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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 11 OCTOBER, 2018

AT 9.30AM

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

THE COMMISSIONER: Any administration, Mr Buchanan?

MR BUCHANAN: I don't think so.

THE COMMISSIONER: All right. Mr Stavis.

MR BUCHANAN: Mr Stavis, before taking up where we left off at the end of yesterday, can I ask you to think about Mr Vasil and Mr Khouri.---Yes, sir.

How many times have you ever been in the same room as Mr Vasil and Mr Khouri together?---Not many, not many.

10

All right. Can you tell us about the times that - - -?---The only - - -

- - - you can recall?---Sure. The only one that comes to mind was that initial meeting that I had with them at that café.

In Earlwood?---Yes, yes, sir.

Yes.---I don't recall any other times to be perfectly honest with you, as, as I sit here - - -

20

During your career as director of city planning or in the period of recruitment for that position?---Only during, sorry, no, no. Yeah, it was only that time that I, to the best of my recollection.

Right. And you don't recall being in the same room as both of them together, after you commenced work as DCP?---No.

30

Thank you. Now, you'll recall that yesterday there was a ruling, a direction by the Commissioner that a non-publication order in respect of evidence that you gave on 1 December, 2016 being varied, and that that variation was to commence at the end of a piece of evidence that you gave on 1 December, 2016 for which the non-publication order had already been lifted and to extend it somewhat further.---Yes, sir.

And so what I want to do is to read to you the evidence that you gave on 1 December, 2016, which was the subject of the variation direction given on 2 August, 2018, and then continue on with the evidence that you gave on 1 December, 2016 that was the subject of a variation order made yesterday. ---Okay.

40

And because the evidence the subject of the first variation order was read out to you on 2 August, 2018, we can put up on the screen the transcript of me reading that to you.---Okay.

And you can follow it. If you look at the bottom of page 3434, the transcript on 2 August, 2018, commencing at line 48. So what I'm reading to you now is evidence that you gave on 1 December, 2016. Question, "Yeah, I can repeat the question. After that conversation with Mr Vasil and

Mr Khouri, what happened? What were the next steps in relation to your recruitment for the position of city planning.” Answer, “Okay, what happened, okay, okay. I believe I met Jim Montague a number of times.” Question, “Had you lodged your application for the position by this time?” Answer, “No, no,” Question, “Okay.” Answer, “No.” Question, “Where did you meet Mr Montague?” Answer, “We met at a local coffee shop near my place. It was called Georges at the time but it’s changed its name. It’s in Kingsgrove.” Question, “And how many times did you meet Mr Montague?” Answer, “I can’t recall but it was a lot.” Question, “How did he first get in contact with you or you first get in contact with him?” Answer, “No, he rang me.” Question, “He rang you?” Answer, “Yes.” Question, “On your mobile telephone number?” Answer, “Yes.” Question, “Do you know how he got your number?” Answer, “No.” Question, “And what did Mr Montague say to you in that conversation?” Answer, “Again it was, I distinctly remember him asking me why do I want to apply for the position, right.” Question, “Had you indicated your interest in the position at that time?” Answer, “To Jim?” Question, “Yes.” Answer, “Yes.” Question, “Okay.” Answer, “Yes, I did.” Question, “In what way had you done that?” Answer, “We met and he said, you know, I hear that you’re interested in the position.” Question, “Okay.” Answer, “Yeah.” Question, “Did he tell you how he heard that?” Answer, “No, no.” Question, “So going back to your first telephone conversation with Mr Montague, what did he say to you?” Answer, “Something along the lines of ‘Hi, Spiro. This is Mr Montague, general manager at Canterbury Council. Let’s catch up for a coffee.’” Question, “Okay.” Answer, “Something like that.”

So that was the evidence that you gave on 1 December, 2016 that was read to you on 2 August, 2018, and now I’m going to take you to the continuation of that evidence that you gave on 1 December, 2016. Question, “And did you say anything to him?” Answer, “Probably, yes. I can’t recall exactly but, yeah, I’m happy to meet up.” Question, “You agreed to meet up for a coffee?” Answer, “Yes.” Question, “And did you meet up for a coffee?” Answer, “Yes.” Question, “And that was at the café near your place?” Answer, “Yes, yes.” Question, “And what did Mr Montague say to you on that occasion?” Answer, “Again it was just it was almost like a mini interview. He asked me whether or not, why I was interested in the position, as I said before, and I sort of said to him, look, you know, this is a great opportunity, the usual stuff that you would exchange with a potential employer.” Question, “Okay. Was anything else said on that occasion?” Answer, “Not that I recall.” Question, “Did Mr Montague talk to you about the role of director of city planning at all?” Answer, “Yeah, yeah, he did.” Question, “What did he say to you?” Answer, “He made it perfectly clear to me that the position was a fairly volatile position and he needed someone who could basically make things happen. He explained to me in some detail about the Development Control Plan that needed improvement. There were a number of councillor resolutions that he wanted implemented. They were, they were, basically that was the two main things that I can remember him making a strong point about.” Question, “Okay. Did he tell you why the

position was volatile?" Answer, "Yeah. He went into some detail about my predecessor and the experiences of my predecessor. At that point I distinctly remember him saying things like, you know, 'We need someone who can find solutions for problems' and 'Marcelo was not that man,' which I found a bit strange at the time, but, yeah." Question, "Did he tell you what sort of problems he needed solutions for?" Answer, "Yeah, it was mainly to fix the DCP." Question, "Mmm." Answer, "And to ensure that the resolutions of councils were being met because apparently there was some considerable delay." Question, "Did he - - -" Answer, "And he did say, sorry." Question, "No, please continue." Answer, "There was one other thing. He mentioned that the internal processes of the department were quite antiquated and needed to be improved." Question, "The department of planning in the council?" Answer, "Yeah, in the council." Question, "Did he give you any specific examples of councillor resolutions that needed to be progressed?" Answer, "No, no, not that I remember." Question, "Did you discuss any specific sites with Mr Montague on that occasion?" Answer, "No, no." Question, "And you said you met with Mr Montague again." Answer, "Yeah, again." Question, "When was that?" Answer, "I don't recall exactly. I'll be perfectly honest with you, everything happened so quickly, but it would have been, oh, maybe a few days after." Question, "And what did you talk about on that occasion?" Answer, "Again it was more of the same, you know. He got into more detail about his expectations of someone like me." Question, "And what were his expectations?" Answer, "Basically, you know, if I tell you to jump, you tell me how high, that sort of stuff." Question, "Okay." Answer, "He made it clear that we needed, again he went over the old ground of what was said in the first meeting that I had with him about the DCP processes needing changing, councillor resolutions needed to be implemented, that sort of stuff." Question, "And was that meeting still prior to you submitting your application?" Answer, "Yes, yes." Question, "And in those first meetings, did he talk to you about relationships with councillors at all?"

THE COMMISSIONER: No, you didn't say two.

MR BUCHANAN: Ah, thank you. I'll re-read that. Question, "And in those first two meetings, did he talk to you about relationships with councillors at all?" Answer, "Not that I recall." Question, "What happened after that meeting?" Answer, "Again some days later there was another meeting with him." Question, "Was he arranging these meetings each time?" Answer, "Yes." Question, "Okay." Answer, "Yeah, I was getting phone calls from him and again more of the same thing was said." Question, "Right." Answer, "Yeah, and it was always - - -" Question, "Nothing additional to what we've talked about?" Answer, "No." Question, "Okay." Answer, "And it was always at the same café." Question, "Right." Answer, "Yeah." Question, "And you still hadn't submitted your application at that stage?" Answer, "No, no." Question, "When did you submit your application?" Answer, "November-ish." Question, "Okay." Answer, "I think." Question, "And did you have any

meetings with - - -" Answer, "Or October." Question, "- - - anybody else before you submitted your application?" Answer, "Sorry, what was that?" Question, "Did you have any meetings with anybody else about the potential role before you submitted your application?" Answer, "Yes, I did." Question, "Who did you meet with?" Answer, "I met with Councillor Hawatt." Question, "When was that?" Answer, "And, sorry, and Pierre Azzi." Now, you heard me read to you those extracts which, in combination, were evidence that you gave on 1 December, 2016 to the Commission about meetings with Mr Montague. That evidence is not the same as the evidence you gave yesterday on the subject, is it?---I think the, the dates were probably different.

Can you just keep your voice up, if you wouldn't mind.---Oh, I'm sorry. I think that the, the date was, was probably different from what I said yesterday. I think what you read then was, what I said was, that meetings had taken place before I had made an application.

Correct.---So, the answer is, yes, it's not consistent with that.

20 Now, I want to just stop there.---Sure.

Taking everything into account, having heard what you said on 1 December, 2016, please understand that I am not requiring you or asking you to necessarily adhere to what you told the Commission on 1 December, 2016 as to when the meetings with Mr Montague were in relation to the time when you made your application for the job. What I am asking you is, having heard what you told the Commission on 1 December, 2016, knowing as you know what you told the Commission yesterday on that subject, are you able to help us? Was any meeting with Mr Montague held before you lodged your application, the one dated 25 October, 2014?---Looking back now, I think the evidence that I gave in 2016 was more likely I had the dates confused. It would have been probably after I had made the application and I do apologise to the Commission - - -

THE COMMISSIONER: No, that's - - -

MR BUCHANAN: You don't have to apologise. What we're interested in is your best recollection that you can give us or reconstruction, but if it's a reconstruction, just flag that it's a reconstruction.---Sure.

40 Is it a memory or is it a reconstruction?---No, I - - -

When you give that answer, that you think now the meetings were after you had lodged your application?---No, it, it was after.

Yes. And is that a reconstruction or is it an actual memory?---No, it's a memory.

THE COMMISSIONER: Can I just ask you, Mr Stavis, you became interested in the position because you saw it advertised. Is that the case or did somebody contact you?---It was a very, it was a conversation I had with Mr Nick Katris.

That was the architect?---Yeah, yes.

So you didn't know about the position - - -?---No.

10 - - - until he said something to you?---Correct, correct.

All right.

MR BUCHANAN: Now, do you remain satisfied in your own mind that you had more than one meeting with Mr Montague before you received – I'm sorry, I'll start that question again. We know that Mr Montague was a member of the interview panel to which you presented on 17 November, 2014. Aside from that day, did you have a meeting with Mr Montague before the interview panel but after you'd lodged the application? Do you
20 understand my question?---Yeah. To the best of my recollection it wasn't before. Sorry, can you repeat the timeline again?

Yes, sure.---Yeah.

Just thinking about it - - -?---Yeah.

- - - do you remember being there at the interview panel?---Yes.

30 Okay. Do you remember that there was some contact between you and Mr Montague before that date?---Yes.

Do you remember that he sent you an SMS on 16 November - - -?---Yeah.

- - - saying that he's sorry about the delay in getting back to you and there was something said about seeing him the next day, but that's of course when he's a member of the panel. Is that right?---Yes.

40 So there had been some contact between you and Mr Montague before 17 November. Is that right?---That's right, yes.

What contact was that?---I believe it was a phone call that I'd received from Mr Montague, yeah.

Was there any meeting as well?---Before the actual interview?

Yes.---In all honesty I, I, I can't remember because it was so, all I know for certain as I sit here today was that I met with Mr Montague numerous times before I actually started. I know that for sure.

Okay.---In terms of the specific dates, I know that I had contact from Mr Montague and meetings with Mr Montague well before I started, but as to the exact date, I can't really clarify that, I'm sorry. I just don't remember exactly. The evidence that I gave were probably, well, it was factual in terms of every time, sorry, in terms of the meetings, the content of those meetings, as best as I can recall, but the, and I know for certain that I did meet with him before I started numerous times, but as to the exact dates, whether it was, you know, just after I'd lodged an application or just before,
10 I really can't be a hundred per cent certain of that.

Well, let's try and narrow the period during which the meetings occurred. You started work on 2 March, Monday, 2 March, 2015.---Yep.

The offer of employment that was made to you was dated 8 December, 2014.---Yes.

Did you have any face-to-face meeting, leave aside telephone calls, did you have any face-to-face meeting with Mr Montague between the date when
20 you got the offer of employment and the date when you turned up for work on 2 March?---I don't believe so.

Right.---No, no.

So we can then narrow - - -?---Yeah.

- - - significantly, can't we, the range of dates between which or during which the meetings occurred?---Correct.

30 Today your evidence is that there were no meetings face-to-face before you lodged your application.---I, I don't believe so.

However, you're much less certain about whether there were meetings or not meetings before the interview panel on 17 November, is that correct?--- Yes, that's correct.

And we know that there was contact between the two of you, if only by SMS, but you think you also received, your first contact with Mr Montague was a telephone call from him to you.---Yes.
40

THE COMMISSIONER: Mr Buchanan, can you just remind me, what was the date of Mr Stavis's application?

MR BUCHANAN: The date it bore was 25 October.

THE COMMISSIONER: Thank you.

MR BUCHANAN: And Mr Stavis has told the Commission, I can't give you the reference as I stand here but he has told the Commission that if he didn't send it on the 25th, he would have sent it no later than Monday, 27 October. Would that be right?---That's right, yes.

To whom did you send it?---To, to council. Just - - -

10 Not to the recruitment agency?---I think it was, I think it was to the recruitment agency. There was a pro forma that you had to make an application, and I believe I did send it to, to her.

So now can I go back to the evidence that you gave on 1 December, 2016, that I read to you again today. This is transcript page 3435, line 19. Mr Montague, you said, rang you at one stage and, after introducing himself, said, "I hear you're interested in the position."---That's right.

Now, you said that on 1 December, 2016. Are you still confident that you received a phone call from Mr Montague in which he said that to you?

20 ---Yes, sir.

Now, just doing the best you can, what is it that makes you think there was a multiplicity of meetings with Mr Montague before you were offered the job on 8 December, 2014 rather than, say, just one meeting? What is it that you have in your head that tells you there was more than one meeting?

---Because I remember going to Giorgios on two separate occasions and meeting him there.

30 So there's at least two meetings?---Yeah. It, it wouldn't be many more than that but I'd, I'd say it was at least two meetings, yes.

So again, I apologise if I seem to be going over the same ground, but let's just, just bear with me if you wouldn't mind. We know that there was a meeting after the panel on 17 November, 2014. Is it possible that there was one meeting with Mr Montague at his request before the panel occurred on 17 November and one after? Or is it possible that there were two after? Because we know that there was one after. Do you see what I mean?---Yes, I do. That I'm not certain about.

40 But you are certain, are you, that there was more than one and at least two? ---Yes, sir. I believe there were two meetings.

And the tenor of your evidence has been that the content of the conversation was pretty much the same on both occasions.---Yes, sir.

As to what Mr Montague was interested in.---Yes, sir.

Now, can I just remind you that part of the evidence that you gave on 1 December, 2016 that I read out to you this morning was that on an occasion

when you met with Mr Montague, you said, answer, “Again it was more of the same, you know. He got into more detail about his expectations of someone like me.” Question, “And what were his expectations?” Answer, “Basically, you know, if I tell you to jump, you tell me how high, that sort of stuff.” Now, yesterday I asked you whether that expression was used and you said no. What do you think is the case, having heard that that’s what you told – I’m not, please, again, understand me, there are a number of possibilities here. One is that that expression itself was never used but that you were just using a popular expression to characterise your understanding of what you heard Mr Montague say. That’s one possibility. Another possibility is that’s exactly what Mr Montague said. Another possibility is he said nothing of the sort and your memory’s been faulty in that regard. Do you see what I mean?---I do. Yes.

What do you think is the case?---I think it’s the first scenario you put to me. I, that the tone of the, the meetings was such that he made it perfectly clear he demanded loyalty, which is, and I distinctly remember that and that’s probably why I used that expression because it, it compared to the, the current, well, at that time, the current staff make-up and the former director as well. So, that’s, that was the, it was made abundantly clear to me that he demanded loyalty. So I guess that’s probably why I used that expression.

And you then used that expression – I’m sorry. You used the – I’m sorry, I’ll withdraw that. You assured Mr Montague, in text messages that you subsequently took screenshots of, of your loyalty to him if you were appointed to the position?---That’s correct.

So by the expression loyalty did you mean “I will do as I’m told” rather than another sense in which loyalty can be used which is “I will be faithful to you rather than some other centre of power”? Do you see what I mean?---Yeah.

There are two different ways, having heard what you said a moment ago, in which loyalty might have been used by you.---It was to him, loyalty to him.

But meaning what, sir? Meaning that if he asked you to do something, you’d do it? As in if I tell you to jump, you tell me how high? Or loyalty to him as in if you had divided loyalties, you will always give Mr Montague the priority, your undivided loyalty?---The latter.

The latter?---Yes.

Okay. Did Mr Montague then indicate that you might, if appointed as director of city planning, face competing demands for loyalty and that in those situations he required you to be loyal to him?---Not that I can recall in, in that level of detail in the meetings that I had, was that expressed. The feeling I got was that I’d be, if push came to shove that I’d be loyal to him in the sense that, look, because he, he described how volatile the council was at the time, and in that sort of conversation it flowed on that he said,

you know, "And I expect loyalty to me." So, I, I, my inference from that was, where there were competing, I guess, loyalties, that I'd be loyal to him, I guess.

And he used the word loyalty?---Yes.

10 And volatile, was that as you understood it a reference to the fact that certain councillors exercised considerable power, given that there were only one or two?---Well, he, he didn't really get into that detail at all, to be honest with you.

Did he ever mention Pierre Azzi or Michael Hawatt in either of those or any of those meetings that you had with him before you were offered the job? ---Not that I can recall, no.

Not by name?---No, not that I can recall.

20 Did he refer to difficulties that caused volatility that were due to certain personalities?---He, he, he did express to me that certain councillors had concerns with the way the department was operating. I don't recall him naming the councillors in those meetings, but he did express, he did express that to me, yeah.

Thank you. Can I take you to a different subject.---Sure.

If the witness could be shown volume 5 of Exhibit 52, page 261, please. And if we could look at around items 37 to 38, please. On the screen it's in much larger - - -?---That's okay, I can read it, that's fine.

30 Yes, you can read that?---Yes.

And can you see there a couple of days ago I took you to those two items, 37 and 38, because it appeared that there was a gap between the dates of 25 December, 2014 and 18 March, 2015 in Mr Hawatt's communications by SMS with you. Do you see that?---Yes, sir.

40 And I suggested at the time, wrongly, that this might be incomplete. What I want to ask you is, looking at that as you see it now, did you have any communications with Mr Hawatt between Christmas Day in 2014 and 2 March when you started work in 2015?---Yes, I believe I did, yes.

What were they, sir? First of all, what form did they take?---Okay. So we're saying we're starting from the 25th of the 12th?

Yes.---Okay. To the best of my recollection they were phone conversations and it centred around I guess the terms of, of my employment I believe, or hang on, yes, because during that period of time was when I was getting phone calls and I was also making phone calls in regards to trying to

ascertain from Michael Hawatt and also I believe I also rang Mr Khouri as well and he rang me and it was all around, you know, whether or not I was going to, what was happening with my, my, I guess with the job.

10 And did anyone tell you that there was efforts being made to sack the general manager?---I don't know about sacked, but I remember there were some discussions or it was pointed out to me that – in, in, in a number of those phone conversations – that they were having problems with the general manager. But I don't know whether, I can't recall whether they used the word “sacked”.

20 Was there anything that was said to you in that period of Christmas 2014 till when you started work on 2 March, 2015 about taking steps to try and persuade the general manager to honour his offer of employment to you? ---The only, I, I, I don't know about the steps, but I do recall Mr Hawatt telling me that, look, you know, we've got a problem with the general manager and we will, I mean, words to the effect “We will sort it out.” It was, it was, there were numerous phone – to be honest with you, it was a really sort of, and I think I've expressed this before, a really hectic period, that period, and I was getting bombarded with phone calls and I was also making phone calls just to try and find out what was going on.

But it was a time when you had no work, is that right?---That's right. I'd resigned, yes.

So the hectic-ness was all around whether you were to be employed or not. ---Correct.

30 And when you were told there were problems with the general manager, and you say Mr Hawatt told you that.---I believe so, yes.

And what did he indicate were the problems with the general manager? ---That I can't remember, but at some point in time, now, I'm not sure whether he told me that but I know that I did read it in the local newspapers and the like about the fact that he was having problems with the, the council and then ultimately they wanted to sack him.

40 Did no one indicate to you that the problems with the general manager, as perceived by Mr Hawatt and anyone working with him on this, had as their origin his failure to honour his offer of employment to you?---I believe at, I'm not sure of the date exactly but it was during that period that Mr Hawatt did express that to me, yes.

Now, can I show you another – oh, I'm sorry. Can I just, before I do that, did you get any sort of payout from Botany Council after you resigned? Were you paid your entitlements?---Yes, yes.

So what did you have to live on?---At that point in time?

Yes.---Well, my wife was working. I mean, we were okay. We were doing okay. We were coping but obviously we had commitments with mortgage and so forth.

Did you consider taking a job?---Elsewhere, sorry, or - - -

Yes.---At that point in time?

10 Yes, between the time in December when you learned that the offer of employment was not going to be honoured and 2 March when you did start work.---No, I didn't because I sought advice from, from my solicitor and he said to me we've got a very good chance of actually getting them to honour their, the employment.

Did anyone else tell you that you shouldn't apply for another job?---Not that I can recall.

20 Did you discuss with anyone else whether you should apply for another job?---Not that I can recall, and the only reason for that was that on advice from my lawyers we were getting, we had a very good chance of getting them to honour the contract, I guess.

Now, after you became aware that the position – no, I withdraw that. We've been through your contacts with Mr Vasil at around the time you were told that the offer of employment would not be honoured. You had discussions with him, you had meetings with him, you took him copies of the legal correspondence. After Christmas 2014 and before you actually started work on 2 March, 2015, did you have any contacts with Mr Vasil?---Highly
30 likely, yes, yes.

When you say highly likely, what do you mean?---I believe I did, yes, yes.

Why didn't you just say that?---I'm sorry. Yes, I did. I just, I'm not sure why I didn't use, why I used that word. Yes, I did.

And what were the contacts that you had with Mr Vasil between Christmas 2014 and when you started work on 2 March?---I believe that would have been phone conversations, meetings, we, I was seeking his, I guess his
40 opinions on what was - - -

About what?---About, about my employment as well, and I do remember him taking me to – this is before I actually thought about going to a lawyer – him taking me to one of his lawyers that he knew that might be able to assist with advice, and that was around, between that period of time.

But that was in about December, wasn't it?---Yeah. So I - - -

So I'm talking now about January/February - - -?---Oh, sorry.

- - - of 2015.---Um - - -

10 What was there that you needed to discuss with Mr Vasil or that he discussed with you in that period?---I, I think it was mainly around the terms of employment but there were also in those conversations and, and, and meetings, I can't remember exactly how many meetings, but he was telling me about problems with the DCP and the LEP that he had experienced and just the, the problems with the department as he saw it, because at that time I didn't know but he had divulged to me that he was, he had a lot of dealings with council and, and the planning department.

Did he tell you that he was and had been a development proponent?
---I don't remember that, no, I'm sorry.

Okay. Yes?---As best I understood it, he was a real estate agent.

20 Yes. And was there anything that Mr Vasil told you about what was happening in the troubles between Mr Hawatt and Mr Azzi on the one hand and Mr Montague on the other?---Yes.

What did he tell you?---Just generally that they were having, the, the, he mentioned the two, two councillors, Pierre Azzi and Michael Hawatt, that they had issue with the general, the general manager, but other than that I really, as far as detail goes I - - -

30 Did he not, did he tell you about developments in the dispute?---No, not that I can recall, no.

Did he tell you what was happening, where things were at?---In terms of, sorry?

The dispute between Hawatt and Azzi on the one hand, or the councillors - - -?---Yeah.

- - - and Mr Montague on the other hand?---Not in, not in any great detail, but they had concerns about the fact that - - -

40 Yes, we know what the concerns are.---Yeah.

What I'm trying to find out is, did he tell you about what was happening in terms of this has happened, that has happened?---Not that I can recall.

This meeting occurred, did he tell you about any meetings?---As I sit here today, I don't remember him telling me that.

Did he tell you about any meetings of council that occurred in that period? January/February, 2015.---As in formal councils?

The council?---Not that I can recall.

If I could show you another table, which is of call charge records, please. ---Yes.

If I could hand this up.---Thank you.

10

Commissioner, I propose to take the witness through the content of this table. Would it be possible for me to tender it at this stage?

THE COMMISSIONER: Yes, that's – and it consists of the description, the call charge records for Mr Khouri, Vasil, Montague, Hawatt, Azzi and Stavis between those dates?

MR BUCHANAN: Yes.

20

THE COMMISSIONER: All right. The call charge records for Bechara Khouri, George Vasil, Jim Montague, Michael Hawatt, Pierre Azzi, Spiro Stavis, for the period 1 February, 2015, and 28 February, 2015, will be Exhibit 233.

#EXH-233 – CALL CHARGE RECORDS OF BECHARA KHOURI, GEORGE VASIL, JIM MONTAGUE, MICHAEL HAWATT, PIERRE AZZI & SPIRO STAVIS FOR THE PERIOD 1 FEBRUARY 2015 TO 28 FEBRUARY 2015

30

MR BUCHANAN: Now, there are some 12 pages to this document, Mr Stavis. You haven't seen it before, that's correct, isn't it?---No, I haven't, I don't believe I have.

All right. And do you see that it's set out in the same format as the previous analyses of call charge records?---Yes, yes.

40

There's a row number on the left hand side, the initiating call is identified and their telephone number, the receiving caller, sorry, the receiving call – I'll start again. The receiving telephone and person in whose name that telephone is registered is identified. That's Phone User To, Phone Service To. There's a start time adjusted for daylight savings – that's over towards the right-hand side, the third column from the right – then a duration which also has whether a call is an SMS or the amount of time that the telephone link is open, and then there's the caller location column. And again, unless I draw it to your attention, I won't be taking you to the caller location data. ---Okay.

There are a number of occasions on which there is data for a call by you with a phone number ending in 1-8-9-2. Do you see that? We talked about that number yesterday.---Yes, sir.

And you indicated that that was one of your telephones, I suppose most likely your private phone.---My private phone, yes.

10 Thank you. And then there are also a number of references to you in Phone User To column. Those references to you have all been highlighted.
---Okay.

Do you see that?---Yes, sir.

And feel free to just very quickly flip through and you'll see that most pages have got calls to and from you, and when I say calls that often included SMSs.---Yes, sir.

20 Through to the end date, which is the end of, 28 February, 2015. You see that?---Yes, sir.

Now can I ask you first of all to go to row 17 on page 1. Can you see that rows 17, 18 and 19 are telephone calls that you made to George Vasil on 1 February, 2015, the first one being for nine minutes and 39 seconds on 1 February, commencing at 6.29, the second being for three seconds at 6.39 and the third being for eight minutes and 34 seconds on the same day at 6.42. You see that?---Yes, sir.

30 And then continuing on, the same day there is a call to you by Mr Vasil, this is line 20, that lasted for 36 seconds, and then Mr Vasil put a call through to Mr Hawatt, which is very short – consistent perhaps with having left a message – and then Mr Vasil, on line 22, rang you back and the pair of you spoke for two minutes and 51 seconds. Why did you call Mr Vasil on 1 February, 2015?---It is most likely that I would have called about whether he knew anything about what was happening with my employment, I guess.

Well, if he had said no that would have been a very short call.---Yes.

40 So we can assume he said yes.---Yes.

And that he did know something, and then that the two of you talked about it in the first instance for more than nine minutes and in the second instance for more than eight minutes.---Yes, sir.

What was it that he told you on 1 February?---I really, I can't remember.

What was the nature of what he told you in these phone calls?---I believe he was giving me an update in terms of what was happening with I guess what

I would term as the argy-bargy between or the disputes between councillors and also the general manager. But as far as the detail, I'm really not sure, to be honest with you.

Well, that contradicts the answer you gave me on that subject about five minutes ago, doesn't it?---Um - - -

I asked you - - -?---Sure.

10 - - - were you told of developments in the argy-bargy, to use your term, and you said no.---Okay. I, I must have misinterpreted your question. I'm sorry.

So what is the truth? That he did give you updates as to what was going on between the councillors on the one hand and the general manager on the other hand, is that right?---I believe he did, yes. But as far as the detail goes, I, I can't remember exactly, to be honest with you. I'm sorry, I must have misinterpreted your question.

20 Let's just now take a sort of eagle's eye view, if you wouldn't mind, of who you were talking to in this period. So we've seen 1 February. On 2 February, Mr Vasil called you after having spoken to Michael Hawatt and spoke with you for three minutes. You see that?---Yes, sir.

On 2 February you called Mr Vasil but the line's only open – sorry, this is item 44 on page 2 – the line's only open for three seconds and so that would be consistent with you having left a message. But then he rings you back and you speak for four minutes and 19 seconds. Do you see that?---Yes, sir.

30 And then at line 46 Jim Montague rang you. Do you see that?---Yes, sir.

And that was at 6.27, not long after you'd spoken with Mr Vasil, and you and Mr Montague – sorry, the line was open between you and Mr Montague for one minute and 14 seconds.---Yes.

Did Mr Vasil indicate to you that Jim Montague was going to ring you?---I, I don't remember that, no, I'm sorry.

Could he have?---It's possible, yes.

40 Did he ever at any stage tell you, look, you're going to get a call from Jim? ---It is possible he did, yes.

And on this occasion at 6.27pm on 2 February, what was it that Mr Montague said to you?---Again I don't recall the exact details of the conversation, the best I can do, otherwise I'd be speculating, but I'd, I would imagine it would have been around my employment.

Yes. Well - - -?---I didn't have any other business with Mr Montague.

As at Christmas 2014 Mr Montague's position you knew was that he wasn't going to honour the offer of employment on 8 December?---Um - - -

Thinking about Christmas now.---Yes, yes.

Back in Christmas 2014.---Yes, yes.

You knew that was his position.---Yes, sir.

10

So why did Mr Montague – I'm not asking you to read his mind, I'm asking you to think back to this conversation and what he said to you – what was it that Mr Montague had to say to you on 2 February, 2015 that was different from the position as at Christmas 2014, that he was not going to honour the offer of employment?---I really don't remember.

There must have been, you agree, a purpose in Mr Montague ringing you?
---Absolutely, yes.

20

Could the witness be shown – if you can just keep that there.---Yeah.

Could the witness be shown Exhibit 52, volume 5, page 11, please. It might be more legible on the screen. Can you see that it's a memo from Mr Montague to the Mayor dated 2 February, 2015, the same day as his telephone call to you that I've been asking you about. If you'd just read that to yourself. Have you read it?---Yes, sir.

30

Now, there is a typographical error in that, and I'm not saying that Mr Montague's told me this or anything, but we can just work it out for ourselves. This memo is dated 2 February. He refers at point 1 to an extraordinary council meeting of 27 February, 2015. That's obviously not yet occurred, 27 February, and the evidence before the Commission is that there was an extraordinary council meeting on 27 January, 2015. So just read that February as a reference to January.---Sure.

40

Now, does having read that he told the Mayor, "It is my intention to proceed with the appointment of Mr Spiro Stavis to the role of director of city planning pursuant to my letter of offer dated 8 December, 2014," does that assist you in recalling what Mr Montague said to you the same day at 6.27pm?---I, I do remember getting a phone call from Mr Montague saying that, basically congratulating me saying that they would, but I, I really can't be certain of the date that was when he actually told me, but I do remember getting a call from him about that.

You'd accept that there has to be a likelihood that there was a relationship between the call he made to you at 6.27pm on 2 February, 2015 and the decision which he committed to writing and informed the Mayor about, of

intending to proceed with your appointment. There has to be a relationship, doesn't there?---I, I would agree with that.

Yes.---Yes.

And so the likelihood is that in his phone call to you on 2 February, 2015, he told you something about either having written this memo or, more likely, that he intended to proceed with your appointment.---I think the latter is, is, is more likely.

10

Now, can I take you now to the evidence that you – I'm sorry, if I can just withdraw that. Keep those documents in front of you. Can the witness be shown Exhibit 85, please. And can I take you to – do you remember that there was a note in a calendar entry, and we'll find it for you, but there was a note in a calendar entry that you had made for a lunch that had been scheduled with Marwan Chanine at Frappe for 12.30pm on 3 February, 2015?---Yes.

Do you remember that?---Yes.

20

Excuse me a moment. I asked you about it on 14 August. This is page 3980 of the transcript and if the witness can be shown volume 25, page 137, please. Okay, it's a bit larger on the screen, Mr Stavis.---That's okay, I can read it.

Oh, it's page 138. Thank you. It's a calendar entry that you've looked at before, for lunch, "Marwan at Frappe", on 3 February, 2015, commencing at 12.30pm. Do you see that?---Yes, sir.

30

And you've told us that this and the second lunch that you've had with the Chanines, because you've told us Ziad went along as well to both of them, the second one being on 23 February, 2015, these scheduled lunches did occur?---Yes.

That's page 3980, line 14. You'd accept, wouldn't you, that at your lunch with Marwan and Ziad Chanine at Frappe on 3 February, 2015 you knew to the point of almost certainty that you were going to be starting work at director of city planning at Canterbury, didn't you?---By that date, by - - -

40

Yes, 3 February, the day after Mr Montague rang you in the evening - - -? ---Mmm.

- - - at 6.27, had a conversation with you for a minute and 14 seconds and you've agreed that there has to have been a relationship between that call to you and his memo to the Mayor of the same day indicating an intention to proceed with your appointment.---Yes.

You knew to the point of certainty when you were with the Chanines at Frappe Café on 3 February that you were going to be starting work as director of city planning at Canterbury, didn't you?---I, I don't know, probably, I'm not sure, to be honest with you, but probably.

I am asking you to be honest with us.---Yes, sir. I just can't - - -

10 Certainly would have to be the right answer, wouldn't it? You knew you were going to be director of city planning?---I mean if I, if you want me to be honest, I really can't be certain that I knew, to be honest with you.

In what circumstances would you not have been certain? Let's just explore that.---I just don't have any recollection of it, whether I was certain, whether I knew that I was going to get it.

20 Okay. If you don't have a recollection, however, you accept that the likelihood certainly is that you knew that you were going to be starting work as director of city planning at the time you had that lunch with the Chanines on 3 February, 2015, didn't you?---I don't recall, sir. I really don't. I'd be lying if - - -

But that is the likelihood, isn't it?---No, I can't answer it that way because I don't recall.

That's not what I'm asking you.---Sure.

30 I'm asking you, thinking about the evidence that has been shown to you today, it is likely to the point of certainty that you knew when you were with the Chanines on 3 February that you were going to be starting work as the director of city planning. That's the likelihood, isn't it? Whether you've got a recollection or not, that's the likelihood?---I, I don't know, I really don't. I mean I, I mean I, you know, posing scenarios to me that I don't remember, to be honest with you.

THE COMMISSIONER: Mr Stavis, do you remember that there seemed to be at least an issue about when you would start being paid as director of city planning, because if you remember eventually you were paid I think from about 19 January.---That's right, yeah.

40 And if you look in volume 5, at the end of that week there's some correspondence between your solicitor and the council's solicitor, for example page 36, sorry, volume 5.---Yes.

Can you see that that's from Mr Belling to Mr Boatswain and it's discussing payments of remuneration will be tendered to Mr Stavis, I'm sorry, with effect from 19 January, so, and if you read that email exchange there seems to be an issue about, I won't say an issue, but at least some discussion about when you would be paid from. So that would suggest that you were told

you were going to get the job but the lawyers were still talking about okay then, but when does he get his back pay from?---Sure.

Does that help you in remembering when you were told? Because from that your solicitor definitely knows on the 6th.---Yes.

10 And as Mr Buchanan's taken you to, you get that, Mr Montague has sent that internal memo, and again there's correspondence on that day, he's asking his solicitor, look, my view is I've got to honour it, do you have anything to say about that. He sends the memo to the mayor and then you get a phone call, and that would suggest that you were told on that day. Does that assist you?---Not in terms of my memory but I accept that I would have known about it before that email - - -

All right.--- - - - from my lawyer, obviously because my lawyer would not have, I guess would have told me how - - -

Yes, because you're working out when you're going to get your back pay. ---Yes.

20 Which I take it is something you'd be very interested in.---Yep, yeah. But I, Mr Buchanan's asking me about the specific date. That I can't be a hundred per cent sure on.

And I think he's now putting to you, given the material he's put before you, do you think it was likely you were told on that second, when we have the evidence of Mr Montague raining you?---It is likely. I think I've said that before, yes.

30 MR BUCHANAN: And indeed if we look again at that email from Mr Belling to Mr Boatswain, on 6 February, 2015, at page 36 in volume 5, the premise for that communication is that the offer of employment of 8 December is going to be honoured. It's just working out now the details. One being payments of remuneration, another being to whom your superannuation entitlements, commencing 19 January should be paid, and thirdly, when you should actually start work. Those are the three issues that Mr Belling seems to be negotiating or raising for negotiation with Mr Boatswain, your lawyer. Do you see that?---Yes, sir.

40 But it's all based on the assumption that you're going to start work.---I accept that, yes.

Which is all consistent with people other than the Mayor knowing what Mr Montague told the Mayor, namely that he intended to honour his offer of employment to you, that communication being on 2 February.---Other people?

Yes. Is it the case that the general manager only told the Mayor? Plainly he told other people, like council's solicitor.---Yes, I accept that, yep.

And council's solicitor had obviously told Mr Boatswain.---Yes.

Because by 6 February, they're in negotiation about the details.---Yes. That seems the likely scenario.

10 Now, there's no way, is there, that you would have kept that news from Ziad and Marwan Chanine at your lunch on 3 February. You told them, didn't you?---I, I don't remember telling them.

But you accept that you inevitably did tell them, don't you?---At some point, I would have, yes, but I don't recall whether it, I told them at that particular day, that particular meeting.

Why wouldn't you tell them the day after you found out? Wouldn't you have been very excited at the news? This is good news.---Of course.

20 These guys are friends of yours, aren't they?---No.

They have provided you with work?---In the past, very limited work, yes.

But they have provided you with work and you have helped them out on a development when you were at Strathfield Council, the Liverpool Road one?---Well, I, I assessed and application, yes.

But you helped them out, you provided a solution, remember?---Yeah, sure.

30 Yes.---Yep, yes.

You were on good terms with these guys, correct?---I, yeah, I was, yes. I think that's fair.

Why are you having lunch with them at all?---I, I thought it was, I think from memory, I thought it was in relation to work or whatever but I - - -

40 So, you were seeking other work, were you?---I believe so. I, I, I, because I didn't have, although I had a phone call from Mr Montague, we had nothing in writing, I guess. And given what Mr Montague had done before, you know, look, in all honesty, I met with them but I, as far as I can recall, I don't remember discussing my potential job with them. I mean, I, it was a long time ago. I really don't remember.

Earlier this morning you told us that you didn't seek other work during this period.---Well, not, no, I think, well, unless I misunderstood. I thought you meant, like, full-time work. Don't forget I was - - -

I didn't say full-time work, did I?---I assumed that that's what you meant because you were comparing the job that I had applied for, which was a council job. In all honesty, if I'm sitting here today, I don't remember exactly what that meeting was about. Now, do I accept that I might - - -

When you say meeting, you mean lunch.---Lunch, sorry.

Well, hang on a sec. Slow down.---Yeah.

10 Why did you bother meeting with these guys at all for lunch?---I believe they, they called me for lunch.

Oh, yes?---Yeah.

So the luncheon was arranged by Marwan Chanine given that the entry in the calendar is "Lunch, Marwan".---Yeah.

20 Marwan Chanine arranged the lunch?---It, it would have been Marwan or Ziad I would imagine.

Was there any discussion at the lunch about what was happening with the offer of employment to you by Mr Montague back in December?---Not that I can recall, to be honest with you, but - - -

So do you mean to say there wasn't any or that there would have been some but I don't recall or what?---I just don't remember. I don't - - -

30 Why wouldn't you discuss with these guys either the dispute that was going on or the dispute that seemed to have been solved? Surely the fact that this very directly impacted upon you, and upon them as developers with projects in that local government area, was a matter of high interest to the three of you. How could it not be?---Sure. I accept that but I, I don't remember. I'll be honest with you, I don't.

But the likelihood is that you told the Chanines about your conversation with Jim Montague the previous evening. That's correct, isn't it?---It's possible. I, I'm not sure. I just don't remember, to be honest with you.

40 Why wouldn't you have told them about your conversation the previous day with the general manager?---I don't know why I wouldn't have.

But the likelihood is that you did, given that you accept that it's likely that the general manager told you that he was going to honour the offer of employment.

MR PARARAJASINGHAM: I object, Commissioner. It seems to me we've been on this topic now for about 15, 20 minutes. There's been a number of questions on it. The witness's position is he has no memory of

the meeting and he's unable to accede to the suggestion that it was likely that this topic was discussed. It's not the answer that my friend is after, but at some point – perhaps after 17 days – questions become repetitive, and in fairness to this witness perhaps my friend should move on.

MR BUCHANAN: I press the question, Commissioner, and in fairness foreshadow asking a good deal more questions on this topic. It goes to a number of issues before the inquiry. The witness's evidence has been inconsistent on this and related issues, and it is very important, in my
10 respectful submission, that we find out what occurred at the meetings that the witness had with the Chanines on 2 February and 23 February. Now that we have advanced to the point of the witness acknowledging the likelihood that he knew he was going to start work as director of city planning, knowing the witness's proclivity to ingratiate himself with people from time to time, in my respectful submission his evidence that he can't recall can't be accepted and in my submission should be tested.

THE COMMISSIONER: Mr Pararajasingham, have you anything in reply?

20 MR PARARAJASINGHAM: I would maintain my objection.

THE COMMISSIONER: Mr Pararajasingham, I do realise Mr Stavis has been in the witness box a long time. I acknowledge that. But I am troubled that given the trauma of December and January and the position that Mr Stavis was in in giving up his position at Botany, then being told that he didn't have the position at Canterbury, et cetera, that – and I have to say, my view at the moment just looking at the material is that he probably, that he was told on 2 February in that phone call by Mr Montague. That's where I'm heading at the moment. That when he had a lunch with the Chanines the
30 next day he wouldn't have discussed it with them, I do find that, A, difficult to accept that he doesn't have a recollection and I am troubled by it. As Mr Buchanan said, it's an area which is important to this inquiry, and on that basis I'm going to allow Mr Buchanan to continue to investigate the area, but I have taken note about your concerns of fairness.

MR PARARAJASINGHAM: Please the Commission.

MR BUCHANAN: Mr Stavis, as you understand it, why was the lunch arranged by Marwan Chanine?---As I sit here today, they called, I believe
40 they called the lunch and I, I don't, I can't remember if they, if they gave me a reason for it or not.

But taking into account both the call, which is likely to have been from Marwan Chanine given your calendar entry, and the lunch that then occurred that you were present at, engaging with these men, why do you think they called the lunch?---I, look, my best recollection to date was that it was around work-related. Now - - -

Whose work?---I thought consultancy work for me. Now, I accept, was it possible that I told them about the position? I accept that. It is possible.

You'd accept that Mr Chanine, Mr Marwan Chanine finding out whether you were available for consultancy work is something that could have been established in the space of 10 seconds on the telephone.---Yeah, I guess so, yes.

10 You say that you weren't friends with these men.---Well, we weren't friends.

So that leaves some business advantage to the Chanines in their calculations as to why they wanted to have lunch with you on this day. Can you suggest anything else?---Not that I can think of, no, apart from the fact that going there I was, I, I assume that I was under the pretence of getting consultancy work.

And was any consultancy work discussed at that lunch?---I'm just trying to think. I don't remember if there was. I, I don't really.

20 Was the subject of consultancy work for you raised at that lunch and you indicate you were not available?---That's possible. That is possible.

You inevitably would have told them why you were not available.---That is possible, as I said, yeah.

30 Can I just ask – I note the time, Commissioner, but just one little matter. Did Ziad or Marwan Chanine say anything to indicate that they had heard that the offer of employment was going to be honoured or that you were going to be starting work after all as director of city planning?---I, I, I, I'm not sure. I don't know whether it was at that meeting, but at some point around that time or prior, yes.

Did either of them say, you know, “Bechara tells us that you're going to be starting work sometime soon”?---Yes. That was, that was the tone of it, yes.

And that could have been said to you at the meeting at lunch on 3 February?---Look, it's possible, sir. I just don't recall it, that's all.

40 I note the time, Commissioner.

THE COMMISSIONER: All right. We'll take the morning tea adjournment and resume at 20 past 11.00.

SHORT ADJOURNMENT

[11.00am]

MR BUCHANAN: Mr Stavis, have you still got Exhibit 233, the call charge records for February 2015, in front of you?---Yes, sir.

I've taken you to an entry on 2 February, that's item 46 on page 2, where Mr Montague rang you, and I've also just taken you, and can I just ask you to note this, that there are those communications with you and between you and Mr Vasil that are on page 1, rows 17, 18, 19, 34. Do you see that?
---Yes, sir.

10 And then again row 45 on 2 February. Do you see that?---Yes, sir.

You ring Mr Vasil on 3 February at 8.14. This is row 60, sorry.---Yes, sir.

The line's open for 3 minutes and 32 seconds, and then there are subsequent calls between the two of you within minutes. Do you see that in row 61 and 62?---Yes, sir.

20 What were those calls about?---I, as I said before, I think it was in relation to my employment because they, that was generally the conversations that I had around that time with Mr Vasil.

And you had a lawyer who was able to give you and was giving you legal advice. Correct?---Yes, sir.

30 You'd had a conversation yourself with Mr Montague. What was there that Mr Vasil could provide you with or would explain why you rang Mr Vasil at 8.14 on 3 February?---I don't remember anything other than just the general gist of the terms of my, I guess my employment. I had sought, even before I had a lawyer, as I think I've given evidence before about, about some assistance or guidance that Mr Vasil had given me. I don't think those, those phone calls are anything different. I'm not, I just don't remember.

Yes, but I'm asking you about the call on 3 February that you made - - -?
---Yes.

- - - at 8.14am.---Yes, sir.

40 You weren't ringing George Vasil in order to second-guess your lawyer, were you?---No, I don't believe I would have, no.

So were you ringing him to tell him what had happened in the call from Mr Montague?---I'm not sure, sir. I'm not sure. It's possible but I really can't remember that far back.

Well, can I just take you back to the entry for 47 and 48. George Vasil spoke, or I'm sorry, the line was open between George Vasil and Michael Hawatt for 4 seconds at entry 47 on 2 February, and then entry 48, George

Vasil rang you and the line was open for 1 minute and 26 seconds, and that's after Mr Montague had rung you, and so there would have to be a likelihood you discussed with Mr Vasil what Mr Montague had told you or had spoken with you about?---It's possible, sir. I just don't remember.

Isn't it likely?---Oh, likely. I just don't remember, to be honest with you.

10 Then can I take you to the entry for 3 February, row 75. At 1.26 there's an SMS from Mr Montague and then a second one in the same minute at entry 76, and you respond, entry 77 and 78. This is all between 1 o'clock and 2 o'clock on 3 February. What were those contacts about?---I mean without – I don't know, but without the benefit of having the SMSs I can't really give you any insight into that.

But can you recall what it was that you and Mr Montague were talking about in February before you started work?---Hmm, no. I, I, it's likely that we were talking about the terms of my employment I guess.

20 But you had a lawyer and he had a lawyer.---Yes.

And it seems they were talking about the issues in relation to your employment - - -?---Yes, sir.

- - - with some decision having been made that the offer of employment was to be honoured, or that if it was honoured, then these were the issues that needed to be addressed. Why did you have conversations with Mr Montague when it appears the lawyers were talking to each other?---Like I said, without the benefit of the SMSs - - -

30 MR ANDRONOS: Before the witness answers, could I just register an objection, Commissioner. The question was put in terms of conversations when the relevant entries are in fact a series of text messages. Perhaps that could just be made clear, that the question isn't addressed – at least in the case of entry 75 to 78, which is I understand what my friend is asking about – that we're talking about SMSs rather than conversations, physical conversations.

40 MR BUCHANAN: Certainly. Do you understand that when I said conversations, we're talking about items 75 to 78, which were SMSs you and Mr Montague exchanged between 1 o'clock and 2 o'clock on 3 February, 2015?---Yes, sir.

It looks like a conversation, doesn't it?---It's possible, yes, yes.

What else could it be? It wouldn't be random thoughts, would it?---No. Of course not.

So, why were you and Mr Montague talking to each other on 3 February by SMS when you had a lawyer and he had a lawyer that it appears were in communication with each other about the detail?---Again, without the benefit if the SMSs in front of me, I can't, I, I, I don't remember why we were doing it. I, I assume that it was in relation to the terms of my employment.

10 At item 79, you call George Vasil in the same minutes after your last text to Mr Montague, at 1.48pm on 3 February. Do you see that?---Yes, sir.

And the line was open for one minute and 21 seconds. Do you see that?
---Yes, sir.

The likelihood is, isn't it, that you wanted to speak to George Vasil about the SMS conversation you just had with Mr Montague or arising from it?---I mean it's, it's likely but I, I, I don't have any recollection of it.

20 Were you talking to George Vasil about the communications you were having with Mr Montague at this period?---I, I don't discount that. I probably did, yes.

And why?---Because he was someone that I had been involved in that, in the process prior and, well, and I, you know, I, I sought his advice, I guess, more than anything else.

As to how to deal with Mr Montague?---No, not necessarily, but it was more, mainly just to keep him in the, I, I guess updated what was happening.

30 Why did you want to keep Mr Vasil updated?---Only because of his involvement and my involvement with him prior. You know, we - - -

But there had been a number of people involved. Why was Mr Vasil a person that you were keeping updated?---Well, we had, I mean I had established a rapport with him and he seemed genuine right through this volatile period of trying to assist me.

40 Excuse me a moment. You told us on 26 July, page 3330, that Mr Khouri and Mr Vasil obviously had disclosed to you that they had, I guess, a relationship with Mr Hawatt, this is line 19, and that Mr Hawatt had something to do with the decision to appoint the director of city planning and you said, "Possibly, yes." Question, "That was the impression you got from both men?" Answer, "That's the impression I got, yes." Question, "What about Councillor Azzi?" Ultimately you said, "The same." So was it the case that you were using George Vasil in February 2015 as a channel of communication with the people on the other side of the dispute with the general manager about your offer of employment, namely Councillors Hawatt and Azzi? Is that why you were talking to Mr Vasil?

---No, no, it wasn't anything like that on my part, no.

But you've seen, haven't you, that there's no record of communications between you and Mr Hawatt between Christmas 2014 and March, mid-March 2015, but here we've got multiple communications with George Vasil, a person you understood to have a relationship with Hawatt and Azzi, who you understood from Khouri and Vasil had something to do with the decision to appoint the director of city planning?---What date are we talking about now, sir?

10

Well, if we go, you've seen already, haven't you, that there was a number of communications with George Vasil?---Yes.

And so what I'm asking is, there's no record of a communication between you and Mr Hawatt in these documents but numerous communications with Mr Vasil. You've told us that you understood that Mr Vasil had a relationship with Hawatt and Azzi and that Hawatt and Azzi had something to do with the appointment of the director of city planning. What it looks like is that what you're doing is maintaining a channel of communication with Hawatt and Azzi during February via Mr Vasil.---No, I don't, I don't recall it that way, sorry.

20

But that would have been the effect of it, to your knowledge, wouldn't it, given what you knew to be the relationship between Vasil and Hawatt and Azzi.---I'm not sure whether I knew at that, did I know at that point in time, that date?

THE COMMISSIONER: Sorry, knew what?---About the relationship.

30

You would have known that from the previous year, wouldn't have you? ---Yes. Yes.

MR BUCHANAN: And you told us that at the first interview, mini interview of you on 26 November in all likelihood, Mr Vasil and Mr Khouri had mentioned Mr Hawatt and Mr Azzi.---At the first, at the café?

Yes, the very first time you met them face-to-face.---I believe so, yes.

40

Yes. So whether it was your intention to or not, you knew that George Vasil was a person who in all likelihood would communicate to Hawatt and Azzi what you were saying to them, sorry, what you were saying to Mr Vasil. This is in February 2015.---It certainly wasn't my intention but I accept that.

Why wouldn't it have been your intention? Would there have been something wrong with communicating indirectly with Councillors Hawatt and Azzi during this period - - -?---No, it was - - -

- - - in your opinion?---No. Well, no, but I was, as I said, I had established a rapport with Mr Vasil and he was someone that, you know, advised I guess. It certainly wasn't my intention to actually use him as some sort of communication between myself and, and those two councillors, no.

And certainly it seemed to you, didn't it, that Hawatt and Azzi and Vasil were all on the same side when it came to this dispute with the general manager as to whether the offer of employment to you should be honoured or not?---Yes, yes.

10

So you were, by talking to George Vasil, knowingly communicating with the side in dispute with Mr Montague, weren't you?---I didn't look at it that way, sir.

Then row 82 is a call lasting 18 seconds by Mr Vasil to you on 3 February at 2.02. Do you see that?---Yes, sir.

And not long after that – I withdraw that. And shortly before that George Vasil had received a text from Michael Hawatt, correct? You see that?

20

Line 81.---Yes, sir.

And shortly after Mr Vasil spoke to you at 2.02pm, the line was open between George Vasil and Michael Hawatt for five seconds. Do you see that?---Yes, sir.

And then the communications continued between Vasil and Hawatt, if you go over the page, page 3, row 84 through to 88, on that day, 3 February. Do you see that?---Yes, sir.

30

Then on 4 February, Mr Vasil is in communication with Mr Hawatt by telephone shortly after 1 o'clock a couple of times, and then at 2.02 he rings you and the line is open for three minutes and 46 seconds. You see that? ---Yes, sir.

You can see what's happening, can't you?---I, I, I can't attest to what Mr Vasil and Mr Hawatt were doing.

But did not Mr Vasil give you any impression that he was talking with Mr Hawatt or that he had an insight into what Mr Hawatt was doing in this dispute over your employment contract?

40

MR NEIL: I object. Commissioner, my learned friend can't approbate and reprobate. The Counsel Assisting theory is that on 2 February the battle was over. Mr Montague had decided to appoint Mr Stavis. On the Counsel Assisting theory, Mr Montague advised Mr Stavis of this that evening, so there's no scope for this further claim that there's a dispute thereafter about which it is alleged these men are having discussions. It's irrelevant and of no probative value and inconsistent with their own case theory.

MR BUCHANAN: Commissioner, I don't have a case theory. There are matters that I am putting to the witness and inviting him to assist us on in the conduct of this investigation by the Commission, and drawing the evidence to his attention and asking him whether or not things are likely or not, or whether he has a recollection or otherwise. There is no case theory at this stage.

10 THE COMMISSIONER: Mr Neil, I take your point about the evidence of Mr Montague deciding on 2 February and then the communication between Mr Montague and Mr Stavis. I am interested in the amount of subsequent communication between Mr Vasil and Mr Stavis, and also as Mr Buchanan has been linking the communications between Mr Hawatt and Mr Vasil and then a communication between Mr Vasil and Mr Stavis. Now, I think what Mr Buchanan is doing is to try and explore and jog Mr Stavis's memory about what on earth Mr Vasil and Mr Stavis were discussing during those times. Now, I take your point that the actual issue about employment, there seems to, might have been still some discussions about terms of
20 employment up until around 6 or 9 February, but I will allow Mr Buchanan to continue to explore with Mr Stavis what the communications were about. Now, if Mr Stavis can say something along the lines of, look, it wouldn't have been about the contract of employment for these reasons, that at least allows me in my mind to cancel that out and then try and work out what they were discussing. Because when you look at these call charge records, I think it's over, with the exception of about four days there is daily communication in some way – either by text or phone calls – between Mr Vasil and Mr Stavis, and I am interested in what they were discussing. So in one way I take your point about how further Mr Buchanan can explore the issue of the contract of employment, but the more general issue of
30 communications between Mr Vasil and Mr Stavis I am interested in and I will allow continued questions.

MR NEIL: Well, thank you, Commissioner. Perhaps we can wait and see what develops. I was just a little concerned, to draw attention that questions that are predicated upon some dispute after 2 February might not accord with the evidence that had been brought out, although there may yet be further evidence.

40 THE COMMISSIONER: Yes. Look, it does just seem from the solicitor correspondence that, to use Mr Stavis's description, some argy-bargy may be about back pay and things like that. But, look, I am sorry, I will allow Mr Buchanan to explore the topic and continue with it but I note the point that you've made.

MR NEIL: Thank you, Commissioner.

MR BUCHANAN: The only matter I'd add, Commissioner, is that there is a quantity of documentary evidence in volume 5 of Exhibit 52 to indicate that

after 2 February there continued to be matters that were being discussed between Mr Montague and various other parties and there were various events that occurred.

THE COMMISSIONER: Yes.

MR BUCHANAN: Before the dust settled.

THE COMMISSIONER: Yes.

10

MR NEIL: Well, Commissioner, I accept that, and there may be different interpretations that could be placed on that, but I had thought the interpretation that my learned friend was placing on those documents was that they were really only just tidying up.

THE COMMISSIONER: I think Mr Buchanan's reference to the dust settling is wider than Mr Stavis's contract of employment, but maybe the overall relationship between particular councillors and Mr Montague and the functioning of the council.

20

MR NEIL: Well, I'll leave it at that. Thank you, Commissioner.

MR BUCHANAN: So, Mr Stavis, can I take you then, still on page 3 of Exhibit 233, after that exchange around 1 o'clock/2 o'clock, at items 91, 92 and 93, between Vasil and Hawatt and then Vasil and you, Mr Hawatt contacts Mr Vasil by SMS at item 97 at 4.29. Do you see that?---Yes, sir.

And then shortly after that at 4.58, you ring Mr Vasil and there's a more than six-minute-long conversation. Do you see that?---Yes, sir.

30

And then item 99, there's another call by you to Mr Vasil at 5.29 that went for more than four minutes. Do you see that?---Yes, sir.

Why were you calling Mr Vasil and what were you talking to him about? Why did you initiate those calls?---I, I, I, I don't recall, sir.

Could you turn, please, to item 117.---Yes, sir.

40 Can you see that at 5.32 on 5 February George Vasil rang Mr Hawatt and the line was open for more than a minute?---Yes, sir.

And then at 5.33 the line was open between you and Vasil for five seconds, but then at 5.34 the line was open between the two of you for almost five minutes. Do you see that?---Yes, sir.

And that you initiated those two calls.---Well, I - - -

I'm sorry, those two being 118 and 119.---Sure. Yes.

Do you see that?---Yes, sir.

Why did you initiate those calls on 5 February to Mr Vasil?---Again, I, I don't, I don't recall, sir.

10 And can you see that there's frequent communication around the times that you are speaking with Mr Vasil, between Mr Vasil and Mr Hawatt? Just looking, for example, at the rest of that page on 5 February, items 120 to 124.---Yes, sir.

And also Mr Azzi, between Mr Hawatt and Mr Azzi. That's item 122. ---Yes, sir.

You can go then to page 4, 6 February you ring George Vasil at item 133 at 4.02pm and the line is open for almost a quarter of an hour. Do you see that?---Yes, I do.

20 And that's shortly, I'm sorry, that's a couple of hours, one and a half hours or so after Hawatt and Vasil have been talking to each other.---Yes.

Do you see that?---Yes.

And that as well, Mr Vasil has been talking to Pierre Azzi. That's at 1.42pm, item 131. Do you see that?---Yes, sir.

30 You weren't being given any indication at all by Mr Vasil as to what Mr Hawatt and Mr Azzi were doing or what they were thinking?---I don't remember him explaining to me in any detail about what was happening. I mean a lot of my information around what was happening came from me logging on and, and reading newspaper articles and the like. I, I just don't recall, sir, and that's the honest answer.

But you can't give us any explanation as to what you did talk about or why you rang. Is that right?---Yes. I, I just don't remember.

40 On 7 February, shortly after Michael Hawatt has had a telephone conversation, this is item 136, with George Vasil, George Vasil rang you and spoke with you for 45 seconds. Do you see that, item 137?---Yes, sir.

There are then plenty of exchanges later that day and on 8 February between George Vasil and Michael Hawatt with as well, at 142, a telephone conversation between George Vasil and Pierre Azzi. Do you see that? ---Yes, sir.

And then at 10 o'clock on 9 February, George Vasil rang you. This is item 147.---Yes.

And the line was open for almost a minute. Do you see that?---Yes, sir.

And shortly after that conversation George Vasil rings Michael Hawatt and there's a couple of conversations with Michael Hawatt. That's items 148 and 149.---Yes, sir.

Then you ring George Vasil back. This is at 5.16. Do you see that?---Yes, sir.

10 And then there's communications between Vasil and Azzi and Hawatt before, at item 154 on 10 February, there's a, the line is open very shortly for 2 seconds at 9.14am, but you – I'm sorry, at item 155 George Vasil contacted you, the line is open for 49 seconds, and you then contacted George Vasil again a bit over an hour later, the line's open for only 3 seconds, but then George Vasil rings you and the line is open for 10 seconds. Do you see that?---Yes, sir.

And then there are a number of communications between Hawatt and Azzi, and Vasil and Hawatt, and Hawatt and Vasil. Do you see those?---Yes, sir.
20

And then you ring George Vasil at 7.03 on 10 February, the line is open for 2 seconds, but at item 165 George Vasil rings you back and the line is open for over 2 minutes between you and George Vasil. Do you see that?---Yes, sir.

You can see a pattern here, can't you?---I can, but - - -

What do you tell us, what would you tell us is that pattern?---Well, from what you've pointed to, obviously there was in between communications
30 myself and Mr Vasil, there were a whole series of communications between Mr Hawatt, in some cases Mr Azzi, and Mr Vasil.

Yes.---So that's, that's the pattern.

Yes. And can you explain it or help us understand it?---I wish I could, sir. I just don't remember, I just don't remember these, these phone calls.

But why were you ringing Mr Vasil so frequently and he ringing you so frequently?---I'm not sure. I really don't know. I, I'm just trying to ascertain
40 whether at some point in time – I know that I had received communication from Jim Montague but I'm not sure when I actually got the official employment, whether that was that period.

And how would that explain the multiplicity of contacts between you and George Vasil?---Only because he was someone, like I said before, that I, I guess confided in and he advised me about during that whole period when I was, between the time I started and when I applied.

But what insight did you expect George Vasil to have? Did you expect that Mr Montague had confided in George Vasil as to what he was going to do? ---Look, I knew Mr, well, Mr Vasil at some point in time did disclose to me that he, he knew he had lines of communication with Mr Montague, I guess, and then I obviously knew that he had communication with those two councillors as well in particular. So that's no secret. As to the content of those phone calls that I instigated - - -

10 Or why you rang.---Or why I rang, I, I, I wish I could tell you, sir. I just don't recall.

You do understand that it's difficult to accept that you're telling the truth in giving that evidence, don't you?---Of course. I, I, I do accept that. I do.

Then on 11 February, on page 5, the same pattern recurs. You can see it there, can't you? The calls between you and George Vasil are clear because all the contacts that you had, which are highlighted, are with George Vasil, aren't they?---Yes, sir.

20 And you can see that George Vasil is in communication with Michael Hawatt in particular, and perhaps on that page not with Pierre Azzi but certainly with Michael Hawatt in between.---Yes, sir.

Page 6. The same pattern appears, doesn't it? All of those communications you're having are with George Vasil?---Yes, sir.

And you can see the communications between Mr Vasil and Mr Hawatt that bracket the communications you had with Mr Vasil on 12, 13 February? ---Yes, sir, I see that, sorry.

30 Turning to page 7. On 16 February, item 261, Michael Hawatt rang George Vasil. The line was open for two minutes and 28 seconds. And then a couple of hours later George Vasil rang you, a very short communication, but you rang him back and the line was open for more than three minutes. You can see that?---Yes, sir.

And can I take you to page 8, 18 February. Can you see item 303?---Yes, sir.

40 There's a communication between Mr Montague's office and you that lasted one minute and 12 seconds.---Yes.

Was there anyone in Mr Montague's office that you had a relationship with? And I don't mean a romantic relationship.---Sure.

A relationship with other than Mr Montague.---Not in his office, no, no.

So, would you say that the likelihood is that's a communication from Mr Montague to you?---Yes, sir.

What did he tell you on 8 - - -?---Sorry.

Oh, sorry, go on.---I stand to be corrected. It, it may, I'm not sure how it registers but it may have been also his PA.

Yes.---That, that is a possibility as well.

10

Certainly, but for more than a minute?---Yeah, I'm not sure. Yeah.

You wouldn't have been discussing what was going on with your contract with Mr Montague's PA, would you?---No, probably not, but at some point in time I did receive a call from his PA to explain to me about, just to give me sort of the logistics of when I would commence and so forth, yeah, in the normal way that these jobs happen, but I'm not sure if it was that day.

20

And a couple of hours after that you rang George Vasil and spoke to him. It was a short conversation. I'm looking at item 305 on 18 February, at 12.47. ---Yes.

Do you see that?---Yes, sir.

Then go down the page, items 327, 328 and 329. 327 is consistent with a, on 18 February, leaving a message for you. 328 is an SMS from George Vasil to you. 329 is a 22 second call to you. Do you see that?---Yes, sir.

30

But over on page 9 that pattern continues and there are, in fact, a number of calls where the line is opened, usually not for a long time until we get to item 335, but this is all on the same – I'm sorry, my mistake. This is on 18 and then 19 February at 8.54am. This is item 335, the line is open for eight minutes and 51 seconds. Do you see that?---Yes, sir.

And then there are communications after that between George Vasil and Michael Hawatt and Pierre Azzi and then George Vasil rings you again on 19 February at 1.34. The line's open for two minutes and 22 seconds. Do you see that?---Yes, sir.

40

And item 343 is a telephone call by Jim Montague to your telephone on 19 February, for 18 minutes and four seconds. You then text him – and that's for over a minute. You then text him and then text him again shortly after. ---Sure.

Do you see that?---Yes, sir.

Do you know what those communications were about, with Mr Montague?

---I'm only assuming that they were in relation to my employment because I did have some SMSs, but I'm not sure about the dates from between myself and Mr Montague.

And item 348 is a short call consistent with leaving a message for you at 5.26pm on 19 February, and you returning that call and the line being open between you and George Vasil for two minutes and 33 seconds. Do you see that?---Yes, sir.

10 The likelihood is, you would have discussed with George Vasil whatever you and Jim Montague had discussed earlier that day, isn't it?---It, it's, it is possible, yes.

It isn't likely?---I can't say it with any certainty, sir, to be honest with you.

What, do you think you would withhold from George - - -?---No, it's probably, no, it would have been something that I would have, so, yeah.

20 Then still on the 19th there's a call by Mr Vasil to you at item 353 for a minute and 52 seconds, this is at 6.07pm, I'm sorry, thank you, 8.07pm. Item 356 is a short call by George Vasil to Michael Hawatt late at night, this is after 11.00 on the 19th, but then early on the 20th George rings you at 9.01am, he leaves a message, you then get back to him and the line is open for 9 minutes and 12 seconds. That's item 358. Do you see that?---Yes, sir.

30 You'd agree, wouldn't you, that the likelihood is that George Vasil in that communication with you was conveying to you what he and Michael Hawatt had talked about late the previous evening?---I'm, I can't say it with any certainty, as I keep saying, but it's possible, yeah, it's possible.

Well, can I just analyse this. Your evidence has been that there was, the only reason you can think of to call George Vasil was to take his advice and it would have been about the contract of employment. Why then, given that you were - - -

MR NEIL: I object, I object.

MR BUCHANAN: I'm sorry?

40 MR NEIL: There's also added matters such as, however you word it, in confiding in, emotional support, it's not one topic.

MR BUCHANAN: Thank you. I'm happy to have that added to the mix.

THE COMMISSIONER: Ah hmm.

MR BUCHANAN: Why then does, given that you're the person who was on the other end of the line, George Vasil ring you?---What, after, after communications with the other councillors you mean?

Well, you can certainly take that into account if you want to.---Sure.

But given that you were the person receiving these calls from George Vasil - - -?---Sure.

10 - - - you can tell us why he was calling you, can't you?---To the best of my recollection it was primarily around employment advice that I was seeking, and I think I said it before, at some point in time it, you know ah, we, he'd, I guess would mention to me about the volatile nature of what was happening, but the main information I was getting regarding all that chaos was through, through the media at the time.

But that's, that can't be true.---It is.

20 That can't be a true answer, can it, given the evidence here that's in front of us?---Well, I don't class that as evidence, sir. I mean these are phone conversations that are happening. Yes, I accept that there is a pattern - - -

And a regularity and a frequency.---Yes, I accept that.

All of which suggest that your primary source of information was George Vasil.---No, that's not true, sir.

THE COMMISSIONER: Mr Stavis, we're up to 20 February.---Yes.

30 By that time your employment's been confirmed, hasn't it? Sorry, that your offer of employment will be honoured?---Yep.

And it's been confirmed that you're going to get back pay from 19 January and your solicitor's even nominated the particular superannuation fund. ---And I'm assuming that by that date, is that what you're saying?

Yes.---I, I can't remember the dates, Commissioner.

40 Well, I took you to those emails - - -?---Yes, yes.

- - - between the solicitors.---Yes.

That would seem to have all been done and dusted by about let's say 9 February.---Yes.

We're now up to the 20th.---Sure.

From that material it seems that whether or not you're going to be employed and under what terms has been determined.---Sure.

So there must have been other issues that you were discussing with Mr Vasil, and your recollection is it's mainly, what, the wider controversy and issues within the council itself?---Yeah, I, I don't remember specific conversations with Mr Vasil in regards to the nitty-gritty of what was happening behind the scenes, so that's the honest truth. I do remember - - -

10 You would have been interested in that, wouldn't have you?---Yeah, and I was doing that, yeah, I, I was. Of course I was. But I, I do remember him talking to me in general terms about it, but as I sit here today I don't remember anything specific, and that's the point I'm trying to get across.

Moving away from something specific, I used the description of generally issues within council. What, what was being raised?---In terms of what he was telling me was happening behind the scenes?

20 Yes.---Yeah, I mean, things like, oh, you know, there was argy-bargy going on between various councillors and the general manager and so forth. It was all, it was all very general stuff. It wasn't like – I can't remember if there was anything specific, otherwise I would tell you, Commissioner. But I, there was, there was, he certainly disclosed to me in terms of what I guess the conflicts were between them.

Between the general manager and particular councillors?---And, and, and those two councillors in particular, yes.

30 MR BUCHANAN: Were you ever told by George Vasil about a meeting that had occurred between Mr Montague on the one hand and Mr Hawatt and Mr Azzi on the other?---About a meeting? Any meeting or around that time?

Let's start with any meeting.---Between Mr Hawatt and Mr - - -

Azzi and Mr Montague.---Not that I can recall.

40 See, the evidence before the Commission shows that on 18 February there was such a meeting, and there are communications between Hawatt and Vasil on the 19th and then George, I'm sorry, then George Vasil rings you and communicates with you. Does that assist you at all that George at some stage said, oh, look, there was a meeting last night and this is what happened?---I mean, it's possible but I, I don't recall it, to be honest with you.

And was there, does that assist you, if I ask you to assume that there was a meeting between Montague on the one hand and Hawatt and Azzi on the other hand on 18 February, does that assist you at all in recalling what you

and Mr Montague talked about on 19 February?---No, other than I don't think Mr Montague would have rung me to talk to me about those, what was happening behind the scenes or whatever. I don't remember having such a conversation with him around that topic.

If I can ask you then to turn over the page to the 10th, sorry, page 10. There's a call by you. It's item 374 on 20 February to George Vasil. You see that?---Yes, sir.

10 And then if I can take you to 21 February. Item 401 shows that Mr Montague contacted your phone and the line was open for 19 seconds and that shortly after that you rang Mr Montague, this is item 402, and the line was open for two minutes and 25 seconds.---Yes, sir.

What happened in that contact?---21 February. What did I, I, I don't recall but it's likely that it was around the terms of my employment or something like that. That's the best, that's the best recollection I have, likelihood.

20 Item 403, five minutes later you rang George Vasil and the line was open for more than 12 minutes.---Yes, sir.

Reasonable to conclude, isn't it, that that call by you to George Vasil was instigated as a result of, initiated as a result of your conversation five minutes earlier with Jim Montague?---It's, it's likely.

Yes. You would have talked to George about what you and Mr Montague had talked about.---I, I, I can't discount that, no, yes.

30 Well, it's - - -?---Sorry, it's likely, sorry.

And there was another call at 7.22 for more than a minute by you to George Vasil. I'm sorry, thank you, 5.22. Do you see that?---Yes, sir.

And then further contacts between you and George Vasil that are items 408, 409 and 410 on that page in respect of around the middle of the day and then around 4 o'clock on 22 February. Do you see that?---Yes, sir.

40 And then still, and sorry, going now to 23 February, there's a call by you to George Vasil at 9.33. Do you see that?---Yes, sir.

And then Mr Montague contacted you by SMS and then there was an exchange of contacts by SMS between you and Mr Montague, items 415 to 418 inclusive. Do you see that?---Yes, sir.

What were those contacts with Mr Montague about?---I, I believe it was around the terms of my employment. I, I remember seeing the SMSs about, asking about, you know, vehicles and things like that. So, I'm, I'm not, I'm

assuming it was around that, the topic of my employment, or conditions I should say.

Now, do you remember that we saw that there were calendar entries that you had made for lunches with Marwan Chanine. The second one was for 12.00pm on 23 February, 2015. That's volume 25, page 138 if I made the right note. Do you recall that?---Yes, sir.

10 That lunch occurred, you've told us that.---Yes.

And Ziad Chanine was there as well, yes?---Yes, sir.

And you told them about where things were at in terms of commencing work as director of city planning, didn't you?---I, I think I said it, it's likely I would have said something, yes.

And Ziad Chanine and Marwan Chanine were pleased with that, is that correct?---I, I think that's fair.

20 And they weren't friends of yours, were they?---No, I think I've said that.

So their pleasure at the news that arrangements were being made for you to start as director of city planning would have been because of the impact that was going to have on their business, wouldn't it?---It, I, I, I can't think of any other reason, to be honest with you.

30 And I take it you didn't storm out of the lunch or have a falling out with them during that lunch?---No, it was only, from the best of my recollection it was only a very short meeting.

And then still on the 23rd but in the afternoon there's a contact between, at item 420, between George Vasil and Michael Hawatt at 1.03, but it's consistent with leaving a message, although there had been earlier a contact between George Vasil and Pierre Azzi at 12.37 which lasted for more than a minute. But at items 421 to 423, contacts firstly between you and George Vasil at 1.59, but it's consistent with you leaving a message. Do you see that?---Yes, sir.

40 And then you contacted Mr Montague by SMS at a minute past 2.00 and sent him another text very shortly thereafter. Do you see that?---Yes, sir.

Why did you seek to contact George Vasil in the first instance at item 421? ---I really don't know. I really can't remember, sir.

Are you able to assist us as to what is likely to have been the reason? ---No. No, sir.

Then why did you text Mr Montague at items 422 and 423?---Again all the texts between myself and Mr Montague had, was around my employment I believe.

THE COMMISSIONER: But what could you be discussing about your employment?---Well, there's a series that I was taken to of SMSs and I'm assuming that these are the SMSs.

10 That passed through my mind. If you look at volume 3, page 169?---Yes.

Do you see down the bottom you're talking about a particular car?---Yes.

Is that what you were thinking of?---Yes.

That was the year before, wasn't it?---No. Oh - - -

Isn't it 12 December?

20 MR PARARAJASINGHAM: What page, what page are you on, Commissioner?

THE COMMISSIONER: I'm sorry, Mr Pararajasingham.

MR BUCHANAN: 169.

THE COMMISSIONER: 169. From that date that seems when the offer was originally made to you and before there was an indication that it wasn't being honoured.---Yes.

30 Is that what you had in mind?---Yeah, they were the SMSs that I - - -

All right.---I don't remember having any other SMSs after that - - -

All right. But you - - -?--- - - - between myself and Mr Montague.

But clearly you did - - -?---Yeah.

- - - from the call charge records in February.---Yeah, for sure. I just don't remember.

40

MR BUCHANAN: The communications according to this analysis on page 11 with Mr Montague continued. At item 426 Mr Montague contacted you by SMS. Do you see that?---Yes.

And then item 428, George Vasil rang you and you spoke afterward for more than a minute with him.---Yes.

And then at item 432 Mr Vasil spoke with Mr Hawatt for 49 seconds at 7.54pm and at 7.56 he rang you and spoke with you for more than 9 minutes.---Yes, sir.

Did he tell you what Hawatt had said to him or did he convey to you anything about his prior conversation with Mr Hawatt?---Not that I can recall, I'm sorry.

10 There are then a series of contacts between George Vasil and Michael Hawatt, items 434 to 436. You see that?---Yes, sir.

And if I can go over, please, to page 12. Item 456 is a contact between Mr Vasil and you whereby he appears to leave a message. This is then on item 457, Mr Vasil contacts Mr Hawatt. Item 458, at 11.34, you contact Mr Vasil, the line's open for 37 seconds, and again at 2.01 the line's open for 24 seconds. Do you see that?---Yes, sir.

20 Still on 25 February, George Vasil, at item 464, contacts you at 7.07 and the line's open for more than a minute. You see that?---Yes, yes, sir.

And at item 466, Mr Vasil speaks with you on the phone for about 40 seconds. Do you see that?---Yes, sir.

Then the next day, 27 February, you contacted Mr Montague. The line was open – this is item 474 – the line was open for more than a minute.---Yes.

And then at 4.28pm, at item 480, Mr Vasil contacted you and you spoke for more than four minutes. Do you see that?---Yes, sir.

30 You then texted Mr Montague shortly after that, that's item 481, and Mr Montague texted you back at 482 and you texted him back at 483. You see that?---Sir.

And then on 28 February, Mr Vasil arguably left a message for you on your telephone at item 485, sent you a text shortly afterwards, item 486, and then you rang him at 8.26pm on 28 February, item 487, and spoke for almost a minute. Do you see that?---Yes, sir.

40 Now, someone else has done the counting, but the figure I've been given is that in the telephone contacts between you and Mr Vasil that are shown in this table, the line was open 78 times and there were six times in which you had SMS contact with Mr Vasil.---Right.

It seems an extraordinary degree of communication between you and Mr Vasil unless Mr Vasil was playing a very direct role in what was occurring in getting you employed as director of city planning. You'd agree with that?---Look, I, it's possible. I, I don't, I don't, it is, it is possible, yes.

But you're the one who had these communications with Mr Vasil. You don't recall Mr Vasil being actively, regularly and frequently involved in communications with you about what was happening with your contract?
---I, I do, like I said, but in general terms I know and I think I said before that it was a case where he certainly let me know in general terms what was happening behind the scenes, all right, in terms of who was in conflict with who and all these sorts of stuff. And, and it was all, it was all around my employment. I knew that.

10

Yes, but you know what I'm trying to find out. I'm trying to find out what about your employment and the events that were occurring, involving Mr Hawatt and Mr Azzi and Mr Montague, was it that you were being told by Mr Vasil.---Well, that here were concerns about my employment. Is that what, I'm trying to ascertain what your question is. Sorry, can you ask the question again, please?

20

You were being told by Mr Vasil about what was happening at council about your contract in the dispute between Hawatt and Azzi on the one hand and Montague on the other hand, in February 2015, weren't you?---Yes, sir. In general terms, yes, I was.

What do you mean, "In general terms"?---Well, I just can't remember - - -

You weren't being – I'm sorry. I apologise. I'll reframe the question.
---Sure.

30

Weren't you being told about specific things that had happened or were going to happen, so far as what you were being told by Mr Vasil was concerned?---I believe I was, but in terms of the content, as I sit here today, I just don't recall the actual specifics. As I said, I mean, it was, I knew from Mr Vasil that there were conflicts behind the scenes with councillors and Mr Montague but I, I, I don't know how else to answer that question in terms of, as I said I sit here, I'm not, if I honestly had a recollection of an specific phone conversation that I had with him about a particular event, I would tell you.

40

But the trend, the gist of what Mr Vasil was telling you.---Yes. Well, that there was, there was obviously an alignment, if you like, between certain councillors against the general manager. That was the gist of it.

I have no further questions for the witness.

THE COMMISSIONER: All right. Thank you, Mr Buchanan. Mr Moses.

MR MOSES: Yes, thank you. Mr Stavis, I'm going to be direct and ask you this question. Whilst you were the director of city planning at

Canterbury Council, were you the stooge of Councillor Hawatt?---I don't believe so, sir.

When you say you don't believe so, you're under oath, aren't you?---Yes, sir.

Yes. So, let's focus again on the question. Were you his stooge?---No.

10 No. You told Counsel Assisting this on 9 October, 2018, at transcript page 4363, lines 40 to 46, at the end of the day, you prioritised the unwritten KPIs of Messrs Khouri, Vasil, Montague, Hawatt and Azzi, of finding solutions for non-complying development proposals, over your expressed KPIs and you said, "Yes, yes, I accept that." Do you remember giving that evidence?---I do, sir, yes.

Why were you prioritising the wishes, let's start firstly, of Mr Khouri?---I, I don't think I was prioritising the wishes of Mr Khouri. He was an advocate for a number of applicants he was purporting to represent.

20 You said to Counsel Assisting you accepted the proposition that you prioritised the unwritten KPI, I'll direct it here, of Mr Khouri of finding solutions for non-complying development proposals, over your expressed KPIs. You gave that evidence on oath.---Sure.

Right. Why were you prioritising what he wanted over your expressed KPIs in your contract of employment? Do you have an answer to that?---No.

No.---Sorry.

30 And what about Mr Vasil? Why were you prioritising the unwritten KPIs of Mr Vasil of finding solutions for non-complying development proposals over your expressed KPIs?---I have no answer for that.

You don't have an answer.---Sorry.

Is it because you were doing their bidding because that is what you thought Councillors Hawatt and Azzi wanted you to do? Is that why? I mean let's be honest here. You're here to give evidence honestly.---Yeah, sure.

40 That's the truth, isn't it?---No, I don't believe so, sir.

You don't believe so. Okay. Well, do you have an explanation that you can provide to this Commission, and indeed the ratepayers of the council who were ultimately your employer, as to why you were prioritising the KPIs of two individuals who were not government officials? Do you have an explanation for that at all?---My explanation is that I was under instructions to progress applications that were brought to my attention by the general manager and a number of councillors.

Are you blaming Mr Montague?---I'm not blaming anyone, sir.

No.---It's a fact.

Well, who was giving you the directions?---Oh, well, a lot of cases it was, it was Mr Montague and also, you know, certainly had discussions with the council, those, Mr Hawatt and Mr Azzi.

10 You were taking directions from Councillor Hawatt, weren't you?---No, I wouldn't say I was taking directions from him, no.

No. And you were somebody who sought his guidance and advice on matters concerning planning. Is that right?---No, I think he, it was more of the reverse in that regard.

What, he would seek your guidance and advice?---Yeah.

Are you serious about that?---Yes, sir.

20

Okay. Well, let's take you then just to a text message because you may have forgotten about this. I just want to understand this. Commissioner, if the witness could be shown volume 5 of ICAC page 227. I'd like you to look at item 75 on the text message. Do you have that in front of you? ---Sorry, what page?

Page 227, volume 5.---Yes.

30 Text message 75. "Hi, Mike. Miss your advice, guidance, too much happening. When are you back?" Do you see that?

THE COMMISSIONER: Hold on, just let him get it.

MR MOSES: I apologise, Commissioner.

THE COMMISSIONER: Mr Stavis, it's at page 227 in volume 5.---Okay. Yes, sir.

40 MR MOSES: Do you have that?---Yes, sir.

So you were thanking, well, you were saying that you missed his advice or guidance, too much happening. What advice or guidance was he giving you on 21 April, 2016?---I believe that was in relation to the amalgamation that was happening.

Is that right? Okay.---I believe so, to the best of my recollection.

Was it about the extension of your contract?---It could be, sorry, it could be. I, I just don't remember the exact date.

Is this your position in your evidence to this Commission, that you're not willing to tell the truth about anything unless you're confronted with the document that says something to the opposite. Is that the position?---No, sir.

No?---No, sir.

10

Okay. Okay. Well, let's go through a few things and then we'll go through this the slow way perhaps. And I just want to remind you of a couple of matters. First of all, as a director of city planning was this your first position working for a government agency?---No.

No. And so therefore you understood as an employee of a local government that you had to act honestly and in good faith?---Yes, sir.

And you had to act in the interests of the council?---Yes, sir.

20

And the members of the community that you served?---Yes, sir.

And you were not to gain improper benefits for yourself?---Yes, sir.

You understood that, didn't you?---Yes.

Sorry, do you have – sir, you were hesitant. Did you have an understanding as an employee of a government agency that you were not to gain an improper benefit for yourself? Did you understand that?---Yes.

30

Not to misuse confidential information?---Yes.

To disclose potential conflicts of interest, you understood that?---I believe so, yes.

And, sir, you understood that when you were director of city planning, is that what you're agreeing to?---Yes.

40 And do you know what your duties were as director of city planning? Can you tell us what your duties were?---Well, obviously to adhere to the strategic plan of council and to, you know, oversee the department, planning department.

Well, can you go to volume 5 of the ICAC brief, page 165. It's schedule B to your contract. Do you have that there?---Yes, sir.

You're familiar with that?---Yes. I, I am but I just don't remember the contents in its entirety, but, yes, I am.

Well, that sets out the duties and functions of you as director of city planning, correct?---Yes, sir.

And it says there, doesn't it, that you reported to the general manager, correct?---That's right.

You did not report to Mr Vasil, did you?---No, sir.

10 That was not part of your duties, was it?---No, sir.

You did not report to Mr Khouri. That was not part of your duties, was it? ---No, sir.

And you did not report to Mr Hawatt. That was not part of your duties, was it?---It, it was not part of my duties but it was made clear to me from the general manager that we had to service these councils.

20 Did Mr Montague tell you that it was okay to go behind his back or around him as the general manager and deal directly with Councillor Hawatt?---No, sir.

Did he tell you that?---No.

No.---I don't remember him saying that.

And what about Mr Azzi? Did he tell you it was okay for you to go behind his back and deal directly with Mr Azzi?---Not - - -

30 THE COMMISSIONER: No, Mr – sorry, sorry - - -

MR MOSES: No, did Mr Montague – I apologise, Commissioner.---No.

No. But you did, didn't you?---On occasions probably, yes.

And you also had dealings directly with Mr Khouri, correct?---Yes, sir.

40 And Mr Vasil, correct?---Yes, but in the, in, in the case, well, Mr Khouri and Mr Vasil, the majority of the times it was in relation to applications that were currently before council, and there were others generally present.

Applications that they had an interest in?---Yes. Oh, I'm not sure if Mr Khouri had an interest in, but - - -

No. Applications that he was advocating on someone's behalf on. ---Correct.

Was he a lobbyist?---It appeared to me that way, yes.

And what about Mr Vasil? In what capacity were you discussing matters with him whilst director of city planning? What did you think he was?
---Well, he was a real estate agent who on occasion put applications into council as well.

You were not accountable to them, were you?---No, sir.

10 No. You were accountable to the general manager.---Yes, sir.

And through him the ratepayers, correct?---That's right, sir.

Now, this issue of you obtaining a benefit, an improper benefit, for yourself as director of city planning, Counsel Assisting has asked you a number of questions concerning Ridgewell Street, correct?---Yes, sir.

20 You told us initially that you did not consider that you had a pecuniary interest in relation to that property because you were not the owner, correct?---Um - - -

Do you remember giving that evidence?---I do, yes.

And that was false evidence, wasn't it?---I, I think I corrected myself after.

You knew you had a pecuniary interest in that property, correct?---No, I, I, I, the thought did not occur to me at the time, as I've already explained.

That you had a pecuniary interest?---Yes.

30 Well, I'm going to show you a document. In a disclosure of interests return of 10 April, 2015 I want to show you something that you signed under your name.---Sure.

I just want to you see if you can explain that that was not in your mind. So this was sent to the solicitor for ICAC that we foreshadowed that we would use this document.

MR BUCHANAN: That's correct, Commissioner.

40 MR MOSES: Thank you.

MR BUCHANAN: And I can foreshadow tendering it. I don't know whether it's convenient to tender it now. It's not to foreclose further questions by my learned friend, but just so that – in my submission it is relevant and it would be appropriate for it to be received into evidence.

THE COMMISSIONER: Yes, I agree with that. Mr Moses, this is - - -

MR MOSES: A disclosure of interest return, dated 28 August, 2015, by – I apologise.

THE COMMISSIONER: I've got one - - -

MR MOSES: Just bear with me,

THE COMMISSIONER: - - - dated 10 April.

10 MR MOSES: I've given you the wrong one. Thank you, there are multiple copies, thank you. There are multiple returns, I'm being reminded by my learned – yes, thank you.

THE COMMISSIONER: And Mr Moses, are you tendering all of them?

MR MOSES: I am, thank you.

THE COMMISSIONER: All right. Now - - -

20 MR BUCHANAN: There are three, I understand, Commissioner.

MR MOSES: Thank you, Commissioner. Okay, so they're gone in like this. Okay, I understand, Thank you.

THE COMMISSIONER: Now, may I confirm, Mr Moses, they're dated 10 August, 2015, 28 August, 2015 and 23 August, 2016?

MR MOSES: That is correct.

30 MR PARARAJASINGHAM: I've only got something dated 28 August.

THE COMMISSIONER: Yes. I think we're all a wee bit confused. Mr Stavis, may I enquire, what document have you got?---One that I have signed on 10 April, 2015.

All right. Now, Mr Buchanan, you're tendering all three of those?

MR BUCHANAN: I'll tender you all three, but we do need obviously to identify them properly and I'm happy to tender them - - -

40

MR MOSES: I've got them now.

MR BUCHANAN: - - - separately if that will assist.

MR MOSES: I've got them now.

THE COMMISSIONER: I think we might have the correct bundle now.

MR BUCHANAN: Perhaps, and Commissioner, I apologise. This is just for administrative reasons, but a notice was given to us by a counsel of these and so they have been entered into property at the Commission and as separate documents. It might be convenient if they're separately marked.

THE COMMISSIONER: All right.

MR BUCHANAN: Perhaps in chronological order. I apologise for that.

10 THE COMMISSIONER: Now, sorry, just for a second. I've got a complete set, all right. Now, so, Mr Buchanan, you're tendering under the Local Government Act, a disclosure of interest return for Mr Stavis, dated 10 April, 2015.

MR BUCHANAN: In the first instance.

THE COMMISSIONER: That will be Exhibit 234.

20 **#EXH-234 – DISCLOSURE OF INTERESTS RETURN SIGNED BY SPIRO STAVIS ON 10 APRIL 2015**

THE COMMISSIONER: And then Mr Buchanan, another disclosure of interest return under the Local Government Act for Mr Stavis, signed 28 August 2015.

MR BUCHANAN: Thank you, Commissioner,

30 THE COMMISSIONER: That will be Exhibit 235

#EXH-235 – DISCLOSURE OF INTERESTS RETURN SIGNED BY SPIRO STAVIS ON 28 AUGUST 2015

THE COMMISSIONER: And then a final disclosure of interest return under the Local Government Act by Mr Stavis, signed on 23 August, 2016 as Exhibit 236.

40

#EXH-236 – DISCLOSURE OF INTERESTS RETURN SIGNED BY SPIRO STAVIS ON 23 AUGUST 2015

MR BUCHANAN: Thank you, Commissioner.

THE COMMISSIONER: Now, can I just confirm, Mr Stavis, do you have copies of all three in front of you?---Yes, Commissioner.

And Mr Pararajasingham, have you got a copy of those three?

MR PARARAJASINGHAM: I do now, thank you.

THE COMMISSIONER: Right.

10 MR MOSES: I apologise for the chaos I forced onto the Commissioner with that. Mr Stavis, so do you accept that in relation to documents that you signed, these documents concerning your interests, you had noted that you had an interest in relation to your home property, correct?---Yes, sir, I do.

And do you accept that you had a pecuniary interest in relation to the development application concerning the neighbouring property?---Um - - -

Do you accept that?---Sorry, I don't understand the question. Could you ask the question again?

20

Do you accept that you had an interest in the outcome of the development application for the property next door?---I do accept that and I explained myself, I wasn't thinking straight and that's - - -

You weren't thinking straight?---No, sir.

THE COMMISSIONER: Sorry, you weren't thinking straight at the time? ---Yes, at the time.

30 MR MOSES: You weren't thinking straight at the time of what?---In relation to my role and responsibilities as a director, a person, a person who resided at the premises, as a - - -

Well, can I just ask, okay, well, can I just ask that you go to volume 31 of the ICAC brief, page 374.

MR BUCHANAN: I think that's Exhibit 233.

MR MOSES: Thank you. Page 374.

40

MR BUCHANAN: 232, I apologise.

MR MOSES: Volume 31, page 374. When you have that - - -?---Sorry, what page number was it?

Page 374. Do you have that?---Hang on.

Yes?---Not yet.

Okay.---Now I do, yes.

Okay. You've signed this document. You said these plans are subject to strict compliance with the Building Code of Australian Environmental Planning and Assessment Act Regulation, and you signed them, Spiro Stavis, director of city planning.---No, I didn't sign it, that is a, that's an electronic signature I - - -

10 Is it an electronic signature?---I believe so.

THE COMMISSIONER: Sorry, let him finish.

MR MOSES: Thank you, Commissioner.

THE WITNESS: Well, I believe so. I could be wrong but, "Per AH."

MR MOSES: Mmm.---Yeah, Andrew Hargreaves.

20 Okay. So does that have you signing off on this though?---Well - - -

I'm just trying to understand it.---Ordinarily that was the practice with the stamp. I mean Mr Montague, for example, never signed any of the plans.

Mmm. So the reason I'm asking you this question is this. You knew, didn't you, under the IHAP policy that any applications that had to be, that related to matters concerning a council officer or a councillor had to go to IHAP. Correct?---At some stage it became evident to me, yes.

30 But yet this one didn't. Correct?---Correct, sir.

And can you explain why that did not happen, sir?---Well, I thought I had already did that but the reason was because the effect was that I withdrew, we withdrew the objection so then automatically happens that it goes to under delegation.

You withdrew the objection.---As, as, my wife and I, yes.

40 The reason why the objection was withdrawn was because the neighbour built the wall which you wanted. Correct?---No, addressed the issues of privacy that we had, yes.

Okay. Okay. That's your evidence?---Yes, sir.

Okay. So I just want to be clear because we'll have to make some submissions about this to the Commissioner. Are you suggesting as you sit here in the witness box today that this application should not have gone to IHAP?---No, sir, I didn't say that at all.

Okay. So do you accept that this was a matter that should not have been dealt with by your subordinates, do you accept that?---I do, sir.

Yes. And you don't have an explanation, do you, as to why this occurred other than you weren't thinking, is that correct?---Yes.

MR PARARAJASINGHAM: I object. Commissioner, we've covered this ground. We spent most of yesterday on this very topic.

10

MR MOSES: I'm moving on, Commissioner. I think the witness answered the question.

MR PARARAJASINGHAM: No, I'm not sure he did.

MR MOSES: The witness answered the question. The record will show the witness answered the question.

20

THE COMMISSIONER: My note was that you put to him that it should not have been dealt with by subordinates and that Mr Stavis agreed with that proposition.

MR MOSES: That's correct.

THE COMMISSIONER: Is that the end of your questioning on this particular topic, Mr Moses?

30

MR MOSES: There was another question, Commissioner, about me asking the witness in relation to the matter that he didn't have an explanation for why that occurred.

THE COMMISSIONER: And I'm sorry, I don't have a note of that.

MR MOSES: And then I was moving on.

THE COMMISSIONER: You'll move on. Okay.

40

MR MOSES: Now, can I just go back, if I can, to your contract of employment with the council, just so that we understand the processes that were in place, okay? As a director of city planning, you were aware that you were bound by the obligations in the Local Government Act?---Yes, sir.

And you understood under section 439 of that Act – if you want we can show it to you – that every councillor, member of staff of the council and delegate of the council must act honestly and exercise a reasonable degree of care and diligence in carrying out his or her functions under this or any other Act? You understood that?---I'm not, I'm not sure about the specific section but I understand the principle of that, yes.

And you understood that under section 440 of the Act that you were required to comply with the code of conduct?---Yes, sir.

And your contract of employment specifically made reference to the fact that you were required to comply with the code of conduct?---I believe so.

10 And you were trained in the code of conduct. You've told us that in evidence. That's page 3302 of the transcript at line 35. That was 26 July, 2018. And the code of conduct, can I ask that the witness be shown that. It's volume 2 of the ICAC brief, page 202. You've seen that document before, haven't you?---Sorry, what page is it on?

That was page 202. You've seen that document before?---Hang on, sir. It's likely that I did, sir, yes.

No, sorry, you went to training in respect of the code of conduct. Did you read it?---I think I've already given - - -

20 Did you read it - - -?---Sorry.

- - - back in 2015?---I think I gave evidence that I, it's more than likely I skimmed through it. Didn't read it in detail.

30 So, well, what you told Counsel Assisting back on 26 July at page 3304, at line 16, he asked you the question whether you always adhered to the requirements of the Canterbury City Council code of conduct, and your response was, "I haven't read it, but I'd say so." Do you remember giving that evidence to Counsel Assisting?---Yes, yes, sir.

Well, I just want to understand. As the director of city planning, director of planning, you went to code of conduct training, correct?---Yes.

Yes?---Yes.

Okay. Are you suggesting you have not read, you did not read the code of conduct when you were director of planning?---No, I'm saying I don't remember reading every little line of it.

40 So you can recall reading it?---As I said before, I said that I probably skimmed through it. I don't remember exactly. I mean, it was a long time ago.

Can you go to page 202 for me? Sorry, page 210.---Yes, sir.

It sets out there the purpose of the code of conduct. Do you see that? ---Yes, sir.

One of it is to enable.

MR PARARAJASINGHAM: Sorry, can we just get this on screen?

MR MOSES: Page 210, I'm sorry.

THE COMMISSIONER: We just need to - - -

10 MR MOSES: I apologise. This'll be the last point, Commissioner, because I note the time. I should inform the Commission, I have no more than 25 minutes to go in terms of questions.

THE COMMISSIONER: All right, thank you, Mr Moses.

MR MOSES: Just so the Commissioner knows, it's the second dot point. Do you want to read that to yourself?---Yes, sir.

Have you done that?---Yes, sir.

20 If you go to page 211, what it states there is this, "You act honestly if you act in good faith with no ulterior or improper purpose." Do you see that? ---Yes, sir.

"A breach of the obligation to act honestly involves a consciousness that what is being done is not in the interest of council or the community or both, and deliberate conduct in disregard of that knowledge. Honesty is more than the absence of dishonesty. Anything that is not a fact or not in accordance of the facts is dishonest." Do you see that?---Yes, sir.

30 So did you understand whilst you were director of planning that you had a duty to act honestly. Did you understand that?---Yes, sir.

And did you understand whilst you were director that you had to act in good faith with no ulterior or improper purpose?---Yes, sir.

40 Do you accept, sitting here today, without us having to go through the facts as put forward by Counsel Assisting, because he's given you a very fair opportunity, do you accept that in relation to your role as director there were times when you did not comply with your obligation to act honestly? Do you accept that, sitting here today?---No, no, I don't.

You don't. I note the time, Commissioner,

THE COMMISSIONER: All right. Just before we adjourn, I'm going to ask other counsel the question they probably hate. After Mr Moses is finished, I believe we're turning to Mr Andronos.

MR ANDRONOS: Yes, Commissioner.

THE COMMISSIONER: Can you give me just a rough indication? I won't keep you to it.

MR ANDRONOS: Commissioner, I am not a good estimator, although I am probably not the worst person in this room.

MR MOSES: Don't pick on Mr Buchanan.

10 MR ANDRONOS: I'm not picking on anyone. Commissioner, at the moment, I'm expecting if I, as I expect to start this afternoon, I could finish tomorrow. Perhaps at the end of the day I could revisit this with my friends and see what sort of progress I'm making. I may go into Monday.

THE COMMISSIONER: All right.

MR ANDRONOS: But it all depends on the progress we make and also there's – some of what I had intended to be addressed has already been addressed by my friend Mr Buchanan this morning, so that might shorten
20 my cross-examination. Just one question, I know we're into lunchtime now, but one thing appeared, looking at the Exhibit 233. A lot of questions were addressed to the witness on the basis that when the line is open, when the line was open for a short time that that was indicative of a message being left, but just because of the way the document is copied, if one goes to the very last page – and I raise this because it doesn't affect my client – but one sees the entries 453, 454, some communication between Mr Hawatt and Mr Vasil, and my question really is addressed to the second-last column, the duration column, and this might be something that the Commission
30 solicitors could address over lunchtime, the duration, which as my friend has put is the time the line is open, it's not clear to me and it appears unlikely to me that that is actually a message being left, but that would include the voicemail message that the recipient has left.

THE COMMISSIONER: Right.

MR ANDRONOS: If one looks at these two, there's a message which goes from Mr, or there's a call from Mr Hawatt to Mr Vasil which runs for 6 seconds from 7.10pm and 14 seconds. But then, before that concludes, Mr Vasil is recorded as recording, as calling Mr Hawatt one second before that
40 concludes, for 4 seconds. Now, I don't put this forward as evidence, but common experience would indicate if one person tries to call another and misses them or gets an engaged signal and the second person tries to call back the first one but the first one is still on the phone leaving a message for the second one, and so that might, that's recorded there as two separate communications. It might be nothing more than an exchange of missed calls. Now, the way in which, this might not be able to be resolved as a matter of evidence, certainly not while I'm on my feet, but perhaps the Commission staff could find out or clarify whether or not the duration

column includes the time of the voicemail recording being played to the caller, and that might give some clarity on this issue.

THE COMMISSIONER: All right, Mr Andronos, we'll take that on board. Mr Neil?

MR NEIL: I would think plus or minus half a day, Commissioner.

10 THE COMMISSIONER: Half a day.

MR NEIL: Yes.

THE COMMISSIONER: All right.

MR NEIL: Yes, roughly. I should not imagine I'd take up to a day.

THE COMMISSIONER: All right. Now, where are we up to. Mr O'Gorman-Hughes?

20 MR O'GORMAN-HUGHES: I don't at this stage anticipate any questions, Commissioner.

THE COMMISSIONER: Thank you. Mr Drewett?

MR DREWETT: Commissioner, I'll be less than one hour, I would have thought.

THE COMMISSIONER: Okay.

30 MR DREWETT: Assuming that certain matters on a Browne v Dunn point are put by other counsel, which I expect they will be, I think I'll be less than one hour.

THE COMMISSIONER: All right. And Mr Pullinger?

MR PULLINGER: Commissioner, I don't anticipate being any longer than Mr Drewett, so we'll see how he - - -

40 THE COMMISSIONER: I'm having difficulties hearing you, sorry.

MR PULLINGER: I don't anticipate that I'd be any longer than Mr Drewett.

THE COMMISSIONER: Okay. All right. Look, that's just helpful for scheduling matters for next week. We'll take the lunch break and we'll resume at 5 minutes past 2.00.

LUNCHEON ADJOURNMENT

[1.07pm]