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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
COMMISSIONER

PUBLIC HEARING

OPERATION DASHA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 21 DECEMBER, 2018

AT 2.00PM

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

MR BUCHANAN: Commissioner. Mr Azzi, the evidence before the Commission suggests that Mr Montague decided pretty much to appoint Spiro Stavis around 4 December, 2014. I'm just providing you with that information, and you'll see some of this in a moment, but I'm wondering whether sometime around 3 or 4 December you had a meeting with Mr Montague and with Mr Hawatt at which you discussed who should be appointed as director of planning.---I can't recall the date. Yes, we had council meeting, yeah.

And where was that meeting held?---Well, I don't remember which meeting you're talking about. We had a meeting, I remember, it's after, at like, Canterbury Leagues Club, but I don't remember where the meeting, that one's held, if it exist.

Well, I'm talking about a meeting and asking you whether you had a meeting with Mr Montague and Mr Hawatt around 3 or 4 December, 2014 at which you and Mr Hawatt and he, Mr Montague, discussed the appointment of Mr Stavis as director of planning, and so this is before the announcement that Mr Stavis would be appointed.---I, I, I, I don't remember. I don't remember about this meeting, anything, sir. Well, this could happen maybe, but I don't remember, just - - -

Did you, in some contact that you had with Mr Montague in this period, extending from 4 December backwards in time, did you put pressure on Mr Montague to appoint Mr Stavis?---No, sir.

Did Mr Hawatt, to your knowledge, put pressure on Mr Montague to appoint Spiro Stavis?---I don't know, sir.

Did that happen in your presence?---I haven't remember anything happened, if I heard something like that. I don't remember being pressured, I haven't been pressure Mr Montague.

THE COMMISSIONER: No, not you being pressured.---I haven't been pressured Mr Montague, no.

MR BUCHANAN: You haven't pressured Mr Montague, is what you're saying?---Yeah, that's what you ask me, I said, no, I never pressured Mr Montague.

THE COMMISSIONER: And you never saw Mr Hawatt pressure Mr Montague?---I don't remember, no problem, I don't remember anything like this.

MR BUCHANAN: Can I ask you about some evidence that the Commission has heard. Did you ever say to Mr Montague that if Mr Stavis was not appointed as director of planning, he should have Gillian Dawson's job as manager of urban planning?---No, no.

To get rid of Gillian Dawson and put Mr Stavis in her job?---No, no.

Did Mr Hawatt ever suggest that to Mr Montague in your presence?---I can't, I, no, I never head Mr Hawatt saying this in the front of me.

10

On one occasion, excuse me, on one occasion did you say to Mr Montague, "If he doesn't get the job, find a job for him"?---I said, yes, I said this to Mr Montague, not find a job but I suggest to him.

I'm suggesting it was a command.---No, not command.

It was a demand.---Not demand. Option.

20 And at one stage did you say to Mr Montague, referring to Mr Stavis, "Find him a job, or it's your job"?---No.

Can I ask that the witness be shown volume 3, page 253, please. Again I'll be showing you, Mr Azzi, some text messages extracted from Mr Hawatt's mobile phone. This time they are on 4 December, 2014. Can you see that date under the heading Time?---The 4th you mean. Yeah.

Can you see the column headed Time where the hand is?---Yes. Yes. 4/12/2014.

30 And the date there is 4/12/2014. You can see that?---Yes.

And the time there is 10.22pm. Can you see that?---(No Audible Reply)

That the time is 10.22. Can you see that?---Yes.

40 Now, the party from whom that text message was received was Spiro Stavis and the message read, "Hi, Mike. Just so you know, he rang me before your meeting and pretty much said I have it. Bechara confirmed shortly thereafter. Call if you want." Now, does that, is that something that Mr Hawatt told you about, receiving a message like that from Mr Stavis? ---No. I don't remember this.

It suggests that Mr Stavis believed that Mr Hawatt was to have a meeting possibly with Mr Montague.---I don't know anything about it.

Now, do you have any understanding as to how or why Bechara Khouri would have confirmed that Mr Stavis pretty much had the job in some communication with Bechara Khouri, with, I do apologise. I'll start the

question again, Mr Azzi. You can see there the words “Bechara confirmed shortly thereafter.”---Yes, “Bechara confirmed shortly thereafter.”

And the confirmation, then, is obviously of that Mr Montague had decided pretty much to give Mr Stavis the job. You understand that?---I understand, but what I don't understand this SMS from Stavis to, to who?

Hawatt.---Oh, Hawatt.

10 Mr Stavis is talking to Mr Hawatt.---Oh, I don't know nothing about it, mate. No clue.

Do you have any understanding as to how or why Mr Khouri would have confirmed to Mr Stavis that he pretty much had the job?---I don't know.

What was the relationship at this time, as you understood it, between Mr Khouri and Mr Montague?---Bechara Khouri?

20 Yes.---(not transcribable) friendship and communication between them, it's been over years they're friends. That's what I understand. Bechara and Mr Montague and Mr Khouri they've known each other for, I don't know, but way before, a long time ago.

Does it surprise you that before any announcement is made it would appear Bechara Khouri had contacted Mr Stavis to tell him that he pretty much had the job?---Well, I've seen it now.

30 Does that surprise you?---Maybe. I don't know. I can't, I can't say anything. I don't know anything about it but maybe.

From what you know of the relationship between Mr Khouri and Mr Montague at this time, was Mr Montague in the habit of talking to Bechara Khouri about decisions he would make at council?---I don't know. Maybe.

Did you have any idea that Bechara Khouri was being told by Mr Montague about decisions he proposed to make at council?---No.

40 You were, however, in contact with Mr Khouri reasonably regularly around this period of time, weren't you?---Yes, most of the time, yes.

And why were you in contact with Mr Khouri?---For certain, a lot of things to talk about for, I don't remember what the subject. Sometimes we talk like, “Hello. How are you today?” Like, occasionally on, we don't discuss business, just sometimes we talk about party issues and social issues. We, we talk about a lot of things sometimes.

THE COMMISSIONER: When you said party issues, are you talking about political?---Yes, ma'am.

Labor.---Labor.

MR BUCHANAN: So can I take you to Exhibit 244 again, please. This is the call charge records of calls made by you to various people. And can I take you to page 26, please.

10 Do you see that the dates that are in the fourth column from the right start at the top of the page on 26 November, 2014 and go down to 1 December, where the hand is at the moment?---Yes.

And that thereafter there is 2 December, the 3rd, the 4th and the 5th and so on. You see those dates are there in the Start Date column?---Yes.

Can I take you to item 1163, please.---Yes.

20 Around this time, you, on 1 December, 2014, when the events that I've been asking you about were occurring, you rang Bechara Khouri at 2.02pm and the line was open for 30 seconds. Do you see that?---Yes.

And if I can take you to item 1188, can you see that on 4 December, at 11.45, you rang Bechara Khouri and the line was open for 3 minutes and 44 seconds?---Yes.

And that's shortly after 10.22pm when, as you have seen, Mr Stavis texted Mr Hawatt to say, "Mike, just so you know, he rang me before your meeting and pretty much said I have it. Bechara confirmed shortly thereafter. Call if you want." You understand that?---Yes.

30 So did you have any conversation with Mr Hawatt after, as you can see now, Bechara Khouri, sorry, after Mr Stavis told Mr Hawatt about the call he had received from Mr Montague and the call he'd received from Bechara Khouri about pretty much getting the job? Did you have any conversation with Mr Hawatt?---Mr - - - ?

Hawatt. He's the person that got that text from Mr Stavis at 10.22pm. ---You make me confused. Said Bechara Khouri and - - -

40 Certainly, certainly. I apologise. I have jumped ahead a bit. That's in volume 3, page 253. We'll come back to Exhibit 244. So, the text message to Mr Hawatt in volume 3, page 253, is on 4 December at 10.22pm from Mr Stavis saying, "Hi, Mike. Just so you know, he rang me before your meeting and pretty much said I have it. Bechara confirmed shortly thereafter. Call if you want." Do you see that?---Yeah, I see that.

Right. Now, if we go then to the telephone messages, we can see that shortly after that, at 11.45pm, you had a telephone conversation with Bechara Khouri that lasted 3 minutes and 44 seconds.---It's me, 11.40?

This is item number 1188.---1188.

On page 26 of Exhibit 244, where the hand is moving around on the right-hand side of the screen.---Yeah.

10 And so it would seem to be a bit of a coincidence if – after the important news had been given to Mr Hawatt from Mr Stavlis about what Mr Montague had told him about getting the job and what Bechara Khouri had told Mr Stavlis about getting the job – that you shortly afterwards have a call of longer than 3 minutes with Bechara Khouri. In other words, it's not just a coincidence, that you were probably talking to him about the same thing.---I can't remember what the conversation is. You said Mr Stavlis been offered the job. I, I - - -

Mr Stavlis is the one who said that.---Yeah, but I - - -

20 At 10.22pm and that Bechara Khouri had contacted Mr Stavlis and told him the same thing. So the question I have for you is, surely in that case the likelihood is that your telephone conversation with Bechara Khouri at 11.45 the same night for more than 3 minutes was about the same thing.---What you mean - - -

The appointment of Mr Stavlis as director of planning by Mr Montague. ---It's mean, it's mean after one and a half hour. Is it, this is what you're trying to say?

30 Well, in the interval between 10.22 and 11.45.---No. I don't remember, it could be anything else.

Do you think it could have been about the appointment of Mr Stavlis?---I can't remember what it was.

No. That's not what I'm asking. Do you think that the phone call that you made to Mr Khouri at a quarter to midnight on 4 December, 2014 might have been about Mr Montague having indicated – apparently not only to Stavlis, but also to Khouri – that Stavlis pretty much had the job?---I don't know, sir.

40 But do you think it could have been?---I don't know. I can't guess.

Well, you don't have to guess, do you?---I don't know. I can't, I can't remember what was the call.

But you also know what the probabilities are because you were involved in these events. You know what is more likely than not, don't you, about these very events.---I have, I don't remember anything of what was the call about but - - -

Can I ask you this. Did Bechara Khouri, in that phone call that you made to him at a quarter to midnight on 4 December, 2014, say anything on the subject of what Mr Montague had said to him about Spiro Stavis pretty much having the job of director of planning?---I don't remember what's, I understand that's a few years ago. I don't remember.

10 It's inevitable, though, wouldn't you agree, that he would have said something to you about it?---I don't remember, sir.

You're determined not to answer the question, aren't you?---I said, I don't remember. If I remember, I would - - -

Yes, you're determined not to answer the question, aren't you?---No, sir.

You're deliberately avoiding the question, aren't you?---No, sir.

20 And you're deliberately avoiding the question, can I suggest, because you are afraid that if you tell the truth in answer to the question, it will implicate you in the process by which Mr Stavis was appointed by Mr Montague as director of planning?---No. It's not right.

30 What did you understand was the role that Mr Khouri – I withdraw that. Can you tell us now what you understand the role was that Mr Khouri played in the appointment of Mr Stavis as director of planning?---I don't know what was the role but I now understand, after the evidence I've seen, he had a role because Mr Khouri never get involved with me with all these things, because I said from the beginning when I met Mr Khouri I don't like it to involve with my decision in the council. That's just my, our, our relationship, keep it in the business in the Labor Party. Simple as that.

Were you in the habit of making a phone call to Bechara Khouri at a quarter to midnight? It's an unusual time to be ringing a friend to talk to them. ---No, it's not unusual.

40 For whom, you or Mr Khouri?---For both. I can call any time I like because I can call him any time I want. It's nothing unusual to me, to me and for him he never said, he never complained to me, and if he can't answer, he can't answer.

Excuse me a moment. You then contacted Mr Khouri again the next day, 5 December. This is item 1190 on 5 December at midday. Do you see that? The line was open for a bit over one minute.---Yes.

And you spoke to him again the next day, commencing at 9.12pm, item 1195, and you spoke with Mr Khouri for more than 19 minutes. Do you see that?---Yes.

You weren't speaking to Mr Khouri at all about the matter of the appointment of Mr Stavis as director of planning?---No. I said I don't discuss it with him. Nothing to do with him.

But it was a matter between you and Mr Hawatt, wasn't it?---Mr Hawatt he was, he's a councillor and he was on the panel. Normally we have to talk about it. It's not, we have to talk, yes.

10 And can I just point out that item 1182, 1183 and 1184 on page 26 of Exhibit 244 are contacts you made to Mr Montague's office for two minutes and 14 seconds in the first place, one minute and 46 seconds in the second place, and 41 seconds in the third place around, a bit after 11 o'clock and then after 12 o'clock midday on 4 December.---Yes.

Were you talking to Mr Montague about the appointment of Mr Stavis as director of planning in those calls?---It could be anything. I called his office, not him. Maybe I, it could be anything discussing with the - - -

20 Yes, but could it have been about the appointment of Mr Stavis as director of planning?---Mister, could be talking to his PA or his office for anything - - -

Could you have been talking to Mr Montague in any of those calls about the appointment of Mr Stavis?---I don't remember I spoke with Mr Montague in this short period, 48 second, 1.46, 2.14, the same time, to his office. I would call his mobile.

30 You see, these calls that you're making to his office at that time are a few hours before Mr Stavis tells Mr Hawatt at 10.22pm the same day that Mr Montague told him he pretty much had the job.---What I can see here, I have no idea what was the subject to calling his office. I don't remember.

Were you – sorry, go on.---I called his office, could be anything related to council issues.

40 Yes, it could be, but you understand now, don't you, that the evidence strongly suggests that at night on 4 December, 2014, Mr Montague told Mr Stavis and told Mr Khouri that Mr Stavis pretty much had the job. You can see that is the evidence.---Yes.

So we can assume that he had made that decision, that Mr Stavis pretty much had the job, before he told that to Mr Stavis and before he told that to Mr Khouri, can't we?---Well, I don't know what I have to say. It could be, but - - -

And so given your interest in the appointment of a director of planning, the fact that you made three consecutive calls to Mr Montague's office that day would suggest that there might have been a connection between those calls

and Mr Montague's decision.---Well, I don't know what was the cause of the calls, Mr Buchanan, was about. I can't remember. But I can see here I made a call to Mr Montague's office, but what was the subject, I can't remember what was about, and I can't tell you if I spoke with Mr Montague, yes or no. I don't remember.

Before we leave this page, can I take you to some contacts that you had with Mr Vasil, George Vasil, commencing on 2 December, item 1167. And do you see where the hand is moving at the moment?---Yes.

10

Where there's an entry in respect of a call that you made at 5.30pm on 2 December, and the line was open for 2 minutes and 15 seconds. Subsequently at 6.10 the line was open for 4 minutes and 34 seconds. Subsequently you attempted a call at least at 7.20 and again attempted a call at, again at 7.20. Do you see those entries going down to item 1170? ---Yeah.

20

Now, the evidence that we have inexorably, I would suggest to you, leads to the conclusion that you and Mr Hawatt had a meeting with Mr Stavis at your house on 2 December, commencing at about 4.45pm. These contacts you initiated with Mr Vasil are after that time but they're the same day. Did you say anything to Mr Vasil about the subject of the appointment of Mr Stavis as director of planning or trying to get him that job?---Again I said I don't remember what, what the cause was, the call.

30

Well, there's a series of them on that one day. Can you recall seven consecutive calls or attempts to call Mr Vasil just at around this time that you'd finished talking with Mr Hawatt and Mr Stavis at your house about getting him the job of director of planning?---I don't remember I met Mr Stavis first and, second, I have no idea what was the call about to Mr Vasil. And it's four years ago. I don't remember why I did called him anyway, what about.

40

What the Commission knows is that Mr Vasil was contacted very early in the piece by Mr Stavis about this job, and that Mr Vasil thereafter had contacts, a series of contacts with Mr Vasil, as did Mr Khouri, about this job. And I'm just wondering whether you ever found that out, that Mr Vasil had been contacted by Mr Stavis about applying for the job of director of planning at Canterbury?---No.

Mr Vasil never told you?---I don't remember it all - - -

No, no, no. Oh, I'm sorry, go on.---But, I, I can't remember, sorry. I can't remember anything what was going on. It's four years ago. I don't remember, remember anything about - - -

The events around the appointment of Mr Stavis as director of planning, however, were quite unusual, and nothing like that, I suggest to you, ever

occurred in your life like that, which would be a reason why you would have to remember these events.---Why I have to remember?

10 Because they're unique in your life, and when something happens once only in your life, and not all that long ago, you tend to remember them because they're unusual. It's only human, isn't it?---You remember things that's happened to you and you can't focus or you can't, you can't manage, or you can't, I can't, you can't forecast your brain to remember today and don't remember. If you remember, you remember, if you don't remember, I don't remember. I can't say to my brain, oh, you have to remember this, what's happened four years ago at this time and I'm not a computer. I don't, I have nothing, like, I can't remember, sir. I can't remember. Why - - -

What was the relationship you had with Mr Vasil as at 2nd, 3rd of December, 2014?---Mr Vasil relationship is a person I know.

Sorry, your relationship with Mr Vasil is what I'm asking about.---Yeah.

20 What was that? How would you describe it?---It's professional, like, he is a father of one of the councillor and Mr Vasil, sometime we, like, I, I, I did sometime consult with him about planning issue, about the DCP, because he's smart on this. I get some ideas from him about planning, if, like, independent, like, sometime I get independent information about this wrong or this right and he can explain it - - -

This is about planning at Canterbury?---Yeah, he can explain the DCP. Sometimes I need help. That's the only connection I can tell you.

30 And so the two of you were in opposing political parties, is that right?---He is not in a party.

He was aligned, though, with Mr Hawatt and the Liberal Party, wasn't he? ---Mr Vasil, I do understand, he is, he is not in the party, he is not member of any party.

But he was aligned with the Liberal Party and with Mr Hawatt, wasn't he? ---Yes, he did.

40 Politically.---Yeah.

And you were aligned, indeed a member, indeed a Labor councillor? ---Correct.

You were aligned with the Labor Party?---Yes.

So what you and Mr Vasil had in common, however, you're telling us, is an interest in planning issues at Canterbury Council?---Not interest. I use him sometime to ask him about information we need.

Well, didn't you have an interest in planning issues at Canterbury?---Like, every councillor, I do have interest to have better outcome, yes.

But we saw, it's more than every councillor. We've seen the evidence, it's very clear, you and Mr Hawatt were much more active in relation to planning issues than were the other councillors. We've seen that. You'd accept that, wouldn't you?---Yeah.

10 So, the thing that the two of you – Mr Vasil and you – had in common, was an interest in planning issues at Canterbury Council, wasn't it?---As a councillor, I have interest in everything in the council, planning and other things. I have to make sure when I make a decision, I make it on right floor.

Yes, but I'm talking about your relationship with Mr Vasil and what interests you had in common, and the interests you had in common was planning issues at Canterbury Council, wasn't it?---Not, not with Mr Vasil.

20 What were the issues you had in common with him?---Nothing.

Interests you had in common?---Nothing.

Well, that's belied, that doesn't seem to be right according to the evidence of the contact you were making with Mr Vasil. Why would you bother attempting to contact him if you had nothing in common with him?---Yeah, I have nothing in common, no interest and no business.

30 THE COMMISSIONER: But why are you ringing him?---Oh, I ring him - -

Look at page 26.---Yes.

Mr Buchanan's taken you to some of them, but you seem to be ringing him – I'm just looking at the 2nd and the 3rd of December – you're either ringing and speaking to him or trying to contact him on many occasions. As Mr Buchanan said to you, that belies a person that you say you had no interests in common with him.---Yeah, Madam Commissioner, if you check, I tried to call him but you have to tell me when Mr Vasil answered the phone.

40 MR BUCHANAN: We can see that. It's item – so far as concerns 2 December, we can see that he answered, or someone answered the phone and then didn't put the phone back on the hook, in items 1167 for 3 minutes and 43 seconds; 1168, 2 minutes and 15 seconds; 1169, 4 minutes and 34 seconds. Do you see that? That's on 2 December, the time at which I suggest you had had this meeting with Mr Hawatt and Mr Stavis at your place. You can see those entries?---I didn't have a meeting. I don't remember we had a meeting.

THE COMMISSIONER: Mr Azzi, please concentrate on what you're being asked. You're being asked at the moment about the evidence that you contacted the number associated with Mr Vasil, and from the duration of the calls you're having a conversation with somebody, and the inference that I would draw is that you're having a conversation with Mr Vasil. Now, there seems to be a number of those calls on the 2nd and the 3rd of December.
---My screen goes off.

10 And that – sorry? Can that come up again, please? And what Mr Buchanan is asking you about is usually when you try and ring somebody and then you speak to them, it's because you have an interest or a matter that you want to discuss with them. You've got something in common.---Yeah, you have, when you call somebody, you're right, Madam Commissioner, you have to, you want to speak to him.

Yes.---Yeah.

20 So your evidence that “I had nothing in common with Mr Vasil” couldn't be correct, could it, because you're ringing him and talking to him.---Yeah, you're right. I called him and I was talking to him, but I don't know what I was talking to him about. I don't remember what was the conversation and what we've been talking about. It's four years ago. And what seems here, like, I talk like one day or the same day but I have no idea what was the conversation. I don't remember anything. And I can't go and say I was talking about this. I don't remember. That's, that's my point. I'm not denying I didn't call Mr Vasil, but I can't remember, I can't remember what was all about. And - - -

30 MR BUCHANAN: Can I just ask you to focus on this. You say you can't remember and so the next question is, what are you likely to have been talking about? And if we have the answer to the question “What interests did you have in common?” we are a step towards understanding what you're likely to have been talking about. And what we know is he had an interest in planning issues at Canterbury and you had an interest in planning issues in Canterbury, so we know that the likelihood is you were talking about planning issues at Canterbury. You understand all of that?---Yeah, I do.

40 And then the next step is, what could be more critical to planning issues at Canterbury than who fills the position of director of planning at Canterbury?---No.

It's a critical issue in relation to planning, isn't it?---Yes. Critical.

Thank you. And so from all of this it seems the likelihood is that you were ringing Mr Vasil at this time – given what we know was happening on 2, 3 and 4 December about decision making about who would fill the position – that you were ringing Mr Vasil to talk about the appointment of whoever

was going to be the director of planning. Do you see how this logic follows?---Yeah, it follows, but I don't - - -

Is there anything you want to say?--- Mr Buchanan, I said I can't remember what it was about. Maybe Mr Vasil has an interest. He wants my son be in his gym trying to get a weightlifter or I can't go answer. I don't remember.

I'm sorry, I thought Mr Con Vasiliades was the weightlifter.---Yeah. That's the Con Vasiliades, he's the gym.

10

Yes. Why would you be talking to George Vasil about getting a weightlifter at the gym?---Because George Vasil said to me once your son is a, could be a good weightlifter because he's, he's a champion and he knew about it.

I see.---Maybe it could be about this. I'm not saying I talk to him about it but it could be about anything. I don't remember what it was about. Well, I can't remember.

20

Excuse me a moment, please. Now, there is evidence before the Commission that in the early stages of the period between the interview panel in 17 November and the appointment of Mr Stavis as director of planning on 4 December you indicated to Mr Montague a clear preference for Spiro Stavis to be appointed to the position but that you also indicated that you would have accepted Simon Manoski as director of planning. Now, are those two things correct, that you indicated those things to Mr Montague?---No. What I said before, no.

30

Can I ask you to have a look, please, again at the code of conduct complaint in volume 4. If I can take you, please, to page 149 in volume 4 and this is the first part of the chronology of events that's in the code of conduct complaint. Do you see that? Sorry. Look, can we enlarge it so that we can go to item 10, please. So if we can just pause there, just a little bit further down. Thank you. Now, I wonder if we could just go a little bit further down so we can have a look at, yes. Item 9, just to provide the context to you, is that the general manager approximately three days later advised you and Councillor Hawatt by telephone and separately that due to further information obtained by the general manager, Mr Manoski was not suitable for the position and the general manager will not offer him the position. In item 10 it reads, "Approximately two days later Councillor Azzi and

40

Councillor Hawatt met with the general manager to discuss the next suitable candidate of the three short listed as detailed in point 5." And that's the three, Karen Jones, Simon Manoski, Spiro Stavis. You recall those three? ---Yeah.

And then item 11, "Councillor Azzi and Councillor Hawatt indicated to the general manager that in their opinion the next most suitable and qualified person was Mr Spiro Stavis." So can I ask you – I'm sorry, I shouldn't omit the next paragraph. 12, "The general manager indicated his preference was

for Karen Jones.” I want to ask you about what appears in paragraphs 10, 11 and 12 because it’s a statement that after the material in paragraph 9, that is to say, after in time you and Mr Hawatt had a meeting with Mr Montague.---Yeah.

Would that have been correct?---If it’s been written here I mean at that time we could, we could have this meeting, could have because (not transcribable) - - -

10 And why were you and Councillor Hawatt having a meeting with the general manager at this time to discuss the candidates?---It must be, we could be called him. I don’t remember (not transcribable) we can’t have a meeting. Must be he called for the meeting (not transcribable) - - -

Why must be? Could it not have been arranged, say by Councillor Hawatt? ---Well, I have no idea who arranged for this meeting.

You know that Councillor Hawatt arranged for meetings with Mr Montague from time to time, don’t you?---Well, he can. He’s a councillor, he can ask if he can meet. Everybody - - -

My question is, given the way it’s expressed, it says, “Councillor Azzi and Councillor Hawatt met with the general manager,” is it possible that you and Mr Hawatt arranged for this meeting with the general manager?---I have no idea who called for this meeting.

And do you remember the meeting?---Well, not exactly, no.

30 What happened at the meeting? What do you remember?---No. I don’t remember what’s happened in the meeting at the moment but I can read and must be happening. I can’t remember.

And item 11 says that you and Mr Hawatt indicated to Mr Montague that in your opinion and Mr Hawatt’s opinion, the next most suitable and qualified person was Mr Spiro Stavis.---Yeah. I, I did confirm this before.

And is it possibly the case that you and Councillor Hawatt indicated to the general manager in a meeting with him that he should appoint Mr Stavis? ---No.

40 Now, can I take you then to item 13, “After further discussions, the general manager indicated that he intended to hire Mr Spiro Stavis to the role of director of planning, starting 19 January, 2015.” He indicated that to you, did he?---Well, what I can read here, it could be possible but I don’t remember. I don’t remember that, what’s happened in it - - -

When this account at paragraph 13 says “after further discussions” is that further discussions in the meeting that you speak about in paragraph 10 or is it discussions after the meeting that you speak about in paragraph 10?

---Look, I can't remember about, anything about this meeting. All I can, all I can read here, it could be happen but I can't remember anything what, look, my, I can't remember anything what was going on this period. It's too, too long ago and, I can't, I can't remember and recall what was going on, but what I can read here could be happen.

10 Now, you know that Mr Montague gave a letter on 8 December or sent a letter on 8 December, 2014 to Mr Stavis offering him the job?---That one I can see.

You understand that?---Yeah, I do understand.

And you understand, do you, that Mr Stavis accepted that offer the next day, 9 December?---That's what I heard.

20 And then can I take you, please, to volume 4, page 154. This is a text message that was photographed by Mr Hawatt on his phone and was, if I can just point out to you, do you see the word “Annexure A”? Oh, sorry, if we go to the top, yes. Can you see it's “Annexure A” in handwriting at the top, or A1? Do you see at the very top in handwriting?---Yeah.

That is a reference to the fact that it was one of the annexures to the code of conduct complaint. So, it was sent to the minister.---Yeah.

Do you understand?---(No Audible Reply)

30 Perhaps if I can just assist you, if we can go to the code of conduct complaint, page 150 in volume 4. Can you see that paragraph 18 in the code of conduct complaint reads, “Councillor Hawatt, by SMS, expressed his concerns on December 17, 2014. Refer to annexure A1 as attached”?---Yes.

And then if you go over to annexure A1, page 154, you can see it's from Mr Hawatt's phone. It's a photograph, a screenshot and it says, “Hi, Michael. We need to chat about Spiro. Please call me when convenient.” And it's recorded as having been, a text was sent by Mr Montague to Mr Hawatt on 16 December, 2014 at 2.36pm.---Yes.

40

That's at the very top of that photograph. Do you see that?---Yes.

Now, when did you first find out that Mr Montague was having second thoughts about proceeding with the offer of appointment to Mr Stavis?---I don't know the dates. I can't recall. I can't remember dates.

What were the circumstances in which you found out?---Well, I don't know because I told you before. I said I wasn't interested. I don't want to discuss

it. Don't want to be in it anymore and that's why I don't remember anything what's happened.

But you were in it, weren't you?---Yeah, were in it - - -

You were involved in the decision to appoint Mr Stavis. Isn't that correct?
---Excuse me?

10 You were involved in the decision to appoint Mr Stavis?---No, it's, no, it's Jim Montague decision to appoint.

You had these meetings with Mr Montague to discuss the appointment of the director of planning together with Mr Hawatt, didn't you?---Yeah. He asked for a meeting, a few meetings and we discussed it but - - -

20 And did you at some stage find out that Mr Montague was considering renegeing, was considering changing his mind?---Well, I can't, I can't, I don't know how to answer this question. It's very hard to understand what in Mr Montague mind.

Yes, but do you understand that someone might have said something? Perhaps Mr Hawatt responded to this text message by calling Mr Montague on 16 December at some time after 2.36pm and perhaps Mr Montague said something about Spiro and perhaps Mr Hawatt then contacted you and told you what Mr Montague said. Do you think that might have happened?
---Sir, can you, can, it's too long. Just can you repeat what you said, please.

30 Yes, I'll cut it short. Did Mr Hawatt tell you that Jim is getting cold feet or Jim is thinking of not going ahead with the appointment of Stavis?---On the 16th?

Now, anything like that?---I don't remember if he called me and said this to me. I don't remember, sir.

Did he say it to you face-to-face?---I don't remember if he say it.

40 How did you find out that Mr Hawatt was proposing to not proceed with the appointment? I do apologise. Thank you. I don't know what I'd do without you, Mr Pullinger.

MR PULLINGER: I'm here to help.

MR BUCHANAN: Thank you. I appreciate it. How did you find out that Mr Montague was thinking of not going ahead with the appointment?---It's find out from him.

How did you find out?---I don't remember which date. I think it was the day before the Christmas Eve or on Christmas Eve day. I don't remember. I

receive a phone call from the office of the GM. Said the GM wants to talk to you and he said to me, he delivered this message.

THE COMMISSIONER: He what, sorry?---He deliver the message like, Pierre, after I'm thinking I'm going to withdraw the offer.

So you said it was the day before Christmas Eve so we're talking about 23 December.---Some, sometime, sometime this period, you know. It's before or the same day. I can't recall. I can't remember the date but - - -

10

But near Christmas Eve?---Yeah, close, like at this time.

MR BUCHANAN: And it was Mr Montague who told you himself, was it?---Yes, yes

And what did he say?---He said to me clearly Pierre, after whatever, but what I can, he, he, he, he delivered the message to me. He said I'm withdrawing the offer to Mr, of Mr Stavis.

20 Did he say why?---No.

Did he say why?---No.

Did you ask him why?---I said why, he said, I don't remember what he said to me. He said he's got something, like, well, I didn't ask, I said, what I said, said, do you want anything to do with me, you want me to go, he said, no, no, I made up my decision. I said, all right, mate, let's have a good Christmas, it's your job, your call and - - -

30 That's what you said to Mr Montague in this contact?---Yes. I said it, mate, it's your call and it's your job. Do whatever you want to do and thank you telling me and that's it and, and - - -

40 Can I just ask you to have a look at this text message on page 154 of volume 4. If we can enlarge the bottom text message. You can see that Mr Hawatt sent this text message to Mr Montague on Wednesday, 17 December. So, it's a bit before Christmas 2014 in which he said, "Hi Jim. Pierre does not want to discuss the director position any further. It's now up to you. I've personally had enough with all the instability of how this council is run. It's like the blind leading the blind. The ones we are having big issues with are back in control." Over the page, 155, "I am of the same opinion as Pierre, it's up to you. However, I do not want this council to be legally liable based on your judgement and then reversing it. This does not look good for this council or its reputation. Council endorsed your appointment of our new planning director. We do not want to be involved in any legal challenges or further cost to council for this change of mind. Michael Hawatt." The way it reads on page 154, the top of the message, is Mr Hawatt seemed to think that he knew what you thought about the idea of Mr Montague not

proceeding with the appointment of Mr Stavis, namely that you didn't want to talk about it.---No, it's not true. The first two, the first two lines, that's my opinion, I don't want to get involved and I said that, any further, because I am sick of it and it's up to Montague to decide and that's it, it's my opinion. Whatever it's been written here, it's not my, what I said but I can confirm the first two lines, it's what I believe, I don't want to get involved anymore and that's it. Whatever everybody's opinion, I don't know about it.

10 Did you have conversations with Mr Hawatt after you found out that Mr Montague intended to not proceed with the appointment of Mr Stavis?---I don't remember if I had. Maybe yes, maybe no, I can't remember.

Well, it's inevitable that you would have, isn't it? "Maybe no" is not truthful, is it?---Sir, I said I can't remember. Maybe yes, maybe no.

Commissioner, I note the time.

20 THE COMMISSIONER: Mr Buchanan, can I ask you, this particular topic with these screenshots, do you have more questions on those?

MR BUCHANAN: I do but it's going to be going, that's going to be going a little further ahead. I'm trying to proceed in chronological order, so there's a bit of material yet to go, certainly before we get to Christmas Eve on 2014.

30 THE COMMISSIONER: All right. Look, it was foreshadowed that we'd be sitting until 4 o'clock today but I thought I might put on a Santa Claus hat and say that we might have an early mark today, and Mr Andronos is looking very excited.

MR PULLINGER: I think we all are.

THE COMMISSIONER: Do you wish to comment?

MR ANDRONOS: No comment at all.

40 THE COMMISSIONER: And, Mr Buchanan, if it was the case that there was a discrete section that you were about to finish, I'd be quite happy to - - -

MR BUCHANAN: No. I am going back to other documents before coming back to these, Commissioner,

THE COMMISSIONER: All right. So, as donning my Santa Claus hat, this would be an appropriate time - - -

MR BUCHANAN: It would.

THE COMMISSIONER: - - - to adjourn. All right, then. Mr Azzi, as I said, we're not going to go through to 4 o'clock today, we're going to finish now and then the public inquiry will resume on 29 January. Your evidence will continue. So, if you can be back here on the 29th. Before I formally adjourn the public inquiry, can I just say to all the parties, thank you very much for your patience and cooperation during the hearing, and I wish you the best for the holiday season and a happy new year and we will resume on 29 January at 10 o'clock.

10

THE WITNESS STOOD DOWN

[3.05pm]

AT 3.05PM THE MATTER WAS ADJOURNED ACCORDINGLY

[3.05pm]