response to the summons from the Commission and can I approach, Commissioner?

THE COMMISSIONER: Yes, Your Honour, Mr Buchanan.

THE WITNESS: I did the same thing. You must look like a judge.

30 MR BUCHANAN: I'm holding it open.---Yep, I've got it.

Thank you. So, I'm holding it open at pages 170 and 212. And we're not assisted with a copy on the screen of page 170. Do you see that?---Yes, yes.

And is that a conference note you had with Muchea Hawatt as well on 14 November?---Yes.

40 And as to the file opening date, page 212 has a title search date which is consistent with the date you gave us a moment ago.---That's right, yep.

Sorry, page 212.---Yep, 22 September, yeah.

Thank you. Looking at the agreement now that I took you to a moment ago, that is at page 217 of volume 8 of Exhibit 52. Had you seen that before you collected your papers in order to respond to the summons from the Commission?---Yes.

When did you first see that?---When it was shown to me by Michael at one of our conferences.

Do you whether it was the conference in the 14th or some other date?---No, it would have been, it's got to have been on, on a date that related to the caveat. I, that's what I can recall.

10 So noting if you would on page 129 that the date of this agreement is 9 November, 2015, are you telling us that there's a high probability that you saw a copy of this document on 14 November when you were given instructions in relation to the removal of a caveat?---I believe so, yeah.

You didn't prepare this agreement?---No, no, no, no, no.

And you didn't witness any of the signatures either?---No, no.

20 Did Mr Hawatt tell you who Martha Robson was or what her relationship was to the property or why she had a caveat over it?---I automatically assumed, and forgive me if I'm - - -

No need for you to assume, did he tell you? Because if he didn't tell you, then I'm going to move onto another subject.---He didn't say, no.

Thank you. Commissioner, I will tender, now that it's been referred to, the folder that the witness has which is a copy of the summons to produce - - -? ---Ah hmm.

30 - - - and the papers produced by the witness to which have been added the property number by the Commission and the pagination of the pages.

THE COMMISSIONER: All right. The folder entitled Sterling Legal Property File 24929, which also includes a letter and a summons to produce documents and also consisting 200 pages, 1-229, will be exhibit 181.

#EXH-181 – FOLDER TITLED STERLING LEGAL PROPERTY FILE 24929 INCLUDING LETTER AND SUMMONS TO PRODUCE PAGES 1 TO 229

40 MR BUCHANAN: Thank you, Commissioner.

Can I take you, please, to another page in volume 8 of 127.---So 127 in this folder?

Sorry, volume 8, it should say on the front, and page, I'm sorry, I gave you the wrong number, page 204.---Yeah.

Do you see that that's a page printed out from your trust account statement
- - -?---Yes.

- - - as at 27 April, 2016?---Yes.

There's an entry at the top of the page – I'm sorry, I withdraw that. The trust account is for Mr M Hawatt of an address in Oatley.---Ah hmm.

10 And the description of the client is "Sale." The first entry by date is 18 November, 2015.---Ah hmm.

And it reads, "Received from: Alae Osman," and then an abbreviation for Kingswood. Would you accept?---Yes.

And the amount of \$50,000.---Ah hmm.

20 What can you tell us about that entry?---That entry was made on 20 November, after I found the, the signed contract on my desk and we got the money deposited. So even though it, it says 18, the actual entry into our software was on the 20th.

And is that denoted by the asterisk before - - -?---That's right.

- - - the numerals 20?---Yes.

And did you make the entry?---Yes.

And so did you make the entry, "Reason: Deposit funds?"---Yes.

30 And why did you make the entry deposit funds as against some other reason?---That's what the money was for.

How did you know that?---Because we were told, there was instructions on it.

And which particular instructions did you have in mind?---I'm not sure where it's, it's sitting in your folder.

40 Are you talking about page 131 of volume 8?---It's the 14 November document, file note.

Thank you.---Yeah.

And you're talking about the reference there DEP:\$50,000?---That's right.

Is that right?---Yeah.

Now, you can see an entry below that for 21 December, 2015.---Ah hmm.

And it says, "Received from: Mr M. Hawatt."---Ah hmm.

\$250,000 and in the subsequent lines it's got his address and then the word "Reason: funds required on purchase of Queensland asset."---That's right.

10 Qld asset. What can you tell us about that entry?---The purchase was releasing more than just the deposit to assist Michael purchase the Queensland property but it was to be on account of the sale funds in this, in this conveyance, this sale conveyance.

And where did you get that knowledge from?---From Michael. It's on - - -

20 Are you talking again about the same notes for the conference on 14 November?---No. He rang me up saying look, it's, I was sort of struggling at that point. I had too much on my plate and it was a, it was a standard sale and in fact I think I wrote an email saying, or a, or a note to the conveyancers saying look, guys, I need help. So he was, he was chasing me up to, to please have this, have this done.

Sorry, who was chasing you?---Michael. Michael. By telephone.

What was he having, what was he chasing you to do?---Let's exchange. Haven't you exchanged this.

Exchange on what?---On the, on the sale.

Which sale?---To Alae. I think that's his name. Alae, yeah, Osman.

30 So you say he was chasing you up on the phone to exchange - - -?
---Finalise the exchange.

- - - with Alae Osman?---Yes.

40 And did he chase you up on the phone to exchange with Alae Osman around the time of 21 December, 2015?---On about that, on or about that time he said the purchaser, because at that point he wasn't using names because I didn't know them. He said the purchaser will provide some money to help me with my purchase of Queensland. I said okay. So that's, it's a released set of funds and he said yes.

And this was on the phone with Mr Hawatt?---Yeah.

And he didn't indicate that the \$250,000 that's recorded there as having been received on 21 December was by way of deposit or part deposit?
---Yeah, part payment. Part payment.

Part payment?---Part payment towards the price, yes.

Of what?---Of the sale of the, this property, Stantley - - -

Which property?---Stantley, Stantley Crescent. So he was selling Stantley, received money towards that sale and he's asked us okay, put the money in in Queensland.

Well, was there any record that you made of these instructions?---We received a letter from his solicitor up in Queensland. Yes, that's it.
10 Ramsden Lawyers. And they've said oh look, we're about to complete a purchase, can you transfer the funds.

Did you make a note of Mr Hawatt's instructions - - -?---No.

- - - in this regard?---No. I can't, without me looking at my notes I can't recall.

Well, you think you have a note do you of these instructions?---I should have.
20

Because I'm telling you they're not in what you've produced to the Commission.---Yeah, I'll look at what I've produced to you because they're exactly the same.

I'm wondering, Commissioner, whether, given that the witness has brought the file with him, we could ask him to conduct this research perhaps between now and Monday morning. I note the time. So what I'm asking you to do overnight or over the weekend is to look through the file you brought with you not the one that's in evidence.---Yeah.
30

The file that you brought with you to find any record of the instructions Michael Hawatt gave you that related to the entry that appears in your trust account statement for him dated 21 December, 2015. Do you understand?
---Madam Commissioner, I've got, I've got a hearing on Monday morning at 10 o'clock before - - -

How thick is the file?--- - - - Justice Campbell.

How thick is the file?---No, I can look at it.
40

Yes.---But if I'm returning, I - - -

How long will it take you - - -

THE COMMISSIONER: No.

MR BUCHANAN: I'm sorry.

THE COMMISSIONER: I think the problem is - - -?---I won't be coming on Monday.

Well, you've been summoned to come to the Commission.---Yeah.

10 I'm sorry, what type of hearing do you have before Justice Campbell on Monday morning?---It's a, it's a, it's an application by my client, a defendant, in a Supreme Court matter which has extensive pleadings in it, and the plaintiff is on the verge of passing away. We're seeking that we have a bedside examination of, of, of the plaintiff. That's a hearing of that application.

That's what I wanted to confirm.---Yeah, it's an urgent application.

It's an urgent application for Justice Campbell - - -?---Campbell, yeah.

- - - to allow examination of a plaintiff on the plaintiff's deathbed, in substance.---Basically. Yeah, he's - - -

20 Are you represented by counsel?---Yeah, but not on this - - -

Or are you arguing this yourself?---No, I'm, I'm conducting it.

You're arguing this motion yourself?---Yeah, yeah.

Has Justice Campbell got carriage of the file or are you in a list or what? ---He's relieving Justice Schmidt because Justice Schmidt is on leave for two months.

30 Can you just excuse me for a minute?---Yes.

MR BUCHANAN: Commissioner, can I respectfully make this suggestion. We have got two witnesses listed to give evidence on Monday. We could, with your consent, interpose the first of those witnesses, complete that witness, although it will take a good part of the morning to complete the evidence of that witness and then resume the evidence of this witness, assuming that he's in the morning list, he can return here when his matter is completed.

40 THE COMMISSIONER: All right. What's your matter at court on Monday?---(not transcribable) sorry.

Who's your client?---The plaintiff is Zelic. My client is Barisic.

All right. Thank you, Mr Buchanan, I don't mean to be rude.

MR BUCHANAN: No, no, no. No.

THE COMMISSIONER: Is this a contested application or is the plaintiff agreeing to it?---No, no. He's – the plaintiff's contesting, so - - -

All right. I'm just looking at the list. His Honour Justice Campbell has two matters listed, you are number 1 and there is another matter. I think Mr Buchanan's suggestion is a sensible one, that I will interpose another witness. Could you excuse me. What time do you think - - -

10 MR BUCHANAN: I think Mr Dabassis is listed first. He will take two and a half hours to three hours.

THE COMMISSIONER: Do you think up to lunchtime?

MR BUCHANAN: A good chance of that.

THE COMMISSIONER: All right.

20 MR BUCHANAN: Can I respectfully suggest perhaps a little but before lunch because there's a chance we might finish Mr Dabassis earlier than that.

THE COMMISSIONER: All right. You are subject to a summons. ---Of course, yes.

30 Strictly you should be here Monday morning at 9.30. What I'm willing to do is to interpose another witness, and as Mr Buchanan has said, we anticipate his evidence will conclude around 12.30. I expect you back here at 12.30. What I suggest is, can you raise with Justice Campbell that you are currently subject to a summons and you are midway through your evidence before the Commission, but the Commissioner has accommodated you to this extent.---Ah hmm.

Why I'm raising that is that what I hope that will lead to is Justice Campbell hearing your application first before the second matter listed before His Honour.---I understand, I understand.

All right.---Yes.

40 And, sorry, before we adjourn, Mr Buchanan, you've asked the witness to review his file. I'm just wondering when he mentioned that there are some computer records which summarise important dates on the file, is that the case?---It just says on the side of the entry when this document was created, so yeah, I mean I can take a screenshot of it and - - -

Would that be useful for us?

MR BUCHANAN: Certainly, the more information the better, Commissioner.

THE COMMISSIONER: Right. Could you do that as well?---Yes, yep.

All right then. We will interpose another witness. If you can be back here by 12.30 on Monday.---Yes.

And before we adjourn is there any other administrative matters to be raised by anybody? All right then. We're adjourned until 9.30 Monday morning.

10

THE WITNESS STOOD DOWN [4.40pm]

AT 4.40PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.40pm]