

DASHAPUB06858
18/04/2019

DASHA
pp 06858-06896

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

Reference: Operation E15/0078

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 18 APRIL, 2019

AT 9.50AM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

MR DREWETT: Commissioner, I have an application to make. It's an application for no evidence to be given this day by my client on health and fitness grounds. You would be aware, Commissioner, that I have been as best I can appraising the Commission and Your Honour in relation to one particular issue, and that being a lack of sleep that my client has been suffering in recent days. I think yesterday morning, I told you Commissioner, that my client had slept one hour that previous evening and has had difficulty gaining any meaningful sleep for some four days as of yesterday. Mr Hawatt has instructed myself through Dr Accoto this morning that he believes he may have gotten an hour, two hours maximum sleep last night. He presents here as being exhausted. He has expressed to his counsel in no uncertain terms that he doesn't believe that he is mentally capable of giving evidence here today. He doesn't want to give evidence here today for the purpose of his not being fit and for the concerns as to the integrity of any evidence that he would give in those circumstances.

There is a four-day holiday that conveniently follows this day. It would be hoped that in the intervening period, if the matter were adjourned until next Tuesday without any evidence given from my client here this morning, that he would of natural means gain some meaningful sleep or he would attend upon a medical practitioner for the purpose of assisting him on order in that regard. I am very happy for my learned friend, Counsel Assisting, or indeed for you, Commissioner, to ask any questions of my client in relation to how he is feeling this morning. It's not a situation where Mr Hawatt is hiding behind his medical conditions and his lack of sleep to avoid giving evidence, and indeed quite the contrary, as was shown yesterday when his counsel had concerns about him giving evidence, and notwithstanding that he became very committed to giving evidence yesterday afternoon and, indeed, we sat until about I think 25 to 5.00 yesterday for that purpose. It simply is I have grave concerns in relation to the health of my client, I have grave concerns in relation to what, if anything, can be made of any evidence he was to give in the circumstances of him not having had any meaningful sleep now for what would be a period of some five days, and for that reason I am asking that Mr Hawatt be excused from attending until Tuesday.

THE COMMISSIONER: Mr Buchanan. Oh, sorry, before you start, have you got any medical certificate, anything in support?

MR DREWETT: No, I was only advised of this when Mr Hawatt came to the Commission at about 20 past 9.00 this morning and we enquired as to how he was feeling and had he gotten any sleep since yesterday and that's where he disclosed that he thinks he might have gotten an hour or two just before the alarm went off this morning for him to come to the Commission. So there's no doctor's certificate in relation to that.

THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Commissioner, the absence of a medical certificate, in my submission, poses a significant impediment to the Commission concluding that Mr Hawatt is not fit to give evidence. It is a rare situation where a claim that a person is not fit to give evidence is unsupported. In such cases, in my submission, it would usually be that the witness is patently unfit, such as has a wound that's visible upon them or something like that, before a court would accede to an application to defer to taking evidence from a witness. That is not the situation here. In my respectful submission, we should, the Commission should, until and unless a medical certificate is provided that it could consider, continue with the evidence of Mr Hawatt.

THE COMMISSIONER: All right, Mr Drewett, anything in reply?

MR DREWETT: If the matter continues, I can foreshadow it will be a submission on behalf of Mr Hawatt that the evidence that is given by him today should be viewed and regarded on the basis that he is not medically fit to give that evidence, and I can say that from his counsel's observation prior to, Commissioner, you coming on the bench, his eyes were closed for some 15 minutes prior to that. He could have been resting his eyes, he could have been fast asleep. He presents here today in the witness box as a person who is chronically unwell in relation to sleep deprivation and he is a man who has had recent heart surgery and one would perhaps be unsurprised in those circumstances that a man who is on new medications, has recently undergone heart surgery, would present in such a way. #095416 that there is no doctor's certificate in the circumstances of that, perhaps it's unsurprising there's no doctor's certificate. He has woken up this - - -

THE COMMISSIONER: Why, if he hasn't been sleeping now for five days, there are medical centres that you can attend at the conclusion of the hearing. We have been very – well, in my view, when Mr Hawatt has raised that he has to go back and see his specialist, we have accommodated that. I just find in the circumstances, where it is put to me that he hasn't slept now for five days that he hasn't sought any kind of medical intervention.

MR DREWETT: Well, he's – as I understand it, and this is on my instructions, he has attempted to sleep last night, and some hour or two before his alarm went off this morning he may have fallen asleep at that time. The alarm's gone off. He's gotten up. He's come straight to the Commission. Should he have gone in anticipation that he wouldn't sleep again last night to a medical centre following the conclusion of these proceedings? Well, that was open to him, but I, with respect, Commissioner, my client wouldn't have known at that stage that it was going to be a further day that he was not going to be getting any sleep. He's woken up this morning, or having eventually fallen asleep before his alarm has gone off. That is the situation, and given that we are sitting here at the Commission at 9.30, he has complied and obeyed with his summons to be here. I can't put it any higher than that, Commissioner. My client has

instructed his counsel that he has had one hour, maybe two hours' sleep this morning, and as I previously submitted as of yesterday, he hasn't slept very many hours in the four days prior to today, so that's five days of very little sleep for this man.

THE COMMISSIONER: All right. Thank you, Mr Drewett.

10 MR BUCHANAN: Before, Your Honour – oh, before, Commissioner, you rule, could I place on the record that were a submission to be made at the conclusion of the evidence of the kind that Mr Drewett foreshadowed, I would submit that in the absence of evidence to support such a submission, it should not be accepted.

20 THE COMMISSIONER: Thank you. Excuse me for a minute. All right, Mr Drewett, counsel for Mr Hawatt, has made an application that his client be excused today from giving evidence on, quote, “health and fitness grounds”. That is, that for the past five days Mr Hawatt has not had any meaningful sleep, and he relies primarily – I won't say primarily, he relies totally on the self-reporting of his client, including his client informing him that last night he only slept one to two hours.

30 The difficulty I'm faced with is that, as Mr Drewett described it, it is an application based on health and fitness grounds in the absence of any medical evidence to support the application. If there has been difficulty in sleeping now for five days, I would have assumed that Mr Hawatt would have attended a doctor after the conclusion of the proceedings. As I have said, we have tried to accommodate Mr Hawatt. In particular, I think, my recollection is on Monday and Tuesday of this week, we actually finished proceedings for the day earlier than the scheduled 4.30 – my recollection, it was around 3.00-ish or 3.30 – on the basis that Mr Hawatt was tired. That was a, again, an opportunity for him to seek some medical attention, if he hasn't been sleeping then for a number of days.

40 My decision is that I am not going to – I won't allow the application. I propose to commence hearing evidence from Mr Hawatt. We will continue through to 11.30, our usual break time, and at that time, Mr Drewett, you can have another discussion with Mr Hawatt outside, and if you need to make the application again, I will hear the application. But at the moment, as I said, I propose for the evidence to start and we'll see how Mr Hawatt goes. Indeed, you've commented that yesterday afternoon, when I offered Mr Hawatt our usual five-minute break, he said, no, I don't need it. I think the quote was “I'm energised by Mr Buchanan's questioning.” So we'll see how he goes this morning.

<MICHAEL HAWATT, sworn

[10.00am]

THE COMMISSIONER: Thank you, Mr Buchanan.

MR BUCHANAN: Thank you. Could we please play the audio file for Exhibit 275. And as usual I'll show you the transcript on the screen, Mr Hawatt. Sorry, I'm reminded that this is an extract which concludes before the end of the telephone conversation recorded, but the material that's been excluded at the end of the conversation is not relevant to the subject matter of the inquiry.

AUDIO RECORDING PLAYED

[10.01am]

MR BUCHANAN: Yes, I might have misled you there a little bit, Mr Hawatt. The recording that was played was played of a portion of the conversation after the conversation had commenced and before it concluded. Do you understand that?---Yeah.

Can I ask you, did you recognise the voices of yourself and Mr Azzi?
---Yeah.

The conversation was about Mr Maroun.---Yeah.

Now, when you said – excuse me a moment. In the second-last entry in the transcript that's on the screen, you said in Arabic, "Now I can't answer you," then in English, "because," then in Arabic, "there is nothing," then in English, "everyone's on holidays." This is Christmas Day 2015. Then in Arabic, "And what we have," I'm sorry, "And what we to work for him, and," and then Mr Azzi interrupted you. When you said to Mr Azzi, "And what we to work for him," what did you mean?---I, I don't recall this, this discussion, but presumably based on Mr, Mr Maroun's intoxicated mind that he has, and he's very stubborn and very argumentative, and he's probably went through one of those days where he started arguing as he normally does. That's, that's the way I could, I interpret what I'm listening to here.

Yes, but what did you mean when you said, "And what, we to work for him?"---He must have been calling me on holidays or something, to, demanding things and sometimes just, it reaches the limit. I think he became very pushy.

You were characterising your activities at council on his behalf as work for him, weren't you?---No. We, we're going to work for him, I mean, if they're on holidays. He keeps calling and then we go and sit down with him and sometimes we socialise with him and sometimes he comes and attacks.

We normally ignore him but on many occasions, we just get, spend a couple of – as soon as we see him in an intoxicated manner, we just get up and walk away and, and that’s the way it is. So there’s nothing to do in regards to work for him in regard to the way he keeps calling, it’s like, as we work for him, are we his slaves, he keeps calling us and expecting us to continually turning up. That’s, that’s the way I would look at it.

And when you use the word we in - - -?---Well, Pierre, Pierre and I.

10 - - - that phrase, you meant Pierre and yourself?---Correct.

And essentially you were describing, weren’t you, the relationship you and Pierre Azzi had with Jimmy Maroun at that time, which was working for him, providing services for him?---But we weren’t working for him. He was a social guy but sometimes he gets a bit overboard with, with his thinking and as soon as he does that we just get up and walk out and that’s, the discussion is based on, you know, like, you know, why is he demanding, we don’t work for him. It’s the opposite, it’s actually saying, you know, he had no right to, to keep pressuring us like this and that’s when I, I said
20 yesterday that he became very obsessive and, and very demanding and, and it became, and then there was arguments with Pierre and others and we thought it’s just getting too much. That’s the discussion we had there.

When you went on to say, “Seriously, he is, he is crazy. What does he think, we are just available for his own pleasure?” you were indicating that that was what you understood Mr Maroun thought?---No, he, he’s, he’s always intoxicated and he was becoming argumentative over anything. As I said the other day, I said he was, at one stage I was talking to him and talking to him and Pierre was basically laughing because the guy wasn’t
30 even there, this thing. And then suddenly I realised that I was wasting my energy and time because the guy was, like, zonked out and we just got up and walked off and, and that’s when things started deteriorating in regards to these things that we felt, I mean, you know, we drop in and socialise with him on, especially if he, like, he likes his arak with him and, and, and towards the end, it’s like, became very, he became too demanding and argumentative and, and pushy and we thought, well, that’s it.

So having walked out on him, why did you continue to provide him with assistance?---Well, look, he’s, as I said, he’s a demanding guy and, and to
40 me, anyone who calls me for help, it doesn’t matter who they are, I’ll continue helping them but I would not spend as much time as, as, as I normally do sometimes and with, with him, it became like we would walk in and walk out. If, if we see him intoxicated, we just walk away. If he’s okay, we talk to him. It depends on, it all depends on, on himself and, and the situation he’s in at the moment. The guy changes. If he is, if he is normal, he’s great to talk to, you can understand him, communicate with him. As soon as you see him intoxicated, then it becomes difficult to even understand what he wants.

If I can go back to the top of page 1 of the transcript. When you said, "He's unbelievable, now he thinks that he is strong, he has money," and you went on to say, "and he can fight the council for whatever he wants now." And Mr Azzi responded, "He can't, he can't take it to the Land and Environment Court. What can he do with the 4.6 or section 96? It doesn't have anything to do with it."---I think it's to do with, with his whole, his, his site.

10 Yes, certainly. And you and Mr Azzi were there expressing an opinion as to his prospects for success if he adopted a strategy of taking council to court in respect of his site.---No, what we're saying is, he should be talking to council in regards to his matter, which he was doing. But then suddenly, or what I was saying here in this case is like, oh, now, he's got a, he's got money, he can take it to the court. But, I mean, normally, you would go through the normal channels with the planners, and you sit down and you work out a solution with them. That's the way it should be, and that's the way he, he probably was discussing it with, with us all along, but, but I, I, I can't interpret it any, any other way.

20 And did you say "he has money", because he had been paying you?---No. He had money because he just sold a site. That's why, we found out that he just sold his site, and suddenly he became, he was driving all these late model cars and everything else, and that's just as an, it's just an observation that we had from, from his change.

That the man was cashed up?---He's cashed up, yeah.

30 And were you sharing in some of that cash?---(not transcribable) got nothing to do with, with us. It's, if he's selling a property, what's it got to do with us? Sharing for what, what, what have we done for him? He hasn't even finished his, his project on the, the, the old car wash, so – I don't, I, I can't see what we've done for him, except just to give him assurance in regards to what he likes to hear, assurance, and discussions, and socialising with him. So to, to give us for what, what have we done for him?

He hadn't - - -?---And we won't accept money from him anyway.

40 He had not concluded his project. No footing had been built on the site, because he was still in the process of trying to get approval for his application to put an extra two storeys on his already approved development for the site.---Because, because he's got his planners and architects working with council on that.

So where had he, as you understood it, got his money from?---He sold, he sold a site in - - -

Which site?---The other site. The, the one on Canterbury Road. The other one, the Robbo.

Robbo's Retail?---I think so, yeah, that's the one.

But you of course would not be able to share in any money from him if he took the course of taking council to the Land and Environment Court, would you?---What's it got to do with us? If he wants to take it to court, that's he, he, his decision, but we felt it's a stupid decision, he should just continue with his architects to talk to council and sort it out. Because we gave him advice, and he's not listening to the advice, he's stubborn. We thought,
10 well, he's, he's stubborn, let him do it. That's basically the discussion we had, that's it's up to him.

And what was the advice?---That he should continue with his, with his discussion with the council, and with the planners, with his architects, and, and planner. And that's what he was doing.

What was his beef, as they say? What was his problem that, as you understood it, was causing him to contemplate taking council to the Land and Environment Court in respect of the DA for 570?---I don't know what
20 his, his architect or his planner had been talking to him about it, we've never
- - -

538.---We've never, we've never sat down with his planner or architect. It's something that he came up with, maybe saying that his planner is, he's not happy with council's decision and, and, you know?

Well, it - - ?---And you guys, you giving, you giving us advice and it's not, nothing's happening. We can't, we can't force - - -

30 Mr Azzi was expressing an opinion in this conversation as to Mr Maroun's prospects of success in relation to the clause 4.6 aspect of the DA for an extra two storeys on 538 Canterbury Road, wasn't he?---No, I think Mr, Mr Azzi was saying to him, "Look, just go through the process." There's delays, and not happening, he's probably getting annoyed like he normally does, and he's losing patience, and he says, "Oh, bugger this, I'm not listening to you, I'll just take it through the Land and Environment Court." Just a general discussion.

40 And you agreed with Mr Azzi, you said, "Leave him, leave him. He is a dope."---Yeah, leave him, let him do whatever he wants.

Now – thank you for that. Can I take you please to Exhibit 216, please? Excuse me a moment. I was going to ask whether Mr Hawatt could be shown the transcript component of Exhibit 216, please, because, yes, the hard copy version, because it's a bit of a lengthy transcript. We can of course play it if it will help you understand or comprehend what's in the transcript, Mr Hawatt.---Yeah.

Thank you. Can I take you to the second page of the transcript, where you'll see that the fifth entry from the bottom is attributed to Mr Azzi saying to you in Arabic, "I spoke with him because today Spiro called me and I was talking to him." Mr Azzi went on, "I was speaking to him and I said to him I want you. Maybe tomorrow I will call him and he will come over to," sorry, "come over my place and we will have a drink. I said to him, look, Michael is travelling. Let's catch up before he goes. I said to him we are not going to," something unintelligible, "now. We're going to sit down and have a drink together." And you said, "All right, good, all right." You did not express surprise when Mr Azzi told you that he had said to Spiro Stavis, "I want you maybe tomorrow. I will call him. He will come over my place and we will have a drink. Catch up with Michael before he goes."---Yeah.

And you didn't express surprise because that was not unusual, was it?---It's, I, I don't recall this incident, but it's like, it's Christmas time, looks like a holiday period, and it looks like no one's working and, and just after hours meeting. I mean, to me, the way I'm, I read this, the whole transcript is, is Pierre, Mr Maroun asked Pierre to follow up on, on his concerns. Pierre has followed all this up and made contacts with Mr Stavis in regards, and then he keeps shifting the, the goalposts, and I think Pierre seems to be quite annoyed that he, he is saying, look, go and do this and then he goes and does something else, so - - -

"He" being Jimmy Maroun?---Jimmy Maroun. So it's - - -

THE COMMISSIONER: Sorry, so it was Jimmy Maroun who was shifting the goalposts?---Yeah, yeah, because he keeps, you know, asking for help (not transcribable) does something else, and I think, I think Pierre's getting annoyed with the changes.

MR BUCHANAN: I understand what you're saying there, but I actually just want for the moment to focus on that passage which is towards the bottom of page 2 of the transcript, where Mr Azzi says that Spiro Stavis called him, and that in the conversation Azzi essentially invited Spiro to come over to his place and that they would have a drink with you before you went overseas.---This is based on what the discussion there where Pierre's saying that, sorry, Mr Stavis is saying that he hasn't heard from Maroun in regards to his issues and concerns, which seems to be, like, Pierre was following it up on his behalf. And, and he, and then he said, look, I'm going to reject it if he doesn't come back with his proposals, and Pierre says, well, no, sort it out, because he was representing at the time Mr Maroun, and I think he was just concerned about the changes that Mr Maroun is, like, he might have said, yes, I will go and see council and, and sort it out, and, and he hasn't done it, so it seems to me like Maroun has asked him to do something, Maroun is supposed to follow it up with his planners and architect to, to Mr Stavis, and Maroun hasn't fulfilled that and, and Pierre's left with a, you know, with, with, without any, without any backup from council in regards to what, what Maroun's supposed to be giving council.

I'll come to that later.---Yeah, that's, that's the way I read it.

What I want to focus on, if you don't mind, please, is what this exchange that I've taken you to, towards the bottom of page 2 of the transcript of Exhibit 216, demonstrates about the nature of the relationship that the three of you had – Stavis, Azzi and Hawatt – a relationship where Spiro Stavis reported to you and Pierre Azzi at Pierre Azzi's house in a social setting, "We will have a drink." At the very least it demonstrates an unusual relationship, doesn't it, between councillors and a director about the way the director does his job.---I think Pierre, Pierre is a social guy who has an open-door policy in regards to he loves having people visiting his home and sitting and talking to him and socialising. That's, that's the way he is. He's, he's a, that's his culture in regards to having people over and, and talking. It makes him feel good culturally and, and he thinks he's, he's doing things for the people who are asking for help. That's, that's normal for him. He does it all the time. I mean, he always asks, if he was talking to you, he'll ask you to come over and have something to eat or something to drink at his house. It doesn't mean anything else. That's the way he is. We always go to his house because he has an open house. He loves having people there. I can't control that.

At how many other councillors' houses did you see Spiro Stavis?---You'd have to ask him.

No.---I haven't seen - - -

At how many other councillors' houses did you see Spiro Stavis?---How many? I haven't seen him anywhere else.

But you have seen him at Councillor Azzi's house.---Very rarely. Very, one or two times. I, I don't think I've seen him more than that, no, not that often.

And the occasions were occasions where Spiro Stavis reported on work that he was doing in the planning division?---No, he's, look, it's, it's whether he said it to him on the phone, what the progress is, or whether he goes and has a coffee with him at his house, they're on, they both live in Roselands. It's, it's the way it is. It's, it's nothing to do with, with controlling Mr Stavis. Mr Stavis has got his own mind and his own ways of, of looking at planning and doing things. Pierre has his ways of, of talking to people and inviting people to his house to follow up and things like that. That's, that's the nature of the beast with him. That's the way it is.

It plainly shows, doesn't it, that you and Mr Azzi, on a reasonably regular basis, had dealings with Mr Stavis in social settings where you, together with Mr Azzi, influenced Mr Stavis in the work he did at the planning division?---That's incorrect.

What's incorrect about it?---We've never influenced Mr Stavis to do anything that wasn't right that he believed in. We've never and I've never done that either.

Well, can we go to the bottom of the third page. Can you see, well, in the middle of the page, there's a reference to Danny Arrage.---I think that's the planner that - - -

10 Mr Maroun had?---Yeah.

And he refers to the 4.6, that's to say Mr Azzi does.---Yep.

And then he said that he told them, that is to say, as Stavis, I'm sorry, as Azzi understands it, Stavis told Arrage and whoever was with him, "You have to do something that is community benefit or at least improve the unit. You understand how." Do you see that?---Yep.

20 Azzi reported to you, "He said to me, I spoke to them and they haven't replied to me yet." Azzi went on to say, "He said to me, but don't forget, Spiro was telling me." As he went on to say, next page of the transcript, "If they don't want, if he doesn't get back to me, I want to refuse it." This is Azzi repeating to you what Spiro said to him.---Correct, yep.

Continuing to read, "I said to him, Spiro, wait, hang on, don't do anything until we get back to you. He said to me, all right." So that is the clearest illustration, isn't it, of not just Mr Azzi influencing Mr Stavis in the work he did but, in fact, controlling what he did and in this case, it's in respect of Mr Maroun's DA for 370 Canterbury Road, I'm sorry, 538 Canterbury?
30 ---That's incorrect.

40 What is incorrect about it?---Well, firstly, 4.6 was something that Pierre just learnt from Mr Stavis after some court case that came up and says to, in order to use 4.6, you need to have a, a good planning outcome and some public benefits, and a good planning outcome is something that, it works, in regard to, it could be additional setbacks, additional open space and, and something back to the benefits of the community. The, the benefits could be laneways and others, so, so Pierre picked up and learnt this thing that Mr Stavis was saying that, the only time you can use 4.6 is to, to give something back to the, to the public, a public benefit. So he's used that as something he, he picked up new, he is learning something new and Mr Stavis told him that and he says, just hold on, let me talk to, to Mr Maroun because he's representing him at that time by the looks of it, in order to tell him, look, you have to be some sort of, you, you talk to your planner, there's got to be some public benefit in regards to 4.6. You just can't accept 4.6 unless something within the, the court hearing that was done, where it says 4.6 must be a good planning with a public benefit and I think he's just repeating what he courts or what Mr Stavis told him and he's, he wants to

relay it back to Mr Maroun. That's, that's the way I would interpret it and that's the way I read it.

What Azzi said to you was what he said to Stavis and Stavis responded with. "Spiro, wait, hang on. Don't do anything until we get back to you. He said to me, all right."---Correct. He wanted to go back to talk to Mr Maroun about he should put in a, a proper study in regards to public benefits and, and, and good planning outcome in order to, to use 4.6. That's basically what he's saying.

10

So what you understood Azzi to have told you he had done was to save Mr Maroun from his DA being refused.---No, no. It's incorrect.

What's wrong with that construction?---He was making representation on behalf of Mr Maroun and he wanted to go back and relay the message. If he wanted to do it or take it to court, it's up to Mr Maroun what he wanted to do further down the track, but at least it's his role as representing someone, you go back and relay that message, say it's going to be knocked on the head unless you do your 4.6, which is a good planning outcome. That's, that's the way we, that's the way it is.

20

And then still on page 4 of the transcript, the third entry, after something unintelligible, you said, "This guy's a, he never called you back. He's crazy." When you say "this guy's" you're meaning Maroun's never called you back.---Correct. He's, he's (not transcribable)

You expressed no surprise whatsoever at what Azzi told you he had done with Stavis of heading Stavis off at the pass, where Stavis had indicated that he proposed or he wanted to refuse the DA to prevent him from doing that. ---No, he's making representations on behalf of Mr Maroun, and he just wanted to relay it to him. It's simple as that. That's the interpretation.

30

And so what Mr Azzi reported to you he had done on that occasion was something that you regarded as perfectly normal in the relationship that you and Mr Azzi had with Mr Stavis, wasn't it?---He was making representation. I wasn't making the representation. That's normal when you make a representation on behalf of someone. That's normal. I don't understand your interpretation of this. That's the way it is.

40

Now, you then had a conversation with Mr Azzi in which you provided him with guidance, is that the right word, as to how he should handle Maroun? ---I might have, because we know that this guy is, talk to him only when he's sober, don't talk to him when he's not sober. That's probably my advice to him.

But why bother unless you are essentially working as Mr Maroun's staff? ---We're not working as his staff, for God's sake. We're not working - - -

As his servants.---Oh, yeah, that's why we criticise. If we were his staff, wouldn't be criticising him, wouldn't be making fun of him.

Never known staff to criticise their boss, have you, Mr Hawatt?---Come on. He's not my boss. This is ridiculous.

Well, you certainly seemed to be having an exchange with Mr Stavis on page 4 and page 5 as if, is how to manage up I think is the expression, how to manage those who supervise you, who are your superiors, to make sure that you get the desired outcome.---That's incorrect. Look, Mr Maroun is like a Dr Jekyll and Mr Hyde. When he's Dr Jekyll, he's a great guy to deal with. When he's Mr Hyde, you run. That's the way it is and that's the way we, we, we've handled, got to know him, so

Yes, but the point, don't you understand that the point is, why were you bothering unless there was something in it for you?---He was calling us. He calls. I, we only respond - - -

It sounds as if he wasn't calling nearly often enough because the complaint is that he wasn't responding to council.---No, towards, Azzi was representing him in this basis, you can see that, not I, and I'm just giving him advice because to me personally I've, I think I gave up.

Well, you didn't give up, did you? You had numerous contacts.---Yeah, but I gave up on really becoming serious, becoming serious with, with his requests because he, if he's, as I said, if he's Dr Jekyll at the time and you walk in and see him, then you can sit down and have a, a normal discussion with him. If he is different - - -

You had numerous contacts with Mr Maroun after 4 January, 2016, didn't you?---He calls, he calls, we socialise.

And you certainly took his requests seriously, didn't you?---I've known him for a long time. I've known him for many, many years.

And you went out of your way to try and see him frequently - - -?---No.

- - - after 4 January, 2016, didn't you?---When I'm in Earlwood when he calls and I've got spare time, I'll drop in and see him. That's the way it is. I've done, I've done it for, for a long time.

You went out of your way to try to see him is what I want to suggest to you.---I don't go out of my way to see him unless I know he has an issue and he has called and asked to meet up or - - -

What we have, I just need you to understand, Mr Hawatt, what the Commission has, as you can see, is a record of your telephone contacts with

Mr Maroun and a record of the SMSs that you exchanged with Mr Maroun.
---Yep. Correct.

10 So we can see when your requests to see Mr Maroun were in response to a request from Mr Maroun and when they were not. And I just want you to bear that in mind as we proceed now through the rest of the evidence of your contacts with Mr Maroun.---I always, I always follow up when he leaves a message or before I leave, say, "Give me a call back," or something to say, already in the back of my mind, he's already waiting for a response from me. Whenever we sit down and meet him, like, you know, we walk away, we call him back to make sure he's okay. And, and that's, that's the way it is.

20 Can I take you finally in this transcript, please, to page 5? The third-last entry – oh, perhaps I, just for context, I'll take you to the fifth-last entry. Azzi says, "But tell him you can't talk like that because we don't have anything to do with it," something unintelligible, "and why are you been very rough?" You said, "Yeah, yep." Azzi said, "And you tell him, and like that, you have stopped Pierre from saying anything," unintelligible, "he is going to work on his and help you." And can I ask you – what is it that you understood Mr Azzi was saying there as to what was to be said to Mr Maroun about what Azzi was going to do?---Look, I wouldn't, oh, like, I can't understand this one. I, I, I wouldn't have a clue. I'm just trying to interpret what he's saying, and I just can't understand it.

Well, the two of you are discussing the way an approach needs to be made to Maroun in order to be effective. That's what you have been discussing.
---From, from what - - -

30 You understand that?---Yeah, but this is the same, this is the same subject where Azzi was talking about the 4.6 clause, where Mr Maroun has not followed up based on what Azzi might have asked him to do in regards to what council expects from, from Mr Maroun, and, and, and, and when, when Mr Stavis tells Azzi that Mr Maroun hasn't called him, and, and, and Azzi's saying, like, "What's going on with this guy?" That's - - -

Well, what we can see - - -?---That's all I'm interpreting.

40 What we can see from the top of this page going down is that the pair of you were discussing how you should approach Maroun and what you should say and what you should not say. And what Azzi is saying in the third last entry on that page is what you should say to Maroun, namely that he, Maroun, had stopped Pierre from saying anything, and that he, Pierre, is going to work on it and help you, help Maroun.---Oh, I, I don't, look, I, I don't, I, I have to interpret it, I have to think about it. I have to, I don't, look, I need - - -

You don't have to interpret it, I've just read you the words that are on the page.---Oh, yeah, but I don't understand it, I, I, I don't, I can't understand

what was in the background of Pierre Azzi's mind. And to me, sometimes I've just gone, "Yeah, yeah, yeah." It's like, it's not necessarily I'm answering in a, in a sophisticated way. I'm just answering it in a casual, "Yeah, yeah," or, "Yes, talk to him," or "Don't talk to him." It just as a passing, nothing's, I, I can't see anything that I'm saying is that serious in regards to giving him any, any advice. I'm just quite casual in my discussion with Pierre Azzi. You'll have to ask Pierre on this one. I just don't recall.

- 10 But these exchanges show that the pair of you were regarding the efforts that you made to advance or progress Mr Maroun's DA, and indeed to protect it from being refused, was work on the part of the two of you for Mr Maroun.---That's incorrect.

Excuse me. Could we have a look please at Exhibit 154, the transcript? This is of a telephone conversation on 5 January, 2016. So it's a short conversation. It's initiated by you. It's at 5.35pm. You ring Mr Maroun and, having established that Mr Maroun is back, you asked him whether he would be in the gym later, and Mr Maroun having said he would be, you
20 said, "Okay, I will come and see you in about an hour, all right." Do you see that?---Yep, yep.

Why were you wanting to go and see Mr Maroun on that occasion?---Well, he must have told me to call him after he came back from the coast, that's why, that's why I knew, based on good, "Are you back?" That means he said, "Look, I'm going down to the south coast. Call me when I get back," on such and such a date and I must have, I called him. That's why I, I asked him, "Are you back?" That means he must have said, "Call me, I'm away."

- 30 You don't think that this being the day after the conversation you'd just had with Mr Azzi in Exhibit 216, that this was the occasion when you intended to have the conversation with Maroun and you and Azzi had discussed the preceding day?---I mean, when, when he said, "Call me when I get back," I would have called him and, meeting him up, would have told him what, what Pierre told me, maybe. That's, would, would make sense.

You were, on this occasion, weren't you, intending to try to get Maroun to understand what he needed to do to get his DA approved, and in particular what he needed to do, if he didn't want it refused?---No, he needs to do, as,
40 as Pierre was saying, it's a 4.6, he wants a 4.6. 4.6 has to have a better planning outcome with a public benefit and Pierre kept on repeating that and Mr Maroun needed to understand that. That's all it is. We're just referring to him to talk to his planners to do that.

Excuse me a moment. Can I take you, please, to Exhibit 276. Could we supply the hard copy transcript to Mr Hawatt to help him with this one, it's 10 pages long. So if you can just bear in mind as you read this, Mr Hawatt, that we've seen your conversation with Pierre Azzi on the 4th and Mr

Stavis's complaint that he hadn't got a response to his request for a decent clause 4.6 submission and that he wanted to refuse it. Azzi is saying, "No, don't do that until we get back to you." You then, the next day, arranging to see Mr Maroun and this is a conversation the day after that on 6 January, 2016 commencing at 11.53am, where you rang Mr Azzi.---Yeah.

10 If you can assist us in understanding the record of the conversation, please. On page 1 the third entry attributed to Mr Azzi says, "That one called and he wants, he said he, you know, that yesterday he was telling that he has section 96 as well so he can change the unit, the basement." Now, that's a reference to Mr Maroun and his section 96 application, you agree?---Yeah, that's what he's saying. I don't recall that, that comment.

20 And at the bottom of that page Mr Azzi says, "All right, he said to me, now, I want to forget about the 4.6 clause if Spiro can approve section 96 for me." And then Mr Azzi said, "I called and spoke with Spiro. He said to me, Pierre, I can't approve it for him if we're going to come back later and put the 4.6 clause. It's going to trigger." And then he went on, page 2, to say, "Now we have to prepare. What do you want me to do, because I, Spiro told me, Spiro told me, if he wants to do section 96 in the future," and then you said, "What you do, listen to me, what you do, you just say okay, I'm going to organise a meeting, like, as we spoke already." And then essentially you agreed with Mr Azzi that the best idea was to get Spiro to explain to Mr Maroun the relationship between the section 96 application and the variation under clause 4.6 that he, Mr Maroun, was seeking in respect of his DA for 570 Canterbury Road. Isn't that right?---Yep.

30 And at the second-last entry on page 2, Mr Azzi said, "I made an appointment with Spiro tomorrow afternoon." Do you see that?---Yep.

And would it be right to say that in this conversation you're indicating that you are providing, you and Azzi are providing a service to Mr Maroun to advance his DA as best as you could?---I'm just, to me I'm just giving advice to, to Pierre on, based what his discussion with Mr Stavis is and, to me, I, I would, basically what I'm saying, I prefer that instead of Pierre getting heavily involved with Maroun, who, you know, he, sometimes he - -

40 Isn't listening to Azzi but he might listen to Stavis?---Well, correct. Maybe yeah, yeah. That's what I mean. He's wasting his time talking to, because he just, he, he, he takes, if you tell him something, he'll take it literally and, and he'll blame him for it if, if it doesn't happen and I said, that's why, saying, look, just tell him what he wants to hear, let Stavis sort to out with him and, and just don't overdo it with him. Just, just chase him up on, on, on, on these things and, and just remind him that, you know, Stavis, that staff is doing it, that Stavis is doing it and let him go back, chase him in order he can explain this to go back and, and sort to out and, and just pull

out of I understand that. basically. That's, that's my advice is just don't get too involved with Maroun because he shifts the goalposts all the time.

But the object of you giving your advice was to progress Mr Maroun's DA, wasn't it?---No. My advice to, to Pierre, don't overdo it, don't stick your neck out.

10 Yes, but what's the purpose of giving the advice at all?---Because don't stick your neck out, let the staff sort it out. That's, basically what I'm saying is, let them sort it out as you just said.

What's the purpose of giving the advice at all?---Because Pierre doesn't understand planning too much. He just follows up. He doesn't understand the planning. He just follows up with what he's told and, and he interprets things the wrong way in regards to planning, so it's best for him not to give advice personally to Maroun because his advice could be incorrect.

20 What does it matter to you whether the DA was approved or refused?
---Pierre's asking me that I'm giving him advice like I would normally give advice to.

30 But plainly it did matter to you and Mr Azzi whether the DA was approved or refused, didn't it?---We have a, Mr Maroun asked for a request like any other applicant or any other developer or whoever for their applications to go through and, and do progress to find out what's happening. My advice here is Pierre is gone over his head in knowledge in regards to the issues that's facing Maroun, and it was best for him to chase him up, tell him, let his planners and architects sort it out and talk to Stavis because you have no good understanding of what's going on because he's going to fumble and give him the wrong information.

You were trying to smooth over the difficulties that it appeared to you were likely to occur in the future unless a particular course was taken. In this case the particular course you advised be taken was to wheel in Spiro Stavis and get him to tell Mr Maroun directly.---Correct, so at least that way he knows it's coming from the horse's mouth, not from Pierre. He doesn't know what he's talking about half the time.

40 You were providing services to Mr Maroun in exchange for something that made it all worthwhile for you, weren't you?---No, I was providing advice and, and assistance and, and follow-ups.

So the question is, what was it that made all of this angst and trial and tribulation for you and Mr Azzi in respect of Mr Maroun worthwhile?---Mr Maroun, towards the end he was becoming very strongly stubborn and intoxicated and, and he's a, he's also a big gambler, I have to say, on top of that. But the point is, it became pressure. And, and the guy, if you give him a, a, a, some sort of a, an idea or, or a way to, to try and resolve his issues,

he doesn't, he doesn't listen. He just goes and, and argues with you, and argues and argues. And when he's, as I said, when he's intoxicated, and when he's normal, he's, he's a great guy. But that's my advice to Pierre, because he was getting himself involved in something he doesn't understand.

And the services you were providing had a goal of a favourable outcome for Maroun's project, isn't that right?---No, that's incorrect, oh - - -

10 Despite Maroun himself.---I believe - - -

Despite the obstacles and difficulties - - -?---No, I, I - - -

- - - he threw up in your path.---No, that's incorrect. Well, we, we've, we've helped him as much as we can. End of the day, it's thrown back to the staff of council and his planners to, to sort it out. That's the end of the day what happened.

20 What we can see from these conversations over those three days was that you and Pierre Azzi were doing the best you could to stop Maroun from mucking up his own project.---No, it's, he, the guy is not, the guy was not all there half of the time. We just, we can't, you'd feel sorry for him in one sense, well, because he just, he's not there. Another sense, he, when he's normal, you talk to him, he understands. It's, it just caught between, what's, what's the saying? A hard, a hardboiled egg or some, or something? But the point is, he was stuck in the middle.

30 THE COMMISSIONER: A rock and a hard place?---A rock and a, and a rock and (not transcribable)

MR BUCHANAN: Yes.---So, what I'm saying is, he was not, not really stable enough to work out what he was doing, and I think we felt have to sort of, as a, as a friend and, and a, a, a person that we socialise with, say, "Look, what you're doing and thinking is incorrect."

40 Why did you feel that you had to save this developer from himself, in respect of this project?---The, the guy is a friend, and social, and, and we socialised with him, I have to honestly say. But he, he has a, an opinion -- when he's drinking he has an opinion which is very, very strong and argumentative opinion. And, and it's, it's, makes it very difficult to give him common sense towards the end, that's why my suggestion to Pierre is, let the staff sort it out. Don't get involved, because you can't get through to him. He does not understand. He, the only people who will understand and help him are his own planners to deal with the staff direct. That's (not transcribable)

Page 7 of the transcript, the entry at the top of the page, Mr Azzi said to you, "I told Spiro, I said, Spiro, prepare answers, please. I said to him, look

at what is in mind.” You didn’t express surprise that Mr Azzi told you he had told Spiro what to do - - -?---No.

- - - in relation to handling this application.---Look, he was giving advice, I said, Pierre doesn’t understand the planning proposals going through here, and I think my advice to him is just pull out and give Mr Maroun whatever he wants. Chase him, tell him to have it fixed with his planners. Tell him to go and talk to them. Don’t get involved. That’s, that’s my suggestion to on that basis.

10

And then your, you not only didn’t express surprise, you went on to say, “May, maybe, you know something, I thought about it, maybe you can say, look, I will help you all this, and I’ll help you fix this and help you fix that. But as much as I can, I have to finish, I have to finish all in one hit, all these problems you’ve given me.” You were there, I suggest to you, trying to, or you were running past Mr Azzi a tactic to use in relation to Mr Maroun of saying, “Look, I’ll help you fix this problem, and I’ll help you fix that problem, but I don’t want to have a string of problems one after the other. I want you to put them all in one basket so that we can address the whole set of problems.” That was what you were saying to Mr Azzi there.---Oh, all I’m, from memory, all I wanted to do is get Mr Azzi to, to pull out of it, and let the staff and, and his planners sort it out. I said, “Go and talk to him.”

20

No, you make it clear here that you wanted Mr Azzi, or you were canvassing anyway with Mr Azzi that Maroun had to select the problems which he wanted fixed and then, as you said, top of page 8, they could be all fixed in one hit.---If he goes to the, to his, to Mr, to Mr Maroun, tell him all the issues and, and problems and let him sort it out with his staff. That’s, that’s my, the intent of my discussion with him, is stop getting involved. Let the planners, his planners sort it out. Go and tell him, tell him they’re the only ones who can fix it, basically. Go and fix it. Sort it out.

30

Your plain tactic that you were discussing there with Mr Azzi, that you were indeed advising Mr Azzi to adopt, was one which would result in a favourable outcome for Mr Maroun in respect of his DA and would involve the exercise by you and Mr Azzi of influence over council staff.---That’s incorrect.

What’s incorrect about it?---My advice to Pierre is to go and let the staff sort it out. That’s my advice. And tell them, go and talk to Mr Maroun, just tell him to - - -

40

No - - -?--- - - - get his planners. That’s the intent. That is the intent. That’s my intent. And that’s, and I’ll, and that’s based on what I’m reading here, and I don’t recall everything but I’m just trying to think of what we’re saying and that’s the intent.

No, you've changed the subject. I suggest to you on page 7 of the transcript you've changed the subject. You had been talking with Mr Azzi about what the solution was for the problem that Maroun had (not transcribable) up this time, namely his out-of-left-field idea that if he got his section 96 approved, then he didn't need clause 4.6 to apply to his DA. And the, the solution to that you proposed was, look, get Spiro to explain it to him. But then you went onto the fact that there are continually these problems that are being brought to you or generated by Mr Maroun, and you're basically saying you're tired of having a series of them, and the way Maroun should do it is identify what it is that he wants to do, present it all to you and then, to use your words, "I'll help you fix this and help you fix that." This is page 7, second entry.---Yeah, fix this and fix that is the advice, give him advice, fix it, find out what the issues and problems are, and, and I would help him, give him my advice and my input in regards what the issues are because there's too many. I'll help Pierre fix this and fix that, but give him the, the, the advice that he needed. That's - - -

And that involved using the influence you had at council with Stavis, with Montague as appropriate - - -?---No, no.

- - - exercising your vote on council as appropriate.---That's, that's incorrect. Incorrect.

If you have a look, please, at Exhibit 155. This is a recording of a telephone conversation between you and Mr Maroun on 31 January, 2016 at 3.44pm. You initiated the contact and you asked when Mr Maroun was free. He's indicated he was at the gym at that time. You indicated you'd be there within half an hour.---Ah hmm.

Can you see that?---Yeah.

There are numerous of these in evidence, Mr Hawatt - - -?---Yeah. Correct.

- - - where you initiate the contact. It doesn't appear to be in response to a request that you attend. It appears to be you going and making an arrangement to go and see Mr Maroun at his gym at his home. And the question that I have for you is, you have told us about how he put you off, the way he behaved and the way he treated you and Mr Azzi, and yet you are continually taking an initiative to go back to him. Why is that, unless there is something in it for you?---Because from, again, just, just a memory, a reminder is there was a time when Mr Maroun did not really want to, I think during that period, where he didn't want to have any, any dealings with, with Pierre Azzi in regards to the issues he had because he doesn't understand them, and, and he, he confided in me in regards to having a bit more knowledge, and to explain to him what are the issues. He just doesn't, he doesn't like what Pierre tells him, and if I were to call him, could have been based on that, on that basis, where the issues Pierre was telling me about and, and because there was a lot of tension between the two at one

stage, and trying to be the neutral person in the middle, I, I presume that's why I've called him, on that basis.

Can I take you, please, to Exhibit 156. This is the next day, 1 February, 2016, a call Mr Maroun made to you at 3.27pm. Mr Maroun said, four entries from the bottom at page 1, "I'll be at the gym tomorrow." You agreed to see him tomorrow. And then going over to page 2, Maroun said, "Okay, talk to me." You ask, "Is something wrong?" Maroun said, "No, it's for the meeting today." And you said, "Yeah, yeah, yeah, when I finish.
10 We haven't, we haven't started it." Do you recall what that meeting was?
---No, I don't. I don't recall.

It sounds as if it's a meeting at council, doesn't it?---What's the date?

That is to say, a council meeting.---It could be. I, I just can't, I don't recall that discussion.

Can I ask if we could have a look, please, at Exhibit 157. In this
20 conversation, it was on 2 February, the next day, at 6.00pm. Mr Maroun
rang you and you said, "I'll be there later. Is that okay?" And then you
made arrangements. You were saying that it might need to be a little later
because you were going to an amalgamation meeting that was on in
Bankstown. And then Mr Maroun asked, "How did you go yesterday?" and
you said, "Yeah, good, good. Everything's on board. Everything's okay.
We just need to move, move forward. That's it. We're ready, we're ready.
He's okay." Then going to page 2, "So it's happening?" Mr Maroun said,
"You know on your first meeting or second meeting?" You said, "No, it's,
look," I apologise. Okay, so I've previously shown you Exhibit 277. I'll
30 just see if we can pull up Exhibit 157. Sorry, for that, Mr Hawatt. So
starting from the top, it's a transcript of a telephone conversation on 2
February, 2016, initiated by Mr Maroun at 6.00pm. In the middle of the
page, you said, "I'll be there later, is that okay?" You both made
arrangements for it to be later in the evening. You said because you had,
9.00/10.00, because you had to go to a, something unintelligible, "I have to
go do this amalgamation meeting that's on in Bankstown." Then Mr
Maroun asked you, "How did you go yesterday?" You said, "Yeah, good,
good. Everything's on board, everything's okay. We just need to move,
move forward, that's it. We're, we're ready, he's okay." Going over to the
second page, Mr Maroun asked, "So it's happening, you know, on your first
40 meeting or second meeting?" You said, "No, it's look, it's they advertised.
That's the only problem, is it, has to come out of advertisement. There's
nothing they can do so as soon as the advertisement comes out, they'll put it
in the next one after that. So that's something where we can't control, you
can't even control because that's legal obligation." So can I just ask you –
excuse me a moment. Excuse me a moment, Mr Hawatt. So pausing there,
when you told Mr Maroun, and I'm looking at the bottom of page 1 of the
transcript, "He's okay," who were you referring to?---I mean, "He's okay,"
maybe Stavis, I can't, I don't recall.

Or Mr Montague?---I, I don't recall who I'd spoken to. I, I don't, there's nothing clear so I don't know who I'd spoken to.

But the one thing that is clear is that on the second page, on the second entry, you were talking about the fact that an application was in public exhibition stage and that nothing could be done until the public exhibition period had expired, had concluded.---Sounds like, it sounds like a domestic assault had been submitted and it's been advertised. It's, it's good.

10

Yes. And when Mr Maroun, before that, was asking you, "So it's happening on your first meeting or second meeting," he was asking about the CDC meeting, the scheduled CDC meetings that year, as to when his DA in respect of the two extra storeys on 538 Canterbury Road would be considered, wasn't he?---Could be. That could be correct, I don't know.

20

And Maroun went on, I'm sorry to jump around, I'm going now to the third entry on page 2, "Okay, so it should be done in your first meeting in March?" And you then discuss that with him, you spoke about the two-week advertisement and you went on to say, "Then they'll look at the assessment, so we'll push it for March." Would it be fair to say that, "We'll push it for March," was a reference to you and Mr Azzi?---No, no, no, no. A reference to council. We'll push, the council as, as part of a body of the council.

You were speaking on behalf of council?---Yeah, I'm just, whenever "we", I mention "we", I do mention "we" as council, yes.

30

Right. You're predicting, are you, to Mr Maroun that as a result of what council do, it will occur in March?---Well, I'm just giving him feedback, what I believe is around that period. I'm just giving him my observation and I said, we, I can't make those decisions but as council, we'll, we'll make that decision once it's finished.

40

Well, can I make a suggestion to you? And if I tell you now that in mid-February the officers' report would have been prepared for this DA, and on 29 February the IHAP met to consider the DA, and the DA – and the section 96 application as well – were considered by the CDC on 10 March, 2016. If I provide you with that information, it'd be reasonable, wouldn't it, to construe what you guys were talking about. So at the bottom of page 1, "He's okay," that will be Mr Stavis, as you yourself proposed, perhaps, rather than Mr Montague.---Ah hmm.

Then your first meeting, your second meeting, the references at the top of page 2, that's references to the CDC meeting perhaps in March.---Perhaps.

And Mr Maroun was saying, perhaps hopefully, that it would be the first meeting in March. And when you then said, "Two weeks advertisement,"

you were trying to do some calculations then, then you said, "And then they'll look at the assessment, so we'll push it for March," you meant really, didn't you, you, Mr Azzi and Mr Stavis were pushing for March?---That's, look, I, I, I make general comments. I always talk about "we" as council, "we will push it for March" as a council. It's nothing, nothing to do with that.

10 But push - - -?---Yeah, no, I've never, listen to me, I have never pushed for him to put his DA application in March or any other time. Push as we, council, push it. But personally to push and put it in, I've never put anyone's DA in that I felt it should be put in. I don't put those in. Push is to get council to, to have it sorted out, but I've never personally pushed anyone to put specifically an application into a DA on that particular meeting, no.

What was Mr Montague's role in organising the agenda for CDC meetings?
---I don't think he had much of a role involved in that.

20 Who set the agenda? Who decided?---The senior staff of, of the planning.

So it would have been Mr Stavis, would it?---Well, and his staff. I don't think Mr Stavis even has full control on it, but because there's his staff, each one has a role to play. You'd have to ask them.

30 Well, I think we've got some evidence on that subject. It would seem that subject to the forces that he was experiencing externally to his division, he got his staff to ensure that particular reports were ready in time to be considered by a particular IHAP meeting, with a view to being considered by the next available CDC meeting.---You'll have to ask him. That's, I mean, I can't interpret what he's thinking. Just, you'd have to ask him.

I just wanted to put it to you, "We'll push it for March," I suggest to you is you and Mr Azzi pushing Mr Stavis to ensure that it was considered in March.---I don't believe that's the case, no.

40 Excuse me a moment. Exhibit 277, please. So you can see that this is an extract of a telephone conversation recorded on 3 February, the next day, 2016, where you initiated the call to Mr Azzi and it commenced at 12.35pm. Have you had a chance to read that extract?---Yeah, I saw it, yeah.

So it's an excerpt from a recording of a conversation. The beginning of it is not in the transcript, and the end of it is not in the transcript. Rather what we're asking you to do is to consider this part of it where you are plainly referring to Mr Maroun, correct?---Yeah, most likely, yeah. I think so (not transcribable)

Because you both had a very low opinion of him, didn't you, and - - -?
---No, it's just, it's only - - -

And in particular, Mr – I’m sorry?---It’s only when he’s drinking, not, not, not as a person. He’s a good person as normal.

But Mr Azzi in particular used all sort of different epithets to indicate that he had a very low opinion of Mr Maroun.---Oh, Pierre has a strong opinion on a lot of people, but Mr Maroun is a, generally as a good person, that’s, that’s all I can say. But he has his issues.

10 So, you said that you had called Maroun, and you essentially were saying that you couldn’t go and see him, regarding his issues, because you had to go up the Gold Coast, and you wanted Azzi to go in your place, is that right? “You have to go and see him”?---I’m just trying to work out the, what’s the date on the - - -

Sorry, I should rephrase that. You said - - -

THE COMMISSIONER: This is 3 February.---Oh, this is February.

20 MR BUCHANAN: Which we can tell you is a Wednesday.---Wednesday, yep.

So - - -?---(not transcribable)

You can’t see him Friday morning?---Unless he might have asked, ask him to see him.

30 Well, in any event, you said to Mr – the way you put it to Mr Azzi, “You have to see him.”---Yeah, probably because he, he must have been asking me to go and see him, and I can’t make it, I couldn’t make it. That’s why I said, “You go.”

But it was expressed again as an obligation, wasn’t it?---No, it’s not an obligation. It’s just, the guy made a request, and we had social things, and I thought it might have been a good idea for, for Pierre to go and see him and maybe sort it out, sort out the issues that they had. I can’t make it.

This is nonsense, Mr Hawatt - - -?---I’m just, that’s my - - -

40 - - - that you’re telling us, isn’t it?---I, I can’t make it. There was a tension between the two. Let them go and, go and see him. Sort it out. That’s not a nonsense. That’s the way it is.

Exhibit 158, this is a short transcript of a call Mr Maroun made to you on 4 February, the next day, at 1.38, and Maroun asked you, “Do you have a spare half an hour for the gym today?” And you were, indicated you were on your way to Earlwood. And Maroun said, “Okay, I’ll see you at the gym,” and you said, “I’ll see you soon.”---Yep.

Excuse me. Just excuse me a moment, please. If could have a look, please, at volume 17 in Exhibit 52, page 302. I'd like to show you a text message – sorry, page 305. Item number 104. It's 5 February, 2016, it's a text message that you sent to Mr Maroun. "Hi Jimmy. Could not make it yesterday." And then you gave an explanation. "I will look into it when I get back from the Gold Coast." Do you see that?---Yes.

10 And then if we could have a look, please, at Exhibit 278. If Mr Hawatt could be provided with a hard copy of Exhibit 278, please. This is an extract, so the beginning of the conversation has been excised from the exhibit.---Yep.

Excuse me. Did you ever meet with Mr Maroun at council?---I don't recall. I don't recall.

Did you ever have a meeting at council with Mr Stavis, Mr Azzi and Mr Maroun?---I don't recall.

20 Is it possible that you did?---Oh, it could be but I don't recall it.

See, the evidence before the Commission suggests that there was no meeting of council or the City Development Committee that day and so the question that I have for you is, what is the meeting for Maroun that Mr Azzi was asking as to whether you were coming you council for?---I don't, I, honest, I don't recall this, this whole thing. It's not, it doesn't, doesn't come up in my mind in, in regard to this conversation.

30 You see at the top of the second page, Mr Azzi says, "It doesn't matter. We're going to catch up 5.00, 4.30, with Jim Montague." Was the meeting about Mr Montague with – I do apologise. Was the meeting about Mr Maroun with Mr Montague?---I, I don't, I don't recall these discussions and this meeting.

Was the meeting with Mr Montague and Mr Maroun as well as you and Mr Azzi?---I, I don't recall this. I don't recall it.

40 Did you ever have a meeting with Mr Montague and Mr Maroun as well as Mr Azzi?---I don't recall.

It's possible that you did?---Could be, but I don't recall it. Anything is possible but I don't recall it.

Did you organise meetings for Mr Maroun to have at council?---I don't recall.

Did you organise any meeting for Mr Maroun to have at council?---I might have but I don't recall it. I might have.

Did you organise to have a meeting with Mr Montague and Mr Azzi about Mr Maroun's DA?---I don't recall.

Is that possible?---I don't recall it. Anything is possible but I don't recall it.

I note the time, Commissioner.

10 THE COMMISSIONER: All right. We'll have the morning tea adjournment and resume at 5.00 to 12.00

SHORT ADJOURNMENT

[11.31am]

MR DREWETT: Commissioner, you kindly invited me to renew my application if I had instructions to do so, and I do. My instructing solicitor had instructed me and I have also asked Mr Hawatt just before we came back into court how he was feeling. He is fatigued and I think his words were he is having problems focussing. They were his words or "I can't focus," or something of that nature. If the court were minded to grant my application, which is for it go over until Tuesday, my client would undertake to this court that he would attend upon his GP. It would be this afternoon. He tells me that he has some documents which his cardiologist apparently has given him to give to his GP, which he hasn't done so yet. So he would go home first, pick up the medical documents and then immediately attend upon his GP, which I'm told is in Hurstville. Sorry, yes, in Hurstville. He would present this Commission, I would anticipate on Monday, with a certificate at the very least to show his attendance upon that GP this afternoon, and if there were any issues, no doubt then that certificate would address those as well. Sorry, on Tuesday. But on the basis of what Mr Hawatt has expressed to his legal representatives, I do renew my application for the matter to be stood over until Tuesday.

THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Commissioner, the position has not changed. There is still no medical certificate so the only material that is before you is the submission that Mr Drewett has made in support of the application, and in the circumstances, in my submission, the application should be refused.

THE COMMISSIONER: Mr Drewett, I'm going to sit until 1 o'clock, and at 1 o'clock I'm going to take a brief adjournment, and just before I do that you can tell me whether you want to press the application that you've just made, but I intend to go through to 1 o'clock. If you want to press the application again, you can. I'm going to take a brief adjournment and come back and inform you of my decision then but we're going to at least have 55 minutes of evidence now.

MR DREWETT: Thank you, Commissioner.

THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Commissioner. Could I ask that we show the witness, please, Exhibit 160. Mr Hawatt, this is a transcript of a telephone conversation initiated by Mr Maroun to you on 10 February, 2016, commencing at 5.51pm. You, after exchanges of salutations and enquiries after health – can I just draw your attention to one change that we’ve made in our copies of this transcript? The attribution to Maroun for the words, “Do you have a meeting?” is incorrect. It should be read as an attribution to you. That is to say, you are the person whose, your voice asks the question, “Do you have a meeting?” Do you understand?---Ah hmm.

Now, Mr Maroun told you that he was at the gym and asked you if you wanted to come over. And there was then an agreement for you to give Mr Maroun a call. Do you see that?---Yep.

20 Exhibit 161 is a telephone call on the 12th, that’s two days later, 12 February. You rang Mr Maroun. This is at 1.22pm. You wondered whether he was free. He said he would be at the gym in half an hour. You said, “Half an hour, yeah, I can do that, because I’m going to go see George, so when I finish, I’ll come, all right.” “George” would be a reference to George Vasil?---Correct.

Now, can I take you to Exhibit 147, please. If we could go to an entry for 12 February, 2016. Oh, that’s not very clever of me. I’m going to have to withdraw that. I apologise, Mr Hawatt. But if I can take you to Exhibit 30 162, please. This is a transcript of another telephone conversation. This is on 17 February, 2016. You rang Mr Maroun. You arranged to meet with him around 4.30 that day. Mr Maroun said, “If you have time so we can train together,” and, yes, you arranged to see him at 4.30 at the gym. You see that? There was a subsequent SMS, I can tell you, at volume 17, page 305, number 105, at 4.06pm, where you texted Mr Maroun, asking if he could make it at 5.00pm instead. Now if I can take you to Exhibit 163. This is a transcript of a telephone call at 5.06pm. You called Mr Maroun. You asked him whether he had got your message, and you asked him whether he would be there at the gym. Maroun said he would be there. Can 40 I just draw your attention, please, to the timing of events. There is, as you can see, reasonably frequent contact between you and Mr Azzi around the new year period, and then between you and Mr Maroun. We’re now in about the middle of February, and the IHAP meeting was on 29 February. You knew that the IHAP considered an officers’ report on DAs that were considered by the IHAP, didn’t you?---There was always two reports.

But the reports, as you understood it, were identical except for the inclusion or the addition in the report that went to the CDC, or council as the case

may be, of a summary of the IHAP report and indeed an extract of the whole of the report that was at the end of the officers' report. You recall that?---Yeah.

So that report obviously had to be prepared by the officers concerned, and in the case of IHAP they were officers in the assessment section of the planning division, weren't they?---Yeah.

10 And the reports went out over the name of the director of planning.
---Ah hmm.

So all of these contacts that you're having with Mr Maroun, particularly in February, are in the period when that report in respect of his DA for 538 Canterbury Road, two extra storeys, was being prepared.---Not necessarily all the, all the meetings were had based on that. Could have been some of the meetings. Most of the time Mr Maroun has a, a way of, all he needs is just assurance to hear that something's happening, and as a, as a justification to have a social drink with him. That's, that's the way he operates.

20 And justification for you to have a social drink with him?---Correct. He's like, "Come and talk to me. What's happening?" It's, you know, then he's got his things all ready to, his nuts and arak and everything else read to drink with him.

But this was a man of whom you had a low opinion socially, wasn't it?---I never, no, it's, I had an opinion in regards to when he's drinking, not normal.

30 You thought the man was a dope.---No, he, when he drank he became very stubborn and does not understand things. He talks, waffles on. That's the only reason I, I mention that, not as a person.

40 And I want to suggest to you that it would not have been a coincidence that you were having these meetings with Mr Maroun at a time when the most significant thing that was happening in relation to Mr Maroun's business was the preparation by Mr Stavis, or under Mr Stavis's direction, of an assessment report for the DA for the extra two storeys on 538 Canterbury Road. That wasn't a coincidence, was it?---Well, I don't believe we discussed it because whatever was in the report, whatever council has assessed, there's nothing we can do. I mean, what is there to discuss?

Do you mean to say that with the access that we know you had to Spiro Stavis, you had not a conversation with him about what the tenor of the report was going to be, for example, what its recommendations would be?
---Once, once the report has been assessed and, and it's advertised - - -

No, I'm asking you about the period when the report is being prepared. Do you have no conversation with Mr Stavis to work out whether the goal that

you'd been trying to achieve of approval of Mr Maroun's DA was likely to be progressed by way of a recommendation that it be approved?---No. We made enquiries on his behalf like any other person we make enquiries for.

Like, "What's the recommendation going to be, Spiro?"---Wait a second. The recommendation is based on the assessment of what the staff assess, and as I said before in my previous discussion is it's between his planners, his architect and our planners. That's the final decision the recommendation was made on. Not because of we put a gun to the head of, of Mr Stavits
10 saying, "You have to approve it." He only approved it or made recommendation based on what his staff and himself looked at based on the merit of the application. Simple as that.

So on 17 February, 2016, you made this arrangement to meet Mr Maroun at his gym late that day. Did you receive any money from him?---No, never.

The evidence before the Commission shows that on 11 and 12 February, Mr Maroun had withdrawn \$20,000 in total in cash and that you – excuse me. I
20 withdraw that. I'll come back to this in a moment. Can I take you to – the evidence that the Commission has shows, volume 17, page 194, that on 19 February council wrote to Mr Maroun's company telling him that the DA for the two additional storeys would be before the IHAP on 29 February, 2016. Then if I can show you please, Exhibit 164. The same day, 19 February at 3.38, you arranged with Mr Maroun by telephone to see him at the gym in the next hour, within the hour. Do you see that?---Yep.

Did you receive a payment from Mr Maroun at that meeting?---Definitely not.

30 Why did you go to see him on that occasion?---He must have asked me to see him. I mean, he would have, whenever I meet Mr Maroun, even before that, he always, give me a call on this date or come and see me there, keep me informed, progress of what's happening. He, he finds an excuse to socialise in order to, to go over. It's just the way it is.

You weren't making an arrangement to collect some cash?---No.

40 On this occasion, did you tell him that council was sending him a letter about the IHAP meeting or that the date of the IHAP meeting had been fixed?---I wouldn't have a clue. If I didn't know about the letter, I wouldn't have a clue so it doesn't make sense for me to tell him about a letter that he would have had.

But you would have learned from Spiro at some stage when the IHAP was going to meet?---I think Mr, sorry, Mr Maroun would have told me if he had received the letter.

You would have learnt though from Spiro Stavits - - -?---Not necessarily.

- - - as a result of your frequent conversations with Spiro about the matters in which you were expressing interest as to when the IHAP was going to meet.---Not necessarily.

To consider that particular DA.---Not necessarily.

When you say “not necessarily,” isn’t that the sort of thing though that you found out from Spiro - - -?---If there was - - -

10

- - - when you had an interest in the DA?---Yeah, but if there was an enquiry made and we sent him the, the feedback, in that particular, if he’s received a letter from, from council directly, most likely Mr Maroun would have told me he received a letter from council, if I, if I was meeting him.

Can I take you, please, to Exhibit 149? Exhibit 100, oh, 149, page 100, sorry. Can you see that this is an account summary for an account in your name where the account ended in the numerals 6-1-7-9?---It’s a, it’s a credit card, yeah.

20

And if we go over the page, page 101, we can see a transaction that’s highlighted for 23 February, 2016, that records a payment you had made of \$1,500.---Yep.

And if we skip over, excuse me a moment, to page – oh, yes, sorry, I didn’t see the numbers. My mistake. Page 106. If we can enlarge that a little bit. Thank you. You can see that the date of the transaction is 23 February, 2016. You can take it from me that the exhibit shows that these documents were produced by the ANZ branch in respect of the transaction being a deposit of \$1,500 on 23 February. And the bank trace shows that the deposit was made using \$100 denomination notes.---Yep.

30

Was that money that you received from Mr Maroun?---No.

Can we go to page 108 in Exhibit 149, please? Can you see that this is a council rates statement for, from the Gold Coast City Council?---(No Audible Reply)

40

And I think you can accept – oh, I’m sorry, it shows down the bottom that the ratepayers are yourself and Martha Robson. So it would be in respect of your Gold Coast unit, correct?---Yeah, yep.

And that you made a payment of \$500 cash, as could be seen from the register receipt that is on the top left-hand side, that is dated 23 February, 2016.---Correct.

And did the cash with which you made that payment come from Mr Maroun?---No.

Just excuse me a moment. You know, don't you, that Mr Maroun got approval for his DA for the extra two storeys on 538 Canterbury Road, the car wash site?---The recommendation was approval, yes.

Indeed, there was a recommendation in the officers' report that it be approved.---Correct.

10 Can you recall whether there was any hiccup in that occurring, in the approval in fact being granted? What was it that happened in that regard?
---For which one? For Mr Maroun?

Yes.---With the council officers?

Yes, and the IHAP.---The IHAP or the council officers?

20 The IHAP.---The IHAP. Council officers made recommendation. The IHAP, from memory, made an amendment to the, to the lift, lift shaft, lift shaft, to redo the design of the, of the plans. I think that's, that's the memory I've got.

Well, I'm not asking you to, to be precise about that. I'll show you, if I can, volume 17, page 272. Volume 17 in Exhibit 69. Can you see that this is part of the business papers for the meeting of the City Development Committee on 10 March, 2016?---Yeah.

It's in respect of 538-546 Canterbury Road, Campsie. Construction of additional two residential floors.---Yeah.

30 And the IHAP assessment recommendation is set out in the second half of the page. "The panel is of the opinion that the application should be refused." Now, what the IHAP did, and you're certainly welcome to read this page or that part of that page and over to the next page, but the IHAP recommended the application be refused because of concerns about whether the clause 4.6 request by the applicant had demonstrated that the 18-metre height limit which applied to the site was unreasonable and unnecessary as required by clause 4.6 of the LEP, and also was required by the clause whether there was sufficient environmental planning grounds to justify the contravention of the height limit. There was a reference in the submission
40 on behalf of Mr Maroun to the fact that council had resolved that a planning proposal be prepared to increase the height limit for the site. Do you remember that we looked earlier at a planning proposal that had been prepared – sorry, we looked earlier at a resolution of council that a planning proposal be prepared to increase the height limit to 25 metres on both the car wash site on the eastern side of the Harrison's building and the carpet shop site on the western side, so that's 538 and 570, Mr Maroun's site, Mr Demian's site. The IHAP said that council's resolution to increase the height applying to the site was only a resolution and that there'd been no

Gateway Determination and no public exhibition of a planning proposal. At that time as well I can tell you that the department was still raising issues with council in relation to the planning proposal. Does that come back to mind now? Do you recall that?---No, I don't recall that, no.

10 Are you able to tell us what you thought about the IHAP report or the IHAP position that it reported on?---Well, IHAP has an opinion and, and the council staff have an opinion, assessment of council, so sometimes we support IHAP, sometimes we don't support IHAP. It just depends on, on the reason behind whatever IHAP is putting, putting up but there was a lot of times where I never supported IHAP because of the changes they came or the recommendations to changes they're making are changes that should have been looked at up front of an application, not at the backend of an application, which, which is highly unfair to any applicant and I'm talking about not just Mr Maroun, but others as well.

20 Yes, but you're changing the subject. We're not talking about changes. We're talking about whether the applicant had demonstrated that the variation from the maximum building height limit that applied to the site should be allowed and that required evidence to be provided by the applicant that would persuade the IHAP, and indeed council, that the requirement of the LEP had been met. Nothing to do with changes.---I don't recall this. I don't recall it.

30 If we could have a look, please, at Exhibit 168. The Commission's got evidence, if I can just tell you this before introducing this telephone call at 6.47pm, that at 9.43am council logged a call from Mr Maroun to Mr Stavis's PA enquiring about 538 Canterbury Road. Now, so this is later in that day on 3 March, 2016. You contacted, you called Mr Maroun.---Yep.

Can I ask you to – we can provide you I think perhaps with the hard copy transcript if we could, of Exhibit 168, please.---Yep.

You rang Mr Maroun to tell him that the application had gone before the IHAP on the Monday, which was, I can tell you, 29 February, 2016.---Ah hmm.

40 And to tell him that you would get the IHAP reports the next day, Friday. ---Yep.

And Mr Maroun – this is page 2 of the transcript, about the middle of the page – expressed interest in whether it would be possible to ask for a copy of the report, and you assured him that you would get a copy, that you have to receive a copy for the council meeting.---Yep.

Certainly, you understood the importance of the IHAP consideration of the DA, and Mr Maroun seems to have understood the importance of the IHAP

consideration of the DA.---Well, he's, he, he's been making, been making a lot of enquiries on that, yes. We represented it on his behalf, correct.

You then changed the topic with Mr Maroun, page 3, and started talking to him about units, DA-approved units in Port Macquarie. You were trying to sell him residential units in Port Macquarie?---No, my, my nephew asked me, he's got a, a friend of his owns this site, and if he's got anybody, if I knew anyone who was interested in Port Macquarie, and I just passed that on to, to Mr Maroun.

10

But you were - - ?---No, I wasn't doing any sales.

But, but you - - ?---I was speaking on behalf of my nephew.

Yes, but you thought Mr Maroun was a person who was part of the market for a block or blocks, whichever the case is, of residential units, that he might be interested in investing.---I just asked him on, on behalf of my nephew. That's all.

20

What did you stand to gain from your nephew, had Mr Maroun invested? ---Oh, I haven't – my nephew asked me if there's anyone interested. I've just passed it on. I never spoke to my nephew about any commissions or any moneys or anything like that. It's just an enquiry. He's got a friend of his owns it, and if there's anyone, that's all. That's all it was, just an enquiry on his behalf.

30

Now, I overlooked – if I can just take you back in time, that was 3 March. I overlooked asking you about another occasion earlier on 27 February, when, given that you, on 26 February, had met up with Mr Maroun, on 27 February, you were in Queensland and you had a transaction with a shop called Simply Furnished. Do you recall the name of that shop?---Yes, yeah, yeah. Oh, well, I, I don't recall the name, but I remember buying furniture there, yeah.

And you were buying it for the Gold Coast unit, I assume?---Correct, yes.

And in doing that, you paid for it in cash.---Correct. I took some money with me to, to buy the furniture in different places.

40

Mr Maroun had withdrawn a quantity of cash on 26 February, at 11.56am. Your meeting with Mr Maroun had been at about 3.30pm. The cash he'd withdrawn was \$10,000. Excuse me a moment. If I can show you – oh, sorry, Exhibit 149, page 118. This is a receipt in your name from Simply Furnished Pty Ltd in Queensland, and the document indicates that you paid \$14,000 on 27 February, 2012.---Correct.

I'm sorry. It's obviously an error in the document, yes. It must have been 2016, of course, given that the invoice was in 2016. But in addition the

Commission has an Exhibit 166, the statement of a Jason Raymond Jeffery, with a J, of that company, in which he recalled a transaction with you on 7 February, this is paragraph 9, Exhibit 166, page 3. He recalled a transaction with you where he went to see you at the Gold Coast unit on 7 February, 2016. He provided you with a quote for furnishing the apartment, and the quote was for \$24,000 plus GST. And if we could go to page 12, you paid a deposit on that occasion, being \$12,000 in cash. Yes, no, sorry, page 4, my mistake. Being \$12,000 in cash. He says that you told him the money was in another room and that he, Mr Jeffery left. He heard a noise similar to a zipper on luggage being opened. You returned with one bundle of \$50 notes wrapped with a rubber band and you counted out the money in front of him. Do you recall that occurring?---I don't recall it hundred per cent, but most likely (not transcribable) because I bought the furniture through him so I probably would have done that.

And why were you paying cash?---Because, because my original intention was to go up and spend two weeks on the Gold Coast and to buy the furniture from various places. But when I found that it's too hard, too, too, it's going to take me too much time being up there, and to go around searching and delivering and picking was going to be difficult.

No, I'm not asking you why you retained Simply Furnished to do the furnishing.---That's why, that's why (not transcribable)

I'm asking you why you paid Simply Furnished in cash.---Because that's what I had cash with me.

How come you had the cash with you?---Well, my wife just arrived from overseas only, probably, maybe a week ago before, before I went up, maybe a few days, I can't recall, but she had the, the cash with her when she, when she came back.

And where had she got it from as far as you understood it?---From the sale of the land that I've spoken to you about. Part of, part of the payment.

How much cash did she have?---She would have had at least 20 grand.

I'm sorry, how much?---20,000.

20,000. In what - - ?---Mixed. I, I don't remember.

In what country's currency?---It's Australian. She had, she normally, she normally changes it at, at the airport at Dubai or Abu Dhabi, depends where she was at the moment, at that time, and we get it in US dollars and convert, convert it in Australian at those airports.

And was it your understanding she had declared that currency upon her entry into Australia?---No, it's, if you're over 10,000 each, they had 10,000 each.

Well, you've told us she had 20,000.---It's my daughter 10 and her 10.

So it had been deliberately split, had it, so as to avoid the requirements for declaring quantities of currency being brought into the country in excess of \$10,000?---It's, it's, it's per person, yes.

10

I'm sorry?---The, the declaration is per person, so it's \$10,000 per - - -

Yes. Why had your daughter had half of it and your wife had the other half? ---Because that's per person. That's what you, that's the way you do it, per person, that's \$10,000 each. If it's over, if it's over then you declare it and that's what I've done, I've declared others that I brought in, which was over 20,000 and they were declared but this particular one - - -

20

And you'd split it with other people who were with you in order to avoid the requirement to declare the currency?---No. On that time, my daughter and her came together and, and that's the condition based on per person so there's no need to declare it.

THE COMMISSIONER: But your daughter had no right to the money. It's not her land, it was your land, wasn't it?---No, it's - - -

No, no, no. Answer my question. It wasn't her land, it was your land. ---No, it's my wife and I.

30

Sorry, your wife and your land that was sold, so it's a debt owed to the two of you?---Correct.

And the money was your money and your wife's money.---Correct.

40

So what you've done, as Mr Buchanan's put to you, at the airport you've given a third person a split of the money so you avoid the reporting requirements?---No. No, it's what you're carrying on yourself per person, that's my understanding. That's the, that's, that's the conditions, it's per person that you're carrying on yourself, whether luggage or, whether your luggage is together, you carry all the luggage based on what you're allowed together, that's, it's a family.

MR BUCHANAN: Commissioner, I need to inform you that there is information available to the Commission to the effect that a declaration was made of \$20,000 on that particular occasion.

THE COMMISSIONER: On that day.

MR BUCHANAN: On that particular occasion. But you are telling us, are you, Mr Hawatt, that you had been involved in splitting the money with other people, such as other members of your family, in order to avoid the requirements?---No, just, no, we, when we travel, we travel as a family and the condition is based on per person as a family and that's how we, we, we use it, that way. And when we declare it, if it's over, we declare it at the airport.

10 Have you heard of the expression "structuring" in the context of transactions or having money in lesser amounts than the threshold for reporting of those transactions or having the money?---No. My understanding is it's per person. As a family, when you travel together, you declare it together. If it's over in total, then it's over. If it's not, then it's, and that's what we did. We only declare it when, when it's over. I think the ones we declared were over at the time.

20 So can I just clarify – and I apologise if you told us this a moment ago – but the occasion when your wife brought \$20,000 into the country, was that before 7 February, 2016, or was it before 27 February, 2016?---I don't recall which, which is the one she declared. I'm just remembering from memory. I can't - - -

Let's go back then. Thinking of the cash that you gave to Mr Jeffery for the deposit, which was \$12,000, where did that cash come from?---From, from my - - -

This was on 7 February.---My wife gave me some money and I had, and I had money locally as well.

30 Mr Jeffrey goes on to say, paragraph 18, page 5, that on 27 February you paid him the balance of the furniture package purchase, being \$14,000 in cash, and you again went to retrieve the cash from another room and you came back with a bundle of \$50 notes wrapped in a rubber band.---I gave him what I had based on the time we were going to spend on the Gold Coast and I made the, the, the, the decision that instead of me doing it myself, let someone else handle it and do it, it saves me a lot of time and hard work. That's my decision.

40 But I'm asking you about where the cash came from.---The cash came from my wife, as I told you, we, we get it from overseas and, and I had locally, which, money owing to me that I, I get.

Of which you keep no record?---I've got records. You can see - - -

Of the cash?---Of the cash, if you can see the transactions that I've been making, payments to my daughter's mortgage as an example, it's one of the examples.

But you say - - -?---And she's paying me back.

- - - a payment out by you does not amount to cash in your hand.---I've, I get a, look, go, go and get a statement from my, there's a record of how much money I, I've given my daughter. It's on, oh, it's on record. And I, I've been doing it for many years, five, six years, more. And - - -

What's the point of you telling us about you - - -?---Yeah, but I'm getting it, this - - -

10

- - - paying that money out?---But this is the money I'm getting back. The money, it's on record, I'm getting money back.

What record is there of you receiving this cash from your daughter?---Oh, the, the records I'm receiving it from her. She can give you the stat dec. I get it, oh, whenever she affords it, she gives it to me.

So you mean there is no record?---There is a record. I mean, it's a, she, she gives me it in cash. Yes.

20

THE COMMISSIONER: Which daughter?---My daughter Aisha.

MR BUCHANAN: Where's the record?---I have no record. Just she gives it to me. If I say, she says, look, she gives me the money that, that I've been paying out, and she tries to balance it up. Her or her, her ex-husband, or ex-partner. But there's a record that I've been making payments to her, yes.

Now, I apologise for that excursion to the 27th of, indeed, the 7th and the 27th of February. If we can go back, please, to 3 March. So you had spoken to Mr Maroun at 6.47pm – that's Exhibit 168 that we looked at earlier. Exhibit 92, please. Can I just have a quick look at that myself? Excuse me a moment. Commissioner, the next call that I'd like to take Mr Hawatt to involves, has a little bit of complexity in it, and involves going into an area that we haven't gone into at this stage of my examination of Mr Hawatt and so will take a while to explore. In fairness to Mr Hawatt, he has to be asked, given an opportunity to provide an explanation, and that might lead to further questions.

30

THE COMMISSIONER: All right. What I intend to do is just to take a short break. Mr Drewett, the application you made about an, over an hour ago, do you press that?

40

MR DREWETT: I'll need to take some instructions. Perhaps – that would only take a minute or so.

THE COMMISSIONER: All right.

MR DREWETT: I anticipate the answer will be yes, but I don't want to commit to that until I've actually confirmed, but I think - - -

THE COMMISSIONER: What I'll do is adjourn just for a couple of minutes for you to get those instructions.

MR DREWETT: Thank you (not transcribable)

10 THE COMMISSIONER: Come back on, you can inform me of your position, then I'm going to take another short break. All right?

MR DREWETT: Yes, thank you.

SHORT ADJOURNMENT

[12.55pm]

MR DREWETT: Commissioner, thank you for those couple of minutes. I do have instructions to make the application again, and I do so in the same
20 terms as I did about an hour ago or so.

THE COMMISSIONER: All right. I'll just adjourn for five minutes.

SHORT ADJOURNMENT

[12.57pm]

30 THE COMMISSIONER: Mr Drewett. I have to say with great reluctance, because I stressed I have no medical evidence before me, I am minded to grant your application now, but it is very much on the basis that we have now got four days off with the Easter break, that Mr Hawatt is rested and comes back here Tuesday morning at 9.30 ready to resume his evidence, and we will be sitting 9.30 to 4.30. Can I just stress, you have raised with my solicitor, or the Commission's solicitor, issues about availability. I have taken those into account but on the calculation that we would be sitting proper days, and I don't want to be put in the position to say to you, I am terribly sorry but because we've had these delays, I can't accommodate what you've raised previously. So can I just stress, Mr Hawatt, we will pull up stumps now but rest over the weekend or over the four days. If you
40 continue - I won't tell you what to do but, you know, you can see a doctor if you're not sleeping and doctors can assist you, but you've got to be back here Tuesday morning at 9.30, ready to resume your evidence, all right?---I want to finish it too, yeah, Commissioner.

Sorry?---I'd like to finish it as well, Commissioner.

Yes. I realise that as well. So, all right everybody, that's the decision. So we will finish now for the Easter break. Can I just say to everybody, have a

very nice four days and we'll see you Tuesday morning at 9.30.---Thank you.

THE WITNESS STOOD DOWN

[1.11pm]

AT 1.11PM THE MATTER WAS ADJOURNED ACCORDINGLY

[1.11pm]

10