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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC  
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 17 DECEMBER, 2018

AT 2.00PM

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

MR BUCHANAN: Commissioner. Mr Montague, you had told us about having meetings at Mr Azzi's house after amalgamation occurred.---Yes.

10 And what was the purpose of those meetings?---I guess, I guess a bit of a post-mortem on what happened and how it happened. It was, it was more a social get-together. It was pointless then, because the amalgamations were, were done and dusted on 12 May.

Who was present at these meetings?---Again, people that were, who were on Mr Azzi's invitation list. I can't recall exactly but there were people, Michael Hawatt would turn up occasionally, Bechara Khouri would turn up, but no one else that I can recall that were unusual.

So just the four of you?---No, there were - - -

20 You were all there?---No, there were other people there as well. I can't think who they were now. Guests of Mr Azzi.

Were they maybe Labor Party people?---I don't recall. I mean, there certainly were Labor identities at, at meetings.

How many meetings at Mr Azzi's house did you attend after 12 May, 2016?---Only between May and about August that year.

Did Mr Stavis attend any of them?---Not that I can recall.

30 And was there any discussion about how planning decisions might be influenced?---No, not that I recall, no, no.

Was there any discussion about how to try to regain power?---No. Not, not as far as I was concerned.

40 Was there any discussion by Mr Azzi or Mr Hawatt about how they might regain power?---Look, they were social functions. There was very little serious talk at all. It was just, just a social get-together after the end of the week and that's how it, how it happened. I mean, I think everybody accepted by that stage that, you know, it was over as far as Canterbury was concerned anyway.

There wasn't any discussion about maintaining influence in planning decisions via Mr Stavis?---No, no. Not that I recall.

What was the last contact after 12 May, 2016, that you had with Mr Stavis? ---I don't think I did have a contact. I tried to ring him once, I, I recall. I

can't remember when but he didn't return the call and I never spoke to him again.

Can I change the subject, please, and ask you about what was entailed in the assessment of non-complying development proposals and what the consequences of that was. There were, if I can just set the scene, there were these statutory controls that affected commercial multi-storey mixed-use developments, such as building height limits, FSR limits, setback requirements?---There were all sorts of controls in place.

10

And of course one option that council had was to refuse consent in the case of non-compliance?---Yes.

For that reason?---Well, if it didn't comply and they thought - - -

And another option was to consider whether to exercise a discretion under clause 4.6 of the LEP?---I guess so, yeah.

20

If non-complying DAs were not to be refused outright, then the assessment process necessarily involved the collecting and evaluating of material going to whether the discretion to vary a control should be exercised in favour of an applicant?---Oh, I don't know about that. I'm not sure I understand what you're saying, but if there were exceedances or non-compliances generally I suppose there was an attempt made by the planning staff to try to – and I'm guessing, I don't know, I wasn't a party to it – but maybe they were trying to get, to get the application to comply in some way or other, or remove the, the defects. I don't know.

30

This process of collecting and evaluating material on the subject of whether a planning control should be applied or not was necessarily lengthy, complex?---I can't answer that question, Mr Buchanan. I don't know. It was in the hands of the planning division.

It was more lengthy and more complex obviously than simply rejecting it for non-compliance?---I'd say that's a fair comment.

40

And it would be more lengthy and more complex than assessing an application which in all respects complied with planning controls?---Not necessarily. I mean, often complying applications still required additional supporting material and referrals which the planning staff would undertake, and it may take varying lengths of time for that material to come to hand. So you couldn't say that as a rule of thumb, no.

But obviously if a proposal, an application did not comply and the applicant wanted an exception to be made in their case, then that necessarily lengthened the process?---I think it's fair to say that, yes.

And if the variance was considerable between proper planning controls stipulated and what the proponent was trying to achieve, then if the DA was to be approved the process of collecting and evaluating material would be even more lengthy and complex?---Well, depending on the information that was required, yes, I guess you could say that.

10 And that's especially so if a solutions-based approach was to be taken to a non-complying proposed development?---Well, I think, people have got different views about this. I mean, our, our staff always tried to assist applicants if they could rather than just reject them out of hand, and that doesn't apply everywhere but I saw the council as a service industry. It was trying to help people get things, whether it's a mum-and-dad applicant or a major developer, and often the simple applications didn't comply in one way or another.

And was this both before and after Mr Stavis was appointed?---Oh, of course. Yes. Oh, yes.

20 Excuse me a moment. Could the witness please be shown the statement of Ian Woodward in Exhibit 62. Mr Montague, are you aware of this statement by the manager (development) at the amalgamated council, Mr Woodward? ---No. Why would I be? It's dated 26 April, 2018.

I see. You haven't been keeping across the evidence in this case at all? ---No. Not once after the amalgamation.

You've been attending the hearing of the inquiry, though.---On and off, yes.

30 Well, with some degree of frequency.---No, not really.

But you haven't bothered to acquaint yourself with any of the paper evidence that has been received by the Commission?---No, no. I prefer to shut it out of my mind to be honest with you.

I see. Okay, thank you.---It's very stressful.

40 Could I ask if we could turn to the, I think there's a table. Mr Woodward had produced this data, which indicates the length of time taken in the assessment of DAs, a number of DAs, their value and, as you can see in the right-hand columns, mean and median gross determination times. Do you see that?---Yes.

And do you see that in the years '10-11, '11-12, '12-13, we're talking about Mr Occhiuzzi's time, is that right?---Well, I think so. I think it's about when he was there.

That looking at the median gross determination time, the time was 70, 69, 79 days, and Mr Occhiuzzi left in 2014, didn't he?---I think so, yeah.

At which stage the median gross determination time was 74 days. Do you see that?---Yes.

And if it's considered by reference to mean gross determination time, it was 106 days.---Yes.

10 That figure increased in 2015-16 according to this data. Even though the number of DAs determined was less than in the preceding couple of years, the mean and median gross determination times increased.---It looks that way, yes.

Can you assist us as to why that would have occurred in the time that we've been considering, when Mr Stavis was the director of city planning?---No, I can't. It bears out what I said, though, that the processing times were not satisfactory and I, I think the mean is a much more reliable indicator than the median.

20 The fact nevertheless was that the times taken to determine DAs seems to have been greatest in the period 2010 to 2016 under Mr Stavis.---Well, you could say that, yes. I don't know about the nature of the DAs, how complex they were. There's all sort of reasons for that, I guess, but overall at the, the time were not satisfactory.

30 But the times that you have told us you were concerned about were the times before Mr Stavis was hired, and he commenced work in March 2015. So that would have been in the period sort of like 2013-14 and the first part at least of 2014-15, and yet things got worse after Mr Stavis was hired for the reason, you have told us, of addressing the length of time it was taking to determine DAs.---Yeah, that, that was one of the reasons but, I mean, and it's regrettable. I, I can't explain it but it, it bears out what I was saying, that processing times were not good, haven't been, and I, I remembered banging on about this back in the eighties.

But why did they get worse - - -?---I've got no idea.

40 - - - after you employed a person for the reason that they were too high?  
---He wasn't employed for that reason alone. There are other, there are a lot of other elements to being director of city planning but it was certainly something that the council was concerned about. I can't explain why they blew out.

Well, and explanation might be that a solutions-based approach meant that things would take longer to finalise.---Not necessarily. It could well be that these applications were very complex, they were, they were more complex in nature than earlier ones and they just took longer to process, as simple as that.

Thank you, Mr Montague. That's my examination, Commissioner.

THE COMMISSIONER: Now, Mr Buchanan, I've noticed Mr Chanine is at the back of the court and his legal representatives, and we need to deal with him today. I propose to interpose Mr Chanine now.

MR BUCHANAN: May it please the Commission. If we could just have five minutes to adjust the furniture. Ms Mitchelmore will be taking that witness.

10

THE COMMISSIONER: Yes. I'm sorry, Mr Andronos. Yes, you'll just have to, maybe if you can leave the bulk of your material there.

MR ANDRONOS: I will vacate the space, Commissioner.

THE COMMISSIONER: Right. Mr Kirby, you're here?

MR KIRBY: Commissioner, yes.

20

THE COMMISSIONER: We'll just take a very short break. If you and your solicitor can move down the front and occupy those seats and then we'll hear Mr Chanine's evidence.

MR KIRBY: No problems.

THE COMMISSIONER: All right. We'll adjourn for about five minutes.

**SHORT ADJOURNMENT**

**[2.20pm]**

30

MR KIRBY: Just again for the transcript, Commissioner, with your leave, appearing for Mr Chanine.

THE COMMISSIONER: Thank you, Mr Kirby. Now, on the last occasion I made an order under section 38 for Mr Chanine. Are you content for that to continue?

MR KIRBY: Yes.

40

THE COMMISSIONER: All right. Mr Chanine. And I'm sorry, Mr Chanine, I think I've forgotten. You took an oath, was it?

MR CHANINE: Yes. Yes, Commissioner.

THE COMMISSIONER: Ms Mitchelmore.

MS MITCHELMORE: Yes. For the record, your name is Ziad Chanine, is that right?---Correct.

10 And, Mr Chanine, you've already given evidence to the Commission in this public inquiry over two days – 29 June, 2018 and 2 July, 2018 – is that right?---Correct.

Mr Chanine, the purpose of your being called to give further evidence is to respond to some documents which have been obtained from Karantina Pty Ltd pursuant to a notice issued under section 22 of the Independent Commission Against Corruption Act. Can I show you firstly a document will come up on the – actually, no, I've got a bundle. Can I just show you, provide you with a bundle of documents, and can I ask you, Mr Chanine, to look when you get it at page 8 of that bundle. And you'll see, Mr Chanine, that that is a document titled CZM Chanine Family Trust, Discretionary Trust Deed. Do you have that page?---Yes.

Page 8.---Yes.

And if I can just take you to page 46 of that document.---Yes.

30 You'll see that it is, about point 5 of the page, noted that it's signed, sealed and delivered by Ziad Chanine as trustee, and is that your signature to the right?---Yes.

That's your signature. And if I can then take you to page 44, you'll see that the date of the deed is 16 April, 2014. Do you see that?---Yes.

Do you recall signing this document on or about 16 April, 2014?---Not really, no.

Is it likely that you did so?---Yes.

40 There'd be no reason for thinking that you didn't sign the document?---No.

Just staying with the schedule on page 44, Mr Chanine, you'll see that the name of the trust is the CZM Chanine Family Trust, and the trustees of the trust as at the date of its creation were you, your father, Camile Chanine, and your brother Marwan Chanine. Do you see that?---Yes.

And the three of you were also listed as beneficiaries of the trust. Do you see that?---Yes.

And it's the case that beneficiaries was defined more broadly, if I can take you to page 14 of this document, you'll see that the definition of beneficiaries included, in paragraph B, grandparents, parents, brothers, sisters, spouses, widows, widowers, children and (not transcribable) next of kin of the persons named in the schedule. So you were one of the persons named in the schedule, is that right?---Correct.

So by reason of paragraph B, the beneficiaries of this trust extended to your grandparents, brothers, sisters, et cetera, is that right?---I believe so.

10

And can I then take you, Mr Chanine, to some of the evidence that you gave to the Commission on 29 June, 2018.---Yes.

And if we can bring up on the screen page 1663 of the transcript. So, Mr Chanine, you'll see at about line 24 you were asked whether you'd heard of the Chanine Family Trust and you couldn't recall the particular date at about line 28, and at line 32 you were asked, "Did you know that the entity existed in 2014-16?" And you answered, "Possibly." And if I can then take you to page 1665 at line 29. Again you were asked if there was a family trust of which you were a beneficiary called the CZM Chanine Family Trust and you indicated it sounded familiar, and you were asked about what the initial CZM stood for to which you said you presumed the C was Camile, Z for Ziad and M for Marwan. And then in answer to the question, "But you're expressing a state of relative ignorance about all of this. Is that right?" You said, "Correct." I'm just wondering, Mr Chanine, does the document that I've just taken you to, being the document constituting the trust which you signed, assist your recollection as to whether as at 2014-16 you were aware of the trust?---Sorry, can you repeat that again.

20

30 Yes, of course. I've just taken you to a document which is a document constituting the CZM Chanine Family Trust which you signed in April of 2014. I'm asking whether that document assists your recollection as to whether as at 2014-2016 you were aware of the trust and had in fact signed the trust deed?---I believe my previous statement stands that at the time I don't recall whether there was this particular document or not.

Well, you indicated on the last occasion that you were possibly aware of the trust.---Yes.

40 I'm putting to you that in circumstances whereas at 2014 you actually signed the constituting trust document it was more than possibly you were in fact aware of the trust - - -?---At the time, at the time I signed the document?

Yes, and in 2014-16, so going forward from that time you were aware of the trust. Is that right?---Not necessarily, no.

Why is that?---Because I can't recall, I mean, you brought to my attention that I signed the document and I acknowledge that that is my signature but I don't recall particularly signing this particular document.

Mr Chanine, you appreciate that on the basis of these documents which you've signed it's open to the Commission to find that you were aware in 2014-16 of the constitution of this trust and the terms on which it was constituted including your being named as a beneficiary of the trust?

10 ---My recollection was that I wasn't supposed to be a beneficiary of this trust.

But you're named as a beneficiary. Do you accept that?---Yeah, I accept that if that's what's in the document.

Yes. So on what basis did you understand that you weren't intended to be a beneficiary?---The document on the front talks about retiring trustees. I, I recall, I vaguely recall the, the original accountant who set this up set this up incorrectly I believe and that's why I wasn't supposed to be a beneficiary of this trust.

20

You understand, Mr Chanine - - -?---That's my - sorry.

I'm sorry. So that's dealing with a document earlier in the bundle. Can I just focus for the moment on the document that I've taken you to and that identifies you as beneficiaries and trustees of the trust.---Yes.

You accept that?---Yes.

30 And you appreciate that there's a difference between a trustee and a beneficiary of the trust?---Yes.

And can I just then return to my question which is on the basis of the document that I've taken you to and that you've signed, you understand that the Commission is in a position to find that you were aware as at 2014-16 of the constitution of this trust? Do you accept that, that it's open to the Commissioner to find that?---I'm sorry, I'm confused at the question.

MR KIRBY: I object.

40 THE COMMISSIONER: Mr Kirby?

MR KIRBY: The question has now been put a few times in various ways that it's open to you, Commissioner, to find a state of awareness about the trust deed at a particular time. Mr Chanine has given evidence that he's identified his signature at the time, that he vaguely recalls the document although doesn't remember signing it, that he wasn't, that he abides by his evidence given on the last occasion that he was possibly a beneficiary, but it is probity in my submission of nothing and it is not for this witness to say

one way or another whether or not it is open to you, Commissioner, to make a finding about his state of knowledge. If his evidence is accepted, then the Commission will make a finding that he was possibly aware and no more than that. Otherwise, it is just a submission which is being put to Mr Chanine.

10 MS MITCHELMORE: Commissioner, the purpose of my putting the question was simply to give Mr Chanine an opportunity to comment or give any other evidence that he wished to, on the basis that he's indicated in his previous evidence that he was only possibly aware of the trust. The document that I put to him indicates that in April of 2016 he signed the very document that constituted the trust, thus indicating that he was aware as at 2014-16 of the trust. Now, if Mr Chanine doesn't wish to say anything more in relation to that, then I'm content to move on.

20 THE COMMISSIONER: Mr Kirby, as Ms Mitchelmore has stated, she is really allowing your client an opportunity to comment about a finding of fact, which I assume will be put to me in submissions that I should find. If your position, your client's position is you don't want to comment any further, that's fine but it's on the basis that we've got documents, it's been put to Mr Chanine, it's his opportunity to clarify his evidence, and if he doesn't want to or he doesn't want to pursue it any further, then fine, we'll continue.

30 MR KIRBY: I don't make the objection on the basis that – I'm quite happy for Mr Chanine to make any clarification of his evidence and to provide any further evidence on the subject. My objection is simply to the form of the question which is put, that it's open for the Commission to make a particular finding, which is really a submission which can and no doubt will be put to the Commission, but it's unfair in that form to put it to Mr Chanine in that way, who may not have an appreciation that, really, what he is being given is an opportunity to clarify the extent of his recollection.

THE COMMISSIONER: Mr Chanine, do you want to clarify your recollection about this evidence?---In what way, Commissioner?

Ms Mitchelmore, can you ask your question again?

40 MS MITCHELMORE: Look, I'll put it a different way if it saves time.

MR KIRBY: Thank you,

MS MITCHELMORE: Mr Chanine, you've indicated in your evidence on 29 June, 2016, when you were asked whether you knew that the trust existed in 2014, you said, "Possibly." I've taken you to a document this morning that indicates you signed a document constituting the trust in April 2016. Is there anything further you wish to say as to your knowledge that the trust existed in 2014-16?---No.

All right. Mr Chanine, can I then ask you some questions about Karantina Pty Ltd. On the last occasion you were asked some questions by Mr Buchanan about that entity. Do you recall being asked about Karantina Pty Ltd?---I recall the mention of the name.

10 Yes. If I can just take you to the transcript at page 1665 and you'll see at about line 39, Mr Chanine, that there's a reference there, "Have you heard of a company called Karantina?" Do you see that?---Sorry, what line was that?

Line 39, "Have you heard of a company called Karantina Pty Ltd?" Do you see that?---Yes.

It's where the hand cursor is - - -?---Sorry, yes.

- - - pointing.---Yep

20 And you were then asked a question, "Do you understand Karantina Pty Ltd to have a relationship to CZM Chanine Family Trust?" And you say that, "I don't know what the interrelationships are." Do you see that?---Yes.

Can I take you to page 1 of this bundle of documents, and you'll see that in the bundle of documents I've given you this afternoon, you'll see that it's stated a Deed of Acknowledgement of Appointment of New Trustee. Do you see that?---(No Audible Reply)

30 And the deed is signed by, among others, on page 2, yourself, do you see that?---Yes.

And there is a reference in the definitions to an extract of minutes, which is minutes annexed to the deed. The trust is defined as the CZM Family Trust, and the trust deed means the deed establishing the trust. And there's then an acknowledgement which refers to the retiring trustees, and is it the case, Mr Chanine, I think you might have given this evidence a little bit earlier, that you were a retiring trustee as defined, looking at the top of the deed? Is that right?---Yes, I believe so.

40 And it refers to a meeting on 16 April. I'm looking at 2A of the deed, a reference on 16 April, 2014 that through the extract of minutes the retiring trustee resolved to cease acting as trustee for the trust.---Yes.

And to appoint the incoming trustee as the trustee of the trust. Do you see that?---Yes.

And the incoming trustee was Karantina Pty Ltd, is that right?---Yes.

And can I take you then to page 4, and you'll see there that that's a document titled Minutes of Trustees' Meeting.---Yes.

And that's the date of 16 April, 2014, and you were present at that meeting. Do you see that?---Yes.

And if I can just ask you to review those minutes and confirm that that is an accurate record of the meeting to the best of your recollection, having been present.---Yes.

10

And does that documentation assist your recollection as to your knowledge in 2014-16 of the interrelationship between Karantina Pty Ltd and the CZM Chanine Family Trust?---I'm not understanding the question, I'm sorry.

All right.---In terms of the period, when you're mentioning the period between '14 and '16.

All right. So you were asked some questions by Mr Buchanan on the last occasion about your state of knowledge as at 2014-16.---Yes.

20

And when you were - - -?---Sorry to interrupt, but in general between that period?

In that period, that's right.---Okay.

And in relation to the relationship between Karantina and CZM Family Trust, you said, "I don't know what the interrelationships are." Do you remember giving that evidence?---Yes, I do.

30

And I've taken you to a document which is dated, I think it's 2017 if you go over to page 3, so 25 May, 2017, but it annexes minutes of a meeting dated 16 April, 2014.---Yes.

So am I right in thinking that the resolutions to substitute the Karantina Pty Ltd for yourself, your father and your brother as trustees of the CZM Chanine Family Trust took place in April 2014?---Correct.

40 So having taken you to this document, is there anything about your evidence that you gave on 29 June, 2016, that you weren't aware of the interrelationships between these two, that you wish to clarify now?---No, at the time that I was asked the question, I wasn't aware. I, I couldn't recall what the interrelationships are. Now that you're showing me this document, it's, it's jogging my memory that Karantina was placed as the trustee to the CZM Family Trust.

And are you able to indicate why that change happened?---I, I don't know, to be honest with you. I think I mentioned a few moments ago that there was an error in the way this thing, this deed was set up, and I was set up as

one of the trustees. Looking at the dates, the deed was set up on the 16<sup>th</sup> of the 4<sup>th</sup>, and immediately we, when that was picked up there was, it looks as though the meeting minutes had been created to change the documentation.

That's on the same day.---Same day, correct.

Yes. Yes.---Correct. So I was, I was not supposed to be there and I was not – when I say supposed to be there, I was not supposed to be a trustee, I believe.

10

I see. So you and your brother and your father weren't supposed to be identified as the trustee of the trust, is that right?---I believe so.

And is it the case that Karantina was intended to be the trustee all along?---I can't recall.

Did you have any discussions with your father and your brother about who was to be the trustee of the family trust?---No, they set up this particular document, document/trust.

20

Can I ask you, then, Mr Chanine just to, I just want to take you to some further evidence that you gave to the Commission, which is at 1667, transcript 1667, and at line 17 – I should say, this is in relation to the Doorsmart project about which you gave evidence.---Yes.

And you were indicating in about line 17 that there was a partnership involved for this project and you identified your brother as having a number of partners identified in line 22 as Mr Barry Barakat, Mr Simon Srour and Mr Bechara Khouri. Do you see that?---Correct.

30

And at line, sorry, if I can take you to page 1675 at line 33, I'm sorry, pardon me a moment. I'm sorry, 1675 at line 30 you were asked a question about whether Mr Khouri was involved in doing sort of work in respect of Doorsmart and you indicated that, "As I mentioned earlier my brother had partners on that project and so it was a, for lack of a better phrase, it was a joint venture." Do you recall giving that evidence?---Yes.

At the time of your provision of services in relation to the Doorsmart project, were you aware that it wasn't your brother directly but Karantina Pty Limited as trustee for the CZM Chanine Family Trust - - -?---No.

40

- - - that was a party to the agreement establishing the joint venture?---No.

Did your brother ever indicate to you that he was running this joint venture through the trustee company for the CZM Chanine Family Trust?---No, I don't believe so.

Does it come as any surprise to you that he was using Karantina as a vehicle for that purpose?---Not really.

All right. Finally, can I take you to page 1663 of the transcript and you'll see line 7, Mr Chanine, you were asked a question, "Now, when you said you didn't believe you'd had a share of an interest in any of the developments that your brother undertook in 2014-16, were you a member of a family trust with an interest or an interest in any of those developments?" And you said, "I don't believe so." Do you see that?  
10 ---Yes.

If you assume, Mr Chanine, that Karantina was a unit holder in the unit trust that was set up for the purposes of the joint venture for the Doorsmart project, it would follow, do you agree, that you were a member of a family trust with an interest in the Doorsmart project?---Sorry, you lost me with the, the questioning.

All right. You accept from me, accept from me, Mr Chanine, that Karantina was a unit holder in the unit trust that established the joint venture for the  
20 Doorsmart project. Do you accept that?

THE COMMISSIONER: So we're asking you to assume that.---Oh, assume that. Okay. Sorry.

MS MITCHELMORE: Yes, just make that - - -?---Yeah, thank you, Commissioner.

Make that assumption.---Yes, I assume that. Sorry.

30 You assume that?---Yes.

And if you assume, Mr Chanine, that Karantina held those units as trustee for the CZM Chanine Family Trust.---Yes.

If you assume those things it would follow, do you agree, that you were a member of a family trust with an interest in the Doorsmart project?---Yes.

I have no further questions, Commissioner, other than to tender the bundle of documents that I put to Mr Chanine.  
40

THE COMMISSIONER: And they were produced pursuant to a notice to Karantina?

MS MITCHELMORE: Karantina Pty Limited, yes, pursuant to section 22.

THE COMMISSIONER: The bundle of documents produced by Karantina Pty Limited pursuant to a notice under section 22 dealing with the establishment of the CZM Chanine Family Trust will be Exhibit 247.

**#EXH-247 – BUNDLE OF DOCUMENTS PRODUCED BY  
KARANTINA PTY LIMITED PURSUANT TO A NOTICE UNDER  
SECTION 22 RE ESTABLISHMENT OF CZM CHANINE FAMILY  
TRUST**

10 THE COMMISSIONER: Now, collectively I'm going to ask does anybody else have any other questions? Mr Kirby, do you have any questions?

MR KIRBY: Thank you, Commissioner. Mr Chanine, you were asked to make some assumptions then about Karantina on behalf of the CZM Family Trust being a unit holder in the Doorsmart project.---Yes.

You from your own knowledge – I withdraw that. Are you aware whether those assumptions are good? That is, do you know whether that's the case or not?---No, I don't.

20 Did you, as far as you know, ever receive any benefit as a discretionary beneficiary from the CZM Family Trust, as far as you know?---As, as far as I know, no.

Did you receive any benefit from the Doorsmart project?---No.

Other than the services that you provided for your architectural - - -?---No.

30 Commissioner, they are my only questions in re-examination. I'm instructed that, in relation to - - -

THE COMMISSIONER: Are you about to make an application?

MR KIRBY: Yes.

THE COMMISSIONER: Could we just, sorry, what's the application?

MR KIRBY: The application is for confidentiality in relation to Exhibit 24/7.

40 THE COMMISSIONER: Could you just bear with me for a minute. Ms Mitchelmore, may I enquire, I thought an application had been made and I've dealt with that.

MS MITCHELMORE: I think in chambers, Commissioner, yes. I think that's been dealt with.

THE COMMISSIONER: Yes. It's been dealt with and refused.

MR KIRBY: May it please.

THE COMMISSIONER: Unless you've - - -

MR KIRBY: I won't re-agitate it.

THE COMMISSIONER: I think that was through your solicitor's submissions, unless there's anything additional? I'm not minded to change my decision.

10

MR KIRBY: Pardon me. The Commission wrote to my instructing solicitor on 11 December advising that there's no - pardon me. I'll just finish my sentence. There was no current proposal to tender the tax returns and of course they do not comprise any part of that bundle. So I withdraw my application.

THE COMMISSIONER: Thank you, Mr Kirby.

MR KIRBY: Thank you, Commissioner.

20

THE COMMISSIONER: Ms Mitchelmore.

MS MITCHELMORE: Yes. May Mr Chanine be excused.

THE COMMISSIONER: Yes. Thank you, Mr Chanine. You're excused. ---Thank you, Commissioner.

**THE WITNESS EXCUSED**

**[2.52pm]**

30

THE COMMISSIONER: And thank you Mr Kirby and Mr Nehme. Now, oh, sorry, Mr Kirby. There's nothing?

MR KIRBY: No. I'm just - - -

THE COMMISSIONER: Now, the changing of the seats. Can we do that relatively quickly without me dashing outside?

40 MR BUCHANAN: Yes, Commissioner.

THE COMMISSIONER: Just before you start, Mr Moses. Ready?

MR MOSES: I'm back Commissioner.

THE COMMISSIONER: Thank you, Mr Moses.

10 MR MOSES: Yes, thank you, Commissioner. Mr Montague, I know you've been in the box for a while, so I'll be relatively brief. I'm just going to go through a number of topics with you, do you know where I'm going and then ask you somewhere questions. So the first issues I'm going to ask you about are the issues relating to the employment of Mr Stavis. In your evidence in these proceedings, you said at page 5035, at lines 21 to 24, this is just for the Commission's record, that Mr Stavis was worth a punt. Do you recall giving that evidence?---Yes, I do.

20 Do you agree that was not always your position in relation to the employment of Mr Stavis?---Yes, I do.

I'm just going to show you a document. It's a statement of the former mayor, Mr Robson, which he gave to ICAC on 6 June, 2017. It's Exhibit 53, Commissioner. I just want the witness to be shown the seventh and eighth page of the PDF document. It's in Exhibit 53. There are a number of statements but it's the 6 June statement. Just bear with me for a moment, Mr Montague.---Certainly.

30 So it's page 7 of the 6 June statement, Exhibit 53, Mr Robson's statement. Yes, it's not paginated so we've counted the pages as being the seventh page of the PDF document. So you'll see on that page, the second-last paragraph, Mr Robson informed the Independent Commission Against Corruption in this submission that you informed him prior to your decision that you had attended a meeting with Councillor Azzi and Councillor Hawatt, and at that meeting "The general manager told me," this is you saying it to him, "that you had been threatened by Councillor Azzi along the lines, 'You hire him or it is your job.'" Do you see that on the screen? ---Yes, I do.

40 Is that something that you can recall, sitting here today, that you informed Mr Robson about?---I think I did, yes.

And that - - -?---I don't know, I don't, sorry.

That's okay.---I don't know that it was a meeting, though. I think it was more a telephone conversation I had with Councillor, then-councillor Azzi.

That's fine. And just for the Commission's assistance, can you recall whether that was something which occurred during the process of the selection panel or was it something that occurred after you received the negative references concerning Mr Stavis that Ms Carpenter informed you of in an email on 16 December, 2014?---It was the latter.

Thank you. And I think as you've accepted the proposition from Counsel Assisting, it was your role under section 335 of the Local Government Act to appoint staff, correct?---Yes.

10

And it was within your power, I think you've accepted this, to appoint the director of planning without the approval of the elected council, correct? ---Well, as you know - - -

If I've misunderstood your evidence, then please let me know.---No, no. No, basically you're right. As you know, the GM can appoint staff, senior staff, contracted staff, in consultation with the council. The point I made was I'm not sure what consultation means and how far that has to go.

20

I understand. Okay. And I think the effect of your evidence was that you decided to put Councillor Hawatt and Councillor Azzi on the selection panel in order to in effect give them – these are my words, not yours – to give them some buy-in or understanding of the role and to in effect back the person who would be appointed.---Yes. I'd just add to that. Given, given the difficulties we were having in the planning division, I felt that it was necessary to get those two councillors in particular to have some ownership of this process.

30

So where things landed, to understand this again, is that after you received the negative references from Ms Carpenter in an email of 16 December, you gave instructions, I think we've heard, for Mr Belling to withdraw the offer to Mr Stavis, correct?---I asked Mr Belling to give me some advice in relation to that proposal, yes.

Thank you. And you then communicated to Councillor Hawatt that you didn't want Mr Stavis in the first place, correct?---That's right.

40

And then subsequently, I just want to understand this, you then changed your mind and proceeded to employ Mr Stavis, correct?---Well, it didn't happen the next day.

No, no. It happened in February, just to be fair to you, on 26 February, 2015, when you issued the memorandum to council.---Yes.

But it's fair to say, isn't it, that you changed your position, again you changed your position and you then proceeded to have him appointed, correct?---That's right, for the reasons that I outlined in, in my statements.

See, I want put this proposition to you, just to be fair to you, and I think Counsel Assisting has done this but I just want to make it clear from the council's position in terms of the position on the material. Do you accept this proposition, that you employed Mr Stavis because you wanted to keep your job?---I think that was part of it but it wasn't the major driving, major driving issue for me.

10 Were you also influenced by the fact that Mr Hawatt and Mr Azzi, but to a large measure Mr Hawatt, seemed to be engaged in a public campaign against you in terms of defaming you by providing material to The Sydney Morning Herald? Was that also a concern in terms of you - - -?---No, I, I, I don't know to this day whether he was responsible for that or not. I couldn't say that.

Have you seen the evidence before this Commission where he is texting information, providing information to Ms McClymont from the Herald?---I know that, I haven't actually seen it but I know that evidence exists. It's extremely disappointing, of course.

20 Thank you. I'm now going to go on to a second topic if I could, which relates to evidence that you gave concerning Mr, discussions with Mr Stavis in terms of loyalty, okay?---Yes.

30 So I'm going to go on to that topic. You gave evidence to the Commissioner – and this is transcript page, Commissioner, just for reference point, 5027, lines 32-40 – you said that you raised the issue about loyalty, and I'll just read this out, “Again that's another word that appears to be a bit out of favour. It's something I strongly believe in, no matter what connotation you put on the word. I may have raised that, are you loyal, meaning are you loyal to me, to the organisation, to the mayor, to the council.” And you were then asked some further questions about this issue, and this is at 5047, lines 34-44, and you said this in terms of again loyalty, you said that you saw loyalty as “A virtue in people if they are loyal to the management and to the organisation, the councillors, the mayor and the general manager. Being a direct report of mine, I would have just reiterated the same stuff.” I just want to ask you some questions about that. You of course accept, don't you, that employees of a council owe their duty of good faith and fidelity to the council as their employer, correct?---Yes.

40 And do you also accept that this concept of loyalty to councillors, I'll start with them first of all, is misconceived because ultimately the employees of the council owe their duty to the council and, through the council, to the ratepayers?---Yes.

Do you accept that?---Accept that.

And do you also accept that the question of loyalty to the mayor also falls within that same category that we've just discussed?---I, yes, I agree.

And do you accept it also falls within the same category to the concept of loyalty to the general manager?---Yes.

And do you accept, sitting here now in hindsight, that in putting such a proposition to a person, it may be misinterpreted as that person having to, in effect, owe their allegiance to you as the general manager contrary to whether that particular interest might conflict with the interest owed to the council?---Yes, I can see that now, but that was never my intention.

10

Thank you. I'm just going to move on now to another topic, which is your role as the general manager and the question of facilitating outcomes. Last Thursday, 13 December, you gave evidence at transcript 5298, lines 20-33, that you saw your job to include the facilitation of outcomes for members of the community. Do you recall giving evidence to that effect?---Yes.

And to be fair to you, in the context of the planning applications before council, you candidly conceded that you're not an expert when it comes to the application of planning controls.---That's right.

20

And you said that "If it was a developer or a mum-and-dad applicant, if they asked for my assistance, I would offer it or try to render assistance. I did that frequently and I don't deny it, and it would be no different with this application." And this was in the context of a particular application, which at the moment is not relevant, that Mr Buchanan asked you about. Do you recall that evidence?---Yes. Yes.

I'm just going to ask you some questions about that if I could. Do you accept first of all that assisting an applicant to achieve an outcome in a planning matter may not at times be in the best interests of the community? You accept that, don't you?---Well, I don't know in what circumstances that would apply. I'm not sure I do accept it, Mr Moses.

30

Can I clarify this with you, then? When you told the Commissioner that, you saw your role as "trying to facilitate outcomes", when you used that phrase "facilitate outcomes", what were you meaning to convey to the Commissioner that you saw your role as trying to facilitate outcomes? ---Well, taken in the context of the condition that the Canterbury was in terms of growth and investment over many years, by comparison with neighbouring councils I had a personal view that the area was fairly run down and we needed to encourage development and growth and investment. So if an applicant came in with a proposal and wanted to have that proposal considered by the council, I saw it as my responsibility to try and provide assistance to do that, to get it, to get it determined one way or the other, but of course in accordance with the, with the prevailing codes controls.

40

When you say determined one way or the other, are you meaning to suggest that that also meant in effect rejecting a development application?---Yes, could be or approval with conditions or whatever.

10 Thank you. But in terms of the message that you were seeking to convey to this Commission, you were saying that the outcome meant either pushing through a development application or rejecting it, but just getting it determined. Is that what you were meaning to convey?---Just, just getting it off the assessment officer's desk and get a determination one way or the other, that's right.

Thank you. Now, you've told us, and I think you've reiterated again today, that you don't know enough about planning to involve yourself in, in effect, the minutiae of planning decisions, correct?---No, I don't.

And you gave evidence of attending meetings with developers from time to time, correct?---Yes.

20 And that included with developers such as Charlie Demian, correct?---Yes.

And you had those meetings at your office, correct?---Yes.

And you said that the senior staff would be present?---Yes.

Do you accept that by attending meetings with developers, for example Mr Demian, and your staff, that it may have painted a picture that Mr Demian had access to you as the general manager and that staff should attempt to appease him?---No. I didn't expect them to appease him at all.

30 Do you think your presence would have given the meeting an air of importance to the staff so that they gave priority to Mr Demian's planning applications?---No one ever articulated that to me but I guess it's, it's possible to some of the staff. Well, I'm talking about very senior people who were seasoned and battle, battle-weary and I think they'd understand why I was there. I, and I never had one of them say to me, "I feel intimidated by this."

40 No. But can you accept, sitting here today, that that may have been an impression which some staff got?---Yes, I can.

Now, just in relation to the code of conduct, and, Commissioner, could the witness be shown on the screen, just to be fair to him, because you may not recall what the code of conduct, which is Exhibit 52, volume 2, it commences at page 202, but the page that I'd like Mr Montague to be shown commences at page 223, which is clause 5.9, and then I'm going to just jump back to a page. So there is, as you see in clause 5.9, that "You must not use your position to influence other council officials in the

performance of their public or professional duties to obtain a private benefit for yourself or for somebody else.” That applied equally to you, didn’t it?  
---Yes.

And then could I just ask if we can jump back, and I apologise to the Commission staff, back to page 216, clause 4.1, “A conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.” That’s something that you were aware of when you were general manager?---Yes.

10

And then at page 217, clause 4.10, “Non-pecuniary interests, so private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family or personal relationships or involvement in sporting, social or other cultural groups and associations, and may include an interest of a financial nature.” And on the same page, “Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.” Were you aware of that when you were general manager?

20

---Yes.

And you understand that the reason for that is so that it leaves it up to other people within the organisation to form a view as to what they should do about the situation once you have disclosed a conflict, correct?---I guess so, yep.

Now, you gave evidence last Friday, this is transcript 5386, line 36, the transcript 5387, line 3 in relation to your relationship with Mr Demian and I just want to read this out to you. This is first in the context of, if I can call it the wars. There’s been enough about the wars here. I’m not going to sing out the Cold Chisel song, but you were asked this question by my learned friend, “Well, you didn’t take anyone else along to the meeting with Mr Hawatt that took place in early 2015 during the wars that you were having with Hawatt and Azzi, did you?” Answer, “No.” “You took Mr Demian instead?” And you clarified that. You said, “No, no. He, he, he arrived. He was invited. He came at the request of Mr Hawatt I believe.” And then my learned friend put to you fairly, because he had taken you earlier to phone records, “But we have seen that Mr Demian you were tick-tacking frequently on the telephone before and after that meeting but particularly before.” Answer, “But, see, these are two different issues. Now we’re talking about the war again. No, no, no.” And then my friend asked you this question, “We’re talking about the relationship you have with Mr Demian.” And you said this, “And he was, he was a friend, a business friend who tried to help me during a very, very difficult period in my career.”---That's right.

30

40

What you were referring to there, weren't you, was that Mr Demian in effect attempted to assist you during the period when your job was under threat. Correct?---Yes, yes.

And he attempted in effect to broker peace between you and Mr Hawatt and Mr Azzi. You accept that?---Certainly Mr Hawatt, yes.

10 And he's somebody that you relied upon during that process. Correct?  
---Well, I don't know that I relied on him but I was grateful for his, for his help.

Sure. And he was a friend. Correct?---An acquaintance, a friend, yes. Business friend.

Sure. Well, you're not a businessman. You were the custodian of the statutory functions - - -?---Just a, just a figure of speech.

- - - of the council. Correct?---Just a figure of speech.

20 Sure. But you accept, don't you, that he was a friend of yours?---Yes.

Now, my learned friend Counsel Assisting put before you the applications that were before council that Mr Demian or his entity had an interest in, which were the Harrison's site, 570-580 Canterbury Road and 998 Punchbowl Road. You recall being asked some questions about that?---Yes.

30 Do you now accept because of your friendship with Mr Demian that there was a non-pecuniary interest that you had in the applications that Mr Demian's company had before the council sitting here today?--- No, I don't know that I do accept that.

You don't. Okay. Do you now accept sitting here today that you should have had no involvement in Mr Demian's applications before the council? ---No, I don't accept that either.

Do you now accept that you should not have been attending meetings with Mr Demian and Mr Stavis?---No, of course I don't accept that.

40 But sitting here today you accept, don't you, that Mr Demian helped you to keep your job by talking to Mr Hawatt and attending a meeting with the both of you in early 2015?---I think it was a contributing factor but it could have easily gone the other way.

Sure. But you were grateful for his assistance?---Yes, I was.

See, what I want to put to you, and you can reject this but I'm just going to put it to you as a matter of fairness, but that's why you involved yourself in

his projects because you felt that you needed to repay the assistance that he gave you during this time?---No, I don't. I reject that.

Now, on Friday we heard a telephone intercept between you and Mr Hawatt, which the Commissioner marked Exhibit 243, where you said, and this, Commissioner, is at the bottom of page 1, "We've gone, we've gone far enough for Charlie I think, Michael." What do you say you did for Mr Demian, that is, what did you do to say that we've gone far enough for Charlie?---Well, I think we were speaking in relation to the property at 998  
10 and - - -

I think you're right on that, yes.---Yeah. And I do recall having a meeting.

MR ANDRONOS: Perhaps the witness could have access to the transcript before he speculates on what you're talking about.

MR MOSES: Yes, of course. Exhibit 243 because I don't want to inadvertently mislead the witness. If I'm wrong I'll accept that. It's Exhibit 243 and it's at the bottom of page 1. Sorry, Mr Montague, that will come up  
20 on the screen shortly. Sorry, Mr Montague, that will come up on the screen shortly. Just bear with me. It's just coming up on the screen. So the words that are attributed to you in this exchange, "We've gone, we've gone far enough for Charlie I think, Michael," and this I think you were taken to this on Friday.---Yes.

That's what I'm asking you about in terms of that. When you say, "We've gone far enough for Charlie I think, Michael," what do you say you did for Mr Demian where you're saying, "We've gone far enough"?---Well, I think this relates back to that meeting that was held involving Mr Stavis and Mr  
30 Demian in relation to 998 Canterbury Road, and it was all about the setbacks and the height of the building. And what was proposed, as I recall, at that meeting and on that little bit of paper, that scribble, was that the setbacks would have to change, and that, that was it.

Okay. Thank you.

MR ANDRONOS: Commissioner, the witness was asked questions about this on Friday.

40 MR MOSES: I've finished, if it helps.

MR ANDRONOS: There actually is a transcript reference at 5406. I think in fairness the witness should be taken (not transcribable)

MR MOSES: Okay. Thank you.

MR ANDRONOS: 5604.

MR MOSES: I'm happy for the witness to be taken to that.

MR ANDRONOS: So that he can - - -

MR MOSES: If it helps my friend, I've finished that topic. I'm moving on to something else. But I'm happy for the witness to be shown that as well.

THE COMMISSIONER: You'd still like Mr Montague to be shown that?

10 MR ANDRONOS: Yes, yes, I would.

MR MOSES: Just bear with me, Mr Montague.

MR BUCHANAN: With respect, I agree with my friend.

MR MOSES: That's being shown to you now.

MR ANDRONOS: 5405, I'm told.

20 MR MOSES: I have that effect on Mr Buchanan, where he agrees with my learned friend Mr Andronos on the rare occasion when I'm on my feet. Just bear with us, Mr Montague. It's just coming up now. Yes, I don't press the question, Commissioner. I've looked at that transcript reference and I don't need to press the question. I think my learned friend Mr Andronos is right. It's something that I overlooked. Mr Buchanan put that proposition to seek from the witness what he meant by those words. I'd overlooked that so I don't press the question. That last question, I don't press. The questions I put earlier and the answers, of course, are on the record. Can I turn to one  
30 final issue?

THE COMMISSIONER: Sorry, can I just confirm? So the question you asked about Exhibit 243 and in particular "we've gone far enough for Charlie", you don't press?

MR MOSES: That's right. No. Because as Mr Andronos correctly pointed out, that question was asked by Counsel Assisting and an answer was elicited. I'm now turning to Bechara Khouri. He was also your friend, I think you've told us that?---Yes.

40 And you gave evidence that he told you that he had an interest in the Doorsmart site at 212-222 Canterbury Road?---That came to my attention. I don't know whether it was from him or somebody else but I knew late in the piece that he did have some sort of an interest in that development. I don't know to what extent.

And you sent the memo to council for that site, which is Exhibit 69, volume 28, pages 167-168 on 3 December. Do you recall that?---Yes.

And you recommended that the DAs be approved subject to concurrence.  
---That, that was a recommendation that was prepared, I assume, in response to a request from the council.

But - - -?---It wasn't my recommendation per se.

Again, this was not a matter in which you disclosed a conflict of interest because of your friendship with Mr Khouri?---No.

10 No. And do you accept, sitting here today, that you should have?---I guess so.

Yes. Now, there's one final question I wanted to ask you. You were employed by the council as general manager from 1982 to 2016, correct?  
---That's right.

34 years?---Yes.

20 Do you accept, again sitting here today, that that term was too long a term for one person to hold as the general manager, to hold the position of general manager of a council, 34 years?---No, I don't.

You don't?---No, I don't.

And do you think there's any merit in the positions of general managers being subject to fixed terms within a particular council?---Well, they are.

30 No, that is that you can only hold office for a fixed term within a council, within one council. Do you think there's any merit in that, sitting here today, based on your long experience as a general manager?---Well, I can say that at 72. If you'd asked me that question at 45, I'd have said no for obvious reasons. There are 125 jobs in the whole state and there's a lot of people after them. So I think that's, I think it's actually a restraint of trade.

And you don't think by being in that position for that long you get to a position in your thinking that it is your council, rather than the council of the ratepayers?---No. I certainly didn't. I never took it for granted and, and I ask you to remember, Mr, sorry, my memory's gone.

40 That's okay. You can call me Mr Andronos. It's Mr Moses, that's fine.  
---That's fine, Mr Moses. No, this only started to fall apart after 2012. Up until then, everything was fine.

Thank you.---Sorry about that.

That's okay. Please don't apologise. No further questions. Thank you, Commissioner.

THE COMMISSIONER: Thank you. Mr Neil.

MR NEIL: Thank you, Commissioner. Mr Montague, I appear for Mr George Vasil. Do you understand that?---Yes.

10 I'm going to ask you principally about events that took place between November 2014 and February 2015, and I'm going to ask you about some documents, and I'll give the Commission and my learned friend some references and we may put some of them on the screen, but if at any time you want to see a document on the screen that I'm talking about, would you let me know.---Sure.

Now, in addition to your responsibility under the Local Government Act to appoint senior staff, including with consultation of council, it was also one of your duties and functions under your contract of employment to do so, correct?---Yes.

20 And I'll give you a reference to clause 6 of your contract at volume 5, page 45.---Yes.

Thank you. Now, you made the decision to constitute an interview panel for the selection of the new director, correct?---Yes.

30 And as best as we can see on the evidence, the interview panel decision was made about 12 November, about four or five days before 17 November. Can you help us with that?---Can't put a precise time and all I can tell you is that no firm decision was made immediately after the interviews, on the day of the interviews I mean.

Understood. But it was your decision to constitute the panel?---Yes.

And you made it relatively shortly before the actual interview day, is that right?---Oh, I think it was a week or so, yes. Yeah, it might have been more.

Would around about 12 November be a reasonable time estimate?---Well, it wouldn't have been any later than that.

40 Thank you. Now, are you aware that the evidence here indicates that Mr George Vasil was overseas from about 6 November, 2014 until about 2 December, 2014?---I didn't know that.

All right. Would you agree with the proposition that Mr Vasil had nothing to do with your decision to set up the panel?---Absolutely, I'd agree with that.

And he had nothing to do with your decisions as to who should be given the job?---Absolutely.

Thank you. Just on that point, your first preference, you've told the Commission, was for Karen Jones?---That's right.

Your second preference was for Simon Manoski?---That's right too,

Your third preference was for Mr Stavis?---Yes.

10

You, for reasons you've given, I won't go into them, decided not to appoint Ms Jones?---Yes.

And your next preference was Mr Manoski, with whom, as I understand your evidence, Councillor Hawatt and Councillor Azzi were agreeable?---Yes.

And you made a decision, for whatever reason, to drop Mr Manoski out?  
---Yes.

20

Yes. And if it were not for the fact that you, having decided to drop the second preferred candidate out, you would have appointed Mr Manoski with the approval of Councillors Hawatt and Azzi, correct?---I don't know that I'd go that far. I mean, he, one of the reasons was he was uncontactable. I couldn't get to Simon.

No, no, no, no, no. I'll just put this. First choice was Jones.---Yes.

Second choice was Manoski.---Well, it had to be.

30

Yes. And Manoski was acceptable to Hawatt and Azzi.---I'm not entirely sure about that. Certainly I think it was Councillor – no, it might have been actually Councillor Azzi said he was acceptable but I don't recall Mr Hawatt saying that.

40

THE COMMISSIONER: My recollection is I thought you identified one of the councillors thought Mr Manoski was all right. My recollection was that it was Mr Hawatt. But I just want to intervene at this point. I asked you about what happened to Mr Manoski because – and I think I put to you something like he seems to have fallen off the radar or fallen through the cracks, and you said yes.---Because I couldn't reach him.

The way Mr Neil has been putting these questions, it sounds like you've made a conscious decision not to go with him, while the evidence that you gave when answering questions from Counsel Assisting I thought it was along the lines of he just kind of, as I said, faded from view or - - -?---Well, I, I know, I know that Mr Neil doesn't want to hear, hear all the detail and I don't want to prolong things, but - - -

Well, I might, so - - -?---Sorry. Sorry. I didn't get good feedback about Mr Manoski either from the department or people who associated with the Department of Planning. And he wasn't available for interview for me one on one. So, yeah, I, I figured, well, I don't think he's, he's that interested in the role. I - - -

10 Were you told he was overseas on a pre-planned holiday?---Yes, he was, well, that's what I was told, he was overseas, and I wasn't able to confirm that because I haven't spoken, I had never spoken to Mr Manoski and I haven't since. But, yeah, that's, that, that was what was, was put forward, that he was overseas, uncontactable. I think Judith Carpenter told me that because I asked her to try and set it up, a meeting, that is.

MR NEIL: Thanks, Commissioner. Well, look, we might come back to this in a moment, but I don't want to go into why Mr Manoski didn't get the job, but he was the second choice of both yourself – firstly, he was your second choice, right?---(not transcribable) put him on, yeah.

20 Yes. And you did not receive any pressures, can we put it this way, from Councillor Hawatt or Councillor Azzi not to appoint him.---True.

And at least one of those councillors let it be known that Manoski was acceptable to him.---That's Councillor Azzi I'm pretty sure.

Thank you.---But I couldn't – the Commissioner might be right. I can't recall.

30 THE COMMISSIONER: Mr Neil, can I stop you. You asked a question about whether your client, the person you're representing here, had any role in who should be given the job, and Mr Montague agreed with you. I'm just wondering, what's your interest in pursuing this line of questioning about what was playing in Mr Montague's mind when your client was overseas?

MR NEIL: Well, I've probably come to the end of that. There may be one further matter we're just checking, Commissioner

THE COMMISSIONER: All right.

40 MR NEIL: Thank you.

THE COMMISSIONER: I'm just having a problem with your interest in these questions.

MR NEIL: Well, the interest is to ensure that it's completely understood that Mr Vasil had nothing to do with this topic. Now, I just then want to ask you this. In early December, about the 8<sup>th</sup>, you produced your offer to Mr Stavits and he signed on, I think, 9 December, is that right?---That's correct.

Sometime later, around about the 18<sup>th</sup> I think is the date, Mr Belling on your behalf notified Mr Stavis that he wouldn't be appointed, correct?---That's right.

And on the afternoon of 24 December, Christmas Eve, you received a phone call from the mayor telling you that Councillors Hawatt and Azzi had brought him a requisition for a general meeting to remove you.---The extraordinary meeting.

10 An extraordinary meeting, thank you. And you, as I understand, telephoned Mr George Vasil and went to see him?---Yes.

At which time you were devastated by what had happened?---Absolutely.

You were very distraught, is that right?---Yes.

Now, there was a serious threat to the position you'd held for many years, correct?---Yes.

20 And did you seek the assistance of Mr Vasil as some form of intermediary? ---Well, I knew he had a close relationship with Michael Hawatt so I thought he may have been able to talk to Michael about arranging some sort of peace, you know, smoke the peace pipe sort of thing.

At that time the principle issue in this, I think you've called a war, between you and Councillors Hawatt and Azzi related to your decision not to go ahead with appointment of Mr Stavis, is that right?---Correct.

30 Now, would it be fair to say that once that threat to your position was made you started to have some second thoughts about whether or not to cancel Mr Stavis' position or whether or not perhaps to go ahead with your original decision to appoint him?---Yes, I thought that through.

40 Yes. Now, and you may like to just look at, if the witness could be shown, Commissioner, volume 4, page 99. I want to show you an email of Mr Stavis and this is an email that Mr Stavis sent to his solicitor Mr Boatswain, or Boatswain if I hope I got it right, on 31 December, 2014, and he says amongst other things, "Also I forgot to mention that the GM called me on Christmas Eve and undertook to call me sometime this week to discuss my position. He apologised for all that's happened and said to me that I was collateral damage in some big-picture issue he is having and I got caught in the cross-fire." I want to ask you, does that represent what you told Mr Stavis in the phone call you made to him from the office of Mr Vasil?

MR BUCHANAN: I have no objection to that question but there just needs to be a preceding question because this witness's position is he has no memory of or didn't make such a call.

MR NEIL: Well, thank you. Do you remember making the phone call?---I don't recall making that call. No, that's true, I don't remember making that call but it may have happened. I had some sympathy, I guess, for Mr Stavis.

Would it be the case that as early as the afternoon of 31 December you were entertaining the idea of going ahead with appointing him?---I can't recall.

MR BUCHANAN: Oh yes, Christmas Eve, sorry, 24 December?

10 MR NEIL: Sorry, 24 December.

THE COMMISSIONER: I'm sorry, now I'm confused.

MR NEIL: 24 December, sorry, 24 December, Christmas Eve.---24 December, Christmas Eve?

Yes. That's when you got the news from Councillor Robson?---I was shell-shocked, absolutely shell-shocked.

20 And that's when you went to see Mr Vasil that afternoon?---When I went and saw him and ring him, I believe I did have some contact with him, yes.

THE COMMISSIONER: But you can't recall calling Mr Stavis?---No, but it could have happened, I don't recall it.

MR NEIL: But could it be that as early as the very day you got the news that devastated you, you started to think, well, maybe I better think again and maybe I might think about appointing Mr Stavis after all?---My mind was exercised to that possibility after 24 December, when I realised how  
30 serious the situation was, how precarious my position was.

Well, let us then ask this. By 15 January – I withdraw that. On 7 January, and it's volume 4, page 148, there was a code of conduct complaint made. I just want to ask you, did you know about that when it was made?---What was the nature of the code of conduct complaint?

THE COMMISSIONER: We might get that page up.

40 MR NEIL: Yes. It's volume 4, page 148 and it goes to about 153.

MR BUCHANAN: Can I just clarify one matter. I can understand why my friend couches his question in the way he has but in fact we don't have evidence that the complaint was sent anywhere. We have evidence that it was drafted. We have evidence that it was signed. We don't have evidence that it was conveyed to either of the addresses, Mr Orr or Mr Toole.

MR NEIL: All right. Well, thank you very much.

THE COMMISSIONER: Maybe you can preface it on the basis that, as Mr Buchanan has outlined, that it was prepared and signed by the councillors.

MR NEIL: Yes. Thank you, Commissioner. Well, look, I just want to ask you, before these ICAC proceedings had you been aware at any time of that document that runs from page 148 to 153?---No.

10 Thank you. I'll just take a moment to look at 153. There are six signatures. Are they the signatures of the councillors, six of the seven I think that you've called this junta?---Yes.

Who was the other one, please?---Oh, who isn't there. Yes, Kebbe (not transcribable) Ken Nam is there. Oh, jeez, my brain's gone out the window.

Well, look - - -?---I don't know who it is. There is a seventh one. Who is it.

20 THE COMMISSIONER: The other Labor one starting with S?---Oh, Saleh. Saleh. Thank you, Commissioner.

MR NEIL: Saleh. Thank you very much. Thank you. Now, would you please then, could the witness be shown Exhibit 240. I'm trying to go in chronological order. We're now, I'm going to ask you to look at something on 15 January, 2015. Now, this is or these are some emails and at the top of the page Thursday, 15 January at 10.09am there's Mr Belling emailing you. Do you see that?---Yes.

30 And the fifth line down he says, "Assuming as we must that the contract of employment subsists (I think there is no doubt about that)", he sets out some options. Do you see that?---Yeah.

And had you commissioned Mr Belling to give you advice on what the legal position was between the council and Mr Stavis?---Yes.

And did you take this into account, this advice that Mr Belling gave you on 15 January on whether or not you should possibly take back or possibly go ahead with the appointment of Mr Stavis?---Of course I took it into account.

40 Thank you. Now, you're aware, are you not, and if you wish to see the documents we can bring them up, that the mayor, Councillor Robson, had designated 27 January as to be a date on which the motion put forward by Councillors Hawatt and Azzi to remove you should go forward?---Yes.

That motion, and if you wish to see it please let us know.---No, I don't want to see it.

Thank you. It had four elements relating to you and one element relating to consideration of Mr Stavis's position. Correct?---I can't remember exactly.

All right.---I accept that.

Now, between 15 January and 27 January I want to ask you about some events that occurred. Were you regularly in contact with Mr Belling and I think Mr Robertson from the union about the problem of Mr Stavis?---Not regularly, no. I spoke to Ian Robertson once I think and I don't think I spoke to Mr Belling again after he sent that advice through.

10 All right. Thank you. Now, I think you've given some evidence that – sorry. On 27 January, as we know, the mayor declared, in effect, the motion not valid, closed the meeting, but those councillors who wanted to pursue the motion decided to go ahead with their own motion. You remember that?---Their own meeting, yes.

Their own meeting. We won't get into the details but ultimately there was legal advice to say they couldn't stand?---That's right.

20 Now, but immediately after that meeting there was a motion put forward by three of the junta, if you might call it that, calling for a meeting that ultimately was to be held on 13 February, continuing to attack your position but adding in a number of matters relating to the mayor, correct?---That's right.

You sought the assistance of some people, did you not, one was a Mr Joe Alha, that we've seen some emails of his on about 30 and 31 January?  
---Again, he offered - - -

30 Or SMSs.---He offered his help, that's right.

You've told the Commission, I think, that you sought assistance of Mr Demian?---Again, he, he bought into it.

Thank you. Did you seek the assistance, I think you've said, of Mr Tony Stewart?---Again, I got a call from Mr Stewart, who I knew very well, an ex-deputy mayor.

40 Yes. Sometime after the first time that you visited – I withdraw that. Sometime after the time, which I suggest you visited Mr Vasil on the Christmas Eve, 24 December, did you visit him again at his office to seek his assistance, taking with you Mr Stewart?---I don't recall and I don't believe so.

Well, what you sought of Mr Vasil was some sort of assistance for your position, isn't that right?---Yes, yes.

THE COMMISSIONER: Sorry, is this in February, or sorry, this is end of January?

MR NEIL: No. Sometime shortly after the first visit, within a week or two of the first visit, we can't put an exact time on it, and I want to suggest to you, you went to Mr Vasil's office a second time with Mr Stewart.---I don't recall going to Mr Vasil's office with Mr Stewart in company. No, I don't recall that.

But you do recall seeking the assistance of Mr Stewart?---Yes. Well, he offered his help as well. We had a long association,

10

Thank you. Did you seek the assistance of a former deputy mayor, Mr Kritharas?---Bill Kritharas?

Bill Kritharas, yes.---No, not particularly, but again he, you know, he was, he was somebody that had a lot of respect for me and it wouldn't have surprised me if he tried to help out.

Could I just ask you to look at volume 5, page 21, if we could have that Commissioner. If you look at this, I just want you to look at this email chain, and towards the top of the page do we see an email from you to Mr Robertson of the union?---Yes.

20

6 February. And there's you saying "Fortunately, Spiro is a pawn in a very messy political power play"?---Unfortunately.

Unfortunately. "Unfortunately, Spiro is a pawn in a very messy political power play." Do you see that?---Yes.

30

And they were your words that you used in that email, correct?---Yes, yes.

Thank you. And I just want to ask you then this, going to volume 5, page 14, if it could be possible, Commissioner. Is this the first page of email advice, dated 1 February, 2015, which you received from Mr Belling?---Looks like it, yes.

40

Thank you. If I could ask you to look at, if we could go to page 15, and if you look at 2.8, there Mr Belling is saying, "On 27 January, 2015, by letter Mr Boatswain sent the firm for my attention Mr Stavis's tax file number and bank account details." Is that because by 27 January you had either actually decided to at least pay Mr Stavis or you were seriously contemplating paying him?---He was, well, I, I used the term before, he was more or less on gardening leave, so, yes, he was entitled to be paid.

Thank you. And if you go to the next page, 16, clause 3.6 says, "Consequently, in my opinion, the legal position remains the same, as underpins my advice to you on 15 January, namely that there was a contract and other matters."---Yeah. Yeah.

Thank you. And if we then go back just a little to volume 5, page 11, if you look at that, that is your letter to the mayor of 2 February, 2015, stating that you were in fact going to appoint Mr Stavis to the role, correct?---Yes.

And the mayor countersigned it.---Yes.

And would it be fair to say that the mayor must have countersigned that on 2 February or a day or so thereafter?---Would have been a day or so later.

10 Yes.---Just depends on his movements.

And as I understand your evidence, tell me if I've got it right, that either on the 2<sup>nd</sup> or within a day or two thereafter, you let Mr Stavis know that you were going to go ahead with his appointment.---Well, I think it would have been the right thing to do.

THE COMMISSIONER: But is that your recollection?---I, I, I can't recall how he became aware of that. I'm, councillor, one of the councillors might have passed it on to him, you know.

20

MR NEIL: Does that mean that you have a recollection or - - -?---No.

That you might have told one of the councillors, such as Hawatt or Azzi, that you were in fact going to go ahead with the appointment?---That's possible.

Because you wanted at least the war, as far as Mr Stavis was concerned, to be over. For that part to be over, you'd have to tell Hawatt and Azzi about what you decided to do, wouldn't you?---Well, they'd, it would have to come to their attention.

30

Yes. And is it likely that it came to their attention very shortly after 2 February?---Well, I can't see any reason to withhold it.

Thank you. And if we go to volume 5, page 96-7 – sorry, I'll withdraw that. We'll go to another page. I do apologise, Commissioner. I'm just having it brought up. Yes, sorry, to 93, at volume 5, 93. I apologise. This is the motion that was produced by three of the councillors, dated 27 January, which Councillor Robson, according to his evidence, received on 30  
40 January and which was put onto the meeting paper of 13 February. You understand that?---Yes.

And as Counsel Assisting has put to you, the mayor, to use Counsel Assisting's phrase, batted away all those matters that are in that motion and none of them went through on that occasion.---I don't believe so, that's right, yeah.

What I just want to draw your attention to is this, there is no mention in that set of motions of Mr Stavis or anything about the office of director of city planning.---That's true.

Yes. So that what I want to suggest to you, the Stavis component of the war was in fact over by about the 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> of February, do you agree?  
---Well, it seems so.

10 Yes. Now, your opponents and the mayor's opponents, having had all these things batted away on 13 February - - -

THE COMMISSIONER: Mr Neil, I'm going to stop you. What's the relevance of the interest you represent to this?

MR NEIL: Because Mr Buchanan has put to my client last time, in a moment I want to do it again, that right throughout February my client's involved in some sort of strategic manipulations to help Mr Stavis. Our point is it's all over by the first week of February, so it can't be, there's no support for that allegation.

20

THE COMMISSIONER: Okay, continue.

MR NEIL: So just to finalise the point, you or the mayor's opponents seem to have given up because by 18 February you're all at the Leagues Club smoking the peace pipe, correct?---Yes, yes, that's a colourful way to put it, but, yes, that's right.

30 By then then whole war was over, correct?---A war did fizzle out, you know, it just fizzled out.

As far as Mr Stavis' point was concerned, you've given your evidence, I've asked you about what happened in the first week of February. Now, Commissioner, just pardon me a moment. There is, Commissioner, just for completeness I'd ask if volume 4 page 149 be thrown up or displayed. Now, it may be a matter later for submission but I just don't want it to pass, Commissioner, that in the code of conduct complaint there is a paragraph eight stating, "Based upon these discussions it was decided by the general manager, Councillor Azzi and Councillor Hawatt, that the most appropriate candidate would be Mr Simon Manoski," that being after a Miss Jones had been discarded. Those are my questions, Commissioner.

40

THE COMMISSIONER: All right. Thank you. Mr O'Gorman-Hughes.

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

THE COMMISSIONER: Where are we up to. Mr Drewett?

MR DREWETT: Yes, Commissioner. I can safely say that I'll be more than a few hundred seconds, I'm happy to start but I note the time of nearly five to 4.00. I'm in the Commission's hands as to whether you wish me to start and resume again tomorrow or to start maybe a few minutes earlier tomorrow morning.

THE COMMISSIONER: Why don't we start, we'll go through to 4.00 or an appropriate point if you start at a particular topic.

10

MR DREWETT: Thank you. Mr Montague, if you don't know, I act for Mr Hawatt. I'm going to ask you some questions on a few topics. The first topic I want to ask you about is what is headed the departmental file note, which is volume 5, page 240. It might be useful to have that document in front of you and may be on the screen and I'll take you to various parts of that.

THE COMMISSIONER: This is Mr Murphy's file note.

20 MR DREWETT: Yes, that's so. You would recall, Mr Montague, being in the company of Richard Murphy, presumably on 17 March, 2015. This report appears to be written on 18 March, 2015.---Yes, that sounds right.

Can you recall having a meeting with Mr Murphy on about 17 March?  
---Yes, I think he also met with Mr Sammut.

30 Yes. And he was in the company of, as I understand it, a Miss Katrina Annis-Brown, A-n-n-i-s, hyphen, Brown?---I don't, I don't remember her name but, I don't remember her name but there was another person with him, that's right.

All right. And you understood both of those to be investigators?---Yes.

Just in relation to that, their presence at council, I presume the meeting took place at council premises, and I think you indicated in your evidence that it had.---Yes.

40 Was instigated as a result of some action by either yourself or Mayor Robson or both of you, is that right?---My understanding was that, you know, I made a complaint, as did the mayor, to the ICAC, about the behaviour of the two councillors, and as I understand it the ICAC in their wisdom passed it on to the Office of Local Government, my complaint that is.

At page 2 of that five-page document, the third last paragraph reads, "We then met with Mr Montague from 1.00pm to 3.00pm, during which I canvassed with him the range of matters that I detailed in notes." Hearing

that and reading that, do you accept that the meeting you had with those two investigators was a two hour meeting, or thereabouts?---Thereabouts, yes.

And the meeting between you and those two investigators took place only some, if my mathematics is correct, some four months or so after the interview of Mr Stavis, is that - - -?---Yes, I think, I think that's right.

That maths works?---Yep.

10 And in the meeting you had with those two investigators, it's the situation, is it not, that you were, at that time, making every effort to be truthful to those investigators?---Of course.

So if I take you to page 3 of that – and I understand it's not your document and I'm going to take you to certain parts of it to comment on certain things that have been written in that document by Mr Murphy. You have a look at the first sentence, on page 3, "He said it was his decision as to who was on the panel." He, being yourself, Mr Montague, said it was his decision as to who was on the panel. That's consistent with the evidence you've given  
20 here today, that you made the choice as to who was on the panel, is that right?---The panel, membership of the panel was offered to the mayor of course by virtue of his office, and the two other, the two councillors, that's right.

As I understand your evidence, and as Mr Moses indicated, you've been in the box for a fair while and I apologise. I just want to clarify this issue.  
---No, that's all right.

30 It was open to any councillor who wanted to be on the panel to be on the panel?---That's true. I don't know that I communicated that that effectively but I also knew that most of the councillors, because this was during the day, wouldn't be able to attend because of work commitments.

Sure. But just on that issue, using the hypothetical or the assumption, had a councillor approached you, either by telephone or face-to-face, and said, "Mr Montague, I'd like to be on that panel," that would have been enough, as far as you were concerned, to allow them to sit on that panel, is that right?---I would have agreed to that. I hoped there weren't too many in that category because it would have completely overwhelmed the applicants.

40 THE COMMISSIONER: You couldn't have had all 10 of them.---No, of course not. No.

MR DREWETT: Did any councillor, other than Mayor Robson, Mr Hawatt and Mr Azzi, did any councillor ask you if they could sit in the panel in circumstances where you said, no, I don't want you on the panel?---I didn't say, I didn't say no but I think she realised the futility of her request, and that was Councillor Eisler.

THE COMMISSIONER: Sorry, say that again?---She, Councillor Eisler, raised it with me. I don't know that she actually asked to be on it but she queried why other councillors weren't, and I think she realised that she was flogging a dead horse because there's no way they would have. I think the interview process would have been further damaged if Councillor Eisler had been there because of the relationship between her and, she, I should say, and the two councillors, excluding the mayor.

10 MR DREWETT: Still on page 3 of that document, the investigators, and we're looking at paragraph 2, discuss with you the shortlisting process.  
---Yes.

If you have a look halfway down through that paragraph and once again of course it's not, these aren't your words, these are the words of Investigator Murphy, but I want you to comment on this if you will, "I sought clarification on this point vis-à-vis as to whether or not Councillor Hawatt and/or Councillor Azzi put forward Mr Stavis and/or Mr Manoski's name – the GM indicated that they hadn't." That's the truth of the matter, isn't it?

20 ---Well, yes, although Councillor Azzi did say, they both said they wouldn't wear Karen Jones, absolutely not.

THE COMMISSIONER: Hold on. I think we're – sorry, can I intervene. Were we at an earlier point?

MR DREWETT: Yes. Perhaps I can just, it was perhaps the question. There was a short listing down according to paragraph 2 here as I read that from 13 applicants down to five.---That's right.

30 And I understand it and I stand to be corrected but that's what investigator Murphy is referring to when he refers to the short listing process.---I'm sorry. I misunderstood. I'm sorry.

If we accept that as being what Mr Murphy intended to convey with the short listing process, looking at those words again, "I sought clarification on this point vis-à-vis as to whether Councillor Hawatt and/or Councillor Azzi put forward Mr Stavis and/or Mr Manoski's name – the GM indicated that they hadn't." That's the truth of the matter, isn't it?---Hang on. Just let me read that paragraph if you don't mind.

40

THE COMMISSIONER: And this is putting forward his name either to be interviewed or short listed?

MR DREWETT: To be short listed from the 13 down to the five.

THE COMMISSIONER: Down to the five.---No, that's true. I stand by that.

MR DREWETT: And carrying on in that same paragraph, "I asked him whether it was the councillors who had insisted that Mr Stavis be interviewed and he", yourself, "said it was him."---That's right.

That's the truth of the matter as well, isn't it?---That's the truth.

And that's what you told Mr Murphy during that interview - - -?---Yes.

- - - amongst other things which I'll take you to tomorrow.---Yes.

10

And that's what you intended to convey to Mr Murphy.---That's right.

Is that right?---Yes.

Commissioner, I note the time. I have more questions tomorrow.

THE COMMISSIONER: Can I just confirm, Mr Pararajasingham, how long do you think you'll be?

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MR PARARAJASINGHAM: Commissioner, perhaps 15 minutes.

THE COMMISSIONER: Mr Pullinger?

MR PULLINGER: 20 minutes or thereabouts, maybe half an hour.

THE COMMISSIONER: Mr Andronos?

30

MR ANDRONOS: Well, this is not good timing. Commissioner, I was hoping to spend some time with Mr Montague on completion of all the cross-examination. As you will appreciate, Commissioner, even though we had this discussion on Friday but - - -

THE COMMISSIONER: Yes. Did you speak with Mr Montague over the weekend?

40

MR ANDRONOS: No. He indicated, he actually indicated in the Commission hearing room that he was exhausted and he wanted to spend that time recuperating. What's made it more difficult in a practical sense is that Mr Montague has been affected by the blackouts and I understand that he still doesn't have the power on and that has affected him including his ability to get a decent night's rest and so he gets, he has been exhausted. I think he's struggled along this afternoon. What I was hoping is to have a few hours, probably two or three hours with him. I don't know if that meaningfully can happen tonight and I'd like to be able to do so after the completion of everybody's examination which would mean that we would be seeking an adjournment tomorrow so that I could have that conversation with him. I don't know what the attitude of the Commission is or the other parties. What would make that perhaps a little more complex is that

Mr Montague, and I think this might have been communicated to Commission staff, is not available on Wednesday. He has a medical appointment so by hook or by crook we want to get him finished tomorrow. I'm just trying to think through what would be the most productive use of time if I'm going to have some time with him. Perhaps we could do this and I'm just thinking aloud because I haven't really had a chance to process this myself. Perhaps we could have a late start tomorrow, my friends could complete their cross-examination, then we could have a brief adjournment so that I could take instructions on any things, any matters which arise by reason of that additional cross-examination. I would then have my examination of Mr Montague and then Mr Buchanan could conduct any re-examination. We could sit later tomorrow if we're getting a later start.

THE COMMISSIONER: We definitely cannot sit late tomorrow because I have another Commission matter that I've got to deal with at 4.15 tomorrow, yes. That's my difficulty with tomorrow. Mr Andronos, could I just – Mr Drewett, I forgot to ask you, how long do you think you'll be?

MR DREWETT: I think Mr Montague will be pleased to hear I'll only be about 20 minutes, I would have thought, from this moment on, perhaps 25 minutes (not transcribable).

THE COMMISSIONER: Before returning to you, Mr Buchanan, can you assist in - - -

MR BUCHANAN: Well, the only assistance I can provide is just to point out that the sun is still in the sky, and two or three hours from now will see the necessity for further instructions needing to be taken to perhaps be very, very limited if that time was used.

THE COMMISSIONER: I'm sorry, you prefaced your submission with a late start tomorrow.

MR ANDRONOS: Yes.

THE COMMISSIONER: Late start?

MR ANDRONOS: Are you inviting me to nominate a time?

THE COMMISSIONER: Ah hmm.

MR ANDRONOS: Just trying to work backwards from - - -

THE COMMISSIONER: You can see Mr Montague now, can't you?

MR ANDRONOS: Yes, yes, I can. I don't know - - -

THE COMMISSIONER: I hope you've got power back on at your house.

THE WITNESS: Yes, we do.

THE COMMISSIONER: Oh, good.

MR ANDRONOS: You do?

THE WITNESS: Do now, yes.

10 MR ANDRONOS: Okay. My parents still don't. I would have asked for  
11.30am or 12 noon. I think realistically - - -

THE COMMISSIONER: I'm thinking 11.00.

MR ANDRONOS: Well, I'll take it, Commissioner. Not going to haggle  
with you, Commissioner. We'll do what we can this evening and get an  
early start tomorrow, and perhaps a brief adjournment once my friends have  
finished their examination to see whether there's anything that arises from  
that, then we should be able to finish Mr Montague comfortably tomorrow if  
20 we start at 11.00.

THE COMMISSIONER: All right. Look, Mr Buchanan, do you have  
anything to say about that?

MR BUCHANAN: No, Commissioner.

THE COMMISSIONER: Look, tomorrow, because I have another ICAC  
commitment at about 4.15, my suggestion is we start at 11.00. If you can  
speak with Mr Montague when we finish now and also first thing in the  
30 morning, we'll continue with the other questions from counsel. If you need  
a short break – and I emphasise short – with any other matters, but maybe if  
we can, if it looks as if we're going to be pressed for time, we might have a  
half an hour lunch break or something like that to make sure that we finish  
Mr Montague by 4.00. I'll just flag that with everybody.

MR ANDRONOS: Please the Commission.

THE COMMISSIONER: All right. We'll adjourn until 11 o'clock  
tomorrow morning.  
40

**THE WITNESS STOOD DOWN [4.09pm]**

**AT 4.09PM THE MATTER WAS ADJOURNED ACCORDINGLY [4.09pm]**