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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 MONDAY 15 OCTOBER, 2018

AT 9.30AM

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

MR BUCHANAN: No administration this morning.

THE COMMISSIONER: Right, Mr Stavis.

THE COMMISSIONER: Right, Mr Andronos.

MR ANDRONOS: Thank you, Commissioner. Mr Stavis, you've given some evidence in the Commission about a meeting that took place between Mr Montague and the three directors of the council. You know which meeting I'm referring to, don't you?---Yes, sir.

10

Just so it's clear for anybody reading the transcript later, this is a meeting at which your recollection is Mr Montague said words to the effect, in relation to some councillors, "Anything these guys want, you give them." That's the meeting I'm talking about.---Yes, sir.

Do you recall that?---(No Audible Reply)

Yes. Now, the people who were present at that meeting were Mr Montague and the three directors at the time, is that correct?---I, I believe so, and his, his PA as well, I think from memory.

20

His PA as well?---Yeah.

And do you recall how far into your tenure this meeting took place? Was it early? Was it late? Can you not exactly tell where?---I get, I believe I was there for a, a fair bit, so probably halfway.

About halfway?---Yeah.

So, would somewhere around the September/October/November 2015 range sound about right to you?---Yeah, probably, yeah.

30

Now, the actual circumstances in which the words you recall were spoken, were these, weren't they, that Mr Sammut had failed to provide some information to a councillor and Mr Montague was making a general point to all the directors in relation to that, is that correct?---I, I do believe that there was an issue with Mr Sammut and his responsibilities and not being able to provide information. Yeah, so yes.

And do you recall who the councillors were who Mr Sammut had been required to provide information to?---I believe on that occasion it may have been Mr Azzi, from memory.

40

THE COMMISSIONER: Can I just ask, the question you were asked, Mr Sammut failed to provide information to a councillor or councillors and Mr Montague, I'm sorry, what was it, was making a point about that?

MR ANDRONOS: Yes.

THE COMMISSIONER: Do you agree with that second proposition that was in that question?---Yes but it flowed on from that after, yep.

MR ANDRONOS: Are you sure that it was Mr Azzi or are you not entirely sure who it was?---No, I, it was, I believe it was Mr Azzi who made some enquiries. Yeah.

10 And when you said a moment ago, "It flowed on from that," is that a reference to the inference you drew about what Mr Montague must have meant in that meeting or something else?---No, it was something else. He went on to say that, "Look, whatever these guys," and he was referring to Mr Hawatt and Mr Azzi, you know, "You need to ensure that you provide the information in a timely manner." And it was in that context that he said I believe words to the effect of, "Look, if it's a, if there are 50/50 propositions with them, just give them what they need." In that sort of context.

20 Okay. Now, this is in the context of Mr Sammut providing information. Is that correct?---But then it flowed on, the conversation flowed on to just general servicing of councillors from that, yeah.

But are you sure that the conversation about 50/50 propositions came up in that context or that it came up in a different meeting in a different context? ---Look, my best recollection as I sit here today was that it came in in that context, in that meeting.

30 Is this a new recollection for you, Mr Stavis, or has this been your recollection all along?---I believe it's been consistent all along, yes.

All right. Do you recall what the information was that Mr Sammut had been asked to provide?---No, sir.

If he had been asked to provide information to Mr Azzi, what is it that makes you believe in your recollection that Mr Montague had directed that comment to Mr Azzi and to Mr Hawatt as well?---I, I just distinctly remember him saying it in, in context of servicing in particular those two councillors.

40 Well, the words you used, Mr Stavis, were, "These guys," in your account that you gave to the Commission earlier. On what basis did you understand, "These guys," to mean those councillors and nobody else?---Because it was generally those two councillors that were the ones who had, were making most of the noise, so to speak, or inquiries I should say.

Yes. And that's true across all portfolios, is it?---Yeah, pretty much, yes, sir.

Is this a correct statement of the position, that in relation to finance and governance and city works for example, those two councillors were the most active in seeking information from the directors?---In, in, in the, yes, I believe so, just generally, as best I can recall.

10 Okay. Now, Mr Stavis, I suggest to you that when that meeting took place, the only matter that was before the meeting at the time Mr Montague said any words to the effect that you recall was the provision of information by Mr Sammut to a councillor. Do you agree with that?---I, I, I think initially it started that way, yes, and then like I said earlier, it just flowed on conversation after that.

Yes. But it was general conversation amongst all the directors and Mr Montague. That's correct, isn't it?---Correct, correct, sir.

And Mr Montague didn't say anything at that meeting to the effect that if you don't comply your job is at stake, did he?---No, sir, no.

20 He didn't say anything at that meeting to give you the impression that that's what he was talking about, did he?---No, sir.

Mr Stavis, can we now please turn to a different matter, and this is the proposed development at Homer Street.---Yes, sir.

Or the planning proposal for Homer Street. Now, when you arrived at council in March, 2015, this was one of the matters that was already on foot, that's right, isn't it?---That's correct. Yes.

30 I wonder if Mr Stavis could be provided with volume 9 of the bundle. Mr Stavis, could you please turn to page 96.---Yes, sir.

You'll see, Mr Stavis, there are two emails there, both dated 6 March. The one at the bottom half of the page, there are some question marks where the sender is identified but if you go to the top of the page, you'll see that those question marks probably reflect the fact that the original contained Cyrillic rather than Roman script and so the word there is probably Costaki Vasiliades. Do you agree with that?---Yeah, I believe so, yes.

40 Because the response is addressed to somebody with that name, with a combination of Roman and Cyrillic script?---That's right.

Now, this exchange of emails occurred shortly after your arrival at council, that's correct, isn't it?---Yes, sir.

And you'll see from the email in the bottom half of the page, the one that commences, "Hi Spiro", in the first line of text it suggests that you and the author had met the previous night at the club, you see that?---Yes, sir.

And that reflects your recollection that on the Thursday night you participated in a meeting at Canterbury Leagues Club with some councillors and Mr Montague?---Yes, sir.

Now, do you recall if the project at 15-23 Homer Street, Earlwood had been discussed the previous evening?---No, sir. I don't believe it was.

Is that because your recollection was that specific developments were not discussed on that occasion?---That's correct, sir.

10

Now, you see the email refers specifically to 15-23 Homer Street.---Yes.

And says in the third paragraph of text, and I'll just read it out onto the transcript, "In respect of 15-23 Homer Street, Earlwood, the clear intention of the councillors was as per the proposed motion on 26 February, 2015, unit number 15/15, and not 17-metre height limit throughout the site." You see that?---Yes, sir.

20

Does that reflect your recollection that the issue that was exercising the mind of councillors at the time was that council had intended to approve a 17-metre height limit on that site but stepping down?

MR BUCHANAN: I object, only to ask, could the question be, is my friend referring to councillors as comprising the whole council or is he referring to specific councillors?

30

MR ANDRONOS: Sorry, I'll withdraw it. I won't put it in terms of council's intention but the resolution. Do you recall that there had been a resolution in terms of 17 metres across the entire site? Do you recall that? ---I remember 17 metres but I just can't remember, as I sit here today, whether it involved across the whole site.

But do you remember some discussion early on in your tenure about amending that resolution so that it wasn't 17 metres across the site but stepping down?---I, I remember, yeah, yes.

40

Yes. If you go down to the fifth paragraph in the email to you of 11.06am, the author writes, "I was one of the councillor who voted in support for this item on 13 November, 2015, and I request that you discuss this matter with the general manager and Gillian to ensure that the outcome of this planning proposal is not 17-metre height throughout the site, but as per the draft resolution of 26 February, 2015. A 17-metre height throughout the site would be appropriate in this location," but I think it's probably meant to say would not be appropriate in this location, but I'll leave it with you with those two possibilities.

THE COMMISSIONER: I think when we heard from Councillor Vasiliades he agreed that "not" should have been inserted.

MR ANDRONOS: Yes, but the witness wasn't present for that so, when it was put in those terms. So you see that. Gillian means Gillian Dawson. Correct?---That's, that's right, yes.

And do you recall if this is the first occasion on which this issue was brought to your attention?---It, it was pretty close to it, yes.

10 Yes.---I just can't remember if this was the first time, but I mean given the date it's likely that it was.

It's likely that it was.---Yeah, yeah.

And it came to your attention, do you recall this, because the councillors themselves were concerned about the content of the resolution. Do you recall that?

20 MR BUCHANAN: I object. Is my friend referring to the email, is my friend referring to the issue aside from the email?

MR ANDRONOS: I can accommodate my friend's objection. Do you recall any other communications from anyone about this site prior to receiving this email?---As I sit here today, no.

No. It's likely, isn't it, that as a result of this email and in accordance with the requests in the paragraph I just read you, you then approached the general manager to discuss this site?---It's possible, sir, yes, it is.

30 Is it likely in your view that the first communication you had with the general manager in relation to this site followed after this email?---I think that's likely.

Yes.---Yes.

Thank you. That's all I have to ask about that volume and about that development, Mr Stavis. Can we turn now to the Doorsmart project. ---Yes.

40 212-220 Canterbury Road.---Yes, sir.

Do you recall that on the same day that you had this exchange with Mr Vasiliades you had a meeting with members of your staff and Ziad Chanine? Do you recall that?---Not really, sir, sorry.

Perhaps if Mr Stavis could be provided with volume 25 of the bundle. At page 139 is an email which I'll just ask you about.---Yes, sir, I've got it.

Do you see that, Mr Stavis?---Yep.

You see that's an email headed Pre-meeting Ziad Chanine?---Yes, sir.

And it's addressed to Mr Gouvatsos, Jade Sheaperd, could you say who Jade Sheaperd is?---She was a town planner on my staff at the time.

Going through the addressees, it was addressed to yourself and to Stephen Pratt, who was also on the town planning staff, is that correct?---Yes, sir.

10 Do you recall if a meeting took place with Ziad Chanine on or about that day?---No, I don't, sorry.

Do you recall meeting with Ziad Chanine shortly after commencing your role at Canterbury Council?---In relation to this matter or just in general?

In general.---I can't recall exactly when it was but it, it's likely that it was, you know, sometime early in my tenure I guess but I just can't remember if, if I met him on that day.

20 Do you recall a meeting with Mr Chanine, Ziad Chanine at which you were accompanied by the addressees of this email?---No, sir. Not really.

Thank you, Mr Stavis. Thank you, Commissioner. They are my questions.

THE COMMISSIONER: Thanks, Mr Andronos. Mr Neil.

MR NEIL: Yeah, thank you, Commissioner. Mr Stavis, I appear for Mr George Vasil. Do you understand that?---Yes, sir.

30 Now, you've had a long time in the witness box. I'm going to ask you some questions about your memory amongst other things. Do you understand that?---Yes, sir.

And I think you've told the Commission earlier that you have read both evidence in this Commission hearing and have attended and heard evidence and you've also read exhibits and documentary evidence in the Commission hearing, correct?---Yes, sir, but not, not everything but - - -

No.---Yes.

40

Can we take it you've read materials that you'd consider have been relevant to your own evidence?---I believe so, yes.

And I want to put to you something broad before I go into some detail, and I'm not going to cover extensive ground that my learned friend, Counsel Assisting, has covered or other questioners, but you've agreed with Counsel Assisting that, at least in respect of some of your evidence, the options for

the description of evidence you've given of what people have said could include exactly what they said to you, that's one thing, correct?---Yes.

Or that some person you're discussing in evidence may have said nothing on a particular topic, correct?---I don't recall that bit of it, sorry.

10 Well, I won't take you through the transcription. We can come to that in submissions. Or you've given evidence of a popular expression of what you understood a person to have said to you?---I'm not sure I understand the question in reference to popular expression, sorry.

Well, we might come back to that. Do you remember the phrase being used about that you had a proclivity to ingratiate yourself with people?---Yes, sir.

Did you understand that meaning to sometimes give the answer to a question that you thought the questioner was seeking?---Yeah, if they ask me a question, then I'd answer it to the best of my ability, yes.

20 MR BUCHANAN: I appreciate I didn't take the point before the question was answered, but would my learned friend care to just clarify whether the witness understands whether his answer was in respect of his testimony in the Commission or his - - -

THE COMMISSIONER: During his employment and just before that at the council. Would you clarify that Mr Neil?

30 MR NEIL: I'm asking about evidence here. Have you given evidence at times, in answer to questions have you – in order to ingratiate yourself with the questioner – given answers you thought the questioner was seeking to hear?---I don't believe so, no, sir.

Have you told lies in this Commission?---No, sir.

Now, I'm not going to take you through all of them, but do you accept that there are numerous occasions in this Commission where you've changed your evidence from one occasion in the hearing to another occasion?
---There have been occasions, I believe, yes.

40 And do you accept that there have been occasions when you've given evidence in these proceedings different from evidence you gave in private hearings that have been read out to you?---Yes, sir.

And do you also accept that there's evidence that's been given by other witnesses that has been different to your evidence in material matters? And I'll come to some of them in due course.---Sure. Yes.

Would you accept that if it can be shown you were wrong on some matter, and if one assumes you weren't lying, then your memory must have been faulty? Do you accept that?

THE COMMISSIONER: Sorry, can you put that again, Mr Neil?

MR NEIL: If it can be shown that something you've said in evidence is wrong and if you're not lying, then your memory must have been faulty on the matter.---It's possible, yes.

10

Or unreliable. Would you accept?---Oh, I mean, I've tried to answer in the best of what I recall each and every time, but - - -

When were you first asked by anybody to recall the events of late October 2014 and the first two or three months of October 2015? Was it ICAC investigators? I don't want to ask the questions that you were asked, but when was that?---Sorry, can you repeat the question, sorry?

20

When were you first asked to recall the events of late 2014 and early 2015? ---Probably during the investigation, I guess.

And what's your best recollection as to how long after the period of late 2014/early 2015 was that?---I couldn't tell you. I'm sorry.

It'd be quite some months, if not a year or more, agreed?---It would have been, yes.

And can we take it that once you were appointed to your job, you got on with your job?---Yes, sir.

30

You were very busy.---That's correct.

You weren't thinking back to what happened at the Earlwood café, at Salvatores, were you?---Not, no.

No. Now, just to go through a little of the timeline of the occasions that you were involved with Mr George Vasil.---Yes, sir.

40

Not exclusively, just the main matters. It commenced, did it not, with a telephone call between you and Mr Katris, correct?---That, I don't believe that had any dealings with Mr Vasil, though.

But it led to it.---Correct. Yes.

And I'll come back to the detail of that in a while. There was then a telephone conversation between you and Mr Vasil, correct?---Yes, sir.

There was a meeting at Earlwood at about 25 October, give or take. It might have been the 26th.---It was around that period, yes.

You lodged your application, dated 25 October, 2015 – which should have been 25 October, 2014 – no later than Monday, 27 October because that was the closing date, correct?---Yes, sir.

You had some phone calls with Mr Vasil shortly thereafter, correct?---I believe so, yes.

10

I'm going to suggest to you in due course that Exhibit 60 of phone calls shows that your last discussion with Mr Vasil before he went overseas was 30 October in those charge records. Do you accept that? I can take you to it.---I, I - - -

All right. We'll come back to it. Did you know that Mr Vasil was overseas from about 6 November to about the 2nd or 4th, one or the other, of December?---I'm not sure, sorry.

20 You had no contact with him I suggest while he was overseas. Would you accept that?---I accept that.

And you had it would appear some sparse contact with him before you went to see him on or about 18 or 19 December or maybe the 20th or 21st?---We, we had, we, we were in contact with each other, yes, around that period.

Yes. But during that period you understood that you had been offered the position because you were offered the position about 8 December?---Yes.

30 And it was a dream job.---It was, yes.

Yes. And can we take it shortly after 18 December you received that very terse, brusque letter from the solicitor for the council saying you were not going to be appointed. Correct?---I'm not sure if it was a letter from, from the solicitor themselves, the council solicitor - - -

Mr Belling.---Sorry?

Mr Belling.---Yes.

40

Yeah.---But I - - -

Did you ever get that letter?---I just can't remember off the top of my head but I remember the first correspondence was with Mr Montague actually.

Well, one of your complaints as I understand it was you weren't given any reasons - - -?---Correct.

- - - for the change.---Correct.

And, and, I'd suggest to you that a fair reading of Mr Belling's letter doesn't give you any reasons. You've seen the letter, haven't you?---I have since seen it, yes.

So you went to see Mr George Vasil for emotional support. Correct?---That would be fair.

10 Yes. And you've told the Commission it was for emotional support and not strategic support. Correct?---Correct, yes.

Because he was a person who you had thought had been considerate to you when you had sought information from him in respect of your application?
---Yes, sir.

And you sought him out because you thought he might be able to throw some light on the matter or simply to help you through what was a very difficult position?---I agree with that.

20

The latter?---A bit of both actually.

All right. But it was in the context of you having been devastated at the news that the dream job had been taken away from you. Correct?---Yes, sir.

And Mr Vasil gave you such assistance as taking you to see a local solicitor. Correct?---Yes, sir.

30 Who gave you some more or less preliminary advice about offers of acceptance and referred you to an employment lawyer?---He did, yes.

Yes. Mr Vasil also put you in touch with the union, isn't that right?
---I'm not sure if he did or I, I, I believe that the union rep actually rang me out of his own accord.

Well, didn't Mr Vasil at least suggest you go to the union?---It's possible, yes, it is possible.

40 And can we take it this, you didn't go to see Mr Vasil for emotional support as part of any corrupt process, did you?---No, sir.

Certainly not. Now, you did, did you not, at some stage give to Mr Vasil a copy of the offer of employment letter of 8 December. Is that right?
---I believe I did, yes.

Did you give it to him when you went to see him after you'd lost the position?---I think so, yes.

All right. And did he, as far as you can recall, show that letter to the solicitor he took you to?---Yes, sir.

All right. Now, would it be fair to say when you went to see Mr Vasil after you learned the job had been taken away from you, that you were very distraught?---Yes.

Yes. You'd burned your bridges with your previous job, correct?---That's right, sir.

10

Now, did you, I think it's clear, we'll find the reference if we need to, but you received a phone call from Mr Montague on Christmas Eve, correct?---I believe so, yes.

And the effect being that he wanted to open some communication with you about possibly keeping the job, but he said he'd get back to you, but he didn't?---That's correct.

20

Did you understand that he was making that call from the office of Mr George Vasil?---That I'm not sure, sir.

Did you not have any awareness that Mr Montague at some stage had gone himself to seek the assistance of Mr Vasil?---In all honesty, I can't remember that part of it.

But there doesn't seem to be any doubt that Mr Montague did go to see Mr Vasil. And so we've got this situation, I want to put to you, you and Mr Montague both sought out Mr Vasil as some kind of intermediary.

30

MR BUCHANAN: I object.

MR NEIL: Well, I withdraw - - -

MR BUCHANAN: I should have objected to the previous question as well.

MR NEIL: Well - - -

MR BUCHANAN: The witness has said he can't remember that.

40

MR NEIL: All right. You can't remember that, but you got a phone call on the Christmas Eve, unexpectedly, correct?---I did because I distinctly remember it being at one of our friend's house, having dinner.

And at that stage everything was completely negative for you, correct?---Pretty much.

In terms of the job?---Yes, yes.

You were completely, as you said, upset and out of the blue you get this phone call from the general manager, right?---Yes, sir.

But you don't know yourself whether or not that was brought about from Mr Vasil's office?---I can't, I can't remember, sorry, sir.

Were you pleased to get the phone call?---I was, yes.

Yes, some glimmer of light, correct?---Yep, that's right.

10

Something might have been happening that was starting, possibly, to move in your favour, correct?---Yep, that's a fair comment.

Now, there is in evidence some further phone call records between you and other people, including Mr Vasil, during February. It's Exhibit 233.

You've been asked some questions about that, do you remember? I'm not going to go through them all.---(No Audible Reply)

And I'll come back later to test your memory about the events of 2

20

February, but you do understand, don't you, that on 2 February the general manager had written to the Mayor saying he was going to appoint you?

---Not sure of the exact dates but I do recall that, that, yes.

Well, you can take it that it's dated 2 February. You've been asked some questions by my learned friend about – and I'll come back to these in a little detail – about any discussions between you and Mr Montague later on the 2nd and any discussions between you and the Chanines on the 3rd, but what I want to put to you is that from 2 or 3 February you had no need for any assistance of Mr Vasil because you had been confirmed in the job, do you agree?---Look, it's probably a fair comment, yes.

30

Thank you. Now, if I just then go back and come to, in short form, to some of the particular occasions that Counsel Assisting has put to you, and I'll keep them brief, about differences between your evidence and some other evidence, but I want to commence back at the beginning with the Katris conversation. Do you understand that?---Yes, sir.

Now, isn't this the case? There's a very stark difference or differences between your evidence and that of Mr Katris, isn't there?---I believe so, yes.

40

And you've told the Commission that you've had the benefit of reading evidence in the Commission, correct?---Part, part of it, yes.

I think you'd read Mr Katris's evidence before you gave evidence here, is that correct?---That's possible, sir, yeah.

Had you read any evidence of Mr Khouri before you gave evidence here? ---I don't remember doing so in any detail, no.

Had you read any evidence by way of a previous interview that was tendered of Mr Montague?---I, I don't remember reading it, no.

Probably did, didn't you?---Not sure, to be honest with you.

Now, you know, do you not, that Mr Katris gave a statement and gave evidence that he received a telephone call from you.---Yes.

10 And until he received that telephone call from you, he was not aware that council was seeking to fill the position of director of city planning.---I believe that's what he said but, yes.

And he said that you told him about the job.---Yeah. That's not true, but anyway.

And he said that you asked him for a reference.---That's not true.

Now, you say that he called you.---Yes, sir.

20

Now, I want to put to you if he's right, your memory's wrong. Do you agree?---Yeah.

He says that you told him about the job. You know he says that, don't you?---I believe that was the tone of his evidence, yes.

If he's right, your memory is wrong, isn't it? Unless you're lying. Your memory's wrong, isn't it?---That's, yes, that's fair enough.

30 He says that you asked him for a reference. You say you've got no memory of any of that.---No, I didn't ask him for a reference.

Well, now you say you didn't. Do you say it's untrue what he said about a reference?---Yes.

40 THE COMMISSIONER: Mr Neil, it's really not helping me at the moment with this. There are the two versions. I think you've established that on this particular point – sorry, I withdraw that. Mr Stavis has admitted that his memory, sorry, if Mr Katris's version or evidence is accepted, it would reflect his memory is faulty. I don't know this is – unless there's another point as to this aspect of the evidence, I don't think it's going to assist me further.

MR NEIL: Well, I would have thought whether or not it assists further, it's highly relevant. But I'll keep it short. You're aware, are you not, of the question asked of you by Counsel Assisting – I might say, with respect, quite perceptively – that if you asked Mr Katris for a reference, it's more likely you rang him. Do you agree?---I didn't ring him, sir.

Now, you're firm about that, are you?---Yes, sir, I believe so, yes, absolutely.

So if you're not lying and he's right, you're completely wrong in your memory. Do you agree?---Yeah.

Now, did Mr Katris tell you about a man called George Vasil?---I believe so, yes.

10

Did he tell you that Mr Vasil was very well known locally, with a long history in the area, and maintains a thorough knowledge on strategic planning and development and assessment matters, as well as other general matters relating to Canterbury City Council?---Yeah. Yeah, words to that effect, yes.

Now, again there seems to be some difference between you and Mr Katris as to whether or not he gave you details of Mr Vasil for you to ring or not. You're aware of the difference, correct.---I, I, not off the top of my head, I'm sorry, sir.

20

Well, I suggest to you that you rang Mr Vasil. Do you agree with that or not?---It's, it's quite possible that I rang him after I was given the contact details by Mr Katris.

Thank you. And you're aware, are you not, of Exhibit 207, which is a diary entry of yours? Could that be shown, Commissioner? There are two versions that have been prepared. One has the phone number, which is being kept private by order. The other has the phone number covered over. But your entry of 22 October was "Call George Vas" and you put in his number. Correct?---Yes, sir.

30

Now, did you make that entry on 22 October or shortly before that date?---I really don't remember.

Was it a reminder to ring Mr Vasil on the 22nd?---It's possible. I just don't recall.

And if you met on or about the 25th, it could well be likely that you rang him on the 22nd to arrange it, is that right?---Possible, sir. Yeah.

40

You also in the next entry made an entry to apply for the director's job. You made that entry, is it made on 22 October or shortly before that date?---I really don't know.

Isn't it fair to say that although you wanted to get some background information from Mr Vasil, you had decided by the 23rd to apply for the job?---Yeah, I think that's fair.

Yes. And is it fair to say, is it not, that you must have put some time and effort into commencing the preparation of the application some days, maybe even a week, before you lodged the application.---Oh, I don't think it was that long, but - - -

Some days?---I, I remember it was a fairly quick process in terms of making the application itself.

10 And after you had seen Mr Vasil, you put into the application the entry that Mr Andronos mentioned, dot point 1 about LEPs and DCPs, correct?
---Sorry, I just don't recall that entry.

All right. We'll get it out. I'll go to something else and we'll come back to that.---Sure.

Now, after your discussion, it would appear, with Mr Katris and then telephoning Mr Vasil to meet him, you arranged to meet him, correct?---Mr Vasil?

20 Yes.---Yes, sir.

I'll just go back. Could there be shown, Commissioner, volume 3, page 52? Now, I don't want to repeat matters, but I'll briefly draw your attention to, I think Mr Andronos drew your attention – do you see about two-thirds of the way down page 52 in your application there are two dot points? Do you see that?---Yes, sir.

30 And one is, the first dot point is “Council's Local Environmental Plan and Development Control Plan both from structural and content point of view.” Do you see that?---Yes, sir.

Did you put that in as a result of your discussions at the Earlwood meeting with Mr George Vasil?---And also some of the research I did after that, yes.

And I think, to keep this short, you've given evidence that Mr Vasil told you about LEPs and DCPs at that meeting, correct?---He mentioned some issues.

40 Yes.---Yes. Regarding LEP and DCP, yes.

And you told the Commissioner, at 3992, that in answer to a question, “In the lead up to applying for the job as director (city planning), you met with Mr Vasil in the name of developing some expertise about what was happening in the Canterbury area?” You asked her, “You're talking about the meeting at the café?” “Yes.” And you answered, “Yes, yes.” That was correct, wasn't it?---I believe so. As best as I can recall.

And you also said on the next page Mr Vasil did point out that there were, in general terms, issues pertaining to inconsistencies with the LEP, DCP and so forth and another matter that I'm going to come back to.---Yes, sir.

Now, when you got to the Earlwood café, according to your evidence, I understand it, Mr Vasil was already there, is that right?---Yes, I believe so. That's as best as I can recall, with another gentleman, Mr Khouri.

10 And he was there in the presence of the other gentleman, Mr Khouri?---Yes, sir.

And were they talking when you got there?---Oh, I really can't remember to be honest with you.

And what I want to suggest to you is that during that meeting – I withdraw that. You've given some evidence at 3313 that Mr Vasil had some definite views about LEPs, DCPs and the like, that's correct, isn't it?---Yes, sir.

20 You were then asked some questions about Mr Katris, which I won't go back into. At 3321 you said that, "It was, I mean, I use the word interview, but it was, you know, it was just pretty much a general discussion and it wasn't a very long meeting." Is that right? General discussion and with Mr Vasil, a general discussion about LEP and DPPs [sic] and the like, is that right?---Yeah, and just the problems that the department, in his experience, as an, as an applicant over the years he had endured.

And you were asked, "How long did it last?" And you said, "15 minutes thereabouts, yep." Is that right?---It wasn't long.

30 Sure. And what I want to put to you is this, that you had a discussion about LEPs and DCPs with Mr Vasil, then you had a discussion with Mr Khouri about your background.---It's possible, yep.

And Mr Khouri asked you about your time, amongst other things, in the private sector, is that right?---Yeah, I believe the subject of me being a, a consultant came up, yes.

40 And while he was discussing these matters with you, Mr Khouri discussing such matters with you, did you see Mr Vasil have a conversation with another person, a friend of his who was in the café?---That, I can't recall, sorry.

Is it fair to say that there were two components to this visit to the café? One, your discussion with Mr Vasil about the LEPs, DCPs and so on, and, two, a discussion with Mr Khouri about your background?---Yeah, but I mean it crossed over a bit. I mean, Mr Vasil was asking me, you know, just very, very generally.

Yes, indeed.

THE COMMISSIONER: Sorry, asked you what?

MR NEIL: So, yes, very general.---Just about, about my experiences and what have you, and, and so forth. But it was very general.

10 So you don't have a particularly good memory of this conversation or conversations, do you?---I don't remember verbatim what was said, no.

It was a general discussion or general discussions. Isn't that right?---It, it was, yes.

20 And Mr Khouri told you that he'd been asked by the general manager to put out some feelers for not you specifically but persons who might be interested in the position, correct?---Like I, I think I've given, I've said in the past that I, it, it, it was divulged to me. Now, whether it was Mr Khouri or whether it was Mr Vasil or both, that I'm unclear of, but it certainly was divulged to me.

Well, now what I want to be clear of is that you're unclear that it might have been Mr Vasil. You can't say that with any degree of - - -?---I can't say that with certainty, no.

At all?---No.

30 It might well have been that Mr Khouri said that to you, and because the two of them were there you've assumed Mr Vasil might have said it also. ---Look, that's possible.

Thank you. And I want to ask you about another aspect of that discussion, and that's this. I think at one stage of your evidence you said something to the effect that you thought that Mr Vasil might have mentioned something at the Earlwood meeting about difficulties that the previous planning director had had.---Yes.

40 Now, I want to suggest to you that Mr Vasil didn't say anything about the previous directors or his problems at the Earlwood meeting. You understand what I'm putting to you?---Yes.

Did Mr Khouri say anything about that topic?---The topic was discussed. Now, as to who actually raised it with me, whether it was Mr Vasil or Mr Khouri, look, sir, as I'm sitting here today, I couldn't tell you exactly.

No. You could not say with any degree of probability, let alone certainty, that it was Mr Vasil, could you?---I can't, no.

And one other thing that might help you with this, do you remember you were asked a series – again which I may say were very perceptive questions by Counsel Assisting – about whether you had any meetings with Mr Montague before you put in your application? Remember that long series of questions?---I do, yeah.

10 And they were asked on a number of different days, and I'm trying to keep it short without going over the ground again, but isn't this the case, that at one stage in your evidence, based upon evidence you'd given in 2016 in the private hearing, you said that you had met Mr Montague a number of times – starting off four to six, then three, then maybe one or two – before you put in your application. Do you remember giving that evidence?---Yeah, but I think I corrected that.

Yes, yes.---Yeah.

I'm coming to that.---Yeah, sure.

20 After much questioning and thought on your part, we came to the position on 10 October this year that you were able to say in answer to this question, “Was there a meeting that you had with Mr Montague before you lodged your application?” Answer, “Not that I can recall.”---Yes, sir.

I want to suggest to you that your earlier evidence about meetings with Mr Montague before the application, in light of what you said on 10 October, that simply had to have been wrong.---Yes.

Faulty memory, do you agree?---Yes, sir.

30 Even though you said in this Commission that because you'd given this faulty version in 2016 in the private hearing, because that was earlier in time than here, your memory must have been better then. Do you remember saying that?---I do, yes.

You accept that your memory was hopeless until this week on this topic. Do you agree?---Well - - -

40 Till last week I mean.---I wouldn't say hopeless, sir, but I do recall having meetings, but the timeline of those meetings became more apparent to me, yes.

Meaning your earlier evidence I suggest to you was thoroughly deficient in terms of your memory. Will you accept that?

MR BUCHANAN: I object.

MR NEIL: Well, I press it.

MR BUCHANAN: Commissioner, it's a matter for the Commission to make a decision about at the end of the day. The witness can be asked about the state of his memory, I haven't objected to - - -

MR NEIL: Well, I'll withdraw.

MR BUCHANAN: He has agreed that his memory was faulty on the timeline. It doesn't assist you to know whether the witness thinks his memory was deficient or not.

10

THE COMMISSIONER: It really doesn't, Mr Neil.

MR NEIL: Well, I think it does but I'll move on.

Now, I want to ask you this. One thing we know about the timeline, tell me if you disagree with any of this, one thing we know about the timeline is that you met Mr Vasil after discussion with Mr Katris and you met Mr Vasil before you made your application. Is that right?---I believe so, yes.

20

The application you say went on the 27th, a Monday, or it had to be there by then anyway.---Yeah, I believe it was online you could do it from memory but - - -

All right. And as I understand your evidence, you put the application in after the Earlwood meeting because you put the information you got from Mr Vasil in it.---Part of it, yes.

30

Part of it. Now, in this Commission you've now said last week that as the timeline with Mr Montague, your first meeting with him as I understand it was after your application.---Yes, sir.

40

At 3746 on 10 August this year you were asked this question. My learned friend asked you for your understanding, "My understanding was that the gentleman, my predecessor, felt pressure and I only got that information initially from the general manager of how, not exactly how, but who the pressure was coming from." Now, what I want to put to you is, did you mean to convey in that answer that the first you knew of the pressure that the previous director of planning had been under was when you initially got it from Mr Montague?---No, sir. I mean I, I remembered the actual subject came up in the café as well.

Why did you say you initially got that information from the general manager?---I, I guess I misspoke, I, I didn't, but I do remember that discussion or that topic being raised. It wasn't anything in detail.

All very general you say?---It was very general, sir, yeah.

But you do agree that you said initially on 10 August you got the information from the general manager?---It's because there was more detail given to me by the GM at the time.

Why didn't you say that in the answer?---I don't know.

And if you got it initially from the general manager - - -

10 THE COMMISSIONER: I'm sorry, Mr Neil, can I just confirm your transcript reference?

MR NEIL: 3746, line 12, 13.

THE COMMISSIONER: Can you just hold on for a sec?

MR NEIL: Yes.

20 THE COMMISSIONER: I think, just for the transcript, I think that actually comes at about line 18 and 19.

MR NEIL: I'm sorry, yes.

THE COMMISSIONER: But that's fine. Sorry, please continue.

30 MR NEIL: Thank you. What I want to put to you is this, that at the very least, even if there was, and I'm not by any means suggesting there was some suggestion about the previous director at the Earlwood meeting, it would have come from Mr Khouri and not Mr Vasil.---I think I said that before, that it's possible, yes.

Right.---Yeah.

40 All right. Thank you. Now, look, Commissioner, just on matters of memory, and I am happy to be in your hands, and Counsel Assisting here, we've made some notes of probably a dozen or more occasions when Counsel Assisting has put matters to the witness about evidence on one day in the Commission or in the private hearing that's different from other evidence. I was not going to go through all of them but I was going to go through one or two of them. They included matters whether Mr Demian was abusive or not, whether Mr Annand was an independent consultant or not, whether Mr Stavis had deleted options for a report or not. I'm happy to put them to the witness but if you think that I've done enough already on the question of memory, I won't do it. But they're examples that my learned friend's put that I want to refer to in our submissions in due course.

MR BUCHANAN: Well, Commissioner, every party is at liberty to refer to inconsistencies in evidence in their submissions and draw the Commission's attention to them, and my friend, of course, wants to take it further and say

that the court would infer that, at least in the respects of those inconsistencies, they demonstrated a faulty-ness of memory. The only alternative, it seems to me, is that the witness was lying. If my friend proposes to put that the witness was lying in any particular respect, it's probably desirable that he does take the witness to that, but otherwise the submission will be available along the lines of my friend's earlier questions, that the witness in those respects had a faulty memory.

10 THE COMMISSIONER: Mr Neil, can I ask you two questions. Number one, the point made by Mr Buchanan about if any of them, ultimately there's going to be a submission that when Mr Stavis was giving evidence he wasn't telling the truth, or lying, that should be put to him now. The second thing I would raise, in respect of these dozen odd issues that you've identified, do any of them concern directly a conversation or some dealing with your client, Mr Vasil, or are they more areas which you and your legal team have picked up? You know, for example whether Mr Demian was rude or abusive in meetings. Off the top of my head, I don't think that really concerns Mr Vasil because he wasn't there at any of the meetings. It's more reliance, as Mr Buchanan foreshadowed, as a submission that you anticipate making about Mr Stavis' memory.

20

MR NEIL: Well, on the first point, Commissioner, if I come to the stage where I need to put to the witness that he's not telling the truth, then I'll do it. As far as the other matters are concerned, two of them in particular relate to Mr Vasil but we've dealt with them.

THE COMMISSIONER: Good.

30 MR NEIL: They are the Katris matters, and Mr Montague's statement about the previous director. The others are on topics that don't directly relate to Mr Vasil. They're about Demian and Annand and so on. So, I hear what my learned friend says, it seems that I won't be Browne v Dunn'd if I don't go through all of those with this witness.

THE COMMISSIONER: I should just - - -

MR BUCHANAN: Not for my part.

40 MR NEIL: Thank you,

THE COMMISSIONER: I should check, I'm sorry Mr Pararajasingham, I didn't include you in this exchange. You've heard what Mr Neil proposes to do. It would appear that the two topics that involve Mr Vasil have been put to Mr Stavis – the other ones are more general topics – and it's to pick up where, what I anticipate the submissions will be is they will pick up what are alleged to be inconsistencies and then a submission that it demonstrates Mr Stavis's memory was faulty at times. Are you content with us proceeding in that manner?

MR PARARAJASINGHAM: I am, Commissioner.

THE COMMISSIONER: Right. Thank you for raising that, Mr Neil.

MR NEIL: Thank you, Commissioner. Now, pardon me, Commissioner. We're going a bit faster than I expected. Now, just to go back to a question that we'd set aside for the moment. At page 4488 my learned friend put to you some general possibilities about your evidence at line 8, about line 4.
10 "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 won't go into the details of the topic. (not transcribable) 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 - - -

MR BUCHANAN: Can I just interrupt my friend.

20 MR NEIL: I'm terribly sorry.

MR BUCHANAN: I think it should start a little earlier so that the witness knows what this is about, the popular expression. The actual expression.

THE COMMISSIONER: Would you like to look at the transcript?---Yes, please.

Mr Neil, could you just pause while we get the transcript up. It was page 4488.
30

MR NEIL: Just have a look, sir, from the top of page 4488 down to about line 13.---Yes, sir.

Now, do you understand what was being put to you there?---Yes.

Now, Commissioner, I raised this at the outset, and I apologise I didn't have the page reference at the time.

40 THE COMMISSIONER: That's all right.

MR NEIL: We've now gone through various questions and answers, so I don't need to refer back to this. If I do in the future, there's the page reference.

THE COMMISSIONER: Thank you very much.

MR NEIL: Thank you. Now, I want to put to you also that at the Earlwood meeting Mr Vasil did not say to you that he or anyone that he was speaking

about was looking for a solutions kind of planner. What do you say to that?---I, I, I'm not sure whether I actually said that, that he asked, that, that
- - -

And you're certainly not sure, you certainly can't say that Mr Vasil said that, can you?---No, not, I don't, no, I don't think he used that word, no.

10 All right. Just on the question of solutions, without going into detail, you're aware, are you not, that section 79C(3)(a)(b) of the Environmental Planning and Assessment Act relating to Development Control Plans says if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards – is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects - - -?---Yes, sir.

- - - of those standards to do with that aspect of the development. Correct?

MR BUCHANAN: This wouldn't be a submission by any chance, dressed up as a question?
20

MR NEIL: It would be both.

MR BUCHANAN: Well, can I just ascertain what the forensic purpose is of the question?

MR NEIL: That solutions includes under the law - - -

MR BUCHANAN: It's a submission, with all due respect. I object.

30 THE COMMISSIONER: Sorry, Mr Neil, have you - - -

MR NEIL: Well, this, this, this witness is being attacked and in some way derivatively, although he's not, he's now said my client didn't use the words, so I'll withdraw, I'll withdraw.

THE COMMISSIONER: All right. Thanks, Mr Neil.

MR NEIL: And we'll make a submission if we have to. Maybe we won't have to do it.
40

Just going on now to a matter that was put to you by – I'll withdraw that. Did you, when you went to the Earlwood meeting did you see anything wrong about it?---No.

You'd been referred - - -?---Yes.

- - - by Mr Katris - - -?---Yes.

- - - who was a respectable citizen as you understood?---Yes.

A councillor?---Yes.

An architect?---Yes.

And he referred you to man who he thought had substantial knowledge about the LEPs, the DCPs and the like. Correct?---Correct, sir.

10 And did you see anything corrupt about that meeting with Mr Vasil?
---No, sir.

Another matter that was put to you by Counsel Assisting at 4363, line 40, Commissioner, this was put to you. "I want to conclude on" – have you got it there?---Yes, sir.

20 Thank you. "On that particular issue. You had a specified KPI to reduce processing times. There's no specified KPI for finding solutions for non-complying development proposals and yet at the end of the day, you prioritised the unwritten KPI of Messrs Khouri, Vasil, Montague, Hawatt and Azzi of finding solutions for non-complying development proposals over your expressed KPI primary." "Yes, yes, I accept that." Now, I want to ask you something about that.---Yes, sir.

At the Earlwood meeting did Mr Vasil say to you, "I want you to prioritise an unwritten KPI of mine and other gentlemen for finding solutions for non-complying development proposals over your express KPI to get processing times down?" Did he say that to you?---No, sir.

30 It's nonsense to suggest it, isn't it?---Yes, sir.

Now, what has been put to you there is this, as I understand it, that you took up some non-complying unwritten KPI of Mr Khouri and Mr Vasil and others. I want to suggest to you that Mr Vasil never said anything to you along the lines of prioritising non-complying development proposals to reduce processing, rather than reduce processing times. Do you agree with that?---Yes, sir.

40 And the question is put of an unwritten KPI about non-complying development and reducing processing times, but as I understand your evidence, you could easily reduce the processing times by refusing applications. Correct?---You can, yes.

And we'll find something – I'll just get the reference. I apologise, Commissioner. I'll give you the reference in a moment, but do you recall that in the extension of your contract, in the memo that the general manager put to the council, one thing he pointed out that you hadn't got the

processing times down but you'd done a very good job because there were staff shortages impinging.---There were.

And other administrative problems that were referred to, correct?---There were, yes.

If a development that appeared to be non-complying was nonetheless supported by arguments that resulted in it being approved, say under section 79 or 4.6, it becomes complying, doesn't it?---Well, yes.

10

Yes. If you simply refuse an apparently non-complying application without going through the process of thoroughly examining it to see if ultimately it could be approved, but just rejected it in order to save time and have a better KPI on processing times, you would have been acting completely contrary to your duty, wouldn't you?---I believe so.

Would have been an abuse of your office, wouldn't it?---I think we have a responsibility to ensure good customer service and that would have been against the grain of that.

20

Yes. Now, I'll just return briefly to the time when you went to see Mr Vasil after you learned you lost your job. You kept in touch with him, as I understand it, during the early part of February, is that right?---Yeah, it, it was fairly consistent until that point, yes.

But it wasn't pre-arranged, do you agree?---No, sir.

30

And I just want to go back briefly to Exhibit 60. Could that be put up, if I could ask, Commissioner.---Can I clarify that? I, I do agree that it wasn't pre-arranged.

Thank you.---I think I said "no".

All right.---Yeah.

Thank you.

THE COMMISSIONER: Sorry, it was - - -?---No, it wasn't.

40

No.---No.

MR NEIL: Just would ask you to go back and look at Exhibit 60 and in particular if you could go to the second page where there are entries commencing on 28 October and going down to 3 November. Do you see that page?---Page 1?

No, it should be page 2.---2. Yes, sir.

0177 I think is the Operation Dasha number. Do you see that, the top right-hand corner?---Yes.

MR BUCHANAN: Sorry, I'm not quite sure what my friend's talking about. Surely we're all looking at page 2 of Exhibit 60.

MR NEIL: Yes, indeed.

10 THE COMMISSIONER: Have you got that, Mr Stavis?---I've got page 2.
Good.

MR NEIL: Thank you. Now, I want to draw your attention to an entry about 12 entries down from the top. "Spiro Stavis tells to George Vasil, 30 October, 2014." Do you see that?---Yes, sir.

And I want you to either accept from me, or if you want to look through - - -

20 MR BUCHANAN: Sorry, is this 12 entries down?

MR NEIL: It's about 12 or 13 entries down from the top.

MR BUCHANAN: Yes.

30 MR NEIL: "Spiro Stavis tells to George Vasil, 30 October, 2014" for one minute 22. You can either accept from me or you can take your time and look through. I want to suggest to you that that is the last entry of any record in Exhibit 60 of any call between you and George Vasil. Either way, you to him or him to you.---Yeah, that appears to be the case, sir.

40 And there's the last one, I think if I remember, the last one of him at all and I think I can confidently put to you that the, well, I invite you to check, I may be wrong – if I have to come back to that I will. I think I've asked what I need on this exhibit, Commissioner. Then we go forward to sometime early February, but I just want to ask you one question. We've been told in Counsel Assisting's opening address that the interview panel was set up in mid-November, 2014. There are some references in the papers, on of 7 November, one to the, I think the 12th or 14th, but when did you first learn that the interview panel had been set up?---I, I don't recall at all to be honest with you.

There's a statement of Mr Connell of 10 April, 2017, Exhibit 3, page 12, which has an email from Judith Carpenter to Mr Connell of 12 November, 2014, saying, "Confirmed, there'll be a meeting on 17 November." Do you have any recollection of receiving a similar email on about the same date? ---I probably did but I just don't remember off the top of my head but that was usual protocol, was to notify the candidates, I guess.

All right, thank you.

THE COMMISSIONER: Sorry, Mr Neil, what was the date of that again?

MR NEIL: It's 12 November, 2014.

THE COMMISSIONER: Thank you.

10 MR NEIL: 4.37pm, Commissioner. All right. So, I just want to then take you to, there's a meeting that I think you had with Mr Vasil when you gave him the employment letter. Is that the one when you went to see him after you learned you'd lost the job?---I think so, yes. I believe so.

Now, there is also, I want to ask you, did you go to see Mr Vasil, or did you send him any email information on or about 6 February, 2015?---I, I really don't recall.

20 Could I ask the Commissioner if we could have shown volume 5, page 21. ---Page 21?

Yes. Have you got that? And it starts with an email headed, "Thanks Jim". Do you see that?---Yes, sir.

Now, what I'd like to do, Commissioner, is hand up to the witness, and I understand the solicitor agreed on this, a further copy of that - - -

MR BUCHANAN: I'll tender - - -

30 MR NEIL: Oh, yesterday.

MR BUCHANAN: I'll tender, if it pleases the Commission, Mr Neil had raised with me a copy of the same email, this is pages 21 to 22 but with an additional page on it. I'm satisfied that it should be tendered. If I can just, can I just clarify one thing.

MR NEIL: Certainly.

40 MR PARARAJASINGHAM: Commissioner, just while this is happening, could you indicate, at least for the witness's benefit, what time you propose to take a morning adjournment today? I know we took it at an earlier time on, I think Friday, I'm just not - - -

THE COMMISSIONER: Quarter past 11.00? On this particularly issue, Mr Neil, do you think you'd be finished by about quarter past 11.00?

MR NEIL: I think this topic would be about right for that time frame.

THE COMMISSIONER: Terrific.

MR NEIL: Yes, thank you, Commissioner.

MR BUCHANAN: Commissioner, my friend had shown me the same emails but with another three emails on top, that is to say extending the conversation forward in time. The copy that I have been provided by my learned friend came from Mr Vasil's, from the execution of the search warrant on Mr Vasil's office by Commission investigators. The copy at pages 21 to 22 came from council. So that, together with the fact that the new document, which I need, so that you know what I'm talking about
10 Commissioner - - -

THE COMMISSIONER: I do.

MR BUCHANAN: - - - I need to provide you with a copy of. Sorry.

THE COMMISSIONER: The "Thanks Jim" email, it appears from the first page of this bundle that is then forwarded to Mr Stavis by Mr Robertson?

20 MR BUCHANAN: Correct. On 6 February, 2015 at 3.51pm, looking at the bottom of the first page of this bundle and then there's an additional email, Mr Stavis's response to that at 5.26pm on 6 February and then that has been forwarded to Mr Robertson. And then a response by Mr Robertson at 5.49pm on 6 February. And so there are two reasons therefore why the material at pages 21 to 22 in volume 5 appears in a different format in this bundle.

THE COMMISSIONER: All right.

30 MR BUCHANAN: My respectful submission is that it should be received into evidence as one bundle and we can see for ourselves the overlap - - -

THE COMMISSIONER: That's fine.

MR BUCHANAN: - - - from page 2 of this bundle down.

THE COMMISSIONER: All right. The email exchanges which occurred on 6 February, 2015, commencing with exchanges between Jim Montague and Ian Robertson and then between Mr Robertson and Mr Stavis will be
40 Exhibit 237.

**#EXH-237 – EMAIL EXCHANGES DATED 6 FEBRUARY 2015
BETWEEN MR MONTAGUE, MR ROBERTSON AND MR STAVIS**

MR NEIL: Thank you, Commissioner.

THE COMMISSIONER: Have you got that document, Mr Stavis?---Yes.

MR NEIL: Thank you, Mr Stavis. Is it one that now starts from Ian Robertson, Friday, 6 February, 2015, 5.49pm?---Yes, I've got that.

10 All right. Thank you. Now, I'll just ask you to listen very carefully. This exhibit, as my learned friend has said, comes from Mr Vasil's office when the ICAC investigators went there, and it comes out of the ICAC file with a note, "Top drawer, grey desk, George's work area." Do you understand that?---Yes, sir.

Now, did you give this email chain to Mr Vasil or did you send it to him?
---Either of the two. I can't remember if I actually handed it over or emailed it to him, but yeah, it's likely that it came from me.

Did you ever discuss with Mr Vasil why you might be a political pawn?
---Not that I can recall, no.

20 I'll just ask you then to look at the second page of this document, which is call 2, it's also got a 45 on the bottom. Do you have a look at that?---Yes, sir.

We see there, do we not, that Mr Montague, in the centre of the page on about 19 January has sent an email to Mr Robertson. Now, who is Mr Robertson?---He was a union representative or the secretary.

Right. And he was trying to help you. Is that right?---That's right.

30 And on the first page there's some discussions between you and Mr Robertson about strategy.---Yes, sir.

And I'm going to put to you later that the strategy you had been adopting was principally the strategy of your solicitor and also aided by Mr Robertson. Is that right?---Pretty much, yes.

Yes. And if you look at the centre of the second page, there's Mr Montague saying to Ian Robertson, "Unfortunately Spiro is a pawn in a very messy political power play." Do you see that?---Yes, sir.

40 Will you accept that it's Mr Montague who's the originator of the phrase, "Very messy political, a pawn in a very messy political power play?"

MR BUCHANAN: I object. I understand what my friend means but without a little bit of context it's very difficult to expect the witness to give an answer which is going to have any probative value at all unless some context is provided.

THE COMMISSIONER: And are you referring to another document in evidence - - -

MR BUCHANAN: Yes, yes.

THE COMMISSIONER: - - - which uses that phrase?

MR BUCHANAN: Yes. Which is not this witness's document.

10 THE COMMISSIONER: I agree with Mr Buchanan, Mr Neil. I think to assist, and you obviously know the document that we're referring to?

MR NEIL: Yes, yes, I'll dig it up, yes.

MR BUCHANAN: Can I make a respectful suggestion to my learned friend. There are other ways of dealing with this, and one would be to just simply ask the witness, did you have a conversation with Mr Vasil in which the words, "Pawn in a messy political power play," were used? End of story.

20

THE COMMISSIONER: Might be a shortcut, Mr Neil.

MR NEIL: Well, yes, but - - -

THE COMMISSIONER: I'm sorry.

MR NEIL: I'm aware, Commissioner, of volume 4, page 206 and there were other documents around it, but I'd ask you this. Did you have a conversation with Mr Vasil in which you said to him words to the effect of,
30 "How am I a pawn in a political power play? I'm just a planner"?---Did I say that to Mr Vasil?

Yes.---I don't believe so, no.

But you were a planner, weren't you?---Yes, sir.

Yes. And can you think of anybody else who might have been the source of Mr Vasil having in his drawer Exhibit 237 other than you?---No, sir.

40 All right. Is that a convenient time, Commissioner?

THE COMMISSIONER: Yes. All right. We'll adjourn for morning tea and if we can resume at 25 to 12.00.

SHORT ADJOURNMENT

[11.16am]

MR NEIL: Thank you, Commissioner.

THE COMMISSIONER: Thanks, Mr Neil.

MR NEIL: Could volume 5, page 175 be shown, please?---Yes, sir.

Are you familiar with it or would you like to just read the first paragraph on page 175, starting, "Council is always rightly concerned"?---Yes, sir.

10 At the time were you experiencing staff absences?---Yes, sir.

Were there long-term position vacancies?---There were a, a number, yes.

Were there difficulties in filling advertised planning positions?---Yes, I believe so.

Yes, thank you. If you could just put that aside. Could volume 4, page 91 be shown, please, Commissioner, and then I'm going to ask for 99 and 102. 91 appears to be the start of some email chain of some length. Do you see that?---Yes, sir.
20

Could I ask you to go to, sorry, the next one, could I ask you to go to 94. ---Yes, sir.

This seems to be an email from you to a Mr Boatswain. Was he your solicitor?---Yes, sir.

On 31 December saying, "P.S. I agree with your strategy." Do you see that?---Yes, sir.
30

And was he giving you strategic advice?---Yes, sir.

And also the man from the union?---Yes, sir.

And were you content to take their advice on those matters?---Yes, sir.

Thank you. And could I just ask if you would have a look at page 99. Do you have that page?---Yes, sir. I do.

40 Do you see at the end of the page, you're sending an email again to Mr Boatswain. Do you see that?---Yes.

You say, "Also I forgot to mention that the GM called me on Christmas Eve and undertook to call me sometime this week to discuss my position. He apologised for all that's happened and said to me that I was 'collateral damage' in some big picture issue he is having and I got caught in the crossfire." Do you see that?---Yes, sir.

And I think at 102 there's a repeat of you saying, "I agree with the strategy." Seems to be a repeat. Do you see that?---Yes.

Thank you. Just briefly, about 2 February – I'll keep this short because it's a matter about your memory – but do you agree that in evidence you eventually said it was likely that you'd been told by the general manager late on 2 February that you'd got the job?---Yes.

10 But you didn't have a memory of it at the beginning of your evidence, do you agree?

THE COMMISSIONER: Of the date?---Of the date.

MR NEIL: Of you being told on the night before you met the Chanines? ---Yeah, I, I don't recall that, sorry.

And you said you had no memory of telling the Chanines about it?---I believe so, yes.

20 What I want to suggest to you, if you had a good memory you'd clearly remember this momentous news because you'd been sick in the stomach, you were on tenterhooks and then the news came in that you've been approved but you really don't have any clear recollection of it happening, do you?---No, I do recall the general manager at some point, I, I just wasn't sure about the date.

30 But surely the date of it happening, or at least being very early in February, would be seared in your mind as news that was absolutely vital to you. Do you agree?---Yeah, I remember, I, I do remember having, being told, yes.

But you've got no idea of the – you accept, however, I understand it, from Counsel Assisting's questions, that you must have been told on the night of 2 February.---It's possible, sir, yes.

Just one last thing. I think somewhere in evidence you said that you went to Mr Hawatt's house once or twice, and on possibly one occasion you saw Mr Vasil there. Are you sure that's right?---Yes.

40 But, what, only once or - - -?---With, yeah, I believe it was only once or twice. I can't remember exactly.

But nothing of consequence? You didn't speak to him about anything of consequence?

MR BUCHANAN: Sorry, I think there might be a little bit of confusion there.

MR NEIL: Sorry.

MR BUCHANAN: My friend's question didn't really fasten on whether he was talking about the part of the witness's evidence that he went to Mr Hawatt's house - - -

THE COMMISSIONER: Or whether he went there - - -

MR BUCHANAN: - - - or the part where he said "and when I was at Mr Hawatt's house I saw George Vasil there", and they just might need to be
10 separated to make sure there's no confusion.

MR NEIL: Thank you. I'll just be specific. At 3425, at line 40, you were asked, "Did you ever go to Mr Hawatt's house?" "Yes, I believe I did." Can you find that?---I don't have it, sorry.

30 July.---Yeah. Yes, sir, I've got it in front of me.

Line 40, "Did you ever go to Mr Hawatt's house?" Answer, "Yes, I believe I did." "How many times?" "Not many at all. Maybe once or twice, if that,
20 yeah." So it'd be no more than twice, is that right?---I believe so, sir, yes.

"Did you meet any other councillor there apart from Mr Hawatt?" "No." "On the occasion that you went there, or occasions, was there discussion about matters in your portfolio?" "Just trying to think. I really can't recall." Going over to page 3426, "Was it a social occasion or were they social occasions or was it a meeting meeting?" "No, it was more, I guess, semi-social and it was always with, George Vasil was there as well." Do you see that?---Yes, sir.

30 Now, did you see Mr Vasil there on, if there were two occasions, on both occasions or only one?---I believe when I did visit Mr Hawatt, Mr Vasil was always there, yes.

But it'd be no more than twice you went there?---Yes, sir.

And can we take it you have no conversation of any consequence with Mr Vasil?---Not that I can recall.

All right. Thank you. They're my questions. Thank you, Commissioner.
40

THE COMMISSIONER: Thank you, Mr Neil. Mr O'Gorman-Hughes?

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

THE COMMISSIONER: Now, Mr Drewett.

MR DREWETT: Thank you, Commissioner. Mr Stavis, can you hear me at the back here?---Yes, sir.

You've nodded to indicate yes.---Yes.

I'm the barrister instructed to represent the interests of Michael Hawatt.
You understand that?---Yes, sir.

10 I want to ask you, my questions could loosely be split into two areas. The
second area I'm happy to tell you will be where most of my questions are
directed at, and that is in relation to the conference that you've given
evidence about at the coffee shop just before the interview where you
secured this job. That may have been at around about the time of 16
November, 2014. So that's going to be the second part of what I'm going to
ask you about. But before I do that, I want to go to my first topic, which
could loosely be described as your interactions with my client, Michael
Hawatt, in general terms and how those interactions tie in with the code of
conduct that you've been taken to. You understand that?---Yes, sir.

20 Ultimately when you received the position as DCP, you would agree that
you were afforded a generous salary package?---Yes, sir.

Some, I think, 200,000-plus, is that right?---Sounds about right.

And a car and things of that nature.---Yes.

And true it is that you had to work long and hard to earn that generous
package, do you agree with that?---Yes, sir.

30 And I would suggest that one thing that has come through from your
evidence and from the evidence of others is that you were working long
hours, often on weekends, attending to your duties as you understood them
as the DCP.---Yes, sir.

My learned friend Mr Moses took you to your evidence where you had
acknowledged that you'd been trained or had undertaken a training course in
relation to the code of conduct?---Yes, sir.

40 And I think you said variously that you may have skimmed through it, but
you understood what that code of conduct was about. I wonder if the
Commission staff would be kind enough to get the code of conduct up on
the screen, volume 2, as I understand it, page 202, but in particular I want to
get to part 7 of that code of conduct.

THE COMMISSIONER: Do you want a hard copy of - - -

MR DREWETT: And I wonder if you can go to 7.3, part 7, 7.3. Now, in
this position as an executive working as the DCP you had to look after the
often competing needs of various, what's been described as stakeholders.
Do you agree with that in loose terms?---Yes, sir.

Now, in addition to that you had to look after the welfare needs of your staff?---Yes, sir.

And we've seen a flowchart and it's quite clear that there were a number of people who were, who reported to you or who would report to others that would then report to you. Do you understand that?---Yes, sir.

10 And you had to provide information as part of your duties to councillors which would be sufficient as to allow the councillors to perform their duties. Do you agree with that?---Yes, sir.

And if you have a look at 7.3, and I'll just read that, "Members of staff of council must provide full and timely" – I'm sorry, I've walked away from my microphone. I must start again. Thank you to my solicitor. "Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with council procedures." Were you aware that that was in the code of conduct when you started as the DCP?---To be
20 honest with you I wasn't, but it's, it's, I've since been aware, yes.

Looking at 7.3 it talks of members of staff of council, and of course that would include yourself. Do you agree with that?---Yes, sir.

And it uses the word, "Must," not should, but "Must provide." Do you see that?---Yes, sir.

And it talks about information being provided, which must be provided on a
30 timely basis. Do you see that?---Yes.

What do you understand or what did you understand back when you took on the position as DCP as being meant by timely?

MR BUCHANAN: I object. The witness has indicated that he wasn't aware of it when he took on the position of DCP.

MR DREWETT: I'll withdraw it, if it please the court. And just on that, you're saying that you weren't specifically aware of 7.3 but you have since, since then. Is that right?---Yes, sir.
40

All right.

THE COMMISSIONER: And when you say since then, was that during your tenure or - - -?---Yeah, during my tenure. It was fairly early in my tenure that I became aware that we had to provide information in a timely manner.

Okay.---Yeah.

MR DREWETT: And just coming back to that small word, "Must." It's not a discretionary matter, you must provide the information - - -

MR BUCHANAN: I object. Repetitious.

THE COMMISSIONER: You've emphasised must. He's now, sorry, Mr Stavis has now said during his tenure he became aware that he had to provide information in a timely manner.

10

MR DREWETT: And one of those councillors that would be seeking information from you, perhaps more so than any other councillor, was my client, Mr Hawatt. Do you agree with that?---Yes, sir.

Certainly he wasn't the only councillor who would seek information from you, but he was, he stood out as being the one who was asking the most questions. Is that right?---Yes, sir.

20

And is it safe to say that, looking back on it, his interactions with you in that regard, in terms of seeking information, was almost on a daily basis, do you agree with that?---I do.

And you gave answers to the enquiries being made by my client, Mr Hawatt, because you believed at the time that you gave him that information, I suggest, that you had an obligation to do so in terms of carrying out our duties as the DCP, is that fair?---Yes, sir.

30

And it's also the situation that often – and I'm talking in general terms now, you can agree or disagree with this proposition – my client would express his frustrations to you at times when you were giving various information, he would express his frustrations at time delays and things of that nature. Is that a fair way to put it?---Yes.

40

If you can have a look at 7.4 of that same code of conduct, if we could have that up on the screen, and I'll read that to you, Mr Stavis, but I think you have it in front of you. "Members of staff of council who provide any information to a particular councillor in the performance of their civic duties must also make it available to any other councillor who requests it, and in accordance with council procedures." Do you see that?---Yes, sir.

In the time that you were employed at this council as the DCP, there was never an occasion, I suggest to you, where you provided information to my client, Mr Hawatt, in the performance of his civic duty where you didn't provide that same information to any other councillor who may have asked for it.

MR BUCHANAN: I object. Are you talking about an event, or what are we talking about here?

MR DREWETT: Well, with respect - - -

MR BUCHANAN: It seems to conflate an event or series of events with an understanding of an obligation but I'm not entirely sure. If so, it's quite confusing.

THE COMMISSIONER: Mr Drewett?

10 MR DREWETT: I, with respect, thought the question was as un-confusing as it could be, and that wasn't particularly eloquently put. This is cross-examination, Commissioner. I am putting a general proposition to this witness in relation to whether or not there was ever an occasion where he gave information to my client as part of his civic duties under 7.3 and 7.4 of the code of conduct in circumstances where he did not provide that information to any other councillor that asked for it. I'm not sure if I could articulate it in any clearer a way. It's a question that's relevant and it's a question that I press.

20 MR BUCHANAN: Well, I'm sorry, is he saying, is the question that other councillors asked for it, the same information that Mr Hawatt asked for, is that - - -

THE COMMISSIONER: My understanding of the wording of clause 7.4 is that it arises where one councillor asks for the information and it's provided, then another councillor asks for the same information, there is an obligation to provide that information - - -

MR DREWETT: That's right.

30

THE COMMISSIONER: - - - pursuant to the second request.

MR DREWETT: Yes, that's right. I can break the question down, Commissioner. Perhaps that might be easier for everyone to understand. You understand, and I think you've already given this evidence, of my friend doesn't object to it for having put it again, that you had an obligation to give my client information that he asked for, in the exercise of his duties, in general terms?---Yes.

40 And you gave him the information, I think you said, on a daily basis almost, or so it seemed?---Yes.

Was there ever a time that that same information that was sought by my client was also sought by any other councillor during your tenure as DCP?
---Yes.

Was there ever a time in your tenure as a DCP when, in those circumstances, you declined to give that same information to any other councillor that asked for it?---No. I don't believe so.

And similarly, Mr Stavis, in terms of your staff, and you've said that there were a number of staff working for you, are you aware during your tenure as DCP as to whether or not any of your staff declined to provide information to any other councillor who may have asked for it in circumstances where that information had been given to my client, Mr Hawatt?

10

MR BUCHANAN: Commissioner, I object. In my submission there's no probative value. If the witness were to say, yes, they did or if the witness were to say, no, they didn't, how would that advance consideration of the issues before the Commission, with respect?

THE COMMISSIONER: You have - - -

MR BUCHANAN: If my friend could explain how this will assist the Commission.

20

THE COMMISSIONER: Mr Drewett, you've now moved on to staff away from Mr Stavis. You asked Mr Stavis in respect of his own conduct. The question of the staff, what is the relevance of that?

MR DREWETT: Well, perhaps it's more a question that is directed towards Mr Stavis and less so to my client. I'll withdraw it, Your Honour, and it can be encompassed in terms of other questions I'll ask in relation to the code of conduct as it relates specifically to my client's interactions with Mr Stavis. But I do say this, Commissioner, that it is assumed for the purpose of cross-examination of Mr Stavis that Mr Stavis, as an executive, is not only – well, I withdraw that – is responsible and would be assumed to be intimately aware of the interactions of his staff. That might not be a submission that ultimately sits well with my friend, but it is a reasonable submission for the purpose of cross-examination, I would have thought.

30

MR BUCHANAN: Well, I'm sorry, Commissioner - - -

MR MOSES: Commissioner, I would object to that but I'll let my friend go first unless he wants me to have a crack first. Do you want to do it? You go for it.

40

MR BUCHANAN: If I could just inquire of my learned friend Mr Drewett, how does it assist the Commission to determine the issues that are before it to know whether information that was provided to Mr Hawatt was either sought by other councillors or provided to other councillors or refused to other councillors? How does that assist?

MR DREWETT: In my respectful submission, it is relevant. As I understand it, one of the areas of inquiry of this Commission is the issue of partial dealings between my client and Mr Stavis and members of his staff. If it is the situation that Counsel Assisting is submitting to this Commission that interactions between staff members of Mr Stavis and my client are of no relevance to this inquiry, then I'm happy to take that submission on board and no doubt it will be made reference to in the ultimate submissions in relation to this matter.

10 MR BUCHANAN: That is not what I am asking. I'm asking through the Commissioner, how does compliance with clause 7.4 affect determination of the issues before the Commission? Not 7.3, 7.4.

MR MOSES: My objection was on another point apart from what Counsel Assisting has put. I think if there's to be a question asked in relation to interactions between staff and Councillor Hawatt, these questions are of no moment. If my friend has instructions from his client that he wants to put a specific proposition to this witness that he's got instructions on, that
20 Councillor Hawatt had dealings with staff – and they're not Mr Stavis's staff, they're the staff of council, some of whom I act for – then he should be specific about what those instructions are and what those events are, otherwise this is worthless. This inquiry has been going a long time and we need to get back to focusing on what the issues are. That's not part of this case. But if he wants to put those propositions and instructions, well, tell us what his client says those interactions were and whether this man in the witness box knew about them.

THE COMMISSIONER: Mr Drewett, you pursued 7.4 in respect of Mr Stavis's role, and you've got your answer there, and as you said it was put in
30 very general terms.

MR DREWETT: Yes.

THE COMMISSIONER: You've now moved to staff, and I can't recall you ever putting to any of the various staff members of the council that there was something along these lines, where they answered a request by Mr Hawatt and they provided that information and then another councillor made the same request. And please correct me if I'm wrong, but I can't
40 recall you putting that to any of the relevant staff members, and at the moment I really can't see the relevance of this question about the staff members not complying with 7.4

MR DREWETT: I'll withdraw the question in relation to the staff and the Commissioner has the evidence in relation to my client's interactions on that regard with Mr Stavis, who the Commission would recall has been, it's been suggested by my friend Mr Moses, was a stooge of my client, so clearly it's relevant in relation to that, but I understand what the Commissioner says in relation to the relevance in relation to the staff.

THE COMMISSIONER: And again, just if there is, in respect of the role of Mr Stavis, if there is any allegation or incident that he didn't comply with 7.4, that should be specifically put to him.

MR DREWETT: Thank you, Commissioner.

10 Mr Stavis, going back to this code of conduct that you were taken to by Counsel Assisting and indeed by Mr Moses in his cross-examination of you, you would understand that code of conduct talks about integrity, and I'm just going to read through some various headings here, Leadership, Selflessness, Impartiality, Accountability, Openness, Honesty, Respect and Conflict of Interest. You understand that that code of conduct would encapsulate all of those, the subject matters for which I've just read out. Do you agree with that?---Yes, sir.

And you knew ultimately that you must always act in the public interest?
---Yes, sir.

20 You were aware of your obligations to report any form of workplace bullying. Do you agree with that?---Yes, sir.

And you never reported in an official way by way of a formal complaint to Mr Montague or to anybody that you'd been bullied by my client, Mr Hawatt, did you?---No.

30 With your knowledge of the code of conduct in mind and those headings that I have just read out to you with those subject matters, I'm going to suggest to you that in relation to, and I'll take you to perhaps the first property, 15-23 Homer Street, that at no time did my client, Mr Hawatt, ever ask you to do anything in relation to 15-23 Homer Street, Earlwood that you believed at the time put you in conflict with that code of conduct, did he?
---No.

40 And I'm going to suggest to you, and rather than going through the preamble in relation to each property, if you understand what I've put to you in relation to Homer Street, I'm going to put to you the same proposition in relation to a number of other properties and perhaps if I just read those property names out you can ask me to read the preamble again or to say the preamble again, and I suggest to you the same proposition applies to 51 Penshurst Street, Roselands. Do you agree?---Yes.

And 23 Willeroo Street, Lakemba?---Yes.

You have to answer, Mr Stavis.

THE COMMISSIONER: He did say yes.

MR DREWETT: I'm sorry, it's, it's, it's a long way from where you are to where I am and my hearing's not the best. I'm sorry, Mr Stavis.

THE COMMISSIONER: If you can try and speak into the mic, Mr Stavis.

MR DREWETT: And the same proposition for 998 Punchbowl Road. Do you agree with that?---Yes.

10 And 548-568 and 570 Canterbury Road, Campsie?---Yes.

And 538-546 Canterbury Road, Campsie?---Yes.

And 570-580 Canterbury Road?---Yes.

And 212-218 Canterbury Road?---Yes.

220-222 Canterbury Road and 4 Close Street?---Yes.

20 And 547 Canterbury Road?---Yes.

Mr Stavis, thank you for that. I'm going to take you to the second part of what I had foreshadowed that I would be asking you questions about and that is in relation to this meeting that you have given evidence about, that you have given evidence about a meeting with my client, Mr Pierre Azzi and yourself at a coffee shop just before the interview that you had.---Yes.

30 Now, I don't want to harp on it but I will just ask you just one or two preamble questions in relation to that, and it's accepted by you, isn't it, that 2013/14 were financially hard times for your family and yourself?---I don't believe that time was because I was at Botany Council, I think.

Oh, okay.---But certainly around 2012-ish was, was a particularly difficult time because I think that was the year that my business had failed, yes.

And you gave evidence many days ago about multiple deeds of arrangements that you had out at that time, which might have meant in your mind you were talking about payment plans, perhaps?---Yes, sir.

40 And mortgage repayments and creditors and things of that nature?---Yes, sir.

I suggest to you that in the weeks leading up to the interview that you had for the position of DCP in November 2014, your financial circumstances could be described as being dire, as being very tight, very, very tricky, do you agree with that?

THE COMMISSIONER: Sorry, dire and, I think dire and tricky - - -

MR DREWETT: Okay, well, I think we've heard the words dire straits before, Mr Stavis, but do you agree that you were in dire straits in the lead up to the interview?---I don't think so. I, I think I just said that it was around that 2012 period, 2013 period which was what I would have classified as a very, very tough time for us as a family financially.

You had a meeting just before your interview, we've established, with Mr Azzi and my client, Mr Hawatt, is that right?---Yes, sir.

10 And during that meeting, it appears to be clear that you took some photographs of what you've described as sample questions.---Yes, sir.

MR PARARAJASINGHAM: I object. He said suggested questions was his evidence.

MR BUCHANAN: No, I think he did say - - -

MR PARARAJASINGHAM: He did, oh, okay, I - - -

20 MR DREWETT: I'm sorry, I didn't hear the - - -

THE COMMISSIONER: I think - - -

MR PARARAJASINGHAM: No, no. I withdraw, I withdraw my comment.

THE COMMISSIONER: Yes. I think suggested and also sample have both be used by Mr Stavis.

30 MR DREWETT: Now, I stand to be corrected but I think it was put to you by at least one counsel here in these proceedings, it might have been Mr Andronos, that what you did in photographing those sample questions, if I can call them that, to use your terminology, was akin to cheating.---I recall that, yes.

And despite – I'll withdraw that. And I think you've conceded, as recently as in answer to questions put by Mr Neil today, that this was a tremendously significant moment for you, you obtaining the position of DCP, or you were going for the job, if you got it, it would be a big moment in your life?

40 ---That's, that - - -

MR BUCHANAN: Look, I'm sorry. Because I'm not quite sure where my friend's question's going, I should object because on the one hand I thought we were talking about the meeting with Mr Azzi and Mr Hawatt, during which photos were taken of the suggested interview questions, but this question seems to be about a broader period of time. If it's meant to be about this particularly evening, then could my friend make that clear? If it's not about this particular evening - - -

MR DREWETT: I will. I will, Your Honour. It was a poorly worded question. I thank Counsel Assisting for that. It is the situation that when you had that meeting with Mr Azzi and Mr Hawatt before the interview for the position of DCP that, in your mind at that stage, it would be a tremendously important watershed moment, if I can put it in those terms, for you to ultimately secure that position. If you were lucky enough to get the job, that would be very important to you. Do you agree with that?---Yes, sir.

10

And I'm going to suggest to you that notwithstanding the importance of your hopes to secure that position, that very well paying position, and notwithstanding the fact that you – to use the expression which I think you might have accepted – that you cheated - - -

MR PARARAJASINGHAM: I object.

THE COMMISSIONER: I think to be fair, Mr Drewett, my recollection is Mr Andronos did put to him it was some form of cheating.

20

MR ANDRONOS: I don't think he accepted (not transcribable)

THE COMMISSIONER: And I don't think he accepted it.

MR DREWETT: I thought he just accepted it in the box just then.

MR BUCHANAN: No. Absolutely not.

MR DREWETT: I'm sorry. I misunderstood. All right, all right.

30

THE COMMISSIONER: No, I think you put to him, "Do you recall that?" and he agreed that he recalled it.

MR DREWETT: Oh, I see. I'm sorry, Commissioner. Thank you. So notwithstanding the importance of you ultimately hoping to secure the position, and notwithstanding the fact that you took photographs during that meeting of sample questions, I'm going to suggest to you that your recollection of the circumstances surrounding that meeting with Mr Azzi and Mr Hawatt in that café are very vague. Do you agree with that?---No.

40

I wonder if Commission staff could assist by putting on the screen the transcript page 3334, and I'm looking at line 14. Do you have that in front of you, Mr Stavis?---It's on the screen but it's kind of – yes, sir.

MR BUCHANAN: Commissioner, in fairness to this witness, he's looking now at the question-and-answer that appear at line 14, page 3334 of the transcript. It appears to me that it's not about the circumstances surrounding the meeting. The question that my learned friend asked earlier was that his

recollection of the circumstances surrounding the meeting are very vague. This is not about the circumstances surrounding the meeting. It's about what occurred in the meeting. So if it's meant to try to contradict the witness as to his evidence last adduced, then it will be completely ineffective because it's a different subject.

10 THE COMMISSIONER: Mr Drewett, I was giving you some latitude with the circumstances surrounding the meeting. That could mean how the meeting was organised, the lead-up to it, or it could mean what actually happened at the meeting. Which sense - - -

MR DREWETT: I'll break it down.

THE COMMISSIONER: All right.

20 MR DREWETT: And perhaps we'll deal with what happened at the meeting. And if that part of the transcript could be put back on the screen. Mr Stavis, I'm going to suggest to you that your recollection in terms of what happened during that meeting is somewhat vague. Do you agree with that?---No, I don't.

Have a look at page 3334, line 14, and I think you've got that in front of you at the moment.---Yes, sir.

You say in part by way of an answer, "They're, they basically gave me some pointers and to the best of my recollection they obviously, they provided a sort of sample questions, I guess." Do you see that?---Yes, sir.

30 I'm going to suggest to you that your answer which you gave, which I have just read out in part, suggests a great deal of uncertainty by you in relation to certain aspects of what transpired at that coffee shop meeting. Do you agree with that?---No.

You don't in that answer – or in any answer on the subject, I want to suggest to you, put by Counsel Assisting – use exact speech, "Mr Hawatt said this", "I said that", "Mr Azzi said this", do you?---Not in those terms, no.

40 And you're saying there, aren't you, that they gave you the sample questions. Do you see that?---Yes, sir.

So is it your evidence that Mr Azzi and Mr Hawatt, what, jointly passed you a document, is that what you're saying?

THE COMMISSIONER: Mr Drewett, I'm going to interrupt. For fairness for the witness, further questions were asked on the next page of the transcript specifically about that.

MR DREWETT: Yes.

THE COMMISSIONER: And I think if you're going to cross-examine him on the evidence he gave on that particular topic and his recollection, as a matter of fairness he should be referred to those.

MR DREWETT: Well, I take what you say, Commissioner. I might just continue and you might, my questions might get around to that.

10 MR BUCHANAN: Well, no. With greatest respect through you, Commissioner, Mr Drewett cannot be critical of the witness for being vague or imprecise on that question when he was specifically asked the question that my learned friend now raises and as is recorded on the next page and he gives a specific answer and then goes into detail.

THE COMMISSIONER: I think - - -

20 MR BUCHANAN: It doesn't mean that he can't be asked questions about what happened, but with the greatest respect, the witness can't be criticised for what he said as recorded on 3334 when the answer to it is on 3335.

THE COMMISSIONER: I agree with that, Mr Drewett, because if you look at the series of questions, what I think Mr Buchanan's strategy was, was to start general then you can see he starts getting specific, "What were you eating, did you have a tea or a coffee," et cetera, and then over on page 335 does ask some specific questions, for example, "What was said, what was asked," and the particular issue about the questions. So if your cross-examination is relying on a vague answer at the beginning of that line of questioning by Mr Buchanan, my view is that that's not fair to Mr Stavis.

30 MR DREWETT: I might ask Mr Stavis to read the following page, just to refresh your memory of that, Mr Stavis.

THE COMMISSIONER: Have you got that, Mr Stavis?---Yes, yeah.

MR PARARAJASINGHAM: Commissioner, can I just point out that this issue is explored in the following pages as well.

THE COMMISSIONER: Yes.

40 MR PARARAJASINGHAM: 336, 3337, so I - - -

THE COMMISSIONER: Yes. Mr Buchanan then focus on the particular questions.

MR PARARAJASINGHAM: Yes.

THE COMMISSIONER: And taking a photograph of them. Mr Drewett, as a matter of fairness to Mr Stavis, should his reading conclude to - - -

MR DREWETT: Yeah, to the following page, 336 I think.

THE WITNESS: I'm not sure how far I should go, Commissioner. I've, I've finished reading 3336.

THE COMMISSIONER: I think it then goes on to establishing where you were at the – the kind of, the metadata from your phone. Look, Mr Drewett, why don't you resume your questions.

10 MR DREWETT: I will, thank you, Commissioner.

THE COMMISSIONER: Mr Pararajasingham, if at any stage you think subsequent pages should be drawn to Mr Stavis's attention, please stand up.

MR PARARAJASINGHAM: Yes, thank you.

MR DREWETT: Mr Stavis, thank you for reading those pages of the transcript. I'm going to suggest to you that when you were answering questions in general terms, if Counsel Assisting will allow me to put it in
20 those terms, you were giving evidence of a meeting between you and Mr Azzi and Mr Hawatt at his coffee shop, but you were not using exact language that was said. Do you agree with that in general terms?

MR BUCHANAN: I object. It's a waste of this Commission's time for that question and the circumstances of the earlier questions to be repeated.

THE COMMISSIONER: He did answer that, that he didn't give evidence.

MR BUCHANAN: And we can see that.
30

THE COMMISSIONER: Yes.

MR DREWETT: Well, that's - - -

MR BUCHANAN: We were all here.

THE COMMISSIONER: He has agreed, he didn't give evidence that, you know, words to the effect Mr Hawatt said dah, dah, dah.

40 MR DREWETT: That's right. And I'm going to suggest to you, Mr Stavis, that the reason you did not use exact language, he said, I said, he said, I said, is because your recollection of the conversations that took place during that meeting is poor. Do you agree with that?---No.

I wonder if you could have a look at what you refer to as the sample questions, which I think is volume 3, page 177 to 179.---Yes, sir.

You took three photographs, is that right?---Look, I, I'm not sure it looks like there's three pages, yes.

Well, Mr Stavis, with respect, you were there.---Yeah.

Do you say you took three photographs or do you say you took more or less?---No, I think that's about right.

10 I'm going to suggest to you that when one looks at those three photographs, it's quite clear that those photographs were taken presumably by yourself when you were, can I put it, very rushed, in a hurry. Do you agree with that?---Not really, no.

Well, do you agree with this suggestion, that the information contained within the three photographs could perhaps be properly captured with the taking of, let's say, two photographs. There was no need for the three photographs, was there?---Sir, I'm not a very good photo-taker, to be perfectly honest with you, on my phone. So it doesn't surprise me that it took me three goes to get all those, get the pages.

20

And indeed when we look at the second page, it appears – and perhaps, as you say, you're not a very good photographer – that that second photo at the very top appears to be poorly focused.

MR BUCHANAN: I object. Just, with respect, a waste of the Commission's time.

30 MR DREWETT: Well, with respect, Commissioner, I'm cross-examining Mr Stavis on a very important allegation that will no doubt be made by Counsel Assisting in his submissions against my client in relation to whether or not he passed these documents to Mr Stavis. I have, with the greatest respect, no idea why objection would be taken in those circumstances of counsel cross-examining a witness for a few minutes on such an important matter.

THE COMMISSIONER: Mr Drewett, I'll give you some latitude. Please continue.

40 MR DREWETT: Thank you. I'm suggesting, Mr Stavis, that on page 2 the ---

MR BUCHANAN: Page 178.

THE COMMISSIONER: Yes.

MR DREWETT: Yes, 178. That the top part of that appears to be somewhat out of focus. Do you agree with that?---Yes.

Mr Stavis, my client, Mr Hawatt, never gave you the document Suggested Interview Questions, did he, during that meeting?---That's wrong. I don't agree with that.

There was a meeting that took place. It took place and lasted some 20 minutes or so. You might have said 20 to 30 minutes, but about that time. ---Yes, sir.

Attended by Mr Azzi and Mr Hawatt and yourself.---Yes, sir.

10

At some time during that meeting, it is the case, is it not, that Mr Hawatt and Mr Azzi left the table and went outside the café – might have appeared to you that they were making a phone call or talking or something of that nature – but they left, didn't they?---Absolutely not.

Can I suggest to you that they did leave and then some few minutes later they came back into the café?---That's not true.

20

And I'm going to suggest to you that when Mr Hawatt came into that meeting or that time that you were at the café there, he had with him some documents, some folders or things of that nature that you would have seen. Did you see him carrying anything into the meeting?---I believe it was a folder of sorts, yes.

30

And I'm going to suggest to you that you, at a time when Mr Hawatt and Mr Azzi were absent from the coffee table, when they'd gone outside – and you say that they didn't go outside, I understand that, but I'm going to suggest to you nonetheless that you then took it upon yourself to take some photographs of some of the documents that you had seen Mr Hawatt carrying with him.---That's absolutely not true.

And I'm going to suggest to you, you did that in a state of great desperation because of your very urgent desire to secure the position as DCP?--- Absolutely not true.

40

And if I haven't made it abundantly clear, Mr Stavis, I'm suggesting to you that Mr Hawatt, my client, did not give you the documents that we see, those three photographs, and that you took photographs of them without him being aware that you were doing so.---Not true.

And that I suggest may explain in part why there are three photographs as opposed to two.---No, sorry, I don't see it like that at all.

And may go to explain in part why the photographs are taken of poor quality, out of focus in relation to at least one of them.---As I said, I'm not a very good photographer so when it comes to iPhones.

And, Mr Stavis, I'm suggesting to you that your evidence in relation to Mr Hawatt giving you those documents is a lie.---Absolutely not true.

And I'm going to suggest to you that the reason why, or perhaps one reason why you do not use exact language to describe that transaction of what you say my client giving you those documents, is because there was no conversation.---Absolutely not true.

10 What do you say, Mr Stavis, my client, said to you at the point of time that you say he handed over these documents to you, what were his exact words?
---I don't remember exact words, as I gave, as I pointed out earlier, but I did, do recall asking for his permission, and Mr Azzi's permission for me to photograph those, that document and they gave me their permission to do so.

What were the exact words you use in relation to asking for permission, first of all, to Mr Azzi, what do you say you said to Mr Azzi in relation to your asking for his permission - - -?---I don't - - -

20 - - - to photograph the documents that you say were in the possession of somebody else, of Mr Hawatt?---I don't recall the exact words at all.

No. And what do you say the exact words were that you said to Mr Hawatt at the time when you asked Mr Hawatt for his permission?---Again, same answer, I don't recall exact words.

30 Do you say that you asked both Mr Azzi and Hawatt for their permission in two separate questions, if I can put it in those terms, that you first of all asked one and then asked the other?---No, they were both sitting side by side and it was a very small table so I just asked a question.

Right. And what do you say was the answer given by, well, let's go with Mr Azzi first. What did he say exactly when you asked for his permission to photograph the documents that were in the possession you say of Mr Hawatt?---He gave me permission but I don't remember the exact words he used.

40 Right. But you can specifically recall him saying something to the effect of, Mr Stavis, I give you my permission. Is that right?---Absolutely.

Yeah. I'm going to suggest to you, sir, that that is a lie.---You're entitled to your opinion, sir, but that's, that's the way it happened.

And what did you, what do you say were the words said by Mr Hawatt when you say you asked for his permission?---He said pretty much the same thing.

He said the same thing, Mr Stavis, I give you my permission?---Not, as I said, I don't remember the exact words but he gave me permission to take the photos.

Now, following this meeting, and I think was it the very day you had the interview with Ms Carpenter and others?---I believe so, yes.

10 I think you might have said, but if not, I'll suggest it to you anyway. You were asked a number of questions during that interview by my client, Mr Hawatt, and others?---Yes, sir.

And it is the situation, is it not, that Mr Hawatt did not confine himself to asking you questions that were contained in this document, suggested interview questions. He asked many questions, didn't he?

20 MR BUCHANAN: Well, just in case this matters, the assumption there is that he did ask a question or questions that were in this sheet and then the question is that he went outside that as well. Now, I don't know that it's been established that this witness says Mr Hawatt did ask a question that's on this sheet.

MR DREWETT: I'm grateful to my friend. I'll withdraw the - - -

MR BUCHANAN: It might be but I don't know.

30 MR DREWETT: No, no. I'll withdraw the question. Mr Hawatt asked you questions in that interview that are questions that are not contained on this sheet. Do you agree with that?---I think I have evidence in that, to that effect before, that it wasn't confined, and I, as I said before, these questions, there were questions asked various people on the panel that were similar to this, but there were other questions as well. And Mr Hawatt, his questions were more, were probably not contained entirely in that document, the sample questions.

40 Mr Stavis, I've almost finished my questions for you but I just want to ask you this, and it might be that it is a simple one word answer. Has it ever been communicated to you by anybody – my client, Mr Montague or anyone – that you were in fact not the preferred choice of Mr Hawatt for the position of DCP?---Of Mr Hawatt?

Has that ever been communicated to you by anybody?---I don't believe so, no.

Has it ever been communicated to you that the preferred choice of Mr Hawatt for the position for the position of DCP was Mr Simon Manoski?---I don't recall that at all, no.

Yes, thank you. I have no further questions.

THE COMMISSIONER: Mr Pullinger?

10 MR PULLINGER: Thank you. Mr Stavis do you understand that I represent Mr Pierre Azzi?---Yes, sir.

Thank you. Now, from time to time when you talk of Councillors Hawatt and Azzi, you represent the, saying or doing something by the prefix, "they". Do you recall that?---Yes, on occasions, yes, sir.

THE COMMISSIONER: Mr Pullinger, could you just, yes, thank you. We're having difficulties hearing you.

20 MR PULLINGER: Thank you. There's never an occasion where they both spoke at the same time using the same words?---No, they were very different, different characters, yes.

So, if you anything that they said something, what you mean is that one or other of them in fact said words to that effect?---Yes, sir. I accept that.

And by using the prefix "they", you're indicating that you're unsure which of them spoke those words, is that correct?---Not always, no, no.

30 If I can take you to the coffee shop meeting, when you saw Councillors Hawatt and Azzi, that was a day or so before the interview panel, is that correct?---Yes, sir.

At that stage you were aware of some, if not all, of the members of the interview panel.---That I can't recall, I'm sorry, if I knew at that stage.

At that stage you knew that Councillors Hawatt and Azzi and General Manager Mr Montague were members of the interview panel.---It is likely, yes.

40 There were five people on the interview panel, is that correct?---Oh, I believe so, yes.

Other than the two councillors who I've mentioned and the general manager, are you able to tell the Commissioner the identity of the other members of the interview panel?---I believe it was the Mayor.

Is that Mr Robson?---Yes. And I believe Judith Carpenter was also.

Now, you've accepted in evidence before the Commissioner that you knew or understood that the general manager, Mr Montague, was the decision maker in relation to your obtaining the position of the DCP.---Yes, sir.

10 And indeed in the interval after the interview panel and before you received an indication that you had obtained the position, you engaged in lobbying the general manager. Do you agree with that?---Yes, sir.

And that was because you knew and understood that he was the decision maker.---Ultimately, yes.

What role did the other members of the interview panel perform to your understanding in the selection process?

20 MR BUCHANAN: Well, I object to the question unless some time is indicated here. That is to say, are we talking about before the coffee shop meeting in Marrickville on 16 November? Are we talking about during the interview panel? Are we talking about as the witness sits here knowing all that he has learned up till now? I wonder if my friend could make it clear so that - - -

THE COMMISSIONER: Mr Pullinger, I agree with that, and not only to the lead-up to the first offer but subsequently. I think, sorry, to assist me, the answer to that question, various time periods should be identified.

30 MR PULLINGER: I'll take it in stages, Commissioner. Before the coffee shop meeting with Councillors Hawatt and Azzi, did you have any understanding of the role to be played by the members of the interview panel?---I don't believe so.

Between the coffee shop meeting or at the coffee shop meeting, did you obtain then any information as to the roles to be performed by the several members of the interview panel?---I don't believe so, no.

40 Certainly before you secured the appointment you had learned that the general manager was the decision maker, hadn't you?---Um - - -

Because you were engaged in lobbying him.---Yeah, I, I think that's fair.

You weren't in that interval, between the interview panel and notification of your having the appointment, lobbying any other member of the interview panel, were you?---Lobbying? No, but I thought there were, there was definitely contact between myself and Mr Hawatt.

You don't recall any contact with Pierre Azzi in that time frame, do you?
---As I sit here today, no.

Now, when you put in your application for the position, that was at some stage between 25 and 27 October, 2014. Is that correct?---Yes, sir.

And you included in that application some strengths that you perceived you had and you were able to bring to the position.---I vaguely remember as I sit here today, yes.

10

Including in your application that you were pragmatic?---Possibly, yes.

Able to think outside the box?---I believe so, yes.

Solutions driven or words to that effect?---Yes, sir.

And integrity beyond reproach - - -?---Yes, sir.

- - - was part of your virtues that you're placing in your application.

20

---I, yeah, without the benefit of having it in front of me, but it sounds about right, yes.

And you were representing in that application that at that date you enjoyed a reputation for integrity beyond reproach. Is that correct?---I believe so, yes, yes.

So far as you're concerned, you were never asked by Pierre Azzi to abandon your integrity or your professional responsibility in addressing any development application, were you?---Not that I - - -

30

MR BUCHANAN: I object.

THE WITNESS: Sorry.

MR BUCHANAN: I'm not quite sure what my friend is asking, Commissioner. Is my friend asking the witness did Mr Azzi have a conversation with you in which he said, you know you have a reputation for integrity beyond reproach, I'm asking you to abandon that, please, or is he saying that some specific transaction took place which necessarily meant that the reputation would be diminished in some way.

40

THE COMMISSIONER: That's the effect of it. Mr Pullinger, in which - - -

MR PULLINGER: I take it - - -

THE COMMISSIONER: Do you want to rephrase the question?

MR PULLINGER: I'll rephrase the question. Thank you.

So far as you're concerned, did Mr Azzi ever ask you to perform any act which you viewed as being an act which was capable of tarnishing your reputation for integrity?---Not that I can recall.

His approaches to you were for the most part urging you to complete the assessment process in a timely or hasty manner. Is that correct?---Yes, and also in, in a, in cases, to find solutions to problems.

10 You didn't take the suggestion to find solutions as an invitation to act improperly, did you?---No, sir.

Now, your understanding of the circumstances that led to the termination of your predecessor's employment at the council, where did that come from?
---I, I, well, I distinctly remember it coming from Mr Azzi because he raised a specific issue with me in conversation about a matter, a very minor application that he was making inquiries on behalf of the applicant which involved some paving of the front yard of a house and he was very forthcoming in letting me know that in no uncertain terms he went off at the
20 former director for insisting on something that was in his view so trivial.

And so that was a single episode in relation to a matter of some pavers, is that what you're saying?---No, no. There were other occasions where the, I mean, if you're talking about, are you asking me generally what - - -

No, go back to my first question.---Sure.

The information that you had about the termination or other ending of your predecessor's term of employment with the council, where did that come
30 from?---Oh, various sources. The general manager, Mr Hawatt, Mr Azzi, as best as I can recall as I sit here today, yep.

And in point of time, from whom did you first obtain some insight into the circumstances surrounding the ending of the employment of your predecessor?---I think Gouvatsos let me know the problems that my predecessor was having during my tenure.

So that was sometime after you'd arrived in the job?---No but there were other occasions prior to that, where - - -
40

THE COMMISSIONER: Mr Stavis, can I suggest maybe we look at before – we do it in stages. Maybe we look at before you received the offer of employment.---Okay.

And, sorry, Mr Pullinger, your first question is did anybody speak to you about the circumstances in which Mr Occhiuzzi left employment of the council, is that right, Mr Pullinger?

MR PULLINGER: Yes. I think I asked when and who.

THE COMMISSIONER: Yes. So, before you received the offer.---Yeah, Mr, well, I believe Mr Montague and Mr Hawatt as well.

MR PULLINGER: And that was before the appointment was offered to you?---Pretty much, yes.

10 You understood that your predecessor had resigned or that he had been terminated or what?---I didn't know the actual specific details other than he was under extreme pressure and ultimately left. Now, I'm not, I don't recall having knowledge of how, where he was resigned or terminated at that point in time.

Do you know when he'd ceased his employment?---Sorry, that I can't answer, no, I don't, can't recall.

Weeks, months, years before?---I think it was months prior to me starting.

20 Yes.---Yep, I believe so.

The pressure he was under, was the pressure that was applied requiring him to deal with development applications in a timely manner, wasn't it?

30 MR BUCHANAN: I object. Is my friend asking whether that was the understand of Mr Stavis and if so, is it an understanding that he wants to know whether Mr Stavis had when he was director of city planning or is it something that he wants to know whether Mr Stavis knows now as a result of reviewing the evidence before the Commission? Or is it something else again?

MR PULLINGER: You've indicated that you believe you got some information about the circumstances of his employment coming to an end from Mr Montague.---Yes.

And I think you've indicated that Mr Montague gave you to understand that your predecessor was under pressure.---Yes, sir.

40 And did you understand from what Mr Montague told you that the pressure he was under was pressure to attend to development applications in a timely manner?---That I can't be a hundred per cent sure of, if he actually said those words to me, to be perfectly honest with you.

Well, you can't be a hundred per cent sure that he used those words exactly. The import or the meaning of the words that he used conveyed that impression, didn't it?---It was certainly part of it, but also part of it he divulged to me is that the pressure that, direct pressure that Mr, my predecessor was encountering with certain councillors.

And the nature of the pressure being exerted by those councillors was never explained to you, is that the position?---Ah - - -

THE COMMISSIONER: At that time.

MR PULLINGER: At that time.---At that time I don't recall it being explained to me in any detail, to be perfectly honest with you, as I sit here today.

10

Subsequently was it explained to you that that was the pressure that he was under? That is, to deal with development applications in a timely manner. ---And to find solutions. Yeah, and to find solutions, which, yeah, sorry.

And you were similarly under pressure to deal with applications in a timely manner.---Myself?

Yes.---Oh, yes.

20 THE COMMISSIONER: Mr Pullinger, is that an appropriate time?

MR PULLINGER: Yes, certainly.

THE COMMISSIONER: We'll take the luncheon adjournment and resume at 2 o'clock.

LUNCHEON ADJOURNMENT

[1.02pm]