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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 18 OCTOBER, 2018

AT 2.00PM

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

THE COMMISSIONER: Now, before we resume, we will be finishing at 4 o'clock this afternoon. I've got a, yes, we'll be finishing at 4.00. Now, Mr Buchanan.

10 MR BUCHANAN: Thank you, Commissioner. Before lunch, Mr Montague, I had asked you about whether you had had occasion to enforce the code of conduct and your answer was to the effect that, no, you hadn't. ---Well - - -

Do you recall that exchange?---Yes, but I'm not sure I said no, not, I don't recall having to do that, I don't (not transcribable)

20 Can I just ask that you have access to volume 2 in Exhibit 52, please, page 91.---And I might add that there may have been enforcement of the code but that may not have been conducted by me. That might have been done by the legal team or the director of corporate services. I don't know.

Do you see that page 91 is the second part of the code of conduct, which is entitled Procedures for the Administration of the Code of Conduct?---Yes.

30 And if I can take you, please, to page 96 of this volume, and you see that clause 4.1 reads, "For the purpose of these procedures, a code of conduct complaint is a complaint that alleges conduct on the part of a council official acting in their official capacity that on its face, if proven, would constitute a breach of the standards of conduct prescribed under council's code of conduct."---Yes.

Can you see that clause 4.5 on page 97 of this volume reads, "All code of conduct complaints other than those relating to the general manager are to be made to the general manager in writing."---Yes.

Clause 5.1 on the next page at 98, "The general manager is responsible for making inquiries or causing inquiries to be made into code of conduct complaints about members of staff of council and for determining the outcome of such complaints." Do you see that?---Yes.

40 And if I can take you to page 99, clause 5.6, "The general manager is responsible for making inquiries or causing inquiries to be made into code of conduct complaints about delegates of council and council committee members and for determining the outcome of such complaints." Do you see that?---Yes.

You accept that you were responsible yourself for adjudicating any code of conduct complaints made in respect of the mayor or any councillor?---Yes.

As well as any delegate of council.---Yes.

Excuse me a moment. The code of conduct document, volume 2, page 90, says, "Modified August 2013." Do you remember when it came in?

---I think it came in after the introduction of the 1993 Act, but just when, I don't recall.

10 And notwithstanding the clauses of the procedure document that I've draw your attention to, you still think that you had no occasion to adjudicate any complaint under the code of conduct?---Thinking about it now and having been reacquainted with this, possibly that did happen on one or two occasions, but not as I recall through the period under review here. It may have happened previously because I do recall there was one particular councillor way back in the late '90s who was very disruptive and there is a possibility that she was counselled in some way in relation to her behaviour, but I can't be certain of that.

Apart from that you don't recall any complaints coming over your desk?

20 ---No, I have to say I don't recall.

Was there a system for recording data as to, for example, the number of complaints in any given year?---Yes, yes, because that has to be reported, I believe it has to be reported in the council's annual report.

30 Can I take you to another subject that you gave evidence about this morning, and I don't have the transcript in front of me so I won't pretend to quote you verbatim, but at some stage you indicated that Mr Faker, Mr Assad Faker, approached your personal staff in relation to a matter and he was referred to the planning staff.---I don't know that I said he approached the personal staff, I think - - -

Your office?---My office. He might have contacted, I don't know that he approached in person but he may have contacted my office and I don't recall having a meeting with him in my office at any time. So, I assumed, it was assumption that, and my executive officer would have been instructed to find out the nature of the matter and refer it on to the relevant director. So, in that case, if it had something to do with one of his DAs or whatever, it probably was referred to the city planning division.

40 That was not how Charlie Demian was treated, was it?---Well, he didn't actually have complaints. I mean he, he engaged, he asked to see me and he came into the office and he put his views across the table. That was one of those meetings where Mr Stavis was present. Charlie was an inveterate critic, if you like, of, of the way things in the planning division were done.

He had no complaints but he was inveterate critic?---Well, he was, but he, but he'd make his views pretty clear but he didn't formalise a complaint, he

didn't actually say, "Look, I've got a complaint to make." He, he was concerned that things were moving too slowly.

Was Mr Demian's access to you, the result of his friendship with you, and is that illustrated by the way Mr Faker was treated when he approached your office in relation to a planning matter?---No, I don't think so. I mean, Mr Demian had been around for a while and he, I, I, I didn't consciously treat Mr Faker any differently. If he'd approached me the way Mr Demian did in the earlier stages, that probably would have been the same outcome.

10

And how did Mr Demian approach you in the early stages?---Well, we met, we, we knew each other and he, he would ring my office or, if we did have occasion to meet socially, which was very rare, he, he would put his point of view across.

Well, you know that what you've just done is agree that, yes, Mr Demian got different treatment because he was a friend of mine.---No. I, I, I don't accept that entirely. I think it was just, once that relationship was established, it was probably more difficult to turn him away without causing offence. He was a major player in the area and I, I - - -

20

And Mr Faker was not?---Well, I didn't know Mr Faker. I said I met him once, I think, on a site inspection if it was him and I'm not sure it was.

Returning to the subject of Mr Khouri's involvement in the process of recruitment of a new DCP, you told us about the conversations that you had with Mr Khouri which resulted in Mr Stavis being identified as a potential candidate.---Yes.

30

Was there any subsequent discussion with Mr Khouri about any aspect of the selection process?---No. Not that I, not that I can recall, no.

None at all?---No, not, nothing, you know, nothing in depth. I mean, he, he might have asked me, "When are the interviews going to be held?" or "How's it going?" And I would have said, "Look, we're, we're waiting on a report from the consultant." That, that would have been the extent of it but he, he didn't involve himself in the process of recruitment.

40

How did Mr Khouri know that interviews were being held?---Oh, I might have told him that.

So is it fair to say that you did discuss with Mr Khouri aspects of the selection process?---Probably inadvertently, yes.

Well, it wouldn't have been inadvertent. You would have been intentionally discussing with him this aspect of council business, wouldn't you?---But, yeah, but if somebody asks me a direction I do my best to give them an answer, it doesn't matter who it is. If, if, if I believe that that's the

appropriate thing to do, there was no secret about the fact the council was advertising for a new director of city planning. Mr Khouri didn't know who the other applicants were, and nor was that divulged to him. Now, he may have, he may have been in contact with Mr Stavis and Mr Stavis may have told him that he'd made an application for the role. I, I don't know what transpired between Mr Khouri and Mr Stavis.

When did you first learn that Mr Stavis had made an application?---When I got the, the details from Judith Carpenter.

10

Did Mr Khouri tell you that Mr Stavis was going to make an application? ---He may have. I, I don't recall it precisely but he may have.

Now, did you discuss with Mr Khouri the notion of establishing an interview panel in this case?---I don't believe so, no. As I said to you earlier, that was a thought bubble, I don't mind admitting it. I was sitting in my office, I remember it vividly, and I was stressed out, I was panicking over what was happening, I knew, you know, storm clouds were gathering, there was all sorts of issues, and I thought, no, I've got to get these, these
20 councillors, particularly Azzi and Hawatt, get them more involved and have ownership of this process so that we don't have a repeat of the Marcelo Occhiuzzi experience.

What were the storm clouds that were gathering?---Well, storm clouds, the council was a very different beast then to what it was pre-'12, right, and the control of the council day-to-day was different, the relationships were different, and I was aware of that and it didn't please me, I didn't think the council was going in a very good direction politically, and that caused me a
30 great deal of consternation. I can't explain it any more than that. It was just a situation, a set of circumstances that was getting beyond my control.

But in what way was the set of circumstances manifesting at the time that you considered establishing an interview panel that you would characterise as storm clouds gathering? What was happening?---Well, I knew that there was dissatisfaction earlier with Mr Occhiuzzi and that there had been conflict between he and the two councillors in particular and for all I knew, other councillors, I don't know that, and I wanted to prevent that happening again. So it was, I mean it was obvious to me that the selection of this
40 person was critical to the future of the council, politically and otherwise, and that's why I opted for a panel which was a departure from my normal procedure.

Your expression, "Storm clouds were gathering," suggests that you were aware of pressures or concerns being exerted by say Councillors Azzi and/or Hawatt in respect of the process of selection of the new DCP.---No, I don't, I don't think it was related directly to that process, I think that was just the atmosphere in the council generally speaking at that time, and of course it was just an unhappy, it was a perfect storm, an unhappy confluence that the

interviews were being conducted, the panel was formed, all those things happened in rapid, with rapid fire and I made that decision, I'm pretty sure I spoke to the Mayor about it beforehand to try to defuse the situation, to try and get some rationale back into what we were doing.

Now, did you consult Mr Khouri about this?---No.

Why not?---Well, why? He's not, he's not a councillor, he's not on the panel.

10

Because you discussed council politics with him.---Yeah, but I didn't discuss everything with him. I mean we - - -

And you had already discussed with him one aspect of the process, finding candidates?---I didn't discuss that with him, I asked him did he have anybody that he could recommended or may be suitable for appointment.

20

So in that case did you ask him about what he thought about the idea of having a board, sorry, a panel?---No, no, I don't believe so, and I wouldn't have seen much value in that anyway.

Well, you understood that Mr Khouri was in contact with Mr Hawatt and Mr Azzi, didn't you?---Yes.

You didn't want to use Mr Khouri as a sounding board as to how he thought Hawatt and Azzi might respond to being included in the process in some way - - -?---No.

30

- - - such as - - -?---No. I may as well have gone out into Beamish Street and grabbed the first person who walked by and asked them, because that, that, that's about the level of the benefit of Mr Khouri participating in that decision that I made to, to form that panel.

You can see though from the call charge records from that period that Mr Khouri was in contact with Mr Azzi and Mr Hawatt?---Yes.

That can't come to you as a surprise.---No. But I don't know what they were talking about.

40

Oh, please, Mr Montague - - -?---Well, no - - -

- - - what do you think they were talking about?---Well, they may have been talking about the appointment or how the circumstances surrounding Mr Occhiuzzi's departure, I don't know and I wasn't privy to those conversations.

But you're not naïve, Mr Montague, what did you think they were talking about?---I, I don't know.

That is simply not a frank answer, is it?---Well, it is, because it's, it's the truth. I could have, I can make all sort of assumptions, but is that fair? I mean I don't know what Khouri was talking about with Michael Hawatt. They, they were reasonably close and perhaps they were talking about other political issues for all I know. Look, I'll, I'll, I'll concede this, that there's no doubt there was conversations or discussion between them in relation to this appointment. No problem.

10 And it doesn't come to you as a surprise that there were?---No, but I, I - - -

In that case, at the time you understood that if you spoke to Khouri he would speak to Hawatt or Azzi, particularly if you asked him to.---No. I didn't ask him to and I didn't know that he would. He's his own man. He can make his own decisions. I wasn't running his life.

Did Khouri convey to you what Azzi or Hawatt wanted from the selection process?---They made it very clear that they were interested in – this happened a little later – were interested in Spiro Stavis. They, they did
20 make that clear but I can't remember exactly when, whether it was at – although after the interviews, funnily enough, they didn't push that hard for Stavis. In fact they didn't push at all.

We'll come back to that later. I'm talking about the process and the interest, if any, expressed to you, whether directly or indirectly, by Hawatt or Azzi in the selection process, how it was to occur.---I don't think they took, I don't think they got heavily involved in that at all, or involved at all. I mean, look, it was my prerogative to appoint that panel and the only person I had to account to and report to was the Mayor and that's what I did. Now, I
30 don't, I didn't - - -

Come on, Mr Montague. You say the only person you had to account to was the Mayor. That's not an honest answer, is it?---Yes it is, officially I mean.

Why did you want Mr Azzi and Mr Hawatt to have ownership of the selection process?---Because they, they, at that time, given the, the change in the political mixture of the council and the make-up of the council, they were clearly calling the shots. So I invited the Mayor to sit on the panel, as
40 you would normally do, who's, who's a Labor councillor, and I invited Councillor Hawatt and Councillor Azzi as well and other councillors. Now, there were a couple of councillors who expressed an interest but because the interviews were conducted during the day and they worked, they weren't able to be part of the process.

Did you actually talk to other councillors?---I think I spoke to, maybe Councillor Adler. I, I, I can't recall, but the other thing I was careful about was that I didn't want to have too big a panel. So, it was meant to be a

cross-representation of the politics of the council and people who had an interest in the appointment in terms of outcomes.

Now, you told Khouri, didn't you, about the establishment of the panel?---I could have, yes.

Well, you would have, wouldn't you?---Well, possibly.

It's inevitable, isn't it?---No, no. Nothing's inevitable.

10

Mr Montague, thinking about the circumstances at the time, thinking about your relationship with Mr Khouri, thinking about your communications with Mr Khouri about trying to get a new DCP, it is inevitable that you told Mr Khouri about the establishment of the panel, isn't it?---I could have but I don't agree it's inevitable.

Did you keep Mr Khouri informed as to your thinking about preferred candidates once you had formed some thoughts about preferred candidates? ---Not at the time. Not at the time of the, of the, the panel, no. Not that I recall.

20

What about after the panel had sat?---Well - - -

Once you had an idea about preferred candidates?---Well, it was unclear, even then after the panel, who, who the preferred candidate was. I had expressed my view but the councillors had another view.

Well, that's what I'm asking you about, your view.---Well, my view was that we should have appointed Karen Jones.

30

Did you discuss that with Mr Khouri?---Possibly at some, some future times, yes, just in passing again. I didn't expect him to, to endorse that or to give me his blessing.

Is it possible that you had reasonably detailed discussions with Mr Khouri about your thinking about what was needed by way of a successful candidate and what you were doing and thinking of doing about the process of getting to that outcome?---I don't believe I had detailed discussions with him. There would have been comments here and there. Yes, he might have rung me and said, "How's it tracking?" I'd say, "Well, the interviews were conducted yesterday", or you know, "I don't know, we haven't heard from the consultant."

40

Does it come to you as any surprise that Mr Khouri was in regular and frequent contact with Mr Stavis during the process of being selected?---Yes. And also Mr Stavis's contacts with the two councillors, that did surprise me. That came out in evidence here and that concerned me greatly.

At the moment I'm just asking about Mr Khouri.---Yes.

And you saw that there was very regular telephone calls between the two of them during the period between him making his application and the day of the interview panel, and indeed during the interview panel?---Yes, yes.

And all of that came to you as a surprise, that evidence?---Well, not as a surprise, but I think, I'm not sure it was appropriate, but I mean I couldn't prevent Bechara Khouri doing what he wanted to do.

10

Did Khouri not speak to you after having said, oh, look, I've found this guy Stavis? Did he not speak to you about Stavis?---Yes, and I told him to tell Stavis to lodge an application with Carpenter.

Did he ever tell you anything more about Stavis? For example, why he would be a good candidate for appointment?---He probably touched on that because he knew he had a consultancy running for a significant number of years.

20

What were the things that Mr Khouri said to you on the subject of why Mr Stavis should be appointed?---Look, I can't give you specifics. They were just general banter, if you like.

Yes. Well, was it anything like, oh, well, he's pro-development, for example?---No, no.

Nothing like that?---No.

30

Or was it anything about him being facilitative - - -?---No.

- - - of development?---No. I - - -

And him helping developers?---No.

Anything about Mr Khouri's understanding of how Mr Stavis worked with developers when he had been a council planner?---Well, I don't know what his relationship with - - -

40

No, no, no, I'm asking you whether Mr Khouri told you about that.---He told me about some of the, some of the work he'd done at Botany which - - -

Right. Any of the work that Mr - sorry, I'll rephrase that question. Did Mr Khouri tell you anything about any of the work that Mr Stavis had done at Strathfield?---Not that I recall, no, but he had a, as I said, he was in regular contact with the mayor of the day, pardon me, at Strathfield.

And you however were the decision-maker, not the mayor of Strathfield.---Yes.

And so I'm just asking, did Mr Khouri not indicate to you that there was, for example, a particular aspect of the work that Mr Stavis had done on a particular development application which indicated he might be a suitable candidate - - -?---No.

- - - for appointment?---No, and I wouldn't, I wouldn't know what application or what development you're talking about in Strathfield. I was only concerned with Canterbury.

10

But you wanted to know about the man you wanted to appoint.---Yes.

I'm sorry, the person you wanted to appoint - - -?---Yes, yes.

- - - as DCP at Canterbury.---Yes.

And you wanted, surely, intelligence on the candidates, to the extent that you could garner it?---Well, yes, and that's why I met with him privately at Giorgios.

20

Why wouldn't you bother asking Mr Khouri to find out about Stavis?
---Because that's not his role is to go around and act as an agent for me. I'm quite capable of conducting my own research.

But you had asked him to act as an agent for you in one respect - - -?---I, no, I didn't.

- - - in this process, why not ask him to again act for you as your agent - - -?
---Because I - - -

30

- - - in find out intelligence about any of the candidates?---Because I didn't do that, that's why.

Yes, but why wouldn't you do that?---Why?

What's wrong with doing that?---There mightn't be anything wrong with it but there's no need to do it because it was going through an official interview or selection process.

40

Mr Montague, you were not a naïve person. You were steeped in local government politics and in the politics of Canterbury Council, weren't you?
---Yes.

You knew that as many sources of intelligence that you could have on any given topic the better. So it wasn't just a matter of looking at what people put on paper, you wanted to find out what the scuttlebutt was about candidates, surely?---That's, well, I'm jumping ahead now, but that's why the second round of, of reference checks were done. Course, but - - -

You weren't going to get scuttlebutt from candidates themselves, were you?
You get scuttlebutt from third parties.---Well, I did from the staff at
Canterbury.

Did you get any from Mr Khouri?---No. Not, not the - - -

Why didn't you ask him to do that, given - - -?---Well, I repeat - - -

10 I'm sorry.---I repeat, I didn't see that as being necessary. He was not the
recruitment consultant, Judith Carpenter was, and I, I didn't see any – look,
the only time I raised this with him was when I asked him did he know
anyone out there who might be interested, and I told you before, I told,
when he's mentioned Stavis I said, right, suggest to him he apply.

And you asked him to do that but you didn't ask Judith Carpenter to do that.
---No.

20 Even though she was the recruitment consultant.---I've never, I never
denied that, that I told him to contact Carpenter.

And you didn't ask Judith Carpenter to do that, you asked him.---Yes, I
admitted that before.

That doesn't make sense, does it?---No, but it saves double handling. He
had, he had to contact Carpenter as if he was just any applicant, like the
others who applied.

30 For how long had you been dealing with Judith Carpenter?---Years.

And I think we've been over this, haven't we? She was experienced in local
government recruitment - - -?---Yes.

- - - at a senior level in New South Wales?---Well, I don't know how far she
extended into New South Wales but she certainly was involved and
experienced in recruiting in the Sydney Basin, in the Sydney region.

40 And for Canterbury Council?---Yes, of course. For other positions, not just
senior staff.

She had proved reliable in the past?---Yes.

Had she provided in your opinion sound advice as to the relative merits of
candidates for appointment to positions - - -?---Yes, but I wasn't - - -

- - - to which she was recruiting for council?---Yes, but I wasn't duty bound
to accept her advice.

But she had in your experience provided sound advice as to the relative merits of candidates?---Well, without going right back over all of the positions she helped us with I'd have to, I'd have to say that a qualified yes. I don't, I can't recall those other positions now but there were several of them in a, in a period of years.

Well, okay. I'll break it up. She had provided to you advice as to the relative merits of candidates?---Yes, when asked.

10 And that advice had proved sound in your experience?---By and large, as far as I call, yes.

You went back to her for a reason on this occasion, didn't you?---Yes, because she was the recruitment consultant. She was being paid to do this job and I thought the reference checks were deficient.

But you thought she was good?---Yes.

20 That's why you went back to her?---Yes.

We'll come to the reference checks later. So you rang her firm, Judith Carpenter & Associates, and spoke with her to indicate that you needed a fee proposal for this job?---I think at that time she was a sole trader. She, she was just on her own. She branched out on her own, yes.

And you asked her for a fee proposal to undertake the recruitment process? ---Yes, that would be normal.

30 And you told her, didn't you, that Marcelo Occhiuzzi had fallen foul of the councillors. You said Marcelo had clashed with councillors?---Yes.

And you told her that the DCP to be appointed would be dealing with entrenched and difficult staff?---Some, yes, although more recent appointments, after - - -

No, no, no, what you told her?---Yes. But some, not all.

She provided you with a fee proposal which I assume you approved?---Yes.

40 And you arranged for her to be provided with an information pack about the vacant position and wording for an advertisement?---Yes.

Could you have a look, please, at volume 3 in Exhibit 52, page 14.---Yes.

And if you have a look at page 14.---Yes.

If we can blow it up a little bit. It's on the screen. It's probably a bit easier to read.---Thank you.

The email at the bottom is on 13 October, 2014 from Ms Carpenter to your assistant, Ms Pettenon. Is that right?---That's right. That's right.

And she said she was attaching three things, a proposal, a draft advertisement and an updated information pack?---Yes.

10 And she went on to say, "Could you let Jim know that I have spent a bit of time on the phone this afternoon and have identified seven possible candidates, some out of the Department of Planning who have also worked in local government. I will follow up over the next couple of days."---Yeah.

Was that drawn to your attention?---I would have read it, of course.

And were you pleased that Ms Carpenter had done that?---Well, she was very proactive which is always good in a consult.

But she did that off her own bat?---I believe, I believe so.

20 You didn't ask her to?---No. No, I believe she did that of her own initiative.

And then at the top of the page Ms Pettenon responded on 14 October, "Please find attached amended advertisement and information pack for the position of director (city planning)". And can you see that there are attachments identified including information pack, director (city planning)?
---Yes.

And then from pages 16 through to 43 are those attachments.---Yes.

30 I'm just going to ask you to assist if you can, is page 40 the advertisement that you approved?---Excuse me. Just give me a minute to find that.

Sure.---Page 40 you said?

Yes, please.---Looks like it, yes.

40 Thank you. And so you identified in the third last paragraph a requirement that the successful candidate, "Demonstrates a track record in leading complex service delivery in large organisations."---Yes.

"And will deliver commercially astute outcomes that address changing social, economic and environmental needs within the community."---Yes.

And then if I take you back to page 26, please. Just so that you can see the context, by all means have a look at page 24, just to glance, 24 and 25.
---Yes.

And then if you have a look at 26, that's headed Person Specifications.
---Yes.

And there are a number of dot points.---Yes.

You approved the content of that page?---Yes, I approved the information pack and that's included in it.

10 And, sorry?---Yep, and that's included in it, yeah.

And so the, the person specs included second dot point, "Change agent. A demonstrates ability to drive and implement change."---Yes.

And that was something you wanted, wasn't it?---Yes.

No doubt about that.---Yes.

20 And then under the heading Leadership, "A strong people manager with demonstrated skills in leading a diverse group of people." And again that was definitely something you wanted, wasn't it?---Yes.

Now, down at the last dot point, under the heading Influence, you approved this wording, "Ability to analyse and resolve issues, to negotiate outcomes and guide executive decisions in a complex, politically sensitive environment." Do you see that?---Yes, yes.

30 Negotiating outcomes does rather sound like ensuring that there could be favourable outcomes for developers in that they wouldn't have their applications knocked on the head for non-compliance.---With, with respect, Mr Buchanan, I don't know how you can read that into that, that paragraph.

40 What did, "Negotiate outcomes", mean if not dealing with stakeholders?
---Well, exactly, exactly. Dealing with stakeholders to get the best possible outcomes for all concerned, including the council and the community at large, not just a particular developer. And this is, look, I, I didn't, I didn't write this. This would have been done in the HR area. I would have approved it, of course, but I don't, I don't get down to this degree of minutiae. I mean that, that's what I, I would have expected my HR manager to do that on my behalf and that's what he's done and maybe he gathered information from other job ads that he had in his, in his file. I don't know but it's not the Magna Carta. I mean you can't dwell on every single word.

You also know you - - -?---I could have worded it differently.

I'm sorry?---I could have worded it different and, and we'd still be at loggerheads over what the words mean.

Well, what I'm trying to understand is what was behind the inclusion of the words, "Influence. Ability to analyse and resolve issues to negotiate outcomes."---Because often in a complex environment like the City of Canterbury's planning division and the community at large, 48 per cent of which are from non-English speaking background, you have to negotiate. You have to sit down with people – ordinary applicants, mum-and-dad applicants or major developers – and try to find out what it is they're trying to achieve and does it comply with the council's expectations for sensible development across the city. That's what that means and you could, you could say the same thing in relation to any number of things that, that I was involved in. Our financial position, legal issues, I mean, as I said, if I, if I wrote that now, knowing what I know and looking into the future, maybe I wouldn't have said to negotiate outcomes, but what does outcomes actually mean? You can put a negative spin on it or a positive spin on it and I think it's positive. It's, it's, as I said at the outset of these proceedings, in my time in the box, we were concerned to ensure that the, the council provided a level of service to all stakeholders that was commensurate with our responsibilities under the Act, and that's what I expected the senior staff to do.

20

Advertisements were published?---Yes.

And you became aware of applications that had been received. They were sent in the first instance to Ms Carpenter's firm?---Yes.

And you became aware that one of those had been submitted by this man Spiro Stavis?---In the end. I'm not sure when that happened but I was aware he'd applied, yes.

30 The date on Mr Stavis's letter of application is 25 October, 2014.

The evidence he's given is that he would have sent it either that day or no later than Monday, 27 October, 2014.---Possibly, yes. Yes.

But it would have gone to Ms Carpenter first.---Carpenter, that's right.

Electronically.---Yes.

40 Were you aware that Ms Carpenter provided a shortlist of candidates for you?---Well, I'm not sure – look, I'd expect that, but I'm not sure when it happened because it got down to five, I believe there were seven and we got down to five for interview, so it must have gone through some sort of synthesis to get there.

And you were aware that part of her process of synthesis was to cull those from the list of candidates who, on paper, didn't meet the criteria for the position?---I expected her to do that, yes.

And then herself, if she felt it necessary, to conduct an interview of the remaining candidates to finalise the shortlist.---Yes, I think so. I think that's how it works.

After the applications had been received, did you ring Ms Carpenter and say, "I need to tap a few people on the shoulder, including Simon Manoski and Spiro Stavis"?---Yes.

10 And did you say that because you wanted to ensure that those two were on the shortlist?---Yes.

And did she tell you that both of them, as it happened, had already applied? ---I don't recall her saying that but she must have, and I was pleased with that because - - -

20 Why did you specify Mr Manoski in that conversation?---Because I knew of Mr Manoski through the grapevine around the place and I knew his brother worked at Bankstown. I knew him as well. I'd had some dealings – briefly, I must say – with Mr Manoski, and he was with the Department of Planning, which would give him a different perspective. It would give him a much broader view of how things were tracking in the State Government sphere in relation to planning reform, and I thought that was particularly relevant. Now, that's why I included him on the list, and also, I suppose, because his brother's over there. I knew Matt Stewart pretty well. I didn't want, I didn't want him to think that we just shunned him. But it's up to him to perform at interview.

30 THE COMMISSIONER: Sorry, I missed this. You agreed that you used words along the lines of "I need to tap two people on the shoulder."---Yes. Yes, I did. Yes, I did.

Does that mean include them on the interview list?---Yes. Yes.

Okay. Thanks.

40 MR BUCHANAN: And why did you mention Spiro Stavis in that conversation?---Again out of, I suppose out of loyalty to, I mean, I ask people to help me and I didn't want to just forget him. I didn't know the man from a bar of soap, but I thought let's include him, no harm done, and that's how he came to be on the list. And in fact, as I recall, and there's probably evidence here to this effect, Judith recommended him for interview, as you just said. She did that on her own volition. I didn't put my hand up her back to that extent, anyway.

And when you said "out of loyalty", you stopped yourself from saying "to Bechara Khouri", didn't you?---No. Well, I suppose, yes, the answer to that question is yes.

Why did you stop yourself from saying “out of loyalty to Bechara Khouri”?
---You know and we all in this, in this room know that Bechara Khouri and I are friends. We were friends. We still are. Right? I don’t want to see Mr Khouri unjustly vilified. I asked for his help. He was kind enough to recommend one name and I thought I owed it to him at least to have a look at this person. That’s as far as it went. And that’s just - - -

10 Would you be prepared to give evidence in these proceedings which to your knowledge is not true in order to protect Mr Khouri?---Absolutely not.

Now, applications closed on 27 October, 2014, the evidence before the Commission shows.---Okay.

And if I can take you, please, to page 64 in volume 3.---Yes.

This is an email from Ms Carpenter to you of 31 October, 2014.---Yes.

So it’s after the close of applications.---Yes.

20 And she says, “Just a quick update on the director (city planning). I have now completed most of the significant interviews, although I have one or two stragglers to follow up when I get back. I am confident we’ll have a strong shortlist of between four and five candidates. It is probably useful for you to know that Simon Manoski will be away from 23 November, and since I would like to shortlist him it would be good if we could fit in interviews any time from 18th through to 21st,” and then she indicated when she would be away.---Yes.

30 Do you see that?---Yes.

Had you had a discussion by this stage with Ms Carpenter about having an interview panel?---I don’t recall that. I’m not sure I did discuss the interview, the interview panel with Ms Carpenter at that point or any, at any stage actually.

40 So when hiring other senior staff before October 2014, had you conducted interviews of shortlisted candidates yourself?---With other people. We normally would have an interdivisional group and, and it would include other directors and perhaps even senior managers.

And how many people normally would comprise that group?---Well, I would say no more than five.

So, but it would be yourself and senior staff in the organisation itself?
---Yes, to try and get cross-fertilisation of views, depending on the position of course. That applied to senior managing positions as well, not just the directors, only I wouldn’t participate normally in those interviews.

Then page 65 on volume 3 you can see that Ms Carpenter sent to you suggested interview questions and asked you to have a look at them?---Yes.

And you did. Do you remember doing that?---Yes.

And there's no particular issue about it, but I think you added a couple of questions yourself?---I think I added a couple or I, or I amended a couple perhaps. I don't recall.

10 You definitely had input into that document though, didn't you?---Yes, I did.

Now, around this time you received a telephone call from Ms Carpenter in which she said to you that she had shortlisted the candidates, and she said, didn't she, "Okay. So these are the people that I have shortlisted. You've mentioned that you are interested in Spiro, I'm not going to include him as he doesn't meet the criteria on paper." Do you remember Ms Carpenter saying that to you?---I don't doubt she said it.

20 But you don't remember it, is that right?---I don't, not clearly, no.

Did you say in response to that, "Actually I want him to be included?"
---Yeah, for the reasons we, we touched on earlier.

And what are they?---The loyalty and, and, and the, because of the fact that he was on, that I asked Bechara Khouri to see if there was anyone out there, he recommended Stavis, Stavis submitted an application so I thought it was fair and the decent thing to do to at least have a look at him. That was it.

30 But you didn't have a conversation with Ms Carpenter about why Stavis didn't meet the criteria - - -?---No, well - - -

- - - or which criteria - - -?---Well - - -

- - - he didn't meet.---I didn't need to have a conversation with her. I mean that was, that's her value or her add, value add I should say, to the process of recruitment. I don't have to accept her advice.

40 THE COMMISSIONER: Can I just ask, your evidence, my recollection of your evidence earlier was that you said to Mr Khouri words to the effect, "Do you know a planner?"---Yeah.

And he came back after a while and said Mr Stavis at Botany, something like - - -?---Yes. Oh, I don't know whether he mentioned Botany but yeah.

Or something like that, Mr Stavis.---Yeah.

You've now used the verb "recommended Mr Stavis," which in my mind would go further than just saying, oh, look, there's Spiro Stavis who is a planner. That would suggest that he said there's Spiro Stavis and he's got, you know, he's done this or he's got these advantages or something like that.---Well, he could have, but I don't recall the terms of that conversation and perhaps the word recommended is the wrong word to use. All I knew was that Spiro Stavis at that point was included in the shortlisted candidates of five, it turned out to be in the end, we had seven and she reduced it to five.

10

But you've given evidence that, and I'll put it broadly, that although you – sorry, although Ms Carpenter said, look, he doesn't meet the criteria on paper, as you said, because of loyalty, that Mr Khouri recommended him, you wanted him included. Now - - -?---Sorry.

- - - if Mr Khouri just said, oh, look, there's a Spiro Stavis - - -?---Yeah.

20

- - - but I can't, I have difficulty in accepting why you would then sit back and think as a matter of loyalty and my friend recommended this person, but if he went further and said, look, there's this person, Spiro Stavis, I've heard good words about him, or he's done this or done that, then I can see, yes, it was kind of a recommendation, he's a friend of mine, I'll, because of loyalty in that way I'll include him on the list.---I, I think, Commissioner, I misspoke. I didn't, I didn't mean to use the word recommended. He didn't recommend Spiro Stavis to me.

Ah hmm.---He asked Spiro Stavis to lodge an application with Carpenter. That's, that was the extent of Bechara Khouri's involvement.

30

Well, you asked him, he went away, came back and said something to you which involved the name Spiro Stavis.---Yes.

And then your evidence was "and I said get him to put in a" - - -?---Well, if he, no. I said if he's interested, really interested and he's not just flapping his jaws, if he's really interested get him to put an application in.

40

I think I'm more interested in what Mr Khouri said to you before you said that.---Well, look, I can't remember precisely, Commissioner, but I don't believe, I don't believe Bechara Khouri said anything derogatory or uncomplimentary of Spiro Stavis but he was basing that on what I don't know, whether he'd had previous contact with him at Strathfield or wherever. I hadn't. I didn't know the man as I said but he was on the list and I felt obligated to at least have a look at him.

MR BUCHANAN: Because of Mr Khouri?---Yes, and because of Mr Stavis because I don't know what Khouri said to him but maybe there was an expectation on Stavis's part that he would at least get to an interview for the position.

Why would you be prepared to do that – that is to say, out of loyalty to Mr Khouri – if you were told by your experienced recruitment consultant, whom you'd relied upon in the past and found to be sound, that this man didn't meet your criteria for the job?---Because he had certain experience that we hadn't experienced or we didn't have the benefit of before at Canterbury. He was, he was a completely different style of person. He wasn't what I would call a run-of-the-mill planner. He had his own consultancy. He had varied, varied experiences around the place. He'd run his, run his own business and I thought he might have brought a different emphasis to the job.

At the time of this conversation with Ms Carpenter, how did you know that, how did you know any of those facts?---Well, I, I assume that that information was available from her. I don't, I can't, I don't know, Mr Buchanan. All these things are swinging around in my head now. I don't remember the timing of many of these things. I know the key points and the key point for me was there were five people recommended for interview including Stavis and Manoski and that's we went ahead and did.

Well, in the first instance four were recommended and then you insisted that Stavis be added.---No, I insisted that both Manoski and Stavis be added.

No. You asked that Manoski and Stavis be tapped on the short, wanted to be - - -

THE COMMISSIONER: Tapped on the shoulder.

MR BUCHANAN: Yes, tapped on the shoulder but you had this conversation subsequently with Ms Carpenter when she said that you've mentioned you're interested in Stavis. I'm not going to include him because he doesn't meet the criteria on paper and you responded actually I want him included.---Yes, and that's her opinion but I saw different elements in his, in his background that may have been of benefit to us.

What elements did you see that were not in the criteria?---The sort of - - -

I withdraw that. I'll start again. I do apologise. I withdraw that question. ---That's okay.

Do you mean to say that at that stage you contemplated making an appointment on the basis of criteria which you had not included in the advertisement?---No, because we'd have to explore that at the interview and, and further to find out what skills and what experience he had had in relation, in relation to the selection criteria or the peoples, the people spec, the person spec.

But if your experienced consultant whom you had found reliable in the past told you that this man did not meet your criteria, why would you go any further with him?---I've already explained that and I, and I stick to it. I think that Spiro offered a different focus, a different emphasis, a different type of person in a role that was critically important. Those people skills which he demonstrated to me he was quite, quite capable of, of using would suit our ends better than another run-of-the-mill planner.

10 At that time, you're just making it clear now, you proposed to apply criteria which you had not included in the person specifications or the advertisement, weren't you?---No. The person spec and the job description is just a first, is just somebody you put out there on paper. Now, the interviews and the questions that were asked didn't go to script anyway, as we know. The councillors deviated from the prepared questions. So - - -

You weren't looking for a change agent?---Yes.

20 You weren't looking for someone who was experienced in leading complex and diverse - - -?---Yes, and I believed he could do it.

What was the basis on which you believed that at the time you were telling Ms Carpenter that, despite learning he didn't meet the criteria, you wanted him included in the shortlist?---Because of my own gut instinct.

30 What was your gut instinct based on? What information had you been given?---A lot of experience in local government. The sort of people that introduce themselves to you in all sorts of roles. And I can assure you in my long experience I've put people on who come with the best recommendations, the best qualifications, and they don't, and, and they don't deliver. They don't deliver on the job that is set for them. Now, it's always, in my opinion – people can disagree – it's always a bit of a lucky dip. You're not going to appoint somebody if he, if he didn't have planning qualifications. Obviously he wouldn't be considered. But he did.

You were considering, at the time of that conversation with Ms Carpenter, the appointment of Mr Stavis even though you were told he didn't meet the criteria for the position, weren't you?---No. I - - -

40 As early as the formation of a shortlist.---I wanted Mr Stavis interviewed. That I'm clear on, yes. But that's as far as it went.

Now, had you promised Mr Khouri that Stavis would get an interview?---No.

Had you had a conversation with Mr Khouri about whether Stavis should have an interview?---Possibly, but I can't recall when or where.

So what conversations were you having with Mr Khouri about Mr Stavis after the initial flagging of the fact that Mr Stavis existed and you saying, oh, well, tell him to put in an application?---As best I can recall, very little, because it was an open process and it would come to a natural conclusion.

10 THE COMMISSIONER: My note was that at this stage you thought that he would bring a different focus, had different employment background, and had different people skills.---Well, I don't know that I said different people skills, Commissioner. I think what I meant to say, if I didn't say it, was that he, that he had, seemed to me to have pretty solid people skills.

What did you mean by people skills?---Ability to deal with other people and to empathise with them and get the best out of them, I suppose.

20 So is that looking at internally dealing with his staff at council?---Yes. Yes. And also his relationships with councillors and other stakeholders, how he dealt with that. And, you know, he's in his own consultancy for 15 years. He must have had a lot of experience in dealing with people from varying backgrounds.

And when you said a different focus and different employment, you're emphasising that he did run this consultancy practice for a number of years?---Yes. Yes. Yes.

Okay. Thank you.

30 MR BUCHANAN: But experience in private practice was not something that was sought.---No. I know that. I know that. But, I mean, as I said, this ---

But you were seeking it?---Well, like I said, if I had written that myself, maybe that would have been one of the criteria included.

Do you mean to say that you did have in mind at the time that this selection process started that you wanted someone who had experience in the private sector?---No. What I wanted was somebody who had a different background to the run-of-the-mill town planners in local government. And that's not being derogatory of planners in local government.

40 And what was it that you hoped to achieve by getting someone who was different from the run-of-the-mill local government planner?---A different, a different ethos in the planning division. A change away from fairly, I suppose, rigid culture in the division of planning which had persisted from years, and I'm talking well before all this blew up. Canterbury's reputation in terms of planning decisions and dealing with applications expeditiously wasn't very flash.

And a rigid culture, what was that a reference to?---Some people in the planning division who, who had been there many years – I'm not referring to the most recent appointments because I didn't know most of them. It was about the time I was being shown the door. Some of those more recent appointments, younger people, seemed to be very good and I've got no doubt they've moved on and used their abilities elsewhere. But some of the people in the planning division at Canterbury had been there a long time and they were certainly fairly fixed in their views.

10 Fixed in what views?---Well, just the way they did things. They, particularly importantly in the strategic planning area. Not so much development and assessment but strategic planning. Like, where is the City of Canterbury going to be in the next 20 years? What, what, what do we need to do now to make it a liveable place in 20 years' time? They, and working with other agencies and the State Government and the department to, to try to get that right. Now, it's a big task, it's almost impossible. Better minds than mine have tried to do that, but that was important that we had somebody who could relate to those people and to change the mindset of some individuals in the planning division.

20

What was the mindset, though, that you wanted to change that you've described as rigid culture in relation to strategic planning?---Well, they seemed to be negative about – and, and I think the, the proof of the pudding there is, is the way that Canterbury City looked, even after, you know, successive planners had had a shot at it, nothing had changed, by comparison, with neighbouring council areas. Particularly Burwood.

And what was it you wanted to see changed?---Well, the town centre of Campsie, for example, was degraded. It, it, it hadn't changed in 40 years.
30 Why?

What were the changes you wanted to see?---I wanted to see more growth, more development, more vitality, new shops. You know, it became a row of \$1 shops. When, when I was a kid, walking up Beamish Street, you had quality shops, women's clothing and what have you, all gone, all we've got now is a row of \$1 shops and I wondered why that happened, compared to Burwood, for example. And it struck me when I went back there to work in 1982, this place hasn't changed. In fact, it's changed for the worse because of the loss of those businesses and there must have been a reason for it. And
40 I put it down, rightly or wrongly, to poor planning both on the council's part, successive councils, councillors, I mean, and staff.

Now, I'm not proposing to ask you questions at the moment in strict chronological order because I want to come back to the question of the formation of the interview panel, but at one stage you told Ms Carpenter that councillors on the interview panel had insisted that Stavis be a shortlisted candidate. Do you recall telling Ms Carpenter that?---I think the

use of the word insisted was wrong on my part. They certainly showed a preference, they wanted Stavis looked at. Yes, I, I can't deny that.

And that was - - -?---They didn't insist.

- - - Mr Hawatt and Mr Azzi?---Yes.

And this is before 17 November, when the interviews took place?---Well, it must have been.

10

MR ANDRONOS: Can I just ask my friend to clarify. I, for one, can't follow this. I don't know which conversation he's referring to when that conversation was to have taken place.

THE COMMISSIONER: Oh, with Ms Carpenter?

20

MR ANDRONOS: With Ms Carpenter and what the subject matter of the conversation refers to. It's not put in terms of a direct quote, it's put in general terms, and I think to be fair to the witness there must be some precision wrapped around that question.

THE COMMISSIONER: While Mr - - -

MR BUCHANAN: Can the witness please be shown volume 4, page 2.

THE COMMISSIONER: Can I just ask - - -

MR BUCHANAN: Oh, I'm sorry, Commissioner.

30

THE COMMISSIONER: The applications came in but the first port of call was Ms Carpenter?---Yes.

And as you said, Ms Carpenter did a vetting, so originally you had seven people that she - - -?---Seven, I think.

- - - thought might be fine and without going into all the details, it ended up with the five.---Five, that's right.

40

At what stage did you get copies of the actual applications by everybody, the seven or the five?---Five. And that was included, I believe, in an interview pack which included the, which is what I sent to the councillors eventually.

So, can I just stop you. So that must have been after the determination we're interviewing these five.---Yes. I, I would think so.

Before that did you get any of the actual applications or Ms Carpenter's review of the applications?---No, I don't believe, I don't think she provided

a review, or if she did it would have been in the form of an email, but I don't think so. I think she sent the applications out and said these are the five that I'd have a look at, and they include Manoski and Stavis. There were two others that I can only assume either didn't want to proceed or she didn't think they, they were satisfactory at that point. I don't know how she culled them.

10 And is your understanding that the other members of the interview panel, in particular Mr Hawatt and Mr Azzi only would have got copies of the application when they got that information pack?---Yes. Yeah, well that's right. If they had them beforehand, I'd be very concerned about that.

All right. Sorry, Mr Buchanan.

MR BUCHANAN: Commissioner. If I could take you, please, to volume 4, page 1.---Yeah, I've got it here.

20 If we can enlarge that a little bit. Thank you. Can you see that this is an email from Ms Carpenter to you of 12 December, 2014?---Yes.

“Good morning, Jim. Further to our conversation of yesterday please find attached my letter of concern in relation to the appointment of Spiro Stavis as director (city planning).”---Yes.

Now, underneath that, sorry, attached to that email was a letter which is pages 2 to 3 of volume 4.---Yes.

30 And if I can take you down to the third paragraph, “I was subsequently surprised and concerned when you indicated that councillors on the interview panel had insisted that Spiro was to be a shortlisted candidate.” Now, you didn't reply – sorry, you did reply but you didn't say to her that that was incorrect.---No, I didn't. I didn't.

It was correct, wasn't it?---Well, again, I mean that's her choice of words. Insisted I think is probably too strong a word but, yes, I've already said that they, they, they wanted Stavis interviewed. No question about that.

When was that communicated to you?---I don't know.

40 How was that communicated to you?---Probably by phone or email.

Was it both Mr Hawatt and Mr Azzi at the same time or at separate times? ---Oh, it'd be separate times I would think.

Now, by this stage had, when they insisted that Spiro be a shortlisted candidate had you formed the interview panel?---I don't think so actually. I don't know. I can't recall.

THE COMMISSIONER: Linking onto that, I think you gave evidence either yesterday or this morning of you were in your office and you had that light bulb moment of I'm going to form an interview panel and you've discussed that, you know, it would lead to ownership. At the light bulb moment did you think and I'm going to try and get Mr Hawatt and Mr Azzi on it?---Yes.

10 So you already had in your mind at the light bulb moment that those two councillors you wanted them members of it in addition obviously to the Mayor?---Yes, or any other councillors that contacted me and said, look, we want to be on it. I would have restricted it to probably no more than five but with the exception I think of Councillor Adler no one expressed interest. That, that didn't surprise me in the slightest. So we went with the three including the Mayor.

MR BUCHANAN: So does that mean you put out an expression of interest to all councillors?---They, they, look, I don't know what form it took but they, they would have been aware that the panel was, because I got a call, I'm pretty sure it was Councillor Adler, you know, but I said it's daytime.
20 You can't make it because you work. He's got a full-time job. So I would have restricted it to five anyway because otherwise it just comes overbearing or over, over, overpowering for the applicants. So the Mayor obviously would be included and we had a non-Labor councillor and a Labor councillor. Now, the fact, and plus the Mayor who's Labor. So the fact that the panel consisted of both major political parties, and by this stage of course that was indiscernible at Canterbury because they were all part of one group except the Mayor, but as I said earlier in evidence, those two, Azzi and particularly Hawatt, showed more interest in planning decisions than any previous – oh no, that's not true. Showed a great deal of interest in
30 planning decisions probably since a group of councillors who were there back in the, the late nineties. And I realised that, that they, they wanted to have ownership and they wanted things to change. Now, I at the time thought that was for a good reason, that it was a genuine concern on their part about the way Canterbury was being developed. I had no reason to think otherwise and that's why they were included. They showed great enthusiasm to be on the panel and I was grateful for their input then.

40 What I'm trying to find out though is, had you formed the interview panel at the time that Hawatt and Azzi insisted that Spiro be a candidate, a shortlisted candidate? And that was the question I asked but I appreciate there's a little bit of vagueness perhaps in the expression "formed the interview panel". Maybe I should just ask you, do you regard the interview panel as having been formed by reason of any particular development or event?---No.

Or on any particular day?---When you say development, you're talking about a DA?

No.---You're talking about just events?

I'm talking about anything that had occurred.---No, no, not particularly, as I said - - -

When was the panel formed - - -?---I can't - - -

- - - in your opinion?---I can't recall that either. I don't know the exact date. It was my, it was my brainchild to create the panel, I discussed it with the
10 Mayor briefly and we moved on along that path.

Well, was it formed at the time that the people who became members were told that they were members?---They would have been notified that they'd, that they'd been selected. Well, well, they would have expressed an interest in being on the panel and they were the only two – Hawatt and Azzi I'm referring to – who showed interest in being on the panel, and of course the Mayor.

When were Hawatt and Azzi and the Mayor told that they would be on the
20 panel - - -?---I've got, look, I can't recall the detail.

- - - in relation to these events?---It happened, it happened in rapid fire. Like it would have been a day or two after, after that possibly.

THE COMMISSIONER: After what?

MR BUCHANAN: After what?---After I went and formed the panel.

No, I'm sorry, I'm trying to establish when the panel was formed.---Well, I
30 can't help you. I don't, I don't recall the precise date, but it was formed, there's probably material available in the, in the submissions that indicates that. I don't have it with me.

There would be if there had been records kept, Mr Montague. When did you tell the panel members that they were members of the panel?---I don't recall. I don't know. And as I said before, Mr Buchanan - - -

How did you tell them?---Probably by phone, probably a text, and you'd
40 have that text I'm sure, if one existed.

Uh-uh.---Okay. Well, look, I explained before, I wasn't a great keeper of records on minor things like meetings and things like that. I didn't operate that way. That's how it is. I can't change that.

THE COMMISSIONER: Can I just ask. Light bulb moment.---Yeah.

Talked to the Mayor - - -?---Yeah.

- - - and said, this is what I propose to do, interview panel.---Yes.

You and Mr Hawatt and Mr Azzi.---Or other councillors who may have been interested.

All right. How did you ask other councillors about their possible interest?
---I don't believe I sent a communication to them but what I can't understand is how Councillor Adler knew, so I can only assume that it was word of mouth, that maybe one of the other two said, "Look, there's a panel.
10 Do you want to be on it?" and they said, "No, I'm too busy," or who knows. But all I know is at the end I had three people on that panel, excluding myself and Ms Carpenter.

Mr Montague, we're only going through to 4.00. It's coming up to quarter past 3.00. Do you need a back-stretching break or - - -?---No, I'm fine. Thank you for your concern, Commissioner. No, I'm fine.

Okay.

20 MR BUCHANAN: Is it possible that Mr Adler wasn't told anything about the interview panel?---I guess it's possible, but I, I can't recall how that information would have been conveyed to him, but I'm pretty certain that he was the one who may have made a comment, "Look, why wasn't I on the panel?" or something of that nature.

THE COMMISSIONER: But that may have been after the event.---Could have been, could have been.

30 MR BUCHANAN: In which case he wasn't, his membership wasn't solicited at all.---Well, it's possible. Like, I, I, I don't know. Those events happened very quickly.

Is it possible no councillor apart from Mayor Robson and Hawatt and Azzi were contacted with a view to them being members of the panel?---Well, I can't – unless we can find some record of that, I, I, I, I have to say I can't, I can't explain that. I don't know.

Excuse me a moment. Commissioner, could we have a short break?

40 THE COMMISSIONER: Yes, we'll have a short break. We'll adjourn just for five minutes.

SHORT ADJOURNMENT

[3.14pm]

THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Commissioner. Mr Montague, did you before the interview panel convened, actually sat on 17 November, have any communication with Mr Khouri in which Mr Khouri indicated to you that he had information he could provide about Mr Stavis to you?---Not that I recall, no.

10 Did Mr Khouri ever indicate to you that he had had an opportunity of speaking to Mr Stavis?---I don't recall that either. I mean, we didn't discuss that closely the interviews. We didn't, I don't recall discussing anything with Mr Khouri about it.

At any stage before the interview panel sat, did Mr Khouri indicate that he had spoken with Mr Stavis and discovered various things about him?---Not that I recall, no.

Formed any particular opinion about him?---Well, if he had an opinion about him, he kept it to himself. I don't recall him telling me anything about Mr Stavis, about opinions he'd formed.

20 So at no stage did Mr Khouri indicate to you that he, Mr Khouri, thought that Mr Stavis would be a suitable candidate for appointment? Anything along those lines?---I think he expressed that to me at some stage but I don't know when, just based on his own knowledge, which he didn't elaborate on. I don't know how he knew of Mr Stavis, and he may have expressed the view to me that he was a good candidate. Now, what he based that on, I've got no idea, and that's why I was happy to let the interview process – or, sorry, the recruitment process – take its course.

30 And so at no stage did Mr Stavis say to you, “Oh, look, I saw Mr Stavis the other day and we had a chat about the position and what he could bring to the position”? Nothing like that?---Not that I recall, no.

Can I just ask you this, did Mr Khouri ever say, “Look, George, Vasil and I had a chat to Mr Stavis the other day or yesterday” or anything like that? ---Again, I'm afraid, not that I can recall. I was on a particular course of action and I was sticking to that course of action, and that was to conduct the interviews of the five people who were on the shortlist.

40 But your course of action was to ensure that Stavis was in that shortlist.---I, he, I knew he was in the shortlist by that stage.

Well, that's because you'd insisted on it.---I asked that he be included in the interview list.

And you asked for him to be included because you had been, it had been communicated to you by Hawatt and Azzi that he, Stavis, should be a shortlisted candidate.---They certainly, they certainly had a, had a view that he should be included in the interviews, yes.

Now, can I just explore that a little bit further, if you don't mind. Just thinking back, what were the circumstances in which you learned that Hawatt and Azzi were of the view that Stavis should be a shortlisted candidate, was it over a drink?---Could have been.

Was it socially?---Could have been.

10 What happened?---Well, I don't know. I mean I don't, I can't tell you chapter and verse, but they, it became pretty clear that they were interested in, in Stavis, but I have to say, I have to add that immediately after the interviews they did not express a strong preference for him.

We'll come to that.---Okay.

20 I'm talking about what Ms Carpenter relayed back to you on 12 December, 2014, that she had been surprised and concerned when you had indicated that councillors on the panel had insisted that Spiro be a shortlisted candidate.---Yes. Well, and, and she's entitled to her opinion. I don't - - -

But that means she has a good memory – sorry, she had a reason for remembering it.---Right.

And so it would tend to suggest that she was probably right and that you had said that, and so the question is, what had happened in communications with you to cause you to convey that to Ms Carpenter?---Mr Buchanan, there's no dispute about the fact that I wanted Spiro interviewed. I've said that already.

30 And that Hawatt and Azzi had made that clear to you?---Well, not in so many words, but it was, you know, you could feel it, that they, they felt he was a good applicant. Now - - -

You see, why did you bother saying that to Ms Carpenter if that wasn't an important point?---I don't know. I mean, what's an important point?

40 Well, the important point is that two of the interview panel members wanted Spiro Stavis to be one of the candidates presenting before them.---But I didn't have to, I didn't - - -

You don't see that that is of any significance - - -?---Well - - -

- - - in proper governance of a council and the appointment of senior staff on merit?---Look, well, look, merit's a very hard thing to define, but having said that, he, he was on the interview list, I requested he be on the interview list for the reasons that I outlined before, and that was it as far as I was concerned. I didn't keep Bechara Khouri or anybody else informed, as I said, chapter and verse as to what my thoughts, my thinking was, until the,

until we had the interviews and that's why those two councillors and the mayor, Councillor Robson, were included in the interview panel and Ms Carpenter.

Did you think there was anything wrong with two of the interview panel members insisting that a particular person be a candidate shortlisted for interview?---I'm not agreeing that they - - -

10 Did you think there - - -?---I'm not agreeing that they insisted on him being on the interview panel, I'm saying there was a feeling. There were certainly comments made that indicated to me they, they were sympathetic, but they – and when we get to the other point later you'll understand what I'm saying. But look - - -

What do you mean about they were sympathetic? What is it you're telling us that they said to you?---I don't have the – I'm afraid, Mr Buchanan, I don't have the word power to explain that because no matter what I say - - -

20 What does it mean, that they said, oh, he looks pretty good, no, what do you think, Jim, should he be included or not, what do you think?---They didn't say that to me.

No. So what did they say if they didn't insist that he be shortlisted?---I, look, oh, dear me.

Well, no, no, no. Mr Montague, you weren't alarmed at all by the fact that Hawatt and Azzi insisted.---He, they didn't insist.

30 You weren't alarmed at all that they were sympathetic to Stavis being included on the shortlist for interview. You weren't alarmed by that? ---No, because I'd asked for him to be included on the interview panel.

But it sounds as if there's a remarkable coincidence between them being sympathetic to him being shortlisted for interview and you wanting him to be shortlisted for interview.---I don't believe, I don't believe you could characterise that as a coincidence.

40 No. So was there a connection between the two?---No, not that I'm aware of. I mean they might have had their private views, they may have expressed those to all and sundry, but I, I was in the driver's seat and I was interviewing five people for a position that had been advertised and had been the subject of a proper interview or recruitment process.

But you weren't in the driver's seat, were you, Mr Montague?---Yes, I was.

And you knew you weren't in the driver's seat.---Yes, I was. I was in the driver's seat, Mr Buchanan.

You were being pressured by Hawatt and Azzi - - -?---I don't know what you - - -

- - - and that was the reason you formed the interview panel in the first place - - -?---No, it wasn't.

- - - wasn't it?---No, absolutely not. I formed the interview panel so that they, they could, they could be, they would have ownership of the process and that if this person felt the same level of pressure that had been, that Mr
10 Occhiuzzi had been subjected to, they would have to accept some responsibility for that because they supported his appointment. That's what I was about. I didn't want them to be able to snipe at me later, or the Mayor or anybody else and say, look, we didn't want him in the first place.

THE COMMISSIONER: But that suggests for ownership, they were going to have to agree with your decision about who you were going to appoint.
---Yes. And they probably, had it gone its full course – that is, a report to council for confirmation – unless it had been Karen Jones, I suspect that they would have supported my recommendation, yes.

20

But doesn't that defeat the purpose? If the best candidate was Karen Jones, by they weren't going to, they wouldn't have had ownership of the process if it was Karen Jones - - -?---No, they didn't want ownership where Karen Jones was concerned. They didn't want to know about her.

Doesn't ownership of the process just become a meaningless term?---Yeah. In those circumstances, I agree.

MR BUCHANAN: Can I jump ahead a bit, but it is actually related to what
30 we're discussing at the moment, to the fact that you decided shortly after 8 December that you couldn't go ahead with Mr Stavis's appointment and you ultimately informed councillors, council of that and that you proposed to re-advertise.---Yes.

Can I ask why you proposed to re-advertise rather than just go back down the list of preferred candidates and select the next candidate who'd been preferred?---I could have done that but I chose not to.

40 Yes, and my question is why, sir?---Well, because I think it's probably a bit more transparent. There could have been other applicants out there who weren't there for the first round who felt they could do the job. There might have been people who had been freed up in the last couple of weeks even and I, I think you needed to open it up to all comers and that would have included, I imagine, Karen Jones and, and Manoski.

But your view was that Karen Jones as un-appointable for political reasons.
---Yes.

And so the question begs itself, why didn't you simply turn around and say, "Mr Manoski, are you still available"?---Well, at that point, I'd, I'd already made, I'd already decided that, that he wasn't acceptable as far as I was concerned.

Why?---Because of his background. I got bad reports about him from amongst the staff about his performance at the department, all, around the office, I mean. So, I thought the best thing to do was just open it up for all comers again.

10

Are you talking about Mr Manoski now, not Mr Stavis?---Yes. No, Mr Manoski.

I see. It wasn't because that you considered that the whole process of recruitment had been tainted and you needed to start the process all over again?---No, not at all. Not at all. And in, and in the past, I had, I would have if there'd been a, perhaps a more, a, a longer list of, of would-bes. Maybe I would have asked Judith Carpenter to screen them again. But I thought, no, I'll just go back to the drawing board and start again.

20

And I do apologise for taking this out of chronological order, but the fact was that it was very clear that the selection process had become tainted by the stage at which you decided not to go ahead with Mr Stavis's appointment, didn't it?---No. I, I don't think the process had become tainted at all but information came to my attention after I made the offer to Mr Stavis which caused me to reconsider the, the, the, his appointment.

And the reason you'd appointed him in the first place was because you were pressured to do so by Hawatt and Azzi, wasn't it?---Not, not at all.

30

Not at all?---Not in the sense of pressure being holding a gun at my head, do it or else. Nothing like that. He, Azzi did say, "If he doesn't get the job, find him another job," and I said to him, "Not going to happen because we just don't create positions for people because they're looking for a job. This is one position, director of city planning. If he's not successful there, well, then he's going to have to try his chances elsewhere." That got, that enraged Pierre Azzi when I told him that and that, it's in the records, it's in the transcripts.

40

THE COMMISSIONER: Just before Mr Buchanan resumes.

MR BUCHANAN: Yes.

THE COMMISSIONER: A couple of, in answer to a couple of questions, you've used the word transparent, for example, "Why did you readvertise?" "It would be more transparent." What do you mean by the term transparent in the context of filling that position?---Well, Commissioner, as, as opposed to opaque. An opaque process where people don't see what's going on. If I

readvertised, even if it's the same wording in the advertisement, the same person specifically, you may just get a few people who, when the first time it was interviewed, weren't available.

But the use of the word transparent is, you said it allows people to see what's going on. People includes the ratepayers?---Well, if they're interested, yes.

Councillors?---Yes.

10

Members of staff?---Yes.

Applicants?---Yes, of course.

I suppose Ms Carpenter, she was involved?---She may not have been the consultant the second time around.

Oh, all right. But they're the type of people, when you said people see what's going on, it's that group?---Yes, and also agencies like the Office of Local Government who were critical or at least implied that the process perhaps could have been done better and I'm not sure I disagree with that. But we get one pass. Yeah, I look back, 20/20 vision is a marvellous thing.

20

MR BUCHANAN: Apart from your own insistence that Mr Stavis be on the shortlist, wasn't it the case that Hawatt and Azzi's insistence that Stavis be given an interview tainted the process of recruitment - - -?---I don't think so.

- - - of Stavis?---I don't think so.

30

Particularly once you've decided that he wasn't appropriate?---I don't think so. They're entitled to their view. They're the council and they have to have people in those senior positions that they can work with, that they trust, that they think can do the job.

So what did you understand to be their sources of information which led them to believe that Stavis should be shortlisted?---I've got no idea but as I said - - -

40 But did you ask?---No. But as I said at - - -

Why didn't you ask?---Because I didn't.

Weren't you curious as to how they knew about Stavis?---No, not particularly.

Did it worry you or concern you at all that they might be supporting this person who had come out of nowhere?---Well, he hadn't actually come out of nowhere. He'd been - - -

Well, he'd come out of Khouri's mouth.---Yes.

Yes.---But, but he'd also - - -

10 But he wasn't qualified according to your consultant.---Well, I, I disagree with that, but be that as it may, he, he certainly had other contacts in local government at the councils he'd previously worked. I believe one of the former mayors, he may not have been a mayor at Kogarah for example. Now, these people are in, are in the sector, they understand what's going on in local government, and he appeared to have good support around the traps. Now, like I said before, Mr Buchanan, these appointments are always a bit of a lucky dip and that's one of the reasons why I put him on a 12-month contract initially, to see if he could perform.

20 That does sound as if he was not a preferred candidate but that you felt that you were obliged to give him the appointment.---No, no. I, I came to a landing and thought of the two who were still standing – i.e. Jones and Stavis – he was the better choice. Yes, there were political considerations in that. I don't deny that. But I wasn't going to give him a five-year contract up front. I said one year, which is the shortest period you can appoint somebody for in local government, and we'll see how he performs in that first year. And I've got to say, by and large, his, his performance was satisfactory.

30 THE COMMISSIONER: I'm sorry, Mr Manoski wasn't one of the two still standing - - -?---No.

- - - because of internal comment - - -?---Yeah, comments around the place.

- - - sorry, comments made by internal staff.---Yeah. I, I can't name people. I, I, I don't know and I wouldn't do that anyway.

40 MR BUCHANAN: Well, perhaps I should just ask you about that, though. At what point did you decide that Mr Manoski was not your preferred candidate or was not in the running?---About the same time that I started, that I, well, it was after the interviews and I started to get feedback. There was certainly some feedback about Spiro a little later, which I referred to and which led to the call for further reference checks. But Simon Manoski – and I don't want to denigrate Simon, I don't know him that well – but he was with the department and the staff felt that, that he wouldn't be, he, he probably would be satisfactory. And one of the things I had to consider was would he be able to work with them, because it would just perpetuate the problem I was having with authority in the planning division. Now, you know, like I said, make decisions and hope for the best sometimes.

So at some stage Mr Manoski dropped out of the race in your mind because of things you'd been told about him by - - -?---Internally.

- - - members of Canterbury Council staff?---Yes.

Have you told anyone that before?---When you say "anyone" who do you mean?

10 Anyone.---No. I don't go around the streets shouting it from the rooftops.

No. But you've been talking to investigators more than once. You've spoken to Judith Carpenter. You've spoken to the Office of Local Government investigator. You've given accounts a number of times. Have you told them - - -?---Well, Mr - - -

- - - that Mr Manoski became disqualified, in your view, because of something you'd heard about him or things that you'd heard about him?
---Well, I, I, I don't, I don't want to vilify Simon Manoski. I mean, it was
20 just my decision - - -

That's not what I'm asking you.---No, but - - -

I'm asking you whether this is the first time you've said that.---I don't know. I could have said it to our friend from the Office of Local Government but it's not in the, in his notes, which I did read by the way and it's a pretty accurate account of what took place.

30 You see at page 243 of volume 5, which is that file note of the interview of you that Mr Murphy conducted - - -?---Yeah.

- - - on 17 March, 2015 - - -?---Yes.

- - - page 243 he refers to, what he refers to as - I'm sorry, third, third paragraph.---Sorry, yeah, third paragraph, yeah.

Yes. He refers to something as "The offer made to Simon Manoski."
---Yeah. Well, when I read that I was puzzled because I don't recall an offer being made to Simon Manoski unless Judith Carpenter took it on
40 herself to do that. I - - -

Well, she wouldn't have done that without instructions.---Well, I don't know.

An offer of appointment - - -?---Well, I don't - - -

- - - being made by your consultant without instructions?---Well, look, I don't know. I'd have to ask her for an explanation on that because it doesn't ring - - -

Well, hang on a sec, are you saying that that's what she did?---Well, she could have. If you read this, "He said he couldn't recall instructing," that's me, "the consultant to make an offer to Mr Manoski." And I stick by that. I don't recall telling her to make an offer to Mr Manoski.

10 Yes, but was there any contact with Mr Manoski?---I tried to contact him but he was overseas.

Why did you try to contact him?---Because - - -

I'm not saying you shouldn't have, I'm just asking why you did.---I wanted to sit down with him one-on-one as I did with the other two and, and try to explore some of the issues with him, but he was overseas and his arrival back didn't suit and I was desperate to get this position filled and get the place running again, get somebody in charge of the planning division.

20

Page 243, going down to the middle of the page - - -?---Yes.

- - - there's a paragraph commencing at this point.---Yeah.

And can you see in the third line, sorry, the second line, it says, "He," meaning you, "indicated that he made the final call that Mr Stavis be interviewed."---Yes.

30 "There was a view by the two councillors that he should be interviewed."
---Yes, I've said that.

"He said there was no pressure to give him that job at that point. It was his," that is your, "decision to interview Spiro based on the people he'd been speaking with. He," you, "said words to the effect that councillors had obviously been speaking to the same people he had (regarding Spiro's possible suitability) and that is why they wanted him interviewed." Who was it you had in mind - - -?---I, I - - -

40 - - - when you told Mr Murphy that?---Let me read it again. "To interview Spiro based on the people he'd been speaking with. He said words to the effect that the councillors had obviously been speaking to the same" - see, here I have a problem because these are notes made by Mr Murphy after he left my office. I don't know how reliable they are. I don't know whether they're accurate. I didn't - - -

But it's consistent, isn't it, what he attributes to you there - - -?---Well - - -

- - - with Khouri, Mr Khouri having been a person that you spoke to about who should be interviewed?---Well, it could be, it could be.

And you know that they were friends with Mr Khouri?---Who's they?

They, the councillors.---Yes. Well, I don't know about friends, but - - -

The two councillors?---Yeah, the two councillors.

10 Yes.---They were acquaintances, they got around (not transcribable)

THE COMMISSIONER: No, no, no, but they knew you were friends with Mr Khouri?---Oh, yes.

MR BUCHANAN: So isn't what you're saying there words to the effect that Hawatt and Azzi had obviously been speaking to Khouri, the same person you'd been speaking to - - -?---Possibly, yes.

20 - - - about Spiro's possible suitability and that's why they, Hawatt and Azzi, wanted him interviewed?---That's, that could be construed that way, yes.

And was it correct?---I don't know.

How could you not know?---Because I'm not comfortable with relying on the words of this Mr Murphy.

30 But I'm asking you, didn't Mr Khouri speak with you about the suitability of Spiro Stavis?---At some stage in the process, yes, he did, but very briefly and just said, "This bloke looks all right." He might have been talking to the mayor of Strathfield, I don't know who he spoke to.

And so are you saying to us that if Spiro, sorry, if Bechara Khouri met up with Spiro Stavis as George Vasil, Bechara Khouri and Spiro Stavis have told us he did - - -?---Okay.

- - - then he never told you anything about what he learned of Mr Stavis, or about the fact of meeting up with Mr Stavis?---No, there were a lot of meetings involving Spiro and, and Bechara and George - - -

40 No, no, no, please answer my question.---No, no, no. No, I am, I'm trying to.

He never told you about such a meeting, is that what you're telling us?

---No, I'm not telling you that. I'm telling you that - - -

What are you telling us about that subject, Mr Khouri telling you about having met up with Mr Stavis in the circumstances that he and George Vasil

had of Mr Stavis, what Mr Stavis described, a mini interview on 26 October, 2014 - - -?---His term, not - - -

- - - in Earlwood?---His term, not mine and I wasn't party to that, nor would I have condoned it because they had no right to be conducting mini interviews of anybody.

Mr Khouri is said to have said you asked him - - -?---Not true.

10 - - - to put out feelers.---Yes, way back. And he did that.

When you say, "Way back", how soon before 26 October, 2014, when on the evidence before the Commission that meeting at Earlwood took place? ---Which meeting?

How soon before 26 October, 2014 had you asked Mr Khouri to put out feelers?---Well, I've got to just go back now. When, when Marcelo left - - -

20 Well, applications closed, Marcelo left - - -?---He was, I'm struggling with the dates, I'm sorry.

Yes. Effectively 27 November, I think, but the date of resignation was 10 October.

THE COMMISSIONER: I think it was towards the beginning of November, about the 7th or the 9th.

30 MR BUCHANAN: Oh, thank you. It might be 7 November.---Yeah, okay. Fair enough.

I've got a 7. But in any event, you had this letter of resignation on the 10th. ---Yes.

And you contacted Ms Carpenter I think on the 16th, around then.---Around then, yeah.

Is that right?---14th, 16th, something like that.

40 And the advertisement closed, the period for putting applications closed on 27 October.---Yes, that sounds right.

So, how soon before that period had you asked Mr Khouri to put out feelers?---I, I put, I don't remember when I met with him. It was an informal meeting, just a, we ran into each other and I said, "Can you, do you know anyone?" I, that could have been, obviously it'd be between the time that, that Marcelo left and the interviews, and the advertisement went in.

And so, I just want to come back to the point that I've been trying to ask you about. At no point did Mr Khouri say or indicate that he had had a meeting or taken part in a meeting with Spiro Stavis, is that right?---Not that I, not that I recall but it may have happened.

10 No. Are you saying it may have happened that he told you that or, and to your recollection, he never told you about any such meeting?---To my recollection, no, he never told me about such a meeting but, as I tried to say earlier, there were heaps of meetings happening that I wasn't party to or
knew of, which is, is disturbing to me when I found out about it in evidence given in this place.

Excuse me a moment. Now, you would at some stage have seen Mr Stavis's application and résumé?---Yes.

If I can just ask you to have a look at volume 3, please, page 52 to 63.
---Volume?

20 THE COMMISSIONER: 3.

MR BUCHANAN: Just so that you have it in front of you. Volume 3, page 52 and it goes through to page 63. You saw that document?---Yes.

Or those documents?---Yes.

You are familiar with the criteria in the information pack and in the advertisement that was provided to Ms Carpenter?---Well, I certainly was at the time, yes.

30 The criteria included that, "To be considered for appointment, you will demonstrate a track record in leading complex service delivery in large organisations." That was not demonstrated in Mr Stavis's case, was it?
---Well - - -

In his application or résumé?---I don't know. I haven't read this for a long time, of course.

40 What do you think? Do you have a memory that it was demonstrated?
---Look, all I can say, and call me old school, all I can say is that at the interview he performed quite well, very well in fact, and I thought he was worth a chance.

Does that mean that the criteria published to the market as to what council is looking for in a candidate just go out the window?---No. Not at all. There were certain basic things that he had to have, all candidates had to have.

And one of them was, “Demonstrating a track record in leading complex service delivery in large organisations.”---Well, he had some experience in that area. He had, and he had, he did.

And - - -?---And if I might say - - -

In the – I'm sorry, go on. Yes, I interrupted you.---I might say, when we appointed his predecessor Mr - - -

10 No, please. That I am going to interrupt.---All right, fine.

In the information pack you provided Ms Carpenter, person specification included “Change agent. A demonstrated ability to drive and implement change.”---Yes.

20 There was nothing in Mr Stavis’s application or résumé that indicated that, was there?---Well, maybe the résumé or the application was deficient. But, I mean, I, I put a lot more store in the interview and my personal conversations with him, which is only one, and that was the one you're aware of.

The person specification also included “Leadership. A strong people manager with demonstrated skills leading a diverse group of people.”---I think he - - -

There was nothing about that in his application or résumé, was there?---No, but I think, I, I think he could deliver that.

30 MR ANDRONOS: Commissioner, my friend is asking questions about what was contained in essence in the résumé that was submitted by Mr Stavis. That is in evidence. My friend has addressed, has asked the witness, well, has identified to the witness about nine pages of the bundle which comprise the CV and the personal specifications. The witness ought be given an opportunity to review those pages before he is asked about the absence of certain information in the content in those pages.

40 MR BUCHANAN: I'm trying not to take all day about the examination of the witness. Can I approach it another way? You had been told by your consultant – I've already asked you this and you've agreed – that in her opinion Mr Stavis’s application or résumé did not meet the criteria that you had provided.---But I think she also said that he, that he, he deserved to be interviewed.

She told you this is not a man who should be shortlisted. You were the person who insisted that he be shortlisted.---But I saw something in evidence that said that she said in a communication that he should be interviewed. Now, I don't know whether that was a direct result of my suggesting to her that he should be or whether that was her own conclusion.

Mr Montague, it's clear to you, isn't it, and it was at the time, that Ms Carpenter's statement that Mr Stavis did not meet the criteria on paper was correct.---Repeat that, please.

Yes. It is clear to you, and it was clear to you at the time, that Ms Carpenter's statement that Stavis did not meet the criteria on paper is and was correct.---She certainly made that statement, yes.

10 It's clear, isn't it, that that was correct.---I don't know that. I don't, I don't agree.

What is it, why do you disagree?---That's her opinion and that, that's her opinion.

Yes. What was it about Mr Stavis's application or résumé that met the criteria on paper?

20 THE COMMISSIONER: We might be getting to the stage where Mr Montague needs to read it.

MR BUCHANAN: Certainly, Commissioner. But you can't recall anything, can you?---Look, I was satisfied. Look - - -

What were you satisfied by?---That I thought at the conclusion of the interview that he could do the job.

30 At the conclusion of the interview. But the question is, how did he get an interview in the first place?---Because I asked.

He wasn't qualified.---That's not true.

And Hawatt and Azzi had suggested to you that he be shortlisted.---No - - -

And you then asked that he be shortlisted.---No, they never suggested he be interviewed at all. I included him on the interview list in deference - - -

40 You told Mr Murphy twice that that's what they did.---Like I said, I don't know how accurate Mr Murphy's notes are. That interview wasn't very constructive, as far as I was concerned, with Mr Murphy. I expected him to be discussing with me my complaint to the ICAC, not the efficiency or effectiveness of our HR processes, and to that extent the interview with Mr Murphy was quite disappointing. I thought my complaint had just been brushed aside.

You recall that Ms Carpenter – this is still in volume 3, page 67 – provided you with the shortlist reports and résumés for the candidates?---Yes, yes.

That's under cover of a, or attached to an email dated 13 November, 2014.
---Yes.

She told you again of a problem that she had with Stavis?---Yes.

This time saying that, "Stavis's résumé was completely freeform, and although I've asked him to revise it and reformat it three times and he has made some attempts, this is the best I can do with the time available." Did that add to concerns on your part that Mr Stavis might not be a suitable candidate?---My concerns really came about after the offer of appointment, employment.

But the fact that he was incapable of structuring his résumé appropriately in the opinion of someone who works in the area, even though she had asked him to three times, wasn't a signal to you that there might be a problem with this man?---Well, it's - - -

Of a limited sort, but - - -?---Yeah, of course, but he mightn't be a literary giant but we're talking about a planner, and he may have been a very good planner notwithstanding the fact that he, that he may not be able to express himself as clearly as other people. I mean, I don't think he should be downgraded because of that.

Now, excuse me a moment. Did you have any contact with Ms Carpenter about the constitution of the interview panel?---I think, well, I had to because I included her in the panel. She, she would have been curious as to what her role was on the panel and I needed her there as an advisor and fortunately she was there because she saw first-hand what transpired at that interview in relation - - -

30 THE COMMISSIONER: Sorry, when you say an advisor on the panel - - -?
---Well - - -

- - - she - - -?---An observer I meant to say, I'm sorry, an observer, sorry. So she was there and it was just as well she was because, as I said in previous statements and material that is here, the two councillors went right off script. They didn't ask the questions that they were expected to ask, and it got pretty sticky, particularly in relation to Karen Jones.

40 MR BUCHANAN: And was that something else that contributed to your decision to readvertise after you decided not to appoint Mr Stavis rather than to take the next person on the list?---Well, the next person on the list would either have been Karen Jones or, it wouldn't have been Manoski in the end, so that would have been Karen Jones and I knew then that they wouldn't accept Karen Jones. So why knock your head up against a brick wall? It feels good when you stop. So I thought the best thing to do is run the ad again, see if there are any more people in the field that weren't there before and we might jag a really good applicant.

Well, we've just got a little time available so can I at least commence the exploration of this. Does that mean that although implicit in your evidence is your opinion that Karen Jones would have been an appointment made on merit, you decided that you could not appoint Karen Jones because of Hawatt and Azzi?---I knew that based on particularly what Councillor Azzi said in the interview and subsequently that if I put her on and I went to council recommending that her appointment be confirmed, it wouldn't happen, and if it did, because through some stroke of luck I got the numbers, which I don't think would have happened, her life probably would have been hell in the council and I wasn't going to subject her to that or go through it again myself.

In what way would her life have been hell?---Well, well, they, they would have gone after her the way they did Marcelo.

Pressured her?---Yes.

In a way that was entirely inappropriate?---I think so.

So as to cause her to resign?---Possibly. That would be her call. But I didn't want to subject her to that and I didn't want to go through it again and I didn't want to put the council through that a second time.

And you accepted, you accept though that an appointment of Karen Jones would have been an appointment made on merit?---Definitely. And the other reason that I wanted to, to put Karen on was because again she was very experienced and she would have provided some gender balance on the leadership team.

So the upshot was, as far as you were concerned, you couldn't make an appointment on merit because of the pressure that you had received and would receive from Hawatt and Azzi if you did so?---No, I, I couldn't appoint her because of that.

Mmm.---I didn't say I couldn't appoint on merit.

Who else could you have appointed - - -?---I believe that - - -

- - - on merit?---I believe, I still believe that Spiro Stavits could have done the job and did do the job for 12 months successfully.

But at the time he was not an appointment on merit, was he? Because you made that appointment under pressure from Hawatt and Azzi?---I, I deny that.

Yes, I note the time, Commissioner,

THE COMMISSIONER: All right. Just before we finish, can I just ask you, first thing, Mr Montague, any luck in jogging your memory about the mutual friend?---I did.

Oh, good.---I thought about that long and hard over lunch and what happened was, early in the piece, after Mr Khouri had fled Australia, I, I rang him on his mobile internationally and left a message. I didn't, he didn't pick the phone up fortunately. He didn't pick the phone up but he sent me a text reply saying, "I'm stranded in", words to this effect, don't quote me, "I'm stranded in Lebanon. I've had a heart attack. I can't fly, my blood pressure's through the roof, a whole series of health issues, I can't fly," was the, the knockout punch, "and I won't be back for a while." That, that was essentially what he said, and I was distressed by that because the guy is pretty fit, he normally has good health and all of a sudden his health has collapsed and that, that, that disturbed me. As a friend I thought, you know, as a human, you don't like to see somebody going through that. He told me himself.

So, there wasn't any initial contact with a mutual friend?---No, I was wrong, I'm sorry to have misled you there, Commissioner.

And look, just a final point before it goes out of my brain, this was in the context of your discussions with Mr Khouri and Mr Stavis when he said Mr Stavis may make an application, and you made a comment about the storm clouds gathering, then you said, hold on, you wanted to prevent the conflict between the councillors and Mr Occhiuzzi occurring again, and this is what I want to ask you about. Because you wanted to, something like, ensure the future of the council politically?---I don't know that I said ensure. What I wanted to do was to see that he council returned to some political normality and that, and that the, the job at the planning division could proceed under the guidance of a new director of city planning.

And what do you mean by, "for the council to return to some form of political normality"?---Well, as I said at the very outset of, of my evidence, Canterbury City Council had been a Labor dominated or Labor controlled council for as long as I can remember, back in the early '70s I think, it became a Labor council. It was right through until 2012, even though there was still a majority of Labor councillors then, but the caucus split.

Yes.---And that changed the world forever as far as – it was like a tectonic shift.

How by appointing a replacement to Mr Occhiuzzi were you going to install that political normality?---Because I was hoping that the person who was appointed would be able to do the director of city planning's job to the satisfaction of the entire council, but particularly the two of them, so they could see that we, that things were happening. Now, it was a gamble on my part, I guess, but that political instability was destroying the place.

And that was the political instability that arises from the junta?---Yes, the group.

The group.---Yes, that's right. And that was a first for Canterbury over all those years.

All right. Now, Mr Buchanan, may I confirm through you we are resuming on 10 December for two weeks?

10

MR BUCHANAN: Commencing at 9.30am on the 10th.

THE COMMISSIONER: Yes. All right, any other issues anybody needs to raise at the moment? All right, then. The public inquiry is now adjourning until 9.30am on 10 December.

THE WITNESS STOOD DOWN

[4.04pm]

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AT 4.04PM THE MATTER WAS ADJOURNED ACCORDINGLY

[4.04pm]