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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC  
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 11 APRIL, 2019

AT 9.00AM

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

THE COMMISSIONER: Sarah, if you can administer the oath again.

THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Commissioner, just excuse me a moment. If I can take the witness, please, to Exhibit 52, volume 3, page 254. Before going to that, sorry, I overlooked the ASIC extract.

10 THE COMMISSIONER: Yes.

MR BUCHANAN: Mr Hawatt, have you had a chance to have a look at the copy of the ASIC extract in respect of your companies?--I did yesterday.

And are you able to tell us whether there are any changes that need to be made to it?--A lot.

A lot?--A lot.

20 Okay. Have you written on the copy that we gave you?--No, I've had it here but it disappeared. Oh, there it is. I can go through it with you if you'd like.

Right.--But there's too many, too many mistakes on it.

There are too many mistakes on it. What I might ask is if you could write on that copy that we've given you the changes that need to be made, please, and I'll ask you on Friday if you could give us that document back with the changes on it that you would like to see made.--Okay.

30

And the aim of the exercise is to ensure that it's accurate as at the date that's at the top of the first page, which is, from memory, a date in 2016.

THE COMMISSIONER: 9 June, 2016.

MR BUCHANAN: Thank you very much.

40 THE COMMISSIONER: So just confirming, Mr Buchanan, it's not the position at the moment, it's your shareholding – is it shareholdings and directorships?--Yeah, there's a lot of companies there I've never even heard of.

But the important thing, Mr Hawatt, it's as at 9 June, 2016.

MR BUCHANAN: Not today.--No, correct. 2016, yeah.

THE COMMISSIONER: So if you can do that, and reproduce, produce the document tomorrow with your marked-up changes, that would be very good.---Yeah. I'll, I'll do, I'll work on it.

MR BUCHANAN: Thank you very much.---Okay. So I can take this with me?

Please do.---Thanks.

10 Taking you to the SMSs extracted from your mobile phone that are printed on page 255 of volume 3, you can see that in that schedule, the first one is a message from Mr Stavis on 5 December, 2014, at 10.01am, which read, "He just offered me the job. Waiting for paperwork to come through before I announce. Thanks for everything. Cheers." You see that?---Yep.

You responded three minutes later, "Finally we achieved results. Congratulations on your appointment. You have much work to do to fix the serious problems facing planning. Regards."---Yep.

20 You see that?---Yep.

Just looking at Mr Stavis's text message at 10.01am, on 5 December, what had you done to deserve his thanks?---Well, it's quite obvious, I defended his position as an employee of the council.

And what did you do?---Well, we, we made sure that the general manager did the right things in regards to not, not, not sacking somebody without giving him the opportunity to defend themselves and, and to prove themselves.

30 Sorry, if I could just remind you, the actual appointment wasn't until three days after this text message, namely on 8 December, and Mr Montague didn't change his mind until a couple of weeks after that.---Oh, sorry. Sorry. Got the dates confused.

40 So the question I'm asking you is, at the time that Mr Montague apparently told Mr Stavis that he'd got the job but before the actual appointment had been made, Mr Stavis said to you, "Thanks for everything," and my question to you is, what was it that you had done that deserved Mr Stavis's thanks?---Well, haven't really done much, except he was number two, and he was selected as being number two. And he's thanking us for selecting him for being number two, maybe. That's, that's all I can think of.

I see. The word "everything" that Mr Stavis used – I'm not trying to be a schoolteacher about this, but it suggests that there was more than one thing that Mr Stavis thought you had done which deserved his thanks.---I mean, that's a general saying, "Thank you for everything," but just, we, we, oh, we

use it quite often. A lot of people use that, "Thank you for everything." It doesn't mean much.

We've seen, however, that Mr Stavis knew that you were having meetings with Mr Montague. We've seen that you, before that, met Mr Stavis, along with Councillor Azzi, before the interview panel sat. We've seen that the interview panel sat and your selection at that panel as you wrote down was plainly Mr Stavis. You don't think that Mr Stavis might have had in mind all of those actions on your part?---Look, I can't control how Mr Stavis, 10 Stavis thinks, and he was our number two choice, and I'll, I'll keep repeating that. I did not support him for the number one position. And, and it's up to him. I can't read his mind how he thinks.

Leaving aside what Mr Stavis thought, plainly you had been actively working for Mr Stavis's appointment from a time which was even before the interview panel but then included the conduct of the interview panel and meetings with Mr Stavis thereafter, communications with Mr Stavis, meetings that you had along with Councillor Azzi along with the general manager. You had done a lot of things, hadn't you, to advance his 20 candidacy?---No, we haven't. The only thing we've done is some correspondence, text messages between each other, but that's as far as it goes. I haven't went out of my way because if I was, you know, to support him, I would have supported him at the interview panel, which I didn't, and I'll repeat that. My choice was Simon Manoski.

Can we go to the second message on this page at 10.04am on 5 December, "Finally, we achieved results. Congratulations on your appointment. You have much work to do, serious problems facing planning." What were the results that you were talking about there?---He got appointed as number 2. 30 That's the results.

When you said, "Finally we achieved results," what did you mean by, "Finally we achieve results"? It sounds as if it was after a long hard battle. ---No. It's probably because it's been dragging on, Mr Montague had to do some research on all the applicants and, and get their references checked and double-checked and finally it's finished. That's, finally, that's what finally is, it's all been done.

And so by the word "we" you meant you and Councillor Azzi?---No, 40 council.

Well, what contribution had any other councillor made to achieving the result of the appointment of Mr Stavis as director of planning?---Because I always speak, when I say "we", I always meant, meant talking about "we" as the council. Not "we" as me or Pierre Azzi or the general manager. I always refer to "we" as the council.

What contribution had any other councillor made to achieving the result of the appointment of Mr Stavis as director of planning?---Because most councillors are aware of, we have issues with planning, so generally they all understand that, and when I talk we, it's something, it's a common understanding amongst the councillors who understand the issues.

10 So I've given you two opportunities of answering my question and you haven't answered it. Does it mean that, as far as you know, no other councillor made a contribution to achieving the result?---I don't know. I can only comment on myself.

Well, you're the person who used these words, sir.--- I always, if you check my texts, a lot of my text messages I talk about "we", and "we" is always other people or council.

20 And we know that Councillor Azzi took part in the pre-interview panel meeting at Marrickville, we know he took part in the interview panel, we know he hosted a meeting of you and Mr Stavis at his house, we know that he took part in at least one of the meetings that you had with Mr Montague thereafter, before Mr Montague indicated to Mr Stavis he was going to appoint Stavis. So on all of that evidence, can you understand why the Commission might be inclined to think that when you used the word "we", you were referring to yourself and Councillor Azzi?---That's incorrect.

What's incorrect about it?---As I've said, I, when I refer "we", I always talk about council as "we". Always.

30 Now, the evidence before the Commission, as I have told you before, is that Mr Stavis was given a letter offering him employment as director of planning on 8 December, 2014, by Mr Montague. What was your next contact with Mr Stavis?---I, I, I just don't recall. I don't know.

Well, just thinking about it, you did have contact with him after 8 December, didn't you?---I might have, I just can't recall what, what the contact was. We're talking about five, four/five years ago or something. I, I don't recall.

40 Was there any contact with him about when he would start work?---I can't recall.

Do you mean to say that there could have been but you've since forgotten? ---Well, I can't recall whether I've forgotten, I just can't recall, whether I forgot or not forgot.

But you're admitting the possibility that you spoke with Mr Stavis - - -?  
---It's a maybe.

- - - about when he would start work?---Well, I don't recall that, no.

Does that mean it didn't happen?---I don't recall it.

So you're admitting of the chance that it did happen?---I don't recall.

MR DREWETT: Well, I object to that. It's, these are completely unfair questions in my respectful submission. They're improper questions. The answer has been given that the witness cannot recall. It may be a matter for submissions ultimately by Counsel Assisting in terms of what that answer means, but just putting alternate propositions as to what that might mean in my respectful submission has no relevance, could never carry any degree of weight. The witness cannot recall. That's his answer.

THE COMMISSIONER: Mr Buchanan?

MR BUCHANAN: Commissioner, in my submission I'm asking him a question which does not ask him whether he has a memory of an actual contact with Mr Stavis after 8 December, but rather from all of his understanding and knowledge of what was occurring, his relationship with Mr Stavis at the time, what occurred when Mr Stavis did actually start work in March 2015, whether he would accept that there would have been a likelihood, that is to say what are the prospects, what are the possibilities, and in my submission this does have weight. In my submission the chances are that there was some contact, having regard to those matters that I've referred to in terms of the context, and it is in my submission a matter that can be taken into account when the witness declines to answer that question and instead tries to answer a different question.

THE COMMISSIONER: Mr Hawatt, when somebody is asked questions about events that occurred a number of years ago, you can roughly put it down to there's usually three responses. One response is that you can recall what occurred, what's being put to you, the opposite answer is you sit back and you think that definitely didn't happen because if it did occur I would remember it. Then there's that grey area of, look, I can't recall, and usually when somebody answers that they can't recall, my view of that is that it might have happened or it might not have happened, it's just a couple of years ago, I just can't recall now. So what Mr Buchanan is doing is giving you the opportunity that when you say, "Look, I can't recall," is it a matter of, look, it might have happened, I just can't remember now, and there's no criticism of you if you can't remember that, or are you saying, no, look, it definitely didn't happen because I would have remembered that event happening. So that's where Mr Buchanan is exploring. So he's asked you about speaking with Mr Stavis after he received the employment offer on 8 December. You said you can't recall. Is it a matter that you're sitting back thinking, you know, for example you might sit back and think, I went overseas on a cruise and I was out of contact with anybody, so there could be no possibility of me contacting Mr Stavis, or you might sit back and think, look, I can't remember, might have happened, might not have

happened, I can't recall. So it's in that framework that Mr Buchanan is exploring your answers. And the reason why it is relevant is that we might have other evidence that if you say it's a possibility, we might have other evidence that supports that particular event did occur.---Mmm.

So that's the background, so I'm going to allow the question.

10 MR BUCHANAN: So is it possible that you had contact with Mr Stavis, let's say shortly after he received Mr Montague's letter offering him an appointment? And you can take it from us that that date is 8 December, 2014. Is that possible?---Oh, look, honest, I can't recall, but it could be possible but I can't recall exactly if that happened.

Did you find out what Mr Stavis did after he got the letter offering him employment as director of planning?---No, again I don't, I can't recall.

20 Do you know what Mr Stavis did after he got the letter?---No. I don't, I don't, I don't see him, I mean he's not a person that I see and communicate with so I wouldn't have a clue.

Did anyone ever tell you what Mr Stavis did after he got the letter?---No, I don't - - -

So no one told you what he did in respect of his existing job at Botany Council?---Well, presumably, normally if somebody gets a job he's got to resign from another. Isn't that normal? I mean common sense.

30 That's not the question I asked you.---But I don't recall that, I never spoke to him.

I asked you, no one told you, did they?---No.

No one told you that?---No.

And Mr Stavis didn't tell you that?---No.

Mr Vasil didn't tell you that?---I don't recall.

40 Mr Khouri didn't tell you that?---I don't recall, honest, I don't recall it, because there was just like, it could have happened but I don't recall it. I have to ah - - -

Did you have an understanding at that time as to when Mr Stavis would start work?---Well, if there was a memo sent to councillors, then yeah, we would.

Did you have an understanding of whether Mr Stavis had to continue to work for Botany as in work out his contract - - -?---I don't know.

- - - for a period of time - - -?---I would - - -

- - - with Botany Council?---I don't know. That's nothing to do with me.

Did you have an understanding as to whether he was going to start work in 2014 or 2015?---No, again I didn't go into that details with him. Didn't discuss it.

10 Did you have an understanding though as to when he would start work?  
---Through the memo that the general manager gave us.

And which memo was that?---Well, there's a memo that's sent to all the councillors on one of the meetings we had and he says he appointed him as the director.

Now, can I take you, please, to volume 4, page 154. Is this a photograph of your phone?---That's correct.

20 Did you take that photograph?---I think I might have.

Why did you take that photograph?---Because ah, we had, sorry, because we made a, we made a complaint to the, to the Office of Local Government in regards to what, what's happening with the position of Spiro Stavis and we felt that there was a, a what do you call it, a cost, a financial burden to council and the general manager at the time was not, not, wasn't listening to us so we had to just put an official complaint to the, to the Office of Local Government, which that was part of the submissions I recall.

30 Why did you feel a need to take a photograph of your, of these messages on your phone and attach them to that complaint?---Well, to, just to prove that the, there was some discussions that was made with the general manager in that regard, just to, to prove it.

Then you can see the first message that is shown on that screen is a message from Mr Montague on 16 December, 2014, at 2.36pm. "Hi, Michael. We need to chat about Spiro. Please call me when convenient. Jim."---Yeah.

40 Before that message did you have any understanding that there was a question mark over Mr Stavis's appointment being - - -?---No.

- - - proceeded with?---No.

When you sent your message, which is underneath on the screen, on Wednesday, 17 December, 2014 – excuse me a moment – had you had any contact with Mr Montague before sending that message?---No.

It's just that the message simply asks you to have a chat with Mr Montague about Spiro. There's nothing to indicate there was any problem with the

appointment. I'm just wondering why you wrote that message in the terms that you did, suggesting that there was a serious problem afoot?---Unless, unless Pierre Azzi called me, Councillor Azzi called at the time and said the GM, I think the GM called him first and told him and then he sent me that message.

And what did Pierre Azzi tell you?---He, he, just doesn't care, he's just had enough of the - - -

10 I'm sorry, my fault. What did Pierre Azzi tell you he had been told by Mr Montague?---That he, I think he found something on, he, he doesn't want to appoint him or change his mind. Something like that, to that extent. I, again, I'm just guessing but it's around that type of information where the GM, he spoke to the GM and, and the GM found something on Spiro. That's it.

20 When you said in your message, and I'll just direct your attention to the bottom of page 154 and then going over to page 155, if you could just have a read of the bottom of page 154 and then we'll put the next part of the message up on the screen. You said, "Had enough with all the instability and how this council is run. It's like the blind leading the blind. The ones we are having big issues with are back in control. I am of the same opinion as Pierre, it's up to you. However, I do not want this council to be legally liable et cetera." What I want to ask you about is, "The ones we have," sorry, "The ones we are having big issues with are back in control." What did you mean by that?---Yesterday I was talking about sabotage by the strategic planners and the complaints that I'd been getting in regards to the delays and, and sitting on, sitting on planning proposals to, to go into the State Planning. These are the type of delays I'm talking about because I  
30 received a lot of complaints.

So you're talking about the staff in the planning division?---That's correct.

And what was it that you thought they had done to, what was their contribution, as you understood it, to Mr Montague having second thoughts about appointing Mr Stavis as director of planning?---Because they made complaint to the GM about Stavis.

40 How did you know?---Because I was told.

By whom were you told?---I think probably by Pierre Azzi.

And what was - - -?---Or, or the, the GM, the GM told me as well.

The GM told you as well?---When I saw him, yes.

I see. And what was the complaint?---Oh, that he, he, he was, he applied for some position and they don't think he's suitable and I think there was, I felt

like there was a conflict of interest and, you know, he shouldn't be listening to some staff members to complain about a new appointee and there was just some issues and the GM was listening to them, that's all.

Can I take you then to – excuse me – page 156 in that conversation. This is Mr Montague's response apparently on 17 December, 2014. "Michael, our reputation is more at risk if the wrong person is appointed. I never wanted Spiro in the first place and I allowed myself to be compromised. It won't happen again. Jim." Firstly, that would seem to be a contradiction by Mr  
10 Montague of your evidence that he supported Mr Manoski's candidacy at the interview panel on 17 November 2014.---That's, that's incorrect because he did support that and he knocked him, he was the first one to be knocked out.

You responded to this text from Mr Montague but you didn't say, "Hang on a sec, you supported Mr Manoski."---Correct but that's why I sent that message saying the first complaint you made about Mr Manoski was, we, we accepted it as a valid complaint and there was no appointment made but  
20 this time, the guy was already being appointed and as an employee and, well, this is the second time that you, you, you, you're talking about changing your mind and then there was an issue on that basis where we had a liability, a financial liability. It's a bit different to Simon Manoski, there was no liability with him but we accepted what Montague was saying that he didn't want him because of his brother was working at, at Bankstown.

You saw then that Mr Montague went on to say, "I allowed myself to be compromised." Did you have an understanding about what Mr Montague meant by that?---Well, no, that's why I said, who, who compromised you? Just give us information on that. I mean, I was quite surprised to understand  
30 why he said that.

Well, it could be explained by the evidence from which it can be inferred that you and Mr Azzi had more than one meeting with Mr Montague in which you pressed him to appoint Mr Stavis, and then Mr Montague apparently found out matters to Mr Stavis's discredit and realised he had made a mistake in offering him employment.---Well, we never forced him to employ Spiro Stavis. He, he, he - - -

You pressed him to.---No, nah. He made the, he made the decision solely  
40 on his own, as the, as the general manager. And he - - -

But he didn't. You were present. You and Mr Azzi were present at meetings with him on the subject.---We, we were present when we selected three candidates, and we left it to the general manager to make the final decision. We gave him one, two, three, and he made the final decision. It wasn't ours.

I'm talking, Mr Hawatt, about the meetings which it is clear that you and Mr Azzi had alone with Mr Montague, which is apparent from the text messages that you and Mr Stavis exchanged in the period leading up to the announcement of his appointment.---I, I don't understand where, where you're coming from on this one. As far as, as far as I was concerned, the general manager was the, the decision-maker in regard to the appointment, and he gave reasons why he didn't want Simon Manoski, and then he did the same thing with Spiro Stavis, and that's when we, we questioned him on that. That's it.

10

But I'm just pointing out to you that you didn't leave it up to the general manager.---Yes, we, yes, we did.

You and Mr Azzi had meetings with him by yourselves on the subject of who should be appointed.---Mr Montague gave us his position in regards to why he's changed his mind, on both applicants. Simon Manoski, and then, after appointing Spiro Stavis as an, as an employee, then he changed his mind because some complaints he received, a letter he received from someone, from an, an ex-staff, or an ex-staff member of Mr Stavis, and the complaints from the, from our current local staff at the time. So he used those to make a decision. And my position was, hold on, if, if he's that bad, just put him on trial at least, and see if he's any good. If he's no good, sack him, instead of putting the council into financial liability like this. And that's my duty as a councillor to, to ensure that council's financial position is protected.

20

I just want to point out to you that your text message to Mr Montague that initiated this conversation on Wednesday, 17 December, commences, "Pierre does not want to discuss the director position any further."---That's correct.

30

That's plainly a reference to the fact that you and Pierre Azzi had been discussing the director position with Mr Montague before 17 December, 2014.---Mr, Pierre spoke to me because Mr Montague spoke to him, and he told me what he said. That's all. I - - -

Were any - - -?---Whether he met him privately, I don't know.

40

No other councillors were involved in these discussions, were they?---We were on the panel. The other councillors were not on the panel except for the mayor.

THE COMMISSIONER: Was the mayor involved?---Yes, he's, he, the mayor was always communicating with the GM. His offices was next to each other.

But was he attending these private meetings with you and Mr Azzi?---Mr, the general manager was meeting individual privately, like he - - -

So he'd meet you - - -?---Separate, yeah.

10 So he'd meet with you and Mr Azzi. And then he would – your view is that he would then meet with the mayor.---Oh, well, he'd meet with the mayor every day. Their office is next door. It just always, they're always talking. So from my understanding, he said that the mayor's always backed him up, whatever he wanted. So whatever he said, the mayor said, "You go ahead and do it." And, and the mayor should have taken into consideration the financial position of the council liability that we were facing. We're talking about, like, mmm, \$1,000.

MR BUCHANAN: Yes, I'm asking you a different question. I'm asking you about what to your knowledge consultation occurred between Mr Montague and councillors other than yourself and Mr Azzi, and you've said, well, he would have talked to the mayor, what other consultation occurred with councillors other than you three in relation to this?---I, I, I don't know because we were the, on the panel, that's probably why he's communicating with us.

20

That might be so, but I'm just simply inquiring of you, to your knowledge there was no other consultation with members of council.---I don't - - -

Is that right?---I don't know what the GM has spoken to anyone else, I don't know.

30 No, no, no. To your knowledge there was no other consultation with councillors?---To my basic knowledge, I'm not 100 per cent sure, but maybe, but I'm not 100 per cent. I can't speak on behalf of the GM.

30

But you understood, didn't you, that you and Mr Azzi could speak on behalf of council, because you and he had the numbers?---No, that had nothing to do with speaking on behalf of council, it was a, the decision, it's a staffing decision that only the general manager can make.

40 Can I take you, please, to volume 4, page 24. This is a series of text messages between you and Con Vasil, Vasiliades. Just clarifying for a moment, the information, the data as to the party with whom you were communicating in these text messages indicates the names that you gave the contacts as you understood it had those mobile numbers, wasn't it, you put those contact details in the phone yourself?---The, the ones on the - - -

So when it says Con Vasil here, that's data extracted from your phone, that's data you had entered into your phone as to the name of the contact with whom you associated that particular phone number?---Probably, yeah.

So the first one is on 18 December, 2014 at 9.04am, and it's from Con Vasil, Vasiliades, I'm going to call him Vasiliades if you don't mind. ---Yeah, yeah, that's fine.

10 "I have a copy of the standard employment contract for the general manager and senior staff. He has to consult with council before employing or dismissing senior staff. We will meet as early as possible to work out what to do because if he is not in the correct emotional state to make rational decisions, councillors will be liable for not taking," and it says there, "imitate," but immediate would appear to have been intended, "action. I will be getting legal advice today to meet as early as possible." Do you see that?---Yeah.

Did you understand whether that was coming from Con Vasiliades or George Vasil?---Oh, this is from Con.

20 Yes. I appreciate it came from his number, but who do you believe formed that message?---I think it would be Con, because I think it looked to do with some research in there, trying to get the employment contract, so I think George is not really good at the computer, except just for - - -

Oh, certainly, certainly, that can be granted, but is it possible to your knowledge that the information in that message, to your belief, would have come from George rather than Con?---I, I, I never thought of it, all I can saw is the message coming from Con, I didn't think twice about where, who it's coming from.

30 Now, do you have an understanding about why it is that Con Vasiliades had gone to the trouble of obtaining a copy of the standard employment contract for the general manager and senior staff?---I, I might have sent a message to all the other councillors in regards to what's happening to inform them, so it could be me that's done the contacts with them.

Did you have a separate contact with say George Vasil, such as a telephone conversation, about what you had learned Mr Montague was doing in relation to Mr Stavis's appointment?---Again I don't recall this, whether his son's spoken to him, I don't know, I don't.

40 You must have had a conversation with George Vasil at some stage in December or January or February about what Mr Montague was doing in relation to the appointment of Mr Stavis.---He could have found out because it became so public, everybody knew. It's, once the, the messages were sent out and what's happening, everybody knew.

But George Vasil was a political ally of yours, wasn't he?---Oh, well, I mean, he only became a political ally towards the last three or four years but before that, no.

When you say the last three or four years, you mean before 2016, the three or four years before 2016?---No, no, just around the period of 2014-15, I'm talking about. Before, before his son got in to council, just before.

So in this period, he was a political ally of yours?---No, he was a Labor ally more than anyone else.

George Vasil?---George Vasil, yeah, he was helping all the Labor guys.

10 You consulted with him on a reasonably regular basis in the period November/December of 2014, didn't you?---Everybody consulted with George from, sometimes the GM consulted with George, sometimes the directors consulted with George. A lot of the - - -

I'm not asking you about other people, I'm asking you about you.---Yeah, I've got - - -

And your contacts with George.---I, I consulted with him as well, everybody consults with him.

20

Would it be fair to say that you, before Mr Montague indicated that he was having second thoughts about appointing Mr Stavis, had been in communication with George Vasil about Mr Stavis being appointed as director of planning?---I can't recall anything like that, no.

Mr Stavis gave you no benefit of his opinion as to whether – I do apologise, my mistake. Mr Vasil never gave you the benefit of his opinion as to the suitability of Mr Stavis as a candidate?---George is always giving his opinion on everything, so just like, it's quite normal for him to give his opinion, so whether it's - - -

30

THE COMMISSIONER: So the answer is yes?---Is yes, could be, yeah, could be that.

MR BUCHANAN: And would it be possible that you and Mr Vasil – I'm not saying you and Mr Vasil alone, but just thinking of you and Mr Vasil – thought it was really desirable that Mr Stavis become director of planning? ---Look, I don't think so.

40 When you say I don't think so, why do you say that?---Because George is a, is a person who, he believes in, in what he does and as far as he was concerned, he helped previous directors and new directors and, and if, if there's a director who would listen to him, he will talk to him. So he doesn't have that, he doesn't push anybody in order to, to do this or do that. He just makes his opinion and, and, and whether you accept it or not, it's up to us.

Going then to the third message, this is still on 18 December, 2014, from Con Vasiliades's phone number. "Legal advice just came back. We are responsible for the actions of the GM. Need to act immediately." Again, did you understand whether that was coming only from Con Vasiliades or whether George Vasil had any input into it?---I, I really didn't think about it. Didn't even think about it.

10 Now, obviously at some stage you came to the view that Mr Montague needed to go.---I think at that stage, yes, because Mr Montague wasn't listening to the, the position of council and didn't, and the, the mayor wasn't calling for an extraordinary meeting to discuss the issue. So they basically told us to bugger off as the, to the majority of the councillors and we made the decision.

20 And in what way had the opinion of council about the appointment of Mr Stavis not being honoured been conveyed to Mr Montague?---Because under the Act, he must report any changes to the sacking or employing of, of senior directors or senior staff and he totally ignored that. That's why we called for an extraordinary meeting with the mayor and he rejected that as well.

Well, I just point out to you that the Commission has a reasonably lengthy memo from Mr Montague to the mayor and all councillors, which is dated 23 December, 2014, in which he explained what had happened and what his reasons were. So, what you've just said can't be right, do you understand? ---Well, what he said was incorrect.

30 My question to you to which you gave that answer was, how had council conveyed to the general manager its opinion that the general manager was doing the wrong thing?---So the GM, in his memo, when he said, look, about the complaint about Stavis and why he is withdrawing it, he didn't actually say the financial implications associated with that decision he made.

40 Mr Hawatt, would you answer my question, please. You have said that a reason that you moved again Mr Montague or formed the view that he had to go was, amongst other things, council had conveyed its, I'm going to use the word, displeasure to Mr Montague about Mr Montague not honouring his offer of employment to Mr Stavis. My question to you is how and when had that occurred?---Well, once he made the decision that he's going to not, not honour the contract and then the, and then contacts with the rest of the council was made and then the decision was made from there.

So from those answers, those non-answers to my question, do I take it that what you're saying is, yes, you're right, Mr Buchanan, council never conveyed its views to Mr Montague on the subject, is that right?---No, the, the councillors, all did, yes.

When did council do that?---Well, when we had, we had, we had a number of meetings amongst the, a number of councillors, certain councillors.

But that occurred after you had decided Mr Montague had to go.---No, we met before, when we found out the original, when we found out what's happening and the decision was made by the other councillors when we had a, a private meeting to discuss it, that this is not, this is not right and unless he honours the, the contract and, and takes, takes council away from that liability, then we have to make a decision and that's why we, we had the,  
10 the motion to move to, for the sacking of the GM.

Well, that was on 24 December. 17 December, 2014, was when you found out that Mr Montague wasn't going to honour the contract of employment, possibly on the evening of 16 December. We've established that it is not correct that council had conveyed its displeasure or unhappiness with that to the general manager, and so what we're trying to establish is, why, given that we can put that to one side, did you decide that the general manager had to go?---Because he refused to call for an extraordinary meeting to discuss the issue.  
20

When and how did that occur?---When we went to the, the mayor's house in order to call for that meeting and, and he said, no, no it's all been sorted out and - - -

Mr Hawatt, Mr Hawatt, that was on 24 December, 2014, and what you delivered was a call for an extraordinary general meeting to consider a motion to terminate Mr Montague's position as general manager.---Which one, on that, we had a verbal - - -

30 And it's got nothing to do with Mr Montague not calling an extraordinary general meeting of council. My question to you is, when did Mr Montague refuse to convene an extraordinary general meeting of council in relation to this?---On the 24<sup>th</sup>.

I've asked you once, I'll give you another opportunity. When and how did Mr Montague, not Mr Robson, Mr Montague refuse to convene an extraordinary general meeting to consider what was occurring in relation to Mr Stavis?---He didn't, the mayor did.

40 Yes. So now, let's go back again. We're trying to go through the reasons that you're giving us as to why it was decided by you that the general manager had to go. I'll give you another opportunity. Why did you decide that the general manager had to go?---We, as council, the majority of councillors decided when we had our, our discussions amongst ourselves.

I am asking you first of all, I'll come back to that, but I'm asking you first of all, why did you, why did you decide that the general manager had to go? Don't you tell us all the time that you're an independent person, you make

up your own mind?---Yeah, because I am in the same position as the rest of the councillor, where council became financially liable.

Is there any other reason, as far as you were concerned, for your decision that the general manager had to go?---There's absolutely no other reason, except for that financial position. If Mr Stavis was not employed, and didn't put us, I would have supported the GM a hundred per cent, if he didn't want him.

10 Now, when was it that the councillors first – or any of them, you have referred occasionally to a majority of council – had a meeting to discuss this?---Oh, oh, look, we had lots of meetings in, in Earlwood. Sometimes - - -

When you say “at Earlwood”, you mean at George Vasil's office?---In Con, no, Con's office. We meet at Con's office there.

20 Was it in Ray White Real Estate Earlwood?---Yes, that's correct. And sometimes we meet in the coffee shop. There's a pizza shop next door. We have general discussions on that, yep. We've had a, a number of meetings to discuss this.

Yes, when was the first one?---Oh, I, I don't recall. But there - - -

30 When was it in relation to the, for example, the delivery to Mr Robson on 24 December of the call for an EGM to consider the termination of Mr Montague?---I, I don't recall the exact, there could, there could have been phone calls as well, as well as meetings. So, I don't recall exactly how it's done.

So are you saying that it's possible there was no meeting of councillors other than you and Mr Azzi between yourselves - - -?---No, it's not, no - - -

- - - before the delivery of the call for the EGM to Mr Robson on 24 December?---No, there was a lot of discussions between all the councillors.

No, no, no. There was no meeting.---No, no, oh, meeting as official meeting, no, there was just discussions, yeah, discussions.

40 No official meeting, right. Any unofficial meeting of councillors?---Lot of unofficial, unofficial meetings, yes.

There were unofficial meetings?---Yes. Yes.

Before 24 December?---Before, yes.

And how many such unofficial meetings were there before 24 December?  
---Oh, I, I don't recall. I don't recall. We've had a lot of discussions and meetings, it's – at that time, there was a lot of turmoil. I don't recall.

Where was the first such meeting?---Again, I don't recall, but I can guess, could be Earlwood.

Was George Vasil present at that meeting?---Not, not that particular when we spoke about the staffing matter, no.

10

He was never present?---He walks away, he walks away.

Oh, so he was there, but you say he walked away.---He's, he, he walks away. George cannot sit for five minutes anywhere unless he walks.

I see. Walks, what, around the room?---He disappears.

Down the corridor?---He's got a habit of disappearing.

20

And then come back again, perhaps?---Comes back again, yeah. Disappears and comes.

George Vasil took a relatively active role in the attempts to get rid of George, of Mr Montague as general manager, would that be fair to say?  
---Actually, he was supporting Jim, and I have to be honest, because he said he supports Jim, yeah. So, he, he was concerned about us sacking Jim.

But was he giving you advice as to what the best course was to take?  
---Everybody was giving advice at the time.

30

No, no, no, no, no, please.---Including George, yes.

You see, George Vasil knew a lot about local government, didn't he?---Yes, he did.

And he knew a lot about planning?---Yes, he did.

And you would, whether you wanted to receive it or not, often get the benefit of his thoughts about local government and planning?---Correct.

40

And I'll come back to that in a moment. So, now, in fairness to you, we've been looking at text messages from Con Vasiliades on 18 December, 2014, where he said, you know, he was looking at the contracts, that legal advice has just come back we're responsible for the actions of the GM. Can I take you to page 26? Can you see there – I'm sorry, this is still in volume 4, in Exhibit 52. This is a text message shortly after those texts from Con Vasiliades. This is at 10.14am, to Mr Montague, sent by you. "Hi Jim, we are liable for your actions. I suggest you don't make any more irrational

decisions which might make council legally liable. You should call an extraordinary meeting to discuss the appointment of the new director and your new decision. I am very concerned by what's happening on this matter. Michael Hawatt." Did you get a response?---I don't recall, I don't, I don't recall.

10 And then if I can take you to page 28 in volume 4, this is a series of texts, it's the same text, it's broadcast to the mayor and all councillors, and you can see that it is addressed in the first instance to, "Councillors. We have a serious issue that needs council's intervention before it's too late. See below text message sent to GM." And that then reproduced the text to Mr Montague. That's at 10.20am on 18 December, 2014. And if we go over the page we can see that you sent it to all councillors. Do you see that? ---Yeah.

And then below that, shortly afterwards at 10.35 you sent a message to a number of councillors, "Send message to Brian Robson asking him to call for extraordinary meeting to discuss GM action."---Yeah.

20 Do you see that?---Yeah.

Do you know whether any councillor did that?---I, I don't, I'm not sure. They might have made it directly with the mayor, I don't know. I'm not sure.

30 Excuse me a moment. Then on 19 December, this is at page 33, Mr Robson sent you a text message, 11.23am, addressed to, "Councillors. There have been a number of recent SMS messages relating to the appointment of a new director of planning. The facts are, 1, after narrowing the applicants to three and having taken advice from selected councillors and checking references, the GM offered the position to one applicant. 2, subsequent to that offer being made, certain information came to light which caused the GM to do a further deeper reference check. 3, as a result of these checks and after seeking legal advice, the GM decided to withdraw the offer. Councillors should note that the authority to hire and fire staff is solely the responsibility of the GM. Should a councillor wish a detailed confidential face-to-face briefing on this matter, I am sure that the GM would be happy to comply with any request to do so." You see that?---Yeah.

40 Now, that's on 18 December. Did you - - -

THE COMMISSIONER: 19<sup>th</sup>.

MR BUCHANAN: I'm sorry, the 19<sup>th</sup>. Thank you, Commissioner. Can I just pause here and ask, when was it that you decided the GM needed to go in relation to what I've taken you to?---Yeah, well just, just after, sorry, just after that, those messages, after the 19<sup>th</sup>, as you can see, the mayor, instead

of calling for an extraordinary meeting to discuss it, as, as you can see, he, he actually refused and that's when we made that decision.

And who was we?---Well, those councillors that I was communicating with.

And who were they?---I think there was, do you want me to name every one of them?

10 If you wouldn't mind.---Yeah, okay. We've got - - -

The ones you were communicating with.---Yeah, yeah. There's myself, Pierre Azzi, Councillor Adler, Councillor Kebbe, Councillor Con Vasiliades and, and I think Karl Saleh, Councillor Saleh.

Fadwa Kebbe?---Fadwa Kebbe as well. Everybody, yeah, just part of the communication that I used to send to.

20 Were you seeking outside advice or assistance to achieve the goal of getting rid of Mr Montague?---Yes, I was getting some assistance, yes.

Who did you seek it from?---Well, I seek, well, I was just, I wanted some information on how to follow this process, from Liverpool Council, from the mayor there and from - - -

And who was that?---Ned, Ned, Ned Mannoun. And the other one was from Sutherland.

Mr Johns?---Ken, Ken [sic] Johns, yeah.

30 Ken Johns. Kent Johns, I should say, sorry?---Kent Johns. Kent John, sorry.

40 If I can take you please to volume 4, page 40. This is a text message by you to Mr Johns on 20 December at 1.10pm. "Hi Kent, I need your confidential input regarding a process to terminate a GM of council. Are there any specific requirements to follow or mention to remove a GM from council. Thanks, Michael Hawatt." And so, certainly by then, that indicates that no later than 20 December, you had decided you wanted to get rid of Mr Montague.---Because he didn't call for that extraordinary meeting under the Act, so he did not fulfil the Act and the mayor didn't fulfil the Act.

I'm sorry, what was your understanding of what the obligation was under the Act for the general manager to convene an extraordinary general meeting of council?---That the councillors must be notified about any changes to senior staff.

Well, that's an obligation, as I understand it, for the mayor to make a decision about appointment or dismissing a member of senior staff, only in

consultation with council.---Well, the councillors, the majority of the councillors requested it and he refused. He ignored them, he ignored us all and, and if he would have had that meeting (not transcribable) continue, we wouldn't have these problems.

Well, can I just jump forward a bit then. You and Mr Azzi delivered a call for an extraordinary general meeting to the mayor on Christmas Eve, 24 December, 2014. You set out the motions for consideration. It wasn't a motion to discuss the failure of the general manager to honour the appointment of Mr Stavis. Instead, it was a motion to sack the general manager. Why was that?---Can, can I elaborate on it?

Yes, please.---Yes. At first we went, both Pierre and I, went to the mayor's house.

But that's on 24 December?---Yeah. And delivered, well we asked him to call for the extraordinary meeting and he said, actually, he was very rude when we first went there, he wasn't friendly, and we asked him to, to call for the extraordinary meeting and he said, "No, it's all been taken care of and it's up to the GM." And then as soon as he refused again, then we gave him the notice of that termination.

Yes, but that doesn't answer my question. My question is why was it that the business of the EGM that you wanted convened was to be the termination of the GM instead of what you said was your concern, which is the failure of the GM to honour his offer of employment to Mr Stavis?---He gave us no choice.

But you did have a choice. You had the choice as to what the business would be for the EGM that you were calling for, didn't you? Yes or no? ---Yes.

Right, having a choice, you could decide, couldn't you, that you would call for an EGM that would consider the general manager's actions in failing to honour the offer of employment to Mr Stavis, couldn't you?---Well, we could have but the - - -

What was wrong with that?---The, the, the GM and the mayor were not interested to, to discuss it any further.

No, but you told us you delivered a call for an EGM, a written call for an EGM.---After this, it was after the, after that.

Yes. Having prepared yourself to do that by taking with you to that meeting on 24 December, a typed-up call for an EGM, why was it that the business for that EGM was confined to terminating the – sorry, was in the first instance, the termination of the general manager, rather than what you said was your primary concern, the failure of the general manager to honour the

offer of employment to Mr Stavis?---That's correct, because we felt that the, I felt and the rest of the councillors felt that the GM, he's given indications in the past that he, he wanted to retire and he told us on a number of occasions and we gave him a couple of extensions in order to do that, and after this incident we thought, well, it's a good time for him to go. That's the decision we made. Get some new blood, new ideas into, into the council.

10 There's nothing in any of the correspondence between councillors, often initiated by you, which suggests that that was a motivating factor.---That was a motivating factor for me.

Indeed, it's not even mentioned by you.---It was verbally discussed many times.

20 So, sorry, even though what you really wanted was an EGM to discuss the general manager's failure to honour the offer of employment to Mr Stavis, instead you decided to accelerate what you understood to be Mr Montague's desired departure from the organisation. Is that right?---That's how it was, but we really did not want to see him go, but unfortunately the mayor used it as a political tool to play his games, and that's what we felt and he's, he influenced the GM not to move forward with any extraordinary meetings or to, for us to discuss it any further. And that was a decision that, if he made the right decision as the mayor, as a responsible mayor, we could have resolved all these issues without having to do this.

30 The difficulty with the evidence that you're giving to us is that, if I can take you, please, to volume 4, page 40, plainly by 20 December you had decided that you wanted to get rid of the general manager.---Because he showed interest that he wanted to retire, he told us on a number of occasions.

Well, why not simply invite him to retire, why did you have to have a termination process?---Because he didn't want to go, the mayor didn't want him to - - -

40 No, hang on a second. I thought you said he wanted to go?---Yeah, but he changed his mind. He said, "Am I going to be forced this way?" So it became like a sort of stubbornness where, well, you can't get rid of me, I'm going to stay on, and, and it became into an argument, and I think it shouldn't have reached that level, because the GM is a good guy, he's a good, good person and I can't doubt that, but there were some issues with, I have to say with the mayor who should have played his role much better than that and he didn't and created this, this problem. And, and afterwards we did resolve it and we moved on.

You're drawing in part, aren't you, when you give that answer, from a memory that you have of the meeting that you had with Mr Montague and Councillor Azzi at the Bulldogs club on 27 December, 2014, aren't you?  
---No, that, that meeting we wanted to discuss with him to find out his position and he, he also - - -

10 It was at that meeting that there was discussion about the general manager's length of time that he'd been as general manager and when he might like to go out gracefully?---Correct, correct, that's what he said and he wanted, he told us he would want his car, he would want this and that, and he was telling us what he wanted, so he was like, in agreeance as far as I was concerned, and, and after he left that, I don't know what happened, it became like a war between the councillors and, and, and the, and the GM.

20 But you're giving an answer, your answer turns on your memory of what occurred on 27 December. I'm asking you a question about 20 December when there is clear evidence that you wanted the GM to go and you've told us, I suggest incorrectly, that you wanted him to go because he wanted to retire.---That's not incorrectly, that's correct. That's your opinion.

It's a nonsense.---No, it's not a nonsense. This is the way we think. I mean we're all councillors and this is the way councils, I mean a lot of councils have sacked their GMs. It's normal.

Did you get a response from Mr Johns to that text message?---I, I, yes.

30 What was the response?---Well, we, we got, we went through, through the, the process together and we sat down put a, he helped me write the, a memo to, to the Office of Local Government at the time, in regards to - - -

The code of conduct complaint?---Yeah, conduct complaint, yeah, he was helping me with that.

I'm just – I'll come back to that in a moment. There was also – you mentioned Mr Mannoun at Liverpool.---Yeah.

40 Volume 4, page 43, please. This is the start of an email conversation which was found at your residence by the Commission, and you can see that it's from a George Georgakis, dated 22 December, 2014, to Mr Mannoun. Do you see that?---Yep.

And it seems to be a report to Mr Mannoun about a process that was used to get rid of a Mr Farooq, F-a-r-o-o-q. Do you see that?---Yep.

And going over to page 44, can you see from about two thirds of the way down the page where the line appears?---Yeah.

Is that line drawn by you?---Oh, I don't, I don't recall, maybe, I don't know.

Because this is a copy of what was found at your house.---Oh, could have been drawn by me, I don't know.

And what you were doing is indicating, weren't you, that the process, the formal resolution that might be used as a model was from that line down, and then over the page to page 45?---That's correct, would be right.

10 And it's the wording of a motion to terminate a general manager's contract of employment.---That's correct.

Now – excuse me a moment. Page 46 is a copy of the general manager's memo that I spoke to you about before, pages 46-48, dated 23 December, 2014. You see the first page there?---Yeah.

20 It indicates an outline of the current process underway to appoint a new director of city planning, and the background to the failed appointment of Mr Spiro Stavis to this role. He wanted to address any, he said, any concerns councillors may have about the process and to outline the next steps. And do you see that he took the reader through the importance of planning responsibilities under the Local Government Act – that is to say, his responsibilities under the Local Government Act?---Yeah.

30 He then set out in some detail, pages 46 and 47, the process for the appointment of Mr Stavis. You saw, did you, just stopping in the middle of that page, where the general manager said, "Mr Stavis was not the most experienced person interviewed. He has not held a director's position in the past and has limited experience in senior management roles and organisational change. His experience lies specifically in project management and in developing responses to individual development proposals." Were you aware, before you read that, of those matters in relation to Mr Stavis?---We weren't objecting to his reasoning behind the changing his mind. Our objection wasn't to do with that. It's to do with the financial implications on council. And if you read in his memo, he says minor financial obligations. It's not minor, it's not minor.

40 THE COMMISSIONER: But you were asked whether you were aware of those deficiencies in Mr Stavis's experience before you received this memo.---No. Not before that.

MR BUCHANAN: So, but you sat on the interview panel, and you saw the resumes of the candidates, didn't you?---That's correct, and that's why we selected Simon Manoski as the first one.

And you accept then that Mr Stavis was not the most experienced person interviewed?---Well, that's why he was number two, and then further down the track from yesterday's discussions we had, you can see even to the extent we thought as a, as a planner, a senior planner. It's not, you know, it

wasn't that we were interested in pushing. You know, if he wasn't employed as a staff member, we would, we wouldn't be discussing this.

Why were you interested in having Mr Stavis at least in the position of a senior planner at council?---Because the guy was, he was a planner, he's an experienced planner and we had a, a very short staff of planners. We, we never had enough planners, we were always falling behind and we thought, you know, there may be a job for him there, that's all.

10 Was it your role as a councillor and Councillor Azzi's role as a councillor to get involved in appointments of staff at a level below manager?---No, definitely not.

But nevertheless you decided you would get involved in this case?---We knew there's nothing going to happen. We just, a, a very - - -

Yes, it didn't happen, but that's what you wanted to happen.---No, no. This is, this was a very unofficial general discussion we had with him and we knew it wouldn't have any teeth, so it's just a waste of time.

20

Because you had, you had a vested interest in Mr Stavis, didn't you, and you wanted to keep him onside?---No vested interest with anyone.

And you wanted to have someone that you could influence in the planning division.---Definitely not.

Because you hadn't been successful in influencing members of the planning division, including its director, up until that time, had you?---We have a code of conduct and if we try to influence anybody, code of conduct will apply to us.

30

Is the answer to my question, that's correct, we hadn't been successful? ---No, we, we don't influence anybody, not being successful, we do not influence anybody to do the wrong thing.

But do you influence them to do what you consider to be the right thing?

---We represent people, applicants, developers, anyone else, and we try and represent them in a, in an honourable and a, and a constructive way to help them and it's up to the assessors, it's up to the planners, it's up to the staff to make the final decision.

40

And so you were trying to influence decisions being made in the planning division whilst it was headed by Mr Occhiuzzi, you just weren't as successful as you would have liked to have been. Is that a fair summary? ---Sorry, it's just been going on for years and as far as I'm concerned - - -

Sorry, what's been going on for years?---The representation that I, I make. It's the same representation with, when Spiro became the director, I made the same representations as I made to, to, the, what's his name - - -

To the former director?---The, the two former directors we've had. And so there was no changes. I mean, when Stavis was the - - -

10 But you were more successful with Mr Stavis?---No, I was not. Stavis was also, we, we had to receive a lot of complaints about him as well. I mean, there was complaints but some people were happy with him, other people not. So I followed the same process.

The candidate, Karen Jones, she was a very experienced candidate, wasn't she?---From memory she didn't have any experience in regards to planning but in regards to infrastructure planning yes, but not local planning.

And she had experience in senior management roles?---From, yes, in, in infrastructure planning.

20 I suggest to you, she had considerable experience in planning.---In infrastructure planning, yeah.

She had experience in organisational change, didn't she?---I, I don't, I don't recall anything else. All I know is she had, she was in charge of infrastructure planning at the Department of Planning.

30 Why did you not put Karen Jones at the top of your list of preferred candidates?---Because I don't know she, she was an experienced local planner.

Was there any other reason?---There's absolutely no other reason.

Is it possible that a reason you didn't want Karen Jones, was two-fold, one that she came from a background at Leichhardt Council, which you considered to be a greenie council.---To me it doesn't really matter.

Is that an honest answer, Mr Hawatt?---It is, it is.

40 And secondly, is it the case that you didn't put Ms Jones at the top of your list of preferred candidates because she was a woman?---Oh, that's - I've, I've got, I don't have any sons. I've got nothing but daughters and I love my daughters and I love, I mean, that ridiculous about being a woman. I would support them at any time of the day.

But women in positions of power might be a different matter for you, mightn't they?---No, it's not, no, it's not, I have a lot of - - -

A bit threatening?---I have a lot of respect for women. I don't know where you heard this rubbish from. This is rubbish, what you're hearing.

Going back to the memo from Mr Montague to the mayor and all councillors of 23 December, 2014, we're on page 47, you can see that in the second half of the page under the heading Emerging Issues, the general manager tried to be polite in indicating that issues arose in relation to Mr Stavis which were adverse to him in terms of being a preferred candidate. Is that fair to say?---Yeah.

10

You were aware, were you, that the general manager had received written correspondence from third parties about Mr Stavis which had affected his thoughts about Mr Stavis?---Correct.

You had a standing offer to go to his office and peruse those documents, didn't you?---That letter, one letter.

Letters, plural.---One.

20

Which letter was that?---The one from a staff member from Strathfield, I think it was.

And did you take the general manager up on that offer?---No, I just accepted it and, what he's saying, it's just afterwards when I started getting concerns.

Well, just thinking about it. You say your attempt to get rid of Mr Montague was because of the financial liability you understood that council would be under by virtue of having to pay out or compensate Mr Stavis for the offer of employment not being honoured.---One of the reasons, yeah.

30

I'll come back to that. Why wouldn't you – I withdraw that. Wouldn't you try to balance the issue of the financial liability of council, the circumstances as you understood it, with what Mr Montague described as being the risks to council of proceeding with the appointment of Mr Stavis, given, as you tell us, you accepted what Mr Montague told you about what he had learned about Mr Stavis to the effect that he'd be an inappropriate appointment?---Correct, and then when I walked out I thought this is the second time it's happening, the first one was with Simon Manoski, that was okay, now it's happening again, and then suddenly realised there is a contract that's been signed and he's an actual employee and based on the, the, the contract, we have a financial liability of, I think it's 38 weeks, which is a lot, and, and as far as I was concerned it's, it's easy to test a person by trying him out, put him on trial, which is normally you do, and if the person does not perform, well, off he goes. And Mr Montague did not do those things, he made incorrect decisions in that regard, he didn't call for the extraordinary meeting and he put council in a financial liability and he gave indications of, in the past of retirement. So all these factors came into it, it's not just one thing.

40

I want to suggest to you that those matters in combination might be viewed, might reasonably be viewed as quite inadequate reasons to terminate a general manager of longstanding and considerable experience at Canterbury Council.---Other councils have done the same thing.

And it would suggest that there was another reason.---Absolutely no other reason except for what I just told you.

- 10 You see, is it possible that the other reason was, you had invested a lot of effort and political capital in the appointment of Mr Stavis as director of planning?---Totally incorrect.

And if you didn't have Mr Stavis as director, then you would lose that political capital. That is to say, you would not have the opportunity to influence the planning decisions of council that you would have, as you understood at the time, if you had this man in the position of director of planning, rather than somebody else.---Totally incorrect.

- 20 Now, you understood, did you, that the liability of council for monetary compensation was to pay out Mr Stavis for 38 weeks at a director's salary? ---Correct.

Excuse me. Can I take you to another document, page 50? So that – I'm sorry, I just need to ask you a preliminary question. This is a, a memo dated 23 December, 2014. Do you know when you saw it?---Which, which memo?

- 30 I'm sorry. Mr Montague's memo of 23 December. It's two and a half pages in which he set out - - -?---Oh, about, yes, yeah.

- - - what happened with Mr Stavis.---That's correct.

And what his plans were for appointing someone else.---Yep.

When did you receive that?---Well, it's dated on the, so - - -

23 December.---23 December.

- 40 You believe you would have received it that date?---I think so, yeah. Yep.

Now, excuse me. Yes, page 50, if we could, please. This is more text messages extracted from your mobile phone, Mr Hawatt, and you can see that the first one is from a Kate McClymont, on 23 December, 2014, the same day as the memo from the general manager, and it's at 9.10pm, and it reads, "Hi Michael, my email is," and then she provided an email, which had a domain name of Fairfax Media. Do you see that?---Yep.

As you understand it, why did you, what were the circumstances in which you received that?---Oh, because she was, she was looking, sorry, she was looking at the Canterbury Council's activities in regards to the Il Buco restaurant, and she (not transcribable) some articles, and then she started making contacts with the councillors to find out what's, what's happening with that incident. Basically that's how we made contacts with her.

10 But the email from Ms McClymont reads as if she had received a contact from you, such as perhaps a telephone contact, in which you indicated that you wanted to be able to communicate with her by email, and she obliged you by providing her email address.---I don't know, she, she wants to write an article, it's about – because she came to the council. She, she actually attended a, a, a meeting that we had. And she was there and she sat with us.

That doesn't explain - - -?---She's a, she's a journalist (not transcribable)

- - - what I'm asking you about, which is, how come, as you understand it, she sent you her email address?---Well, because she called me on the phone, and she wanted information, and I asked her for it.

20

And why did you ask her for it?---Because she's investigating Canterbury Council as a, in regards to the Il Buco restaurant.

And what did you think would be the utility of you having Ms McClymont's email address?---Well, she wanted information. I don't know what information, I don't know if I sent her any information or not. I, I don't recall.

30 Well, you know full well that you did. You've been reading the brief. ---For which one, this one? That's probably, that's, that's it. If that's the case. Yeah.

So, by 9.12, you responded at 9.12 by saying, "Thanks," you would have read Mr Montague's memo of earlier that day.---Yeah.

What was your response to it?---The memo regarding Stavis?

Yes.---Oh, I'd just, we just accepted it, on its face value.

40 I'm sorry?---We accepted on its face value, as what he said. Oh, we never sort of looked into details about the repercussions associated with his decision.

When you say we accepted it, do you mean, you talked with Pierre Azzi about it and - - -?---The councillors.

- - - the view that the two of you took was that you was that you accepted what Mr Montague said in the memo?---No, the, all the councillors that I

spoke to you about, the one I sent messages to, we spoke with, with them about it.

Well, I just want to take you to the first text of substance that you send Ms McClymont on 23 December, 2014, at 9.48pm, and essentially, you provided her in that text with dirt on Mr Montague, didn't you?---Well, correct because they put dirt on me in regards to the, especially the, the mayor was sending information about me in regard to the iPad that I had.

- 10 Right, but I'm talking about you providing dirt on the general manager to the media and I'm asking, why did you do that?---I think everybody was quite cranky with each other. I think it's the wrong decision that we all made, it doesn't mean, the decision we made, whether the GM or us is correct, we make sometimes decision that's incorrect.

What decision was incorrect?---To, to talk to the media. That's not a good thing to do.

- 20 I understand but what I'm trying to find out is what your thinking was at the time, because you've told that you accepted, and you've told us, all the councillors accepted what the general manager had said in his memo earlier that day about the appointment of Mr Stavis, and yet here you are later that night providing dirt on Mr Montague to the media, obviously with the intention of it being published.---I said we accepted it on face value but we knew that the, the information that he gave us about the financial impact was incorrect. So he didn't give us the, the, the real information in the, in the memo. That's what I said. He did not tell the council in his memo that the financial impact is not minor, it's major.

- 30 THE COMMISSIONER: But you said you accepted it on face value. Now you're saying that there was an issue with it.---No, I said it before, Commissioner, that there was an issue with the financial position, minor, I mentioned minor financial position, which was incorrect.

So after saying that, in response to Mr Buchanan's question, that you and the other councillors accepted the memo on face value, you're now saying there was an issue with the description about minor financial. When did you realise that, that there was a problem with his description about the financial liability?---From the memo he sent.

- 40 But when? Because you've said you accepted it on face value, now you're saying there was a change. When did it dawn on you that there was, in your words, a major financial liability?---Well, when I, the, the complaint he made about his background, Stavis's background, and not being a director and all that, that's, we accepted all that, but the financial impact, the minor one, and that's why we accepted that on face value and then the minor, which is the message he had, the last sentence saying that there could be a minor payout, we didn't really accept it but we accepted the memo because

we had no, no meeting to discuss it. It was just a memo that was sent to us and it gave us the opportunity to read it, well, especially myself, the opportunity to read it and realise it's, it's incorrect, it's not a hundred percent there.

So you didn't accept it on face value, is that what you're now saying?  
---Well, just part of it, I'm saying. The, the planning part of it I did but not, not the financial part of it. I was probably, sorry for not being clear on that.

10 MR BUCHANAN: It just seems difficult to understand, Mr Hawatt, why your disagreement with the word, with one word in the general manager's memo, the word minor, even if that was of some magnitude financially, would cause you to think, right, that's it, I'm going to publish dirt on Mr Montague.---Not, I'm not saying publishing dirt on him, I made a mistake to communicate or even talk to McClymont. I'm accepting it.

Yes, I, I understand you say it's a mistake. I take that on board. What I'm trying to understand, though, what your thinking was at the time as to why, given what you've told us was your attitude towards this memo and its  
20 contents, you decided to provide dirt to a journalist on Mr Montague at 9.48pm on 23 December?---Everybody was, there was lots of anger around, there was people talking, you know, bad to each other. Look, things happen, events do happen and, and, and then you, you, you, you make decisions and sometimes the decisions are, are incorrect and I have to say that particular decision was incorrect.

Yes. Can we park to one side whether it should have been done or not. What I'm just trying to find out is what was actually going on, because the texts continued, as we can see on this page, on 6 January and 7 January and  
30 11 January, so it seems to have been a continuing course of conduct on your part of providing information adverse to Mr Montague with a view to it being provided, with a view to it being published, and it looks like a campaign.---No, there was no campaign. She, McClymont used to come, she came and, she came to council, she visited us, she came to meeting and she, she made herself, her presence known. When somebody's in your face you talk to them and they start reporting things. That's why you can't trust journalists and the media.

Ms McClymont was hardly in your face. You were the one who solicited  
40 her email address and you were the one who then decided to provide these gobbets of information adverse to Mr Montague with a view to them being published in the media.---She came, she came and saw us in, she came to, to Canterbury area.

When had she, before 23 December, 2014 last been at council?---She came to the, we met her at the Canterbury Leagues Club, she was there.

I see. When did that meeting occur?---I don't remember the date.

When did it occur in relation to - - -?---During that same period that - - -

Was it in 2014 or 2015?---The same period that's (not transcribable)

2014?---Yeah.

And did you discuss with Ms McClymont a campaign to get rid of Mr Montague?---No, no, just - - -

10

Was there any discussion - - -?---Just complaints, just complaints about him and complaints about decisions and that's it, that's all it was.

And who was present at this meeting apart from yourself and Ms McClymont?---I think there was a number of councillors there.

Yes. Who were they?---I don't remember each one but there was again Councillor Adler, Azzi, I think it's Fadwa Kebbe, Con, Con Vasil, and sorry, I forgot to also mention Ken Nam as well, there was a number of

20

councillors there. They were all councillors who you regarded as your A team?---Yeah, we had, we had an understanding, a group of councillors that had an understanding of, of working together, yes.

And that was the majority of councillors that you and Mr Azzi controlled. ---We don't control. Each one makes a decision but we have an understanding and we make our own independent decision and understanding is that we want to move forward in regards to making sure

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the council's operation is good. So just thinking now about the time when Mr Montague, you found out that Mr Montague was not going to honour the offer of employment to Mr Stavis, when was it in relation to that decision point that you had this meeting with Ms McClymont at Canterbury Leagues Club?---Oh, that's way, that's after that memo he sent us.

So the meeting with Ms McClymont was after the memo of 23 December, 2014. Is that right?---I, I think so, from memory, I just can't recall exactly but just memory, maybe.

40

And how did the meeting come to take place?---Or it could have been, I'm just, it could have been after the Il Buco article, I don't know, I don't know, I'm not sure.

How did the meeting come to take place?---She must have invited herself.

No, what happened? I'm not asking you to - - -?---I don't recall. I don't recall.

You don't recall how it came to take place?---All, all I recall is being at the club at a meeting, a number of councillors were there, she was there, I don't recall how it happened, all I recall we were there.

10 How many meetings with journalists have you taken part in at Canterbury Leagues Club?---Only one.

And you don't recall how this one came to occur in the first place?---No, I don't.

Is it possible that you had something to do with the meeting occurring?  
---If I remember I'll tell you.

Is it possible that you had something to do with the meeting occurring?  
---It could be possible but it's not 100 per cent.

20 Did this meeting occur after you had Ms McClymont's email address?---I, I don't recall.

How was the meeting organised, by text, by email, by phone call, by word of mouth, how was it organised?---I, I can't recall. Could be by mouth, word of mouth, could be by phone calls, I can't recall.

And was McClymont the only journalist there?---That's correct.

30 And was Mr Montague discussed at this meeting?---I, I don't, I don't recall that, I don't - - -

Did the meeting occur at night?---I think it would have been at night.

And you don't recall Mr Montague being discussed at the meeting?---I don't recall, no.

40 THE COMMISSIONER: I'm sorry, the meeting occurred after Mr Montague's memo of 23 December but before the newspaper articles about the restaurant?---No, after.

After?---After the article about the restaurant, because that's how we met her, through, because she made that article. We never, we never knew her before that.

So when was that?---She wrote an article about the, the Il Buco restaurant and criticised the GM and then - - -

So you met her after that article was published?---That article, yeah, that's how, that's how we found out about it but we never even knew who she was.

MR BUCHANAN: Can I ask that the witness be shown volume 4, page 51, please. We know that that article was published on 25 January, 2015. What I want to show you is a text message by you to Ms McClymont on 16 January, 2015 at 2.07pm. "Hi, Kate. Not sure if you are aware or not but I am told by Jim Montague and Brian Robson went to Il Buco without the GM on a number of occasions. These were not authorised and in many cases receipts not signed." Did you – I withdraw that. How did Ms McClymont, as you understand it, find out about the lunches at Il Buco restaurant?---I wouldn't have a clue.

Did you tell her?---I wouldn't have a clue, I've never - - -

Did you tell her?---No.

Do you know whether anyone else did?---Well, from what the GM said, some staff member gave, gave her the information.

Did any councillor say anything to you at any stage to indicate whether they were involved in providing the information?---No, no.

Why did you give to Ms McClymont the information that's recorded in that text that is about Brian Robson going to Il Buco without the GM on a number of occasions? This is on 16 January, 2015.---Somebody must have told me.

Sorry, why did you give it to her?---Why?

Yes.---Because she was, she had all the information that apparently under the, the GIPA request, she's already requested and I think everybody knew that she was doing an article from the GIPA request that she made.

When you say GIPA, you mean G-I-P-A, GIPA?---Yeah.

And why did you provide this information though?---I don't recall even providing her with that information, I don't recall it.

Well, obviously it's a political campaign, in this case against Brian Robson, isn't it?---No, it's not a, Brian Robson's already made his political campaign against us - - -

No, no, no, no, no.--- - - - with the, with the iPad.

Well, in that case are you saying that you were responding to his political campaign by campaigning through the media by providing a journalist with

dirt on him?---Well, he was providing dirt on us and there was a, there was animosity towards him by the, his own colleagues in council, so there was definitely a strong misunderstanding between him and, and the rest of the councillors.

I just want to draw your attention to the dates here. You were actively soliciting information as to how to get rid of Mr Montague no later than 20 December, 2014, weren't you. You understand that?---Yeah, that's incorrect.

10

I'm sorry?---That's incorrect. I don't solicit to do anything like that.

Well, you said to Mr Johns that you wanted his confidential input regarding the process to terminate a GM of council.---That's fine, his confidential input, that's fine, I don't want him to talk to his colleagues or anybody else about it.

20

And then there's the memo of Mr Montague of 23 December, 2014, which you proceeded to – I'll withdraw that – which had no impact on your campaign to get rid of Mr Montague because later that night you're in communication with a journalist providing dirt on Mr Montague to the journalist.---As I said, that was a wrong decision to even meet with her.

But what we have here is evidence of a decision by you to do your best to get rid of Mr Montague, and then the weapons that you were using in the campaign to move opinion against him, wasn't it?---No, it wasn't.

30

And it was to try, wasn't it, to at the very least influence councillors?  
---That's incorrect. Everybody knew about this Il Buco thing, so there's nothing to influence.

Well, except that you were sending all of this information to Ms McClymont, rather than sending it to other councillors.---Oh, all the councillors were aware of what's going on, about the, the issue with Montague.

40

So why in that case send it to a journalist?---As I said, she kept on talking to us. She was in our face. And we made an incorrect decision to talk to her, that was it.

Can I take you to the 7 January, 2015, text message, number 7, on page 50, volume 4, where you said, "Hi Kate, please keep my name out for this one," and then you proceeded to talk about a union and Labor councillor supporting Mr Montague. Why did you want your name kept out of it?  
---I just didn't want it to be political.

But you were engaging in a political campaign to undermine, destabilise Mr Montague.---As I said before, a decision was made, and it was an incorrect decision.

Just leaving aside the fact that it was incorrect, is it the case that you didn't want the fact that dirt was being leaked to the media to be traced back to you?---No, just, look, it's, if there's going to be investigation in regards to what's happening, if I did it, then I did it. But that wasn't the intent.

10 Now, can I just ask you a little bit about the – volume 4, page 159. This is a copy of the call for the extraordinary general meeting. Do you recognise it? Oh, I'm – I do apologise. Sorry.---Yeah.

Do you see it on the screen now?---Yep.

You recognise it?---Mmm.

Where was it typed?---Could have done it in my office.

20 Did you do it in your office?---Could have been, yeah. Could have been. Most - - -

Are you telling us that you did it in your office?---Most likely, but I can't recall exactly where I did it.

And how did you construct it, its contents?---From the information I received from the, Ned Mannoun. And I've just changed the wording.

30 Did you have anyone's help apart from the information you received from Ned Mannoun?---Nah, not on this one, no.

What about Mr Johns?---Well, no, not this one, sorry. Only, only regarding the code of conduct complaint.

Can I just, to give you the, again, context, take you to volume 4, page 69 and 70, please? This is a text message which you broadcast to your A-team, is that right?---The councillors, yeah.

40 Con Vasil, Fadwa Kebbe, Karl Saleh, Mark Adler, Pierre Azzi, Ken Nam. ---Yep.

You told them that you were calling for an extraordinary meeting as soon as possible to move those motions to terminate the employment of the general manager. "This is a simple resolution, to pay him out 38 weeks without reason and secondly to determine our position re the employment of the new director of planning and his subsequent withdrawal by the general manager." Did you have contact with Pierre Azzi before sending that out? ---I don't recall.

Is it likely that you did?---Well, I sent him a copy so probably not.

I see. You would have done this without consulting Pierre Azzi?---Yes.

And so when did Pierre Azzi found out that there was a move afoot to terminate the position of the general manager?---Well, when we, when I gave him, when I, we went to visit the mayor and we had the discussion regarding the issues with the memo that the general manager had.

10

But we know that was in the early afternoon of 24 December. This is at 11.05am on 24 December. Do you mean to say that Mr Azzi would have found out for the first time when he read this text from you, that he was calling, you were calling for the EGM to consider the termination of Mr Montague?---I could have spoken to him, I just can't recall, but he's on, he's on my mailing list, I sent it to him as well.

20

It's most unlikely, isn't it, given your relationship with Mr Azzi and how you operated, that you would have sent that out without talking with Mr Azzi and getting his agreement to it?---I don't recall. I mean - - -

It's most unlikely.---Unlikely?

Yes.---I, it may be, look, I can't, I can't recall. I don't - - -

30

Yes, you say that you can't recall but don't you accept that the way you operated was closely with Mr Azzi, who was your closest ally politically at Canterbury Council at this time?---It's not, he's not my closest ally. We were all, we all worked together.

Who was?---We don't have close allies. We all work together.

Can I just ask you to accept what I respectfully suggest is obvious, and that is you worked very closely with Mr Azzi all the way through this period, and subsequently, in relation to these matters?---I work closely with everybody.

40

But you didn't have everybody at the meeting at Pierre Azzi's house with Mr Stavis before he was offered employment, did you?---With, in regards to Pierre, Pierre Azzi, visiting his house, I always try to make an effort to be there if other people are going to be there to watch out for each other's back and that's a traditional thing that we normally do.

But you invited Mr Stavis to that meeting at Pierre's house, "At Pierre's, Roselands," was what you said in the text to him.---Correct, yeah, and to discuss the, the issue that we, we mentioned yesterday.

You didn't invite any other councillor, did you?---I can't invite people to his, his house without his permission.

I see, so you had discussed with Mr Azzi beforehand, inviting Mr Stavis to that meeting at Mr Azzi's house?---Well, well I would have had to in order for him to, for us to go there because - - -

Did you discuss with Mr Azzi whether any other councillor should be invited?---I, I don't recall if I did or not.

10

You obviously didn't, did you?---I'm just, I don't recall.

You didn't contemplate the possibility that someone else might be there, did you?---I never thought of it. I've never, I don't recall it.

No, and you didn't think of it because you and Mr Azzi were on a campaign to get Mr Stavis installed as director of planning, weren't you?---That's, that's incorrect.

20 There's no other possible explanation for your conduct, is there?---That is absolutely, absolutely incorrect.

And your campaign with Mr Azzi to have Mr Stavis appointed as director of planning was one that you kept fairly confidential. That is to say, you didn't, although it might have been obviously to Mr Montague, you didn't disclose the fact that you and Mr Azzi were having these meetings with Mr Stavis in the absence of other people, did you?---I've already explained the position on this.

30 And you didn't disclose to other people that you were having those text message communications with Mr Stavis, did you?---I don't recall.

Now, the text message to the councillors that were looking at here on 24 December, 2014, doesn't provide any reasons for the call for the EGM to consider that business.---This, this motion doesn't need a reason for it.

40 Yes, I'm not suggesting it's formally needed reasons, but didn't you need reasons to persuade the other councillors to whom you were providing this advice as to why they should support it? You're asking for their one hundred per cent support but you weren't giving them any reasons.---But we've had many discussions and meetings and text messages as you can see to, in regard to this matter. So they all knew the issue.

Oh, I see. So this was the culmination of those contacts, including meetings?---That's correct.

With other councillors at Ray White Real Estate Earlwood?---Correct.

And other contacts?---Correct.

I see. Can I ask you this, can you explain to us why the first item in the order of business was necessary? Why couldn't the EGM have been required to be called in order to consider the second item of business alone, "To determine our position re the employment of the new director of planning and his subsequent withdrawal by the GM"?---I, I just, I can't recall whether – because we had another meeting and I'm just trying to remember, and that meeting had also other things to call for a, an acting  
10 general manager and other things like this.

That's certainly correct but that's later on.---But I, I just, later on.

That's later on.---I can't remember whether that was part of it or not.

No, it was later on.---Yeah, so that's my understanding of that.

Well, no, no.---Sorry, I just, I missed your question again.

20 You haven't told us what your understanding was. Can you explain to us why you chose to make an item of business for the EGM that you were calling for the termination of the employment of the general manager, rather than just requiring that there be an EGM to, as you put it here, "To determine our position re the employment of the new director of planning and his subsequent withdrawal by the GM"?---Oh, I, I don't, I don't recall why but I think it was discussed further down the track about having a, we need to have an acting general manager at the same time. So it wasn't, we couldn't leave, a, a gap in between.

30 You see, isn't the situation that you wanted to get rid of the general manager because it was only he who could appoint the director of planning and Mr Montague had indicated he was not going to appoint Mr Stavis?---No. That's incorrect, that's incorrect.

And so the only reason you included that motion was because of a concern about the financial liability to which council would be exposed by reason of Mr Stavis's offer of employment not being honoured?---That's correct. Yeah, because I said there is other factors involved as well.

40 What other factors?---Well, the, the general manager making bad decisions and, and making incorrect judgements and I think, and, and giving indications he wanted to retire. So, it all came together.

Didn't you already know what "Our position re the employment of the new director of planning was"?---Sorry, the, could you explain that?

Yes, yes. The second item of business that you foreshadowed calling the EGM for was, "To determine our position re the employment of the new

director of planning.” Didn’t you already know what the position of these councillors to whom you sent this text message was on that subject?---No. They have to, they have to make the decision at the meeting. I can’t make that decision on their behalf. So it had to be debated and discussed at the meeting.

10 But you already knew, you already knew that a majority supported your decision that Mr Stavis should be employed and that the subsequent withdrawal by the GM was not to be tolerated?---No. It’s, it’s up to the council to, at the meeting, each person could make their own decision, things could change drastically.

Having council convene, having council, all the councillors being present, consider that the appointment of Mr Stavis, the offer of employment made by Mr Montague to Mr Stavis should be honoured, what could happen next?---Put him on trial after that.

Yes, but only the general manager could do that.---Correct.

20 And so are you saying that in order to ensure that Mr Stavis was employed as director of planning we needed to get rid of Mr Montague?---No, that’s, that’s incorrect.

What’s incorrect about that?---Because the, the, the acting general manager that’s going to come on board would make that decision.

30 I see. And you obviously expected that the acting general manager would make a decision that accorded with your viewpoint, namely that Mr Stavis should be appointed?---Absolutely not, because the general manager, the acting, the person we had targeted is, is a very, very honourable experienced general manager, someone that you cannot control or influence, but very honourable person and he would make the right decision.

THE COMMISSIONER: Sorry, you had targeted somebody?---Yeah, there was somebody I was talking to, very, very - - -

MR BUCHANAN: Was it up to you to decide who would replace Mr Montague?---No.

40 Why were you targeting someone to replace Mr Montague?---Because I had to explain it to the other councillors that we have a backup. You can’t just remove a general manager without having someone with experience and who knows what’s going, without having, having been there, so we’ve got to make sure that council continues operating correctly.

The usual position, I would suggest to you and invite your response, is that if you lose a general manager then a recruitment process is put in train to identify potential candidates and then select - - ?---Correct.

- - - a new general manager, but in the meantime one of the directors, perhaps the most senior director, would be appointing acting general manager. Wouldn't that be the usual process by which a general manager would be replaced?---Well, if, if you, if, if, if you look at some of the meeting we've had, all the, all the directors and the senior staff were standing in line with, with the GM at the time so there was really no one that we could sort of work with in regards to that and we needed to get an outsider, somebody independent, to make, to make the proper decisions.

10

So are you saying that to your knowledge, as at say 24 December, 2014, the three directors all supported Mr Montague in what he had done in respect of his offer of employment to Mr Stavis?---I think so, yes.

And your intention was to sweep aside the entire senior staff and general manager and for you personally to put in place your choice as a replacement general manager?---It is not my choice. We discuss this with all the other councillors, and I'm just trying to remember the name of the acting GM we were going to get - - -

20

Watson.---Watson, that's the one.

Chris Watson.---Chris Watson, yes.

Rockdale.---And he's a very, very honourable well-known experienced general manager.

Mr Montague was also very well-known.---Correct, but he - - -

30 Very experienced.---Correct.

He had the Public Service Medal.---Yes.

All that's correct, isn't it?---Correct.

He was very experienced?---Correct. So he made some wrong decisions.

40 In, in what way was Mr Watson a better bet than Mr Montague had been? ---Mr Montague gave indications he wanted to retire, he, he made some, some strong and wrong decisions in regards to the, the issue with the Il Buco, in regards to the decision he made to put council in a financially-liable position and there was, and we made the decision that it's time for him to go. That's normal.

THE COMMISSIONER: Sorry, what were the strong and wrong decisions re Il Buco restaurant?---Because there was, again that cost council, there was a lot of cost to council without the approval from council in regards to every Friday they were going to the restaurant.

This is he and the mayor going to - - -?---The mayor, yeah, both of them, and it's like costing of each week on a, it's been going for years apparently and we, we only found out about it from the media. But that's costing council an average of 500 bucks every Friday or something, I'm not sure, 300, \$500 every Friday. So, and that's, council did not give permission for that either. That's why.

10 MR BUCHANAN: If you, however, didn't succeed in getting rid of Mr Montague, you wouldn't be able to get Mr Stavis in as director of planning, would you? You knew that.---It was up to the, the new general manager to, to do that.

But what I'm just, just starting at the beginning though. You knew that in order to get Mr Stavis in as director of planning, you had to get rid of Mr Montague?---That, that's incorrect.

20 But how were you going to get Mr Stavis in as at Christmas Eve, 2014, if Mr Montague remained as general manager?---Mr Stavis happened after the - because of his issue - - -

I'm talking about Christmas Eve.---Correct.

When you were trying to get rid of Mr Montague.---Can I explain it?

30 Yes, but I want you to focus on my question, which is, thinking of Christmas Eve, when you're trying to get rid of Mr Montague, how were you going to get Mr Stavis in unless Mr Montague left?---We weren't thinking about Mr Stavis. Mr Stavis is put on the side, on the, on the backburner. The issue became with the GM and the, the incorrect decisions he made, and the decisions we made was based on that. Now - - -

In that case, why couldn't you have had a process for recruitment of a new general manager of the kind that regularly takes place and indeed was put in place by Mr Montague for the replacement of Mr Occhiuzzi?---Well, we, I mean, the, the, the new acting GM would have, would have done that, go through that process. He would made the decision.

40 Thank you. Now, I take you to page 72. You can see there three text messages between you and Con Vasiliades on 24 December, 2014, and the first one is at 12.17pm, "What time are you coming to Earlwood?" So that's a reference to Ray White Real Estate Earlwood, isn't it?---Probably.

And he then texted, or rather, his phone is the source of the text, "The motion has to be addressed to the mayor." Do you see that?---Yep.

That was from George Vasil, wasn't it, that information?---Oh, I, I don't, well, I'm just taking this one on, on, again, face value as coming from Con.

I didn't question whether he wrote it or someone else wrote it. I just – if somebody sends a letter, you don't question who wrote it, you say, "Thank you, that's your letter." I don't, never thought of it.

You never understood that Con Vasiliades might be influenced in what he did as a councillor by his father?---Mmm, I, look, I don't, I don't believe that, no.

10 And you have accepted already that George Vasil was the repository of all knowledge when it came to local government?---Correct.

Con Vasiliades is not the sort of person who would have had a clue as to the identity of the person to whom a motion calling for an EGM should have been addressed, was he? Not a clue.---I mean, I, I, I don't know what his thinking is. And it's up to – I can't just judge his thinking or, or, or George's thinking. It's, it's up to them to make the decision. It's – you're asking me to, to speak on behalf of someone's mind. It's, it's difficult.

20 On the information that you have about the two of them, you would have understood, wouldn't you, that the information as to whom the call for an extraordinary general meeting should be addressed would have been the mayor, would have been George Vasil, not Con Vasiliades, wouldn't you? ---I never thought of it. Didn't even think about it.

I'm asking you to think about it now.---Oh, I, I'm just taking it, again, on face value. He send it, and he made, he made the comment, and I, I respect that comment.

30 George couldn't use the texting function of a smartphone, could he? ---From my understanding, no.

Now, you then texted back, saying, "10 minutes." I'm sorry, this is the third text message on page 72.---Yep.

That indicates that you, shortly after 12.48, on 24 December, intended to be at Ray White Real Estate, which was something that Con Vasiliades had expected to occur. Do you see that?---Yep.

40 So why were you in between sending the text messages that you had sent to your colleagues in the majority on council, this is page 69 and 70, at 11.05 about what the motion would be, why were you going to Ray White Real Estate Earlwood at shortly after 12.48pm that day?---I used to go there quite often.

Yes, but why were you going there on this occasion?---Well, there was a, as you can see, there was a meeting there with, with Con.

And anyone else?---I, I don't recall who else was there.

And what happened when you got to Earlwood?---I don't even recall that meeting, I have to be honest.

Did you type the motion that we have seen previously that you gave to Mr Robson later on that afternoon at Ray White Real Estate Earlwood?

---Maybe, maybe, I don't recall. Sometimes I do use his computer, yes.

10 So you drafted the call, or maybe drafted the call for the extraordinary meeting of council to consider the motion to sack Mr Montague and discuss the appointment of a director of planning at George Vasil's office, didn't you?---Con's office.

With George Vasil, didn't you?---I'm not sure if George was there or not. I don't recall.

Why otherwise go over there?---I go there quite often and I meet their quite often and I use their computers sometimes.

20 But on this occasion you were going there in order to put onto paper what you intended be delivered to Mr Robson later that day.---I don't recall.

But that's the only inference that is available, isn't it, from - - -?---Not really, that was around 12 o'clock. I don't remember what time we went to the mayor's place, could have been late afternoon, and then I could have gone home or the, my office and, and typed it.

But this is not to the point. You've accepted that you could have typed up - - -?---I could have, yes.

30 - - - the piece of paper that you accept you typed with the call for the EGM on it, and we have you going to Ray White Real Estate in the middle of the day after sending the form, a form of the motion to your colleagues in the majority on council. The only inference that is available is that you went to George Vasil's office, Con would be there too perhaps, with a view to putting into written form the document you intended be given to Mr Robson that afternoon, isn't it?---I have, I have, no, that's not correct, it's not accurate thinking.

40 What's inaccurate about it?---Well, could be, I mean firstly you mentioned, you keep mentioning George Vasil's office. George Vasil and Con's office are next to each other. When I do council business Con and I sit down and work things out and George, he can't sit still, he's gone, he never, he never stops. So maybe I've typed it there with Con in his office or then I went, when I went home or to my office I would have done it there. So it's, I mean it's, it's hard to tell where it was done, from, from my opinion, and I'm not 100 per cent sure where I typed it.

You met up with Pierre Azzi that afternoon?---That's correct.

Did you go with Mr Azzi to Ray White Real Estate Earlwood?---No, no, he went with me to the mayor's home.

And who drove?---Oh, God, I can't recall.

How did you get there?---By car.

10 And who was in the car?---Just myself and, and, and Azzi.

Where did the journey that ended up at Mr Robson's house start?---I don't recall. I just can't recall.

Where did you get into the car in order to go to Mr Robson's house?  
---I could have picked him up from his house. I don't recall.

Was it your car?---I don't know. Maybe. Maybe. I don't know.

20 And why would you have picked Mr Azzi up from his house?---Because he knows where the mayor's home is. I don't know where he lives.

You couldn't have got the address off somebody like Mr Azzi and driven there yourself?---I, I, I, no, I didn't have the address, I didn't know it.

So are you telling us - - -?---It's easy, it's easy for him.

30 So are you telling us that the only reason Mr Azzi went with you was because he knew where the mayor lived?---Well, he, he went with me because he knew and he knew him as well, I mean he was part of, I thought he might be able to talk to him in a, in a sense to try to resolve these problems and issues.

Well, you weren't going there to resolve these problems, you went there with, in your back pocket, a typewritten motion calling for an EGM to consider knocking off the general manager.---Yeah, that was, that was given to the mayor after he refused to call for the EGM. We did not hand it to him straight away. He refused to call for the EGM, we, we tried to talk to him, he was rude, and then we just gave it to him and walked away.

40

Can I suggest to you that your evidence is incorrect.---No, it's not.

That in fact what you did was provide him with the typewritten call for the meeting as soon as you arrived there and that the rudeness occurred when Mr Robson read the document and basically told the two of you to fuck off?---No. That's rubbish.

What's rubbish about it?---Because as soon as we walked in, his, his first thing is, "What do you want?" That was his, that, that's his first, instead of saying hello, hi guys, how can I help you, how can we work together, "What do you want?" Well, we're here to discuss the issue with the, with the calling for the EGM, that's it.

10 He wasn't a political ally of yours, was he?---But Azzi was with him, that's why Azzi was with me and, and then we, after he refuses "This all be taken care of it, it's all been sorted out, don't worry about it," and then we thought, well, that's the case, here take this.

So you went from Ray White Real Estate Earlwood to Pierre Azzi's house in Earlwood, is that right?---No, that's, it's not correct or, or right. I, I'm not sure where we, where, where I was at the time, I don't know, I don't recall.

Well, you were at Ray White Real Estate because you created it there.---I'm not sure if I did, unless, unless sending in their computer, I, I can't recall.

20 Well, you've told us that you created it.---I created it, yes.

And you accepted that you went to Ray White Real Estate Earlwood. ---During the lunch.

During the lunch. Why did you go to Ray White Real Estate Earlwood during the lunch?---I go there quite often. I, I don't remember. I always go there, so it's, like - - -

30 Why do you go there?---We always go, we have social meetings, we have coffee, we have some gym training. It's lots of things.

40 But, please, it is stretching credulity to think that you went there for gym training or for coffee or for any social occasion when at 11.05 you had broadcast this text message about calling for an EGM to terminate the general manager, and at 12.48, this is page 72, responded to the text from Con Vasiliades's phone, "10 minutes." And then within a couple of hours, you are at Mr Robson's house, giving him that typewritten call for the EGM. You weren't going there for any of those purposes, were you? You were going there to either type this or to have a meeting about it.---I go to Ray White's office quite often. The question you asked me is why do I go there.

Why did you go on this occasion?---Correct, not on this occasion, you said why to do go there and I said because – but on this occasion, I probably went for a coffee, discussions, meeting, I, I don't, I don't recall.

Who was at the meeting?---It would be Con, he's the one who sent me the message.

Was Pierre Azzi there?---No.

So you didn't pick Pierre Azzi up from Ray White Real Estate Earlwood?  
---I, sorry, I can't recall if he was there, but from memory probably not.

So you did see Con Vasiliades there?---Well, I must have if I said I'll be there in 10 minutes, I presume, I'm just presuming I met him there because I, I just can't remember. I'm just going by the message.

10

Well, in that case, can you assist us as to why you didn't put Con Vasiliades in the car and take him to see Mr Robson with this typewritten EGM call in your pocket?---Because Con is, he's always in the gym training people. He, he, I don't know he can leave. He's always busy with people, with people. He's a, he trains weightlifters.

20

But not so busy that he didn't have time to talk with you? Because he wanted to know what time you were coming?---Well, he probably wasn't busy on that particular time and that's why he's asking me because he could have been busy because he has appointments. He, he organises people to train. So, I can't remember.

See, Con Vasiliades was just a cypher in this, wasn't he, he was just a go-between, a spokesperson for his father?---No, that's incorrect.

A mouthpiece for his father?---No. He's got his own mind.

30

It wasn't George Vasil that you met there on this occasion?---I could have seen George, I can't remember.

Did George try and talk to you out of sending a, or taking a call for an EGM to terminate the general manager to the mayor's house?---I can't even remember talking to George, so how could he try to convince me when I can't remember he even spoken to me.

40

You went over there, though – I withdraw that. Can I go back, please, to the rationale that you've given us for terminating Mr Montague in the position of general manager. You've talked about – indeed, you've indicated at one stage in one of your answers, the only issue was the financial liability that council faced by virtue of having to pay for 38 weeks of a director's salary. ---That's one of the reasons.

You understood, didn't you, that if you terminated the employment of the general manager, council would be liable to pay 38 weeks of his salary?  
---That's correct.

And that would be obviously a sum significantly larger than 38 weeks salary of a director?---That's correct.

So you proposed to take a course of action which to your knowledge would expose council to a greater financial liability than the financial liability that you say impelled you to start a campaign to get rid of Mr Montague in the first place, is that right?---The, the decision that was made was to get some new blood, because he is close to retirement, and he made some incorrect decision, and I think lot of councils would have followed the same footsteps, and a lot of councils have done similar things in regards to their GMs. So nothing new or, or unusual about what, what we, well, what we've done in, in that particular time.

So the story that you were using at the time that you've used here of being motivated, in campaigning to get rid of Mr Montague, by – and which would then enable you to have Mr Stavis put in place as director of planning – your story that you were concerned about the financial liability to which council would be exposed is just that, isn't it? It's a story which is a façade. It's a façade for the real reason, namely, an attempt to put Mr Stavis back in place as director of planning.---Totally incorrect.

20 What's incorrect about it?---Because you're making a, you're making a, a, a, a, a tall story out of something that's actual, and what we've done is sincere, genuine, and it had, it's in the right interest for, for the benefit of, of Canterbury. We made a decision like any other council would do, without any sinister reasoning behind it. And what we've done, and I believe it was a correct decision we made.

All the way through these messages that you were sending to councillors, and indeed your texts to Mr Montague, they've been consistently complaining solely about the exposure to a financial liability by reason of a need to compensate Mr Stavis because the offer of employment was not honoured, no other reason.---That's - - -

That's the case, isn't it?---That's not the case, we - - -

That's the case in terms of the evidence that's before the Commission. ---The, the, in case in - - -

Do you understand that?---That's correct. That's - - -

40 And what that means is, your own words show that you were putting forward a story that simply doesn't stand up to scrutiny.---That's totally incorrect, because when we meet, as the councillors meet, we discuss these issues of financial, as far as a decision and, and, and the, and the financial liability. We didn't discuss just one thing, and, and other councillors have, also have their own opinion and point of view. So it's not just one thing, and it's not a farce. It's, it's a correct decision we made and, and we would, would have made the same decision if it happens again.

THE COMMISSIONER: So your evidence that it was the financial liability isn't correct, because you've agreed that the exposure of the council if you got rid of Mr Montague was going to be a greater financial liability, so that means that the reason why you wanted to get rid of Mr Montague was his bad decisions about the Il Buco restaurant and you wanted new blood.  
---No.

10 So they were the moving reasons?---No, the decision of also remove, sacking, or changing his mind in regards to Stavis.

So you wanted Mr Stavis appointed then?---No, because he made a decision that was going to cost council, he, he appointed him.

20 No, but you have agreed that if you got rid of Mr Montague it was going to cost council more money than if you didn't honour Mr Stavis's, so that can't be a consideration, can it?---Yes, it is, we, we, we, we can make, if somebody makes, if you, if you employ people and they make decisions that are incorrect and costly, it doesn't matter if you pay them their contracts out, sometimes you say, look, I think it's time to go, and sometimes the decisions are made based on what we believe is at the time was the right decision and, and we, we felt as councillors that the decision was it's time for him to go, and some councils do the same thing.

Yes. It's time for him to go, you want new blood and he's made some bad decisions about Il Buco restaurant. So they're the driving forces of this decision.

30 MR BUCHANAN: Can I just indicate to you however, that the body of evidence that's before the Commission shows that you were trying from an early stage to have, you and Mr Azzi, trying to have Mr Stavis appointed as director of planning and it was only after you found that the offer of employment that had been made would not be honoured that you went into this campaign against Mr Montague which started straightaway with the complaint about the financial liability to which Mr Montague was exposing council, which is, as we have established, fallacious.---That's incorrect. If Mr Montague did not employ Mr Stavis and he came up with the decision saying look, I found something on him, we would have supported him 100 per cent without any issues, but because he employed him, he gave him a  
40 contract and he put council in a financially-liable position, which is a decision that he made is incorrect, it's a decision that's incorrect, and from that decision other things came into it, yes, it was time for him to go, new blood, he's making wrong decisions, and that's exactly what, what happened.

Commissioner, I note the time.

THE COMMISSIONER: Yes. All right. As discussed yesterday, Mr Hawatt has a specialist appointment so we're going to adjourn for today but we will resume tomorrow morning at 9.00am.

**THE WITNESS STOOD DOWN**

**[11.29am]**

**AT 11.29AM THE MATTER WAS ADJOURNED ACCORDINGLY**

10

**[11.29am]**