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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 TUESDAY 23 APRIL, 2019

AT 2.00PM

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

THE COMMISSIONER: All right, Mr Buchanan.

MR BUCHANAN: Commissioner. Did you see Mr Stavis at Mr Azzi's house after the time that he started work in March 2015?---I might have once, maybe twice but I just, but definitely once but I don't recall any - - -

10 What can you recall of that occasion?---I think, I'm not sure if that's when Mr Montague was there or not. Look, I can't, honest, I just, I can't recall why he was there.

You knew that Pierre Azzi extended hospitality to people, often on Friday afternoons, Friday evenings?---Yep.

At his house?---Yep.

20 How often did you attend those occasions?---Oh, look, whenever I had time. If I was free, I would have dropped in, and if I wasn't free, I wouldn't, but it depends, it depends on what time.

When you were at Pierre Azzi's house, I want to suggest to you, on an occasion or occasions when Mr Stavis was there, Mr Demian was also there?---I can't, I can't recall.

30 Do you remember any occasion when – I'm sorry, I withdraw that question. Was there any occasion when you were with Mr Stavis and Mr Demian and there were discussions about Mr Demian's matters before council?---Where, at Pierre's house?

Yes.---I don't recall.

And did you ever indicate to Mr Stavis, when talking to him at Pierre's house, that he shouldn't give these guys a hard time or asking him why he gave these guys a hard time, meaning applicants such as Mr Demian?
---Who, I said that?

40 Yes. I'm asking.---Oh, I don't recall saying that.

Is that the sort of thing that you would have said to Mr Stavis at Mr Azzi's house?---Not really because I've, I've always supported Mr Stavis, even if they gave him hard times. I always backed him up and I've told him that.

Was there no occasion when Mr Demian was trying to persuade Mr Stavis of his proposals and that they should be adopted quickly when you indicated to Mr Stavis to the effect of, "Why are giving these guys a hard time?"
---I, I, I don't recall. I don't recall.

And were there occasions when you were with Mr Stavis and Mr Demian, and Mr Stavis would defend himself and express his concerns about Mr Demian's applications?---Look, if there was issues between him and, and Demian, I used to always back Stavis. I've always supported our staff.

Did you ever indicate to Mr Stavis at a time when you were at Mr Azzi's house with Mr Demian that you wanted Mr Stavis to support Mr Demian's developments and back down?---Nothing, no. That, definitely not.

10

Did you organise meetings with Mr Demian at Mr Azzi's house?---No. I don't recall organising any. I don't recall.

Can we have a look at volume 20, page 260, please. This is a text message from you to Mr Demian on 7 August, 2015, which reads, "10.00am at Pierre?" The text is sent at 9.37pm on 7 August.---Yep.

20 You'd agree that that would tend to indicate that a meeting was organised, as far as you were concerned, with Mr Demian at Pierre Azzi's house at 10.00am, possibly the next day?---Well, if I said that, yes. I don't recall.

Can I take you please to volume 19, page 157. These are text messages between you and Mr Demian on 19 June, 2015. You, in the first message, asked Mr Demian, "Can we meet at 2.00pm or tomorrow afternoon?" You then talk about your commitments. You went on to say, "I am also catching up with Spiro at 3.30pm to discuss a number of matters including yours."---Ah hmm. Yep.

30 Why was it necessary to catch up with Spiro on, at that time, in June 2015, to discuss a number of matters including Mr Demian's?---I always meet up with Mr Stavis regarding issues regarding of people I'm representing, just to follow up on what's the progress. I mean, that's normal me, for me to catch up with Stavis to discuss various matters that I have, that I've sent him, and I'm waiting on response for.

Mr Demian responded, "Let's make it tomorrow, then. I want to take you through a couple of documents and proposed strategies." Do you see that? ---Yep.

40 And then you responded at 12.23pm, "Okay, how about 2.30pm at my place?", and Mr Demian said, "Sounds good, thanks."---Yep.

Firstly, this is an illustration of you meeting with Mr Demian about his projects at your place.---Well, this is a time when I was working around the house, I was doing a lot of renovation work, and I was physically doing a lot of work, and I couldn't make it anyway, so if I couldn't go, then people came to my house, because Mr Demian, I think he dropped in once or twice because he lives in Sylvania, so it was on the way to, to his house.

So you're giving us an answer to the next question as to why, but my question was, is this an illustration of Mr Demian having a meeting with you at your house?---Well, this is a meeting because I couldn't make it. I was doing physical work around the house. Yes, I couldn't make it.

10 Now, from Mr Demian's text, item 2 on page 157, he isn't expressing concern about delays. He isn't expressing a question. He said he wanted to take you through a couple of documents and proposed strategies, and you were happy with that and suggested the venue, namely your place, to do that. That fairly clearly indicates that Mr Demian thought that you were an advocate for him in his strategies in relation to his business, and that you were content to take part in a meeting with him about his business strategies. Is that fair to say?---I, look, I, I don't recall this particular message, but if he wants to talk to me about some issue he has and he wants to let me know what the, his concerns are, well, so, so be it. I mean, I don't see any, any problems with that.

20 Well, except that he doesn't say "issues" and he doesn't say "concerns". He - - -?---Well, I mean he's always had problems, so it's, it's, it's not, nothing new. So when he talks about documents and – he must have his own ideas of which way he wants to move forward in regards to his, his project.

Well, and thank you for that answer, but was it your job to get involved in how he moved forward with his projects?---Oh, not really, no, no, it's just, just the way, that's the way it is. I mean, it's not my job, no, and I can't do anything except pass on information and relay the messages onto the, the planning staff.

30 Did Mr Demian ever discuss with you a strategy in relation to his DA for two additional storeys on the Harrison's site of a clause 4.6 submission which justified a variation by saying, well, council had resolved that the building height limit on the site should be increased to 25 metres - - -? ---Look, he's, he's put - - -

40 - - - for the purposes of the residential development strategy planning proposal?---He's put his justification and his ideas through. He's always putting his ideas and, and justifying why this should be approved. He always does that. It's, it's not new in regards to the way Mr Demian acts, and he always tries to convince you that his strategy or his ideas work. That's why he had – because he was quite stubborn about it, and he believed in it. That's why he had a lot of issues between him and Mr Stavis, because he sort of believed in what he wanted, and, and he had that argument and tension between the two.

But what he wanted to do was to run past you to determine your views on strategies that he was considering in relation to achieving his objectives.---I

don't recall what strategies he's spoken to me about or what document he showed me, I don't recall, but - - -

But you were happy to meet with him for that purpose.---Because I mean through the correspondence, yes, let's catch up, but it sounded like I was too busy or stuck at home doing some work and I couldn't make it so invited him to come across.

10 It fairly clearly indicates, doesn't it, a relationship by this stage with Mr Demian, at a time when that particular DA was before council, of you being involved in promoting his business interests?---No.

Why not?---I don't work for him to promote his business interests, I'm representing him on behalf of, as a, as a, as a ratepayer, I'm representing him and following it up with the planners. Nothing to do with his, I don't care what he does with his business interests, nothing to do with me.

20 Did Mr Demian live in the Canterbury local government area?---He owned properties in the Canterbury area.

But he wasn't a ratepayer - - -?---Course he is.

- - - as a person who lived in the local government area, was he?---No, he's a ratepayer because he owns properties.

Thank you. You don't recall what happened at that meeting?---No, I don't recall, no. I mean I don't think we'd have achieved much because - - -

30 Why not?---Because I don't follow anyone's strategies or I always believe in what I think is right, doesn't matter what people tell me.

Excuse me a moment. So that was on 19 June, 2015. Can I take you to page 161. This is a text message on Saturday, 20 June, 2015, by you to Mr Stavis. "Hi Jim/Spiro. Can we meet with myself, Pierre and Charlie Demian on Tuesday to discuss Charlies developments along Canterbury Road. Please let me know." Do you remember we looked at that before lunch today?---Yep.

40 And that you subsequently did apparently have a meeting that might have been postponed to the Thursday?---Yeah.

So given the fact that this is the day after you had arranged to meet with Mr Demian at your place to discuss, I'm sorry, to go through a couple of documents and proposed strategies, would it be fair to say that the arrangement to - I withdraw that - you made the arrangements with Mr Montague and Mr Stavis to have that meeting as a result of your meeting with Mr Demian at your place on 20 June?---That's fair to say, yeah, could have raised issues, yeah.

That was at 2.30 you'd arranged it for, that's at page 157, and then your text is at 4.35, page 161.---Yeah.

Now, you say in your text at page 161, "Can we meet up with myself, Pierre and Charlie Demian."---Yeah.

10 Can I ask you how come you nominated Pierre as a person to attend the meeting you were trying to arrange?---Unless, unless Mr Demian asked me to, to organise Pierre because he was also representing Charlie, so it's normally whoever represents Charlie on that basis should be there to find out what's going on, because I think it was an issue, it was important that anyone who made representation on behalf should know what his issue, the problem, in order not to just waste their time following things up.

But why not one of the other councillors, why Pierre Azzi?---Because he made representation on behalf of Charlie because Charlie had spoken to him, that's why.

20 How do you know?---Because Pierre would have told me and he, he must have made some correspondence on his behalf but he, he definitely told me that he spoke to Charlie.

So Pierre Azzi told you that he was performing the same role as you in relation to Mr Demian?---No, no. Not exactly the same role but the complaint, Charlie made complaints to myself and most likely to, to Pierre.

30 And so are you saying that on this occasion, at 4.35pm on 20 June, you simply assumed that Pierre would want to be at the meeting or had you already made that arrangement or had he been at the meeting at your place earlier that afternoon?---No, no. He wasn't there. Definitely. It's just my assumptions because Pierre has, has met, on a number of occasions, Charlie and he's been at his house and made a complaint and it was my right for me to, to have whoever made representation on his behalf to be present, to find out what the issues are.

40 Well, isn't this an indication of the relationship you had with Pierre Azzi that, so far as Mr Demian was concerned, you and Pierre Azzi were allies, you worked together to promote Mr Demian's interests on council?---That's incorrect. We just - - -

What's incorrect about it?---We just make normal representation.

But why should Pierre be at this meeting?---Well, I just asked him. I don't know, for, for what, I can't recall. It just, sometimes it happens. It was not, nothing unusual.

But you assumed, did you, in this message that you were sending that Pierre would want to be there?---Well, it's my assumption. If I sent him a message that means I made the assumption that he should be there to listen to the problem. It's simple as that.

Because the two of you worked together in relation to Mr Demian's interests?---No, not because the two of us worked together in relation to Mr Demian's business.

10 What's wrong with that?---It's because, because we made representation on his behalf and he needed to, to understand the issues, not to run around with, like a headless chicken, so at least he can sit there and listen to the, to the issues associated with the, the planners of staff and, and Charlie Demian. It's simple as that. Just to make life easier.

What was your understanding as to why Mr Azzi was making representations on behalf of Mr Demian as well as you?---Because he was making complaints to him as well. I mean, he knows him. He, he's, he's been to his house and I mean that would be normal for him to, to make the same complaint.
20

Would it be fair to say that at this stage, you understood Pierre Azzi to have the same relationship with Mr Demian as you had, of being councillors at Canterbury Council who were advocating for Mr Demian in relation to his matters before council?---We just made the representation on his behalf when he sought [sic] help and that's, that's how we do it.

Advocating on Mr Demian's behalf - - ?---Advocating, we just make representation to find out what the issues are and we relay those messages on and it's, and if there's any issues or problems, we, we pass it on to the directors or to the planners and then we feed back to, to, to Mr Demian.
30

Well, I'm sorry to harp on this but I just want to focus, if I can, on why Mr Azzi. Because you see, we've seen now, in more than one DA matter before council, that you seem to be working in conjunction with Mr Azzi in advocating on behalf of a developer and I'm trying to understand, if you could assist us please, why was it Mr Azzi rather than some other councillor?---Well, if, if you want to go back, do you want me to go back a little bit to explain why?
40

If that's a direct answer to the question, please do.---Yes. When those planning proposals, in 2013, all those planning proposals that came to council - - -

The IDS planning proposal?---Yes.

Yes.---The only person who, who was really interested in, in, checking out some of these planning proposals was Pierre and him and I visited a lot of

these sites before we even made recommendation to approve them. We spoke to some residents and, and we saw what the, whether they were justifying their proposal. Some people called to say, look, you know, we, we believe we have, we have rights. So we went and visited a number of sites, even with people around just to, to have a look to make our own judgement, and I have to honestly say the council staff have made a lot of mistakes during that planning proposals that were put in.

10 It was under Mr Occhiuzzi?---Under Mr Occhiuzzi at the time. And there's areas that should never have been rezoned for high-rise developments, and I can give you addresses if you like and they should not have been done. So we made sure the ones that, that came through and he was interested and then we, we both went out to have a look at the sites before we made decisions and that's why he became interested, because he was keen to ensure that things are done correctly as well. So that's why he, yeah - - -

20 So he was your political ally in relation to planning and development matters on council. Is that fair to say?---He wasn't my political ally, he was a person who was also interested in seeing planning proposals and, and DAs were, were subject to what he was happy with as well.

How often did you and Mr Azzi vote on opposite sides on planning and development matters at council?---At the end of the day I said, I told you that we've had a number of opposing each other, there's a few. I can't recall but there is a number of them, yeah.

30 And if I could just take you back to what you just said about the Residential Development Strategy planning proposal era, what had been recommended was a rezoning in a few cases, only what you did with Mr Azzi was change the recommendations so that it was rezoning in many cases and ensuring that the planning controls were loosened, so far as FSR and building height was concerned.---A decision was made amongst all the councillors that were present and I happened to be, as I said, the deputy chair, I've always been the deputy chair and I've always been the person who moves the motions, the recommended motions. That was the case, it was all agreed to by all the councillors, we didn't have any control or put a gun to anyone's head to do anything wrong, it was everybody's independent-minded and a decision was made that I moved it and it was supported by the rest of the council.

40 And I'm just trying to point out to you that your description a moment ago of what you and Mr Azzi did is misleading, isn't it?---No, it's not. No, it's correct.

It wasn't an effort - - -?---I can give you examples.

It wasn't an effort to prevent rezoning and higher buildings being built than should have been built, it was an effort to promote rezoning and to allow higher buildings to be built and more intense development to take place on

selected sites.---When people call and make, and seek assistance and, and they will have an argument to put forward in regards to their site, well, for me to make a decision, the right decision, I needed to go out and have a look and Pierre was in the same position so we went out and have a look and then made the judgement based on what we saw and what we discussed. And that's, and I believe that's the right thing to do and that's what council should have done for the ones they made recommendations and I believe they completely stuffed up. They should have done that and made sure that they did the right thing.

10

If I can take you in Exhibit 69, volume 20, page 177, please. This is a set of text messages between you and Mr – I'm sorry, in the first instance that you sent to Mr Stavis on 24 July, 2015 at 11.24am. "Any news on the legal advice re Charlie Demian?" Just pausing there, can you recall an issue in relation to which legal advice was being sought by council as to how to deal with Mr Demian's DA for two additional storeys on the Harrison's site? ---No, I don't recall that.

20

If I can show you please, volume 20, page 180, this is just to give you some assistance, I don't intend taking you through the whole thing. This is the first page of an advice from Pikes and Verekers Lawyers dated 29 July, 2015, five days after that text message by you to Mr Stavis asking about news on the legal advice re Charlie Demian, and it's headed Proposed Commercial/Residential Development 546-568 Canterbury Road, and someone's got the numbers wrong, but that's the Harrison's site. And then can you see the first subheading at the bottom of, towards the bottom of that page, "Whether it is lawfully open to council to uphold/support the clause 4.6 objection to development standard relating to height"? Do you see that?---Yep.

30

So we have this evidence before us. We know, therefore, what the legal advice was that came. Can I go back, please, to page 177 and your text? Why were you seeking news about the advice that council was seeking from its lawyers?---For, because Demian's waiting for it, maybe.

How did Demian know that legal advice was being obtained?---Oh, the, the staff must have told him.

40

Is there any possibility that you told him?---No. It would have been the staff (not transcribable) because they had lots of meetings between him and his, his planners and, and council staff, many meetings, so, the chances are they would, the staff would have told him, and just waiting impatiently for some outcome.

You deny, do you, that you - - -?---I, I don't recall telling him, no.

Mr Stavis responded at – this is item 2, on page 177 – at 12.15pm, on 24 July, "I've already told Charlie Demian via email two days ago, it will be

mid to end of next week. I'm sorry, Michael, but it's not an easy one, and I'm doing my best to help." Do you see that?---Yep.

Was that an unusual response to get from Mr Stavis to a query about views about a matter in relation to an application that was before council?---No, I'm not surprised, because that's the way Charlie operates. He's, he doesn't accept no for an answer and, and he'll try different, you know, different avenues to, to, to get what he wants.

10 So firstly he tried directly is what you're saying, and then he tried via you?
---Well, he tried via me to get information of what's going on.

Can I just focus on the second sentence, though? "I'm sorry, Michael, but it's not an easy one, and I'm doing my best to help." Why did, as you understand it, Mr Stavis think he needed to tell you, "I'm doing my best to help"?---No, because he got a lot of pressure on him from Demian. He's complaining, Demian's complaining to Jim, who's complaining to, to everybody about, you know, what Stavis is doing. And I felt sorry for, for Stavis, because he was trying to help, but he, his, I mean, his hands are tied.
20 Unless it's done correctly, and it's within the merit of the assessment, he won't support it.

And when he said, "I'm trying," I'm sorry, "I'm doing my best to help," you understood him, did you, to mean, "I'm doing my best to help Mr Demian"?
---Oh, well, he's, he's, he's looking at the, at trying to assist him, he's trying to help, to assist him.

Get his DA approved?---No, to assist him with his issues. He had issues, and that's what – the issues. Wasn't the DA being approved - - -
30

And what was the issues in this case?---Well, I can't recall, but there, there was a lot of issues between the two in regards to setbacks and in regards to the, the height. I think he was, from memory, he was angry because he, Mr Stavis was forcing him to put more setbacks, like bigger setbacks on the back.

No, I've already – oh, the reason I took you to the letter from Pikes & Verekers was so that you can see what it was about, and it's not about setbacks.---Yeah, but that's one of the issues - - -
40

It's about a clause 4.6 variation, and the clause 4.6 variation was required in respect of the height of the proposed development, which was 25 metres instead of the 18 metres which was allowed by the LEP.---That's part of the problem. The 4.6 is to do with the setbacks, and to do with the levels, and the, and the lanes. That's, that's all part of it. It's not separate. I mean, the setbacks is part of the, the plan, the good planning outcome that Stavis was working on.

Did you read Mr Stavis saying, “I’m sorry, Michael, but it’s not an easy one, and I’m doing my best to help,” as meaning, “I’m doing my best to help you, Mr, Councillor Hawatt”?---No, no, he’s just saying, “Oh, look, I’ve got issues, I’m doing my best to help.” That’s it. Nothing to do – I’ve never said to him, go out of your way to do something that’s, that’s wrong.

10 Can I take you to page 296, in volume 21, please? Can I ask you to first – this actually goes over two pages and I’ll just show you first, the second page. It’s page 297 and you can see it’s signed a Michael Brewer who’s a project manager of planning at Willana Associates. So they’re private planners. You understand?---Yep.

So that’s a whole lot of data there. If I can just draw your attention to the second line on that page, “The applicant’s numbers do not stack up.” Do you see that?---Sorry, what, second line?

Second line on – oh, I’m sorry. It’s not in the table but the second line in the, yes, where the cursor is on the screen.---Yep.

20 “Likewise, when you look at how many parking places are required, at the end of the day, when you add the original DA with the additional 70 units, the applicant’s numbers do not stack up, realising a shortfall of 15 car spaces and two bicycle spaces.” Do you see that?---Yep.

30 And if we can just go back to page 296, please. It’s not the detail of this, it’s the gist of it that I, I’d like you to understand. Can you see that, at the beginning of that email, this is the bottom of the page, Mr Brewer tells Mr Stavis in his email of 6 November, 2015, “I spent quite a considerable amount of time trying to sift,” s-i-f-t,” between all of the (misleading?) information, reports and plans relating to the original DA for section 96 to amend the DA and the subsequent DA of the two additional levels. The documentation provided by the applicant is confusing to say the least, and in fact conflicting in instances.” Later on he talks about discrepancies between the written documents and the plans. You can see the gist of the, the tone of what Mr Brewer is saying to Mr Stavis there?---Yep.

40 And that’s in respect of, subject is 548 Canterbury Road, Campsie. That’s the Harrison’s site. Now, I take you then to the email at the top of page 296. It’s from Spiro Stavis to Spiro Stavis but if you can just have a close look at it. It’s from Spiro Stavis’s council email account to Spiro Stavis’s personal email account but it’s addressed in the body text, “Hi Mike.” Do you see that?---Yep.

I’d just ask if you could have a read of this. See below, in other words he’s forwarding you Mr Brewer’s complaints. “It will get sorted but this is how it is dealing with Charlie’s stuff. Ordinarily I would have refused this DA long ago. I hope now you understand what I’ve been going through with his applications. It’s always the same story, not submitting information,

ignoring issues and then pressuring us to finalise his DAs. I hope he appreciates the effort I put in. It's not right, mate. He needs to listen and play ball. Anyway, just so you know." Do you remember getting this? ---No, I don't recall, no but it sounds like, as though Mr Stavis is having a lot of issues with Charlie.

10 Well, can I just draw your attention to the fact that he's being very frank in the text of this email and seems to be setting it up so that he isn't sending it from his work email account but instead from his home email account, and that's why I just want to press you a little bit further about whether you can remember getting a complaint like this from Mr Stavis.---Oh, may times he's complained about Charlie Demian. Many times. He's always complained about him. He keeps, doesn't listen, he, he doesn't accept anyone's point of view or ideas and that's why, you know, I supported Stavis on, on many occasions on this case because I, I can see the difficulty that Charlie was putting towards him. He was making life impossible.

20 And would it be fair to say that what you would try and do is work with the two men, Stavis on the one hand and Demian on the other, to try and knock Demian's paperwork into shape so that it could pass muster and Demian could achieve his goals?---Look, as you can see from there, Stavis would not have a bar of anything if it's incorrect and he's always made sure that the guy, Charlie Demian, had to make sure that his application from what, what Mr Stavis asked for was submitted to him.

Yes.---That's right. So he's not, he's not doing him any favours. He gave him what he needs from him and that's it, and that's what he had, Mr Demian's got to do.

30 Well, to the contrary. I want to suggest to you that what Mr Stavis is saying here is that he is doing him a favour. He's saying ordinarily I would have refused this DA long ago, what he's saying is, but for something he would have refused the DA long ago, and is it the case that as to your knowledge Mr Stavis's position was that because of your intervention and Pierre Azzi's intervention he was not doing what he ordinarily would have done, namely refusing the DA.---When a, look, if there's representation been made, for example let's say they're going to say we're going to knock, knock it on the head, refuse it, and if, if I made a representation on behalf of Charlie Demian and, and, and then I got the feedback that it's going to be refused because Mr Demian did not give the information that he was waiting for, 40 now if Mr Demian said look, I wasn't aware of this, it's taken too long, I'll give him that information, and then you go back to Stavis and say, look, he said he'll give you the information you've been waiting for, and then it starts all over again. This is, it's not necessarily like he's going to knock it on the head, he probably would have if there wasn't any representation being made and, and Mr Demian made, made the call to, to make representations with the councillors and, and his application was not

rejected but became finding a solution with the request what Stavis wanted and he was waiting on it.

10 So you would accept that because you were intervening on Mr Demian's behalf with Spiro Stavis, and I want to suggest to you Mr Montague, but I'll come back to that, Mr Demian was getting preferential treatment from council, he was getting a DA that would be approved rather than a DA that would be refused.---No, no, just like normal, we went through like, any normal, he's never got anything outside the, what originally was requested for him to do. So all we can do is relay our messages across between the two parties and that's, that was our role, but in regards to cutting corners and not giving the things that Mr Stavis want, no, it did not happen.

So you would accept that you were influencing Mr Stavis to ensure that Mr Demian got his DA approved rather than refused?---I would never influence Mr Stavis to do anything wrong, and I've told him that many times, you have my backing, if there's too much pressure on you from Demian.

20 And do you accept that you pressured Mr Stavis to ensure that Mr Demian got his application refused rather than – approved rather than refused?
---I've never pressured Mr Stavis to do the wrong thing.

But you have influenced him and you have pressured him, haven't you?
---I've never influenced him. All I have done is made my representation, passed on the information, he told me what was going on, I passed it on and, and that was the continuation between the two parties.

30 You would accept that you pressured Mr Stavis to give favourable treatment to the matters to the applications that development proponents for whom you advocated had before council?---I never pressured him to do anything wrong.

40 But when you add to do anything wrong, what you're conceding is, yes, I did influence him, yes, I did pressure him, I just don't think that what I was influencing and pressuring him to do was to do anything wrong. That's what you're saying.---No. I never pressured him, I've never influenced him, I've just relayed information between the two parties and that was it, and it's up to them to make the assessment and the assessment was based on certain information that was missing and that was passed on to Mr Demian to supply that information that was missing. And that's, and that's what was happening.

Do you remember the outcome of the development application in the meeting of the CDC on 3 December, 2015?---I don't recall.

Do you remember a concern that the RMS was a concurrence authority, that is to say, its concurrence was required before approval could lawfully be given to this particular DA?---That's normally, yeah, they need it.

Do you remember that being a particular concern in this case, that is to say -
- -?---I don't recall, because from my understanding is there was a meeting
made by Mr Demian with the RMS, and the RMS had no issues, that's what,
from my knowledge of what, what I know.

10 But, sorry, if I can just take one step to one side, the concept of a
concurrence authority was that there was some State Government authority
like the RMS which, because of the particular nature or character of the
application, was required to give its concurrence, conditional or otherwise,
before the consent authority, council, could lawfully consent to the DA. Did
you understand that concept?---Yeah, I understand that concept, yeah.

Under the State Environmental Planning?---Yes, yes, of course. Everything
on, any roads that they own, anywhere in New South Wales, they need
approval first. And from my understanding is from Charlie Demian's, he
had approval from them. That's from my understanding.

20 But he wasn't the one who was required to have approval. It was council
that was required to have the approval.---Yeah, no, but he, he made his
enquiry way before council did, I think, from memory. So he had. He's
already, he's, he's already discussed it with the RMS.

Can I take you, please, to volume 22, page 118? This is a copy, and I
wonder if we could get a hard copy to Mr Hawatt so that he can have it all
in front of him, if possible. Page 118.---Thanks.

30 So it's three pages, but it's really only two pages long. Do you see that?
---(No Audible Reply)

Page 118 and 119?---Yep.

In volume 22?---Ah hmm.

40 It's a copy of the letter informing the agents for Mr Demian, Statewide
Planning, of the outcome of the IHAP meeting which considered the DA.
The outcome, you can see from the second paragraph on page 118, was that
the application was deferred until the application has been referred to the
RMS.---Ah hmm.

You see that?---(No Audible Reply)

The IHAP considered both the section 96 application and the DA to add two
storeys in, on the Harrison's site.---Yep.

And I'll just take you to the second last paragraph and the last paragraph on
page 118, "The panel was advised that there is no current proposal to
include this site in any planning proposal to increase the height controls.

This history indicates that the council resolution” – this is the 2 October, 2014, council resolution, I interpolate – “would only be relevant as a policy which, without further consideration by at least the RMS, must be given little weight in the determination of these development applications, one of which,” going to page 2 of the document, “breaches the 18-metre height limit significantly.” Then, in the middle of the page, the panel said, “In addition, the panel is of the opinion that the council cannot legally determine the development application until both the development application and the section 96 modification application have been referred to the RMS.” And then the next paragraph, the first sentence reads, “The panel also notes that it was not satisfied with the justification for a variation of the height under clause 4.6.” Do you see all of that?---Yep.

And then you might just have a look at the paragraph, the second last paragraph on that page, bearing in mind this is the letter to Statewide Planning from the coordinator of governance at council, “Consequently the matter will not be submitted to the City Development Committee on 3 December, 2015 as previously advised. Instead it will need to be reconsidered at a future meeting of the panel and you will be advised in advance of that meeting.” Now that was standard practice, wasn’t it? That is to say, where the IHAP had deferred consideration of a DA, that the matter wouldn’t go forward to the CDC or to council but instead would be deferred until the next meeting of the IHAP at which the further material or thing that needed to be done could be considered by the IHAP. That was standard practice?---I’m not sure about standard practice but - - -

It was a rule, then? It was council policy?---Oh, well, I, I haven’t seen, I haven’t seen this, I, I can’t recall this and I haven’t seen this but it’s, I mean, I don’t recall IHAP moving with something like this before. So it was the first time I – I haven’t seen this before.

And you don’t remember – I withdraw that. You see what I mean, though? This is a fairly major obstacle to the approval by the CDC of the development application to add two storeys to Mr Demian’s site on the Harrison’s site, correct?---Yeah, yeah, correct.

You don’t have a memory of any of this causing you any concern?---No. I, I’ve never seen it. I haven’t seen this before.

But you don’t have a memory of any of this causing you concern?---Yeah, look, from what I know and I, as I said before, from what I know is Mr Demian had approval or support or some consulting communication with the RMS, and RMS supported his application, he had no issues with it. That’s from memory, for what I understand, so as far as that was concerned, that was addressed from, from what I know.

Addressed by Mr Demian having obtained RMS consent?---Mr Demian through the RMS. I think so, yeah.

Well, I can tell you that didn't occur.---Well, that's what I was, that's, that's always been what Mr Demian's always told us he had.

And see it wouldn't be relevant anyway. It was council that needed the concurrence of the RMS, not Mr Demian.---Correct.

10 As a matter of law.---Council would have followed, followed up with his, whatever he had from RMS, council most likely would follow it up with that as well. So that's – yes. So - - -

You don't remember being concerned that Mr Stavis didn't seem to have done what needed to be done to obtain the concurrence of the applicable concurrence authority in this case?---I don't, I don't recall this and at the same time, I don't, from, look, from what I know in regards to planning and 4.6, there are flexibilities involved and as I said before, in regards to the LEP, 4.6 is a, is a tool that's used in order to have that flexibility.

20 I'm sorry to interrupt, Mr Hawatt, but you're changing the subject. That was the second objection, the second obstacle to the approval by the CDC meeting of 3 December, 2015 of Mr Demian's development application to add two storeys to the Harrison's site. What I'm focussing on just at the moment is that according to the letter that council sent, reporting on the IHAP meeting, which considered the DA, the problem was that council couldn't legally determine the development application until the development application and the section 96 modification application had been referred to the RMS.

30 I, I don't recall this. I don't know the legality in that regard. There could be other, other avenues for it. I, I just can't, can't recall and I can't really make a comment on something that I'm not, I'm not sure of. As far as I was concerned, my role was to pass on information to the director and the director to respond back and that was it. So how it was assessed, based on what, it's something that I, I haven't looked into. All I know is if, if Mr Stavis says, look, we can't assess it because of whatever here, then so be it but I, I, I didn't know this. As far as I'm concerned, I don't, it's the first time I've seen this. Mr Stavis never said there was an issue in that regard and I don't, I don't know what other avenues there were they were using. I just, you're asking me something that I wouldn't have a clue about.

40 Would you just excuse me a moment. Can I take you, please, to page 224 in volume 22. Maybe I should take you back to page 181, sorry. This is part of the business papers for the meeting of the CDC of 3 December, 2015. Item 18 is the Harrison's site DA, you can see that, and the summary from Mr Stavis which appears there?---Yep.

If I can take you, please, to page 224.---Yep.

Can you see that set out on pages 224 and 225 is the very material that I have just earlier taken you to, being the report to Statewide Planning of what the IHAP had decided at its meeting about the DA, including the material saying that on page 225, "In addition the panel is of the opinion that the council cannot legally determine the development application until both the development application and the section 96 modification application have been referred to the RMS."---Yep.

10 You must have seen this before, mustn't you?---I don't, I don't recall it, no.

Well, you would have read this material, wouldn't you?---Look, I don't recall it.

You would have read it though, wouldn't you?---I might have read it but I don't recall it. I don't recall it.

Well, do you have a recollection of what was done in response to - - -?
---I don't even recall how this was voted on. I mean I'm just trying to work out what - - -

20

Well, the recommendation from the IHAP was that the development application be deferred until the application had been referred to the RMS. And if I can take you, please, to volume 2, page 299, going back to the council's IHAP policy, and if we can go to the, towards the bottom of the page, you see the clauses 19.2 and 19.3 deal with this situation. "When additional information is sought by the panel upon submission of that information the application will be referred back to the panel for final consideration prior to determination by the CDC or council. The panel will only defer an application for further information if such information is
30 fundamental to the panel's determination of the proposal." I interpolate that in this case the panel thought that it wasn't legal for the matter to go forward unless the concurrence of the RMS had been obtained. The policy went on to say, clause 19.3, "Applications that are deferred by the panel for further information must be resubmitted to its next meeting. If the additional information has not been provided to council prior to the closing time for reports to the IHAP meeting, IHAP will make a recommendation to council based on the information it has before it. So can you assist us, I can tell you that the matter did go forward to the CDC meeting of 3 December, 2015. Do you know in the circumstances, given what you've seen of what
40 you saw yourself in the business papers as to what the panel had said about this DA, given what council's policy that it had adopted for these circumstances was that the matter shouldn't go forward to the CDC, do you know how it was that it did go forward to the CDC?---I don't recall, I don't remember this. How it went to the CDC or it didn't go to the CDC?

It did go to the CDC.---I don't know. You have to ask the planners.

Excuse me a moment. Can I take you, please, to volume 22, page 127? This is a memo from the general manager to the mayor and all the councillors dated 1 December, 2015. So it's two days before the meeting. It's headed Late Items for the City Development Committee Meeting 3 December, 2015, and says, "Please find attached the following reports for the City Development Committee meeting to be held on 3 December, 2012," and it then references the IHAP panel reports on the section 96 application and the DA for the two additional storeys on the Harrison's site, and the general manager went on to say, "Please note that the
10 recommendation by the director of city planning differs from that proposed by the Independent Hearing Assessment Panel." You've seen the recommendation of the Independent Hearing and Assessment Panel. If I can take you to page 212, please. And this is that part of the business papers which contains Mr Stavis's recommendation that the clause 4.6 submission be supported and that the DA be approved subject to conditions. You see that?---Yep.

And you can assume that a similar recommendation was made by Mr Stavis in respect of the section 96 application. Do you recall now what it was that
20 occurred?---No, I don't actually, no, I still can't remember.

Can I take you, please, to page 228 in volume 22? Bottom of page 228, item 17 is the modification, "Resolved, moved Councillor Azzi, seconded Councillor Saleh, the general manager be authorised to issue the consent for modification application," and it gives the DA number, "once concurrence is received from the RMS, subject to the conditions as recommended in the director of city planning's report and any other conditions that arise as a result of the RMS concurrence. B, the committee decided not to accept the
30 IHAP recommendation, given that the application has now been referred to the RMS and resolved to accept the officers' recommendation." Then if you look at item 18, on the same page, 229, you can see that a practically identical resolution was passed. Again, moved Councillor Azzi, seconded in this case by Councillor Nam in respect of the development application to add two storeys to the approved development on the Harrison's site. What can you tell us about how council came to pass those two resolutions?---I, I don't, I don't, I don't recall this ones. I mean, I don't recall them. But you can see you got a unanimous support of the councillors. Like, there's no objections at all.

40 But you'd agree that something very unusual seems to have happened here. ---I, I don't - - -

There was a recommendation by the, a council officer that wasn't adopted as is but with some modifications, and there was a recommendation by the IHAP which wasn't accepted at all. Can you tell us what happened?---I don't recall. I don't remember this.

But this is a very unusual event, surely, although it happened twice at this particular meeting, as it happens.---There's a lot of, there, there's lot of, there's lots of unusual events. As far as 4.6, as I said before, 4.6 is an exception, and if 4.6 was adopted by the, by the council staff, that could override what the IHAP is making recommendations to defer it. So that's, that's what I'm reading here, so legally it's within their rights, the staff, to use 4.6 to override whatever IHAP has come up with. 4.6 is the exception, it's the flexibility that's, that's applied to the rule and there's a lot of councils, and I can give you a number of councils that can use the same thing.

Mr Hawatt, can I interrupt you. You're just giving me an argument. What I'm asking you is, what is it that happened, given that what was resolved was not what had been recommended by either the officers or the IHAP. What happened?---I just can't, I don't recall this, I don't recall this, this thing, but looking at it - - -

How often did it happen that there was some other, some third way that was found when there was a difference between the officers and the IHAP, how often did that happen?---It, it happens every now and again, yeah.

And have you been involved in finding that third way?---What third way?

Well, this is what I'm asking. In this case can you see that the third was that was found was that - - -?---You're asking me about something I don't remember. I don't remember this.

- - - the GM being authorised to issue the consent?---I don't even remember this, this. I didn't realise, I thought I might have moved it, like, my name's not even on there so I don't even remember it.

The question is, why did you support it?---Well, you can see everybody supported it so there was a convincing - - -

THE COMMISSIONER: No, why did you support it?---Because it's, it's the council staff, we normally, I - - -

But the council staff didn't put it forward. That's what Mr Buchanan's asking you. It's unusual circumstances. You've said in the past I always went with the council officers' recommendation.---Correct.

Here the council officer didn't give this recommendation, didn't make this recommendation, it's a third way, it's a third alternative, and Mr Buchanan is asking you - - -?---I don't - - -

- - - in those circumstances, how did that arise?---I don't, I, honest, I don't remember this. It's like I didn't even remember that, how this was happened, I just - - -

MR BUCHANAN: Can I - - -?---I need, I need to - - -

I'm sorry. - - -?--- - - - just think about it, I just can't remember properly.

Well, can I ask, can we approach it a different way. You had been having regular contact with Mr Demian about his development application to add two storeys to the approved development at the Harrison's site, hadn't you?
---Yeah, I was making representations.

10

And Mr Demian wasn't slow to contact you if he wasn't happy with progress. Is that fair to say?---Yes.

And you would take his, or you would often take his concerns up with Mr Stavis and possibly also Mr Montague.---Depends on how the problem, yeah.

But you'd accept that proposition generally?---Yeah, yeah.

20

So given that the business papers disclosed what the IHAP was saying, including the legal obstacle to the CDC even considering the matter, it seems inconceivable that you didn't have some contact with Mr Demian about that.---I, look, I don't remember but I need to read it to, to read it in detail to understand it. I just can't remember. It's like you want me to give you an answer on something I just can't remember this. I mean I'm not even clear about this, I wasn't, I thought it was the council officers' recommendation. I'm not even clear on that, so I don't remember it.

30

Well, up to a point, I don't want to mislead you, up to a point the council officers' recommendation was implemented, but only via the vehicle of having the general manager being authorised to issue the consent for these two applications once certain conditions were satisfied.---Which is to do with RMS?

Yes.---So once the RMS was approved then it goes back to the GM to approve it.

40

Yes. And the question is, how did that come to pass, how did that solution come to pass?---I think that happened once before. I'm just trying to remember.

It happened twice the same night, on 3 December, in respect of this property and also Marwan Chanine's property.---Yeah, there was one like that, yes, it was happened, yes.

Twice in the same meeting.---Yes, yes.

You must have some recollection - - -?---No, no, no, it's coming back, it's coming back.

- - - as to how this occurred.---I think it's to do with, with the delays, the timing, now sort of - - -

I'm not talking about the reason why.---No, no, let me, let me clear my mind.

10 I'm not asking about the reasons. There might have been very good reasons. What I'm asking you about is, how did this solution come to pass, how was it formed, where did it come from?---I wouldn't have a clue where it came from but the solution was that council made recommendation to approve it with the condition, as you're saying, in order, if, this is depending on the RMS, once RMS comes back, instead of coming back to council and reviewing the whole thing it was left to the general manager, because it's been approved, and the only difference is, as soon as it came back to the GM that, that RMS approved it, then the delegated authority went to the GM to finalise it.

20

THE COMMISSIONER: But who thought it up?---I wouldn't have a clue. That was something I never even, I didn't even know you can do that. I never thought of it.

MR BUCHANAN: Well, in that case, your evidence is, it wasn't my idea. ---No, it's not my idea.

30 Rightio. Let's go back then to the question of what brought about someone trying to think up a solution? It is inconceivable, isn't it, that Mr Demian wouldn't have been furious to find out that the DAs and the section 96 application were not going to be considered at the City Development Committee meeting on 3 December?---Could be, yeah. It would be, if it's, he'd be, he'd be furious, yeah.

He would have been furious with you, wouldn't he?---No, not with me. What's it got to do with me?

40 Yes, he would express his anger to you?---He would express his anger to me but not furious with me. What, what could I do?

Having expressed his anger to you, what did you do about it?---I would have passed it on to the, to the director.

And did you have a discussion with the director about solutions?---For this one?

Yes.---I don't even remember this motion here. How could I talk about solutions?

Yes, but did you have a discussion with him about the need to find a solution?---No.

Why not?---Because I don't remember this, this thing. If there was an issue, I would have raised the issue with him and say, look, this is the guy who's complaining, complaining again. What is the issues, it came back, whether he made contacts directly with his, with Stavis or with his planners and came up with that solution, I wouldn't have a clue. I mean, what's to stop
10 them from going directly and talking to the staff?

THE COMMISSIONER: Sorry, Charlie Demian?---Yeah and his, and his planners. I mean, what was to stop them from doing it.

MR BUCHANAN: Did you have any discussion with Pierre Azzi about the problem posed by the IHAP report and its recommendation?---Look, I, I don't recall this one and I don't, I just can't see how Pierre could come up with something like this but I don't recall it.

20 You do accept, don't you, it is difficult to understand that Pierre Azzi and you wouldn't have been on the receiving end of a very, very big complaint by Mr Demian about it?---He would have made a complaint, yes.

And you say that despite the very serious nature of the obstacle that the IHAP recommendations posed, you had no recollection of attempting to do anything to address it?---He would have made his own contacts with Mr Stavis or the planners or his planners. I mean this solution is a, I mean, okay, it's unusual but it's not, it's not that unusual thinking about it. I mean, it's approved, approved with the condition that when it comes back to RMS,
30 the general manager had delegated authority to finalise it. What's wrong with that? I mean, if, if that was the case, looking at it now, what's, I don't see the issues, I don't see what the issue is.

Well, you said that Mr Demian might have approached Mr Stavis directly. Let that be taken on board, given due weight. What was done, though, to get the councillors on board? What was done to get the councillors to agree to this third way, this solution?---Well, it's, it's recommended for approval? The whole this, it's - - -

40 By whom?---Well, whatever it's there, it's recommended but the condition is that the GM does, gets the delegated authority when the RMS comes back.

Who recommended that solution for approval?---I, I don't know. I don't know this solution.

Did Mr Montague?---No, I don't think, I don't, I don't know how Mr Montague would, would find a solution like this. I don't think so. It's got to

be a planner, some expert planner who came up with this. Would be, would be the Demian planners or the council planners came up with this.

10 You didn't have any discussions with Mr Demian – I do apologise. I withdraw that question. You didn't have any discussions with Mr Montague about finding a solution for the problem posed by the IHAP report?---Look, I don't recall this whole, the way this, this thing is and as far as I'm concerned it's like, it's a normal, just reading through this, it's just a normal recommendation based on the assessment that Charlie Demian and his planners and the council came, agreed to and the solution was to move forward with it based on RMS.

Whose solution was it?---The staff, just like it's - - -

Who proposed it, who proposed it to council?---What the, for the, for the GM to be the delegated authority?

Yes, yes.---I wouldn't have a clue.

20 But you agreed to it.---But now looking at it, if somebody said to me as a councillor, look, what do you think if, if the RMS, because the condition is subject to the RMS, instead of coming back to council, instead, instead of deferring it - - -

I understand what you're saying Mr Hawatt, I just want to cut you off there. What I'm trying to find out is what actually happened, not what you think now you would have done in those circumstances.---No, I'm just trying to explain - - -

30 What is it that actually happened? Where did this proposal come from?---I don't know and I'm just giving you some common-sense ideas that I would have thought about if someone had spoken to me about it. That's what I'm trying to explain to you.

Was it Councillor Azzi who proposed it?---I don't think so. I don't think he would have, I don't know. Doesn't make sense as far as a I can - - -

40 Why do you say that? I'm not saying you're wrong, I'm just asking you why do you say that?---I just don't think he's got, he's got the - - -

The legal nous?---Yeah, I don't think so, yeah.

All right. I note the time, Commissioner. Is it appropriate for a five minute break?

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

SHORT ADJOURNMENT

[3.11pm]

MR BUCHANAN: Mr Hawatt, was it, to your knowledge, Mr Azzi who took the running on finding a solution to the way that Mr Demian's DA and section 96 application should be dealt with, having regard to the apparent obstacle posed by the IHAP report?---Look, I don't recall him saying anything, but I, I don't know, I mean, I'm commenting on, on, on his thoughts, but I don't remember who came up with that idea, that solution.

10

Was it, however, Mr Azzi who was dealing with Mr Demian and Mr Stavis and, if it was the case, also Mr Montague- -?---I, you're - - -

- - - rather than you?---Well, oh, you, you have to ask them. I mean, I don't, from memory, I don't recall who came up with that solution.

But leaving aside who came with it, in terms of trying to find a solution, was Mr Azzi the one that was taking the running?---I, I don't recall. I don't recall that.

20

You'd accept, wouldn't you, that as a result of your interventions in relation to that particular development application, Mr Demian got preferential treatment of you exercising your powers as a councillor to intervene with council staff?---Look, the only thing we exercise is people who come and ask us for assistance and help, and we make those enquiries and then it's, becomes to the, between the council staff and the applicant to come up with a solution that suits all parties. We can only make, refer the enquiries to the planners. I mean, that's the way, that's the way it operate, we operate.

30

I'd like to change the subject slightly to communications that you had with Mr Demian, and if I can show you in the first instance volume 21, page 114, as an illustration. This is a text message that you sent to Charlie Demian. It's in relation to clause 4.6, and it's not the content of the text so much that I'd like you to note, but on 27 August, 2015, you were texting Mr Demian on this number which ends in 0-0-0-0. Do you see that?---Yep.

40

If I can take you then to page 109 in volume 21, you here have texted Mr Demian on 17 August, 2015, asking him, "Are we still on tonight?" Is that an indication of the social nature of your relationship?---Is that a Friday night?

No, it's a Monday night.---Monday, oh, maybe, I don't (not transcribable)

And the number, the mobile number that you have texted ends with the numerals 1-6-1-0, and you have assigned the contact details of Charlie Demian 2, numeral 2.---Yep.

Do you see that?---Yep.

If I could take you, please, to volume 18, page 200, this is a text message on 17 September, 2014, to Mr Demian. The content of it doesn't matter, but you have texted him on a number ending in the numerals 0-9-4-5, and the contact details that you've assigned to that number are Charlie Demian 3, numeral 3.---Yep. Yep.

Do you see that?---Yep.

10 You were in such frequent and close contact with Mr Demian in the period 2014-16 that you had at least three mobile numbers for him?---Well, he gave it to me. If, says, "If you can't call me on this one, call me on that one. If you can't contact me on that one, contact me on this one."

But why did you need to contact him?---He just gave me the three numbers, sometimes - - -

20 Yes, but why did you need to contact him?---Because I respond back to his inquiries and sometimes you call him back and he doesn't answer.

If I could take you, please, to Exhibit 123. If I can ask that we, you saw earlier just looking at the top of the first page that so far as this record is concerned, your contacts with Mr Demian started in November 2013. You see that?---Ah hmm.

And do you see that there's then a series of contacts into 2014, going down the page?---Yep.

30 Going down to number 27. And then numbers 31, 32, 33 in September 2014, you see that?---Ah hmm.

Did you ever talk to Matt Daniels about Mr Demian's business or he to you about Mr Demian's business?---Oh, he has spoken to me, yeah, rarely, but not that often. He spoke to me more about his, his development.

40 Going then to number 43 on page 1, still in September 2014, and over to page 2 there's a number of contacts with Mr Demian down to number 49, starting again number 69, going to number 74, starting again number 91, going over to page 3 of these call charge records.---Yeah.

And you can see numerous contacts between the two of you, going on page 3, starting on 12 January 2015. Do you see that?---So - - -

Going down to item 120.---120, yeah.

And then there's a series of contacts with Matt Daniels, then back to contacts between you and Mr Demian. And then going over to page 4, numerous contacts between you and Mr Demian in May 2015 and then in

the middle of that page, all of a sudden Pierre Azzi appears, item 158, item 159. Do you know how – I appreciate, I’m not trying to pretend for a moment that this is a complete record of contacts between you and Mr Demian and Pierre Azzi and Mr Demian, but do you know how come Pierre Azzi’s contacts with Mr Demian appear to start here in June 2015, early June 2015 and they continue then reasonably regularly thereafter, but not before that date.---I, I don’t, I can’t make any comment on that because I don’t know.

10 Was there a period of time when you got Pierre Azzi involved in looking after Mr Demian’s interests at council?---No, I don’t recall asking him to do anything, unless Mr Demian might have spoken to him.

Did you speak to Pierre Azzi about him becoming involved in Mr Demian’s interests at council?---I don’t recall talking to him about it. I think, I think Charlie Demian would have spoken to him because he knows him.

Then going on page 4 down the rest of that page there’s numerous contacts between you and Mr Demian, do you see that, through June 2015, going
20 over to page 5 - - -?---Yeah.

- - - continuing between you and Mr Demian in June 2015, and allowing for contacts as well between Mr Azzi and Mr Demian, you continue to have regular contact in July 2015 with Mr Demian. Do you see that?---Yep.

Going over to page 6, July 2015 continues, regular contact between you and Mr Demian. Do you see that?---Ah hmm.

30 And then starting at around item 250, regular contact again with Mr Demian, this is in early August 2015.---Yep.

Going through to middle August 2015, then over the page to item 272, and you can see, just looking down the page, there’s a regularity, a frequency of contact between you and Mr Demian through August/September, a bit less so that’s recorded here in October, continuing in to November 2015 and then the record concludes for 2015 on 21 November, 2015, item 324. Just pausing there before we go in to 2016. You had an enormous amount of contact with this development proponent in 2013/2014/2015, didn’t you?---I
40 mean, whenever I’ve made calls with him, it’s based on enquiries and there was, I don’t know, what issues we discussed, whether that was the period is regards to his Harrison’s, whether it’s regarding to the corner of Punchbowl Road.

998 Punchbowl Road?---Or Canterbury Road. Whether it’s regarding that -
- -

570 Canterbury Road?---Yeah. I’m not sure of the, the numbers but the corner. The one is, could be in regards to that Laki and John. Could, I

mean, I don't, I don't, I mean, look at his calls but there must be reasons why there's calls. I mean, I don't see what is the big issue with having communications like that.

Well, it looks like you're in business with him or else you're a really good friend or both.---Just, the guy, the guy had, we made contacts, God knows, over, most of the reasons is, is, is through his complaints. I, you know, could be other, other factors but there's nothing in regards to his business. It's nothing to do with his business. It's just contacts and return calls and I
10 I might have missed his call, he might have got my call, he might have left a message or left a message. I don't know. I mean - - -

But we've seen - - -?---You're asking me, unless there's a recorded voice message, I can't tell you what we were discussing. I don't remember.

We've seen that Mr Demian wanted to talk with you and wanted to have a meeting with you to discuss strategies in relation to one of his developments. He regarded you, he treated you as one of his business partners, didn't he?---Business partners?
20

Yes. Except that you were providing services to him in relation to council. ---Come on. No, definitely not a business partner. Not a business partner. I would have been as rich as him if I was a business partner.

The contacts continue in 2016. This is still on page 8 of Exhibit 123, in January, a bit less so in February, indeed a good deal less so in February. I might be doing you a disservice there, and not in January either there with Pierre Azzi. So they resume – oh, I'm sorry, there are none with you. Item 350 I'm told.
30

THE COMMISSIONER: It's in March.

MR BUCHANAN: Thank you, Commissioner. And then going over the page there's contact 393 in May and then some contacts, some further contacts in May, going down to the bottom of that page and going over the page, and indeed you can see, if you just look at, starting at item 401, there's a series of contacts in May – leaving out Mr Azzi – in June, and as you can see, all of those contacts that are picked up by this document are contacts coming from Mr Demian. None are from you or Mr Azzi to Mr Demian.
40 And you would accept, wouldn't you, that there would have been calls that you would have made responding to Mr Demian in that time?---Look, I'm just looking at the duration here. You've got a lot of 30 seconds and, and five seconds and three seconds and one second.

Yes, yes, many attempted contacts.---Yes, so if he doesn't answer a call and he calls me back, I call him back. Most of them are all in seconds. I mean I don't know what the, if somebody doesn't respond and you call them five

times, he calls you back five times, that's 10 times, it's like why did you call him 10 times, because he never answered. It's, it's by the seconds.

But these are nevertheless attempts at contact and the question I'm asking is, what is the motivation for those attempts at contact as far as you know?

---If somebody wants to call me and leaves a message and I call him back and he doesn't answer and then he calls me back and I don't answer and then I call him back and he doesn't answer, and then it's, it's just the way it is.

10

But having regard to the whole of the document, you can see that there are numerous contacts and attempted contacts, can't you?---Yeah.

So what is it that was going on between the two of you?---He's calling me complaining and I'm returning his call to find out what the issues are, and then I relay that issue to whoever and then it's back again and it's like, I don't know, I don't know what, what subject or issue he has there, as I said, it could be a number of things, could be just leaving messages, as you can see there's lots of seconds in there, it could be other issues besides his, so could be that Laki and John, I don't know. I mean you're asking me questions I wouldn't have a clue what the reasons I called him for, unless there's a recorded message where I can listen and find out what, what the discussion was.

20

In this period 2014-16, Mr Demian told us, transcript page 2092-2105 that at the time he had five different projects before council in respect of which there could have been discussions with you. Does that sound about right to you?---I recall he had - - -

30

Does the number five sound about the ballpark figure - - -?---No, no.

- - - for the number of projects he had before council that he was discussing with you?---Are we talking about Harrison as one or, or, or breaking it into different?

We're breaking it into two.---Well, Harrison to me is one, that's all combined as one development, and the other one on the corner of Punchbowl Road, that's the second. They're the only ones I can remember that he has.

40

Okay. You were providing a very high level of service to Mr Demian. ---I provide - - -

Would that be fair to say?---No. I provide the same quality service to every person who calls me. I go out of my way to help people and, and people respect me for that and that's probably why I get most of the calls in regards assisting people. That's the way I am. I get satisfaction out of helping people.

Excuse me a moment, please. You were involved in a proposed property deal in respect of a site at 297-299 Canterbury Road, Revesby.---Yes.

And what was your involvement?---I knew the owner.

A Mr Elcheikh?---Yes. He's, I've known him for, he's a family friend from way back. And it started off as a guy who wanted to put a proposal there as a hospital and - - -

10

But a different guy, not Mr Elcheikh?---No, no, different guy who knew, who was, who knew Mr Elcheikh at first, and then the guy apparently went bankrupt and then John and Laki were involved in it and then I stepped in because I knew the guy and, and the owner said, look, he doesn't want to deal with, with the other bloke because he sent him broke or, and then I just started getting involved between him and, and, and Steven who was interested in the project as I was - - -

Is Steven the other bloke?---Steven Spiridonidis is the - - -

20

Spiridonidis?---Yeah. So we were working with him and, and Elcheikh who was the owner of the property.

And when you, was it you or we? You, I think you used the word "we".
---Oh, Steven and I.

Steven and you?---Yeah.

So were you acting for Mr Spiridonidis - - -?---I was acting for - - -

30

- - - in this attempted transaction?---I was acting for both, because I knew both parties. I mean, it, it happened to, to be that I knew the owner.

And Mr - - -?---Coincidence.

I'm sorry, go on.---Just also I knew the owner through coincidence, and I knew what was going on, and the, the guy basically said, "Look, just keep me in the picture what's, what's happening with that."

40

So, Mr Spiridonidis was the proposed purchaser?---He was, yes.

Is that right?---Yes.

He had a company, but it, he was the principal of that, that entity?---Correct. Correct.

And how did you hear about it in the first place?---Oh, I just met, I think I met him through George.

Met Mr Spiridonidis?---Yeah, I think through George, yeah.

And what happened? When you met him, where did you meet?---I can't remember. I met him at a coffee shop in Burwood, I think it was.

Frappe?---Could be Frappe, but I don't remember. It's either there or Burwood.

10 And were you sure that it was Mr Spiridonidis that you met on, when this was first discussed? Or - - -?---At first, I met him later. I met later, oh, sorry, I, I met him later.

And you met George in the first instance who introduced the proposal?---I met George and, and John and Laki.

And John Dabassis?---Yeah.

And Laki Konistis?---Yes.

20

Is that right?---Yep.

And was there also a man there called Gary Singh?---Oh, he's the one who came in and disappeared. He's the one who, who was originally partners with Elcheikh, and he went bankrupt, so, and Elcheikh didn't want to deal with this guy, no.

30 And was Singh running a business on the site concerned at the time?---No. Oh, he was in partners in, on that site with him, yeah, in business. At first, yeah, because the guy, he had to, he went broke and nearly pulled them down.

Was he running a baby products business?---I think so, yeah. Yeah.

- - - on the site at the time?---Well, he was in partners with them, yeah.

And you were told, were you, by George Vasil that there might be a party interested in using the site as a possible hospital, a possible site for a development as a private hospital?---Correct, yeah.

40

And if I could show you, please, Exhibit 69, volume 21, page 147, this is the first page of a number of pages which set out in a schedule SMSs on your phone between you and Laki Konistis.---Yeah.

And it starts at the top of that page, item 1, 21 September, 2015, can you see that?---Yeah.

Can I take you down to item 5, 21 September, 2015, 2.47pm, from Laki Konistis to you, "Confirming our meeting with the buyers of Revesby site tomorrow, 1.00pm, at La Plaka," P-l-a-k-a, "café, 258 Burwood Road, Burwood, you ready?", and you responded at 2.54pm, "Okay, done, I'll catch up with you and George tonight at Earlwood"?---Yep.

10 Did you go to the meeting that Mr Konistis talked about in that text message, at La Plaka café?---La Plaka, I, I'm not sure if I – I, I don't recall, I might have met him, but I'm not sure whether Steven was there, because I, I don't remember Steven and, and Laki there together. Like, it's always been, it's always been separate.

Well, I'm not suggesting that you're necessarily wrong. Is it possible that it was attended by Mr Spiridonidis, yourself, Mr Dabassis, but not Konistis? ---I don't think, even John wasn't there. I think could have been George, could have been George, myself and Steven,

20 And what was the role being played by George Vasil as you understood it? ---Oh, he was just introducing the parties.

And just a little bit more detail about that. Introducing whom to whom? ---Introducing Steven to myself.

So this was the first time you'd met Mr Spiridonidis?---Yeah. Because I met him through George, definitely.

And what was the role you were going to play?---Well, I, I knew - - -

30 As at this time, as at this stage I mean?---Oh, look, from, I knew at that time, I knew both Gary Singh, I knew him and I happened to know Elcheikh who was the owner of the property. It's just a small world. Just became, just involved in people that you know and dealing with them and when I met Elcheikh but he didn't want anything to do with Gary because of - - -

I'm sorry, I missed you.---He didn't want to have anything to do with Gary Singh because of, they had some financial issues amongst themselves and them I just sort of continued with the, the project.

40 But why, as you understand it, could Vasil not have introduced Spiridonidis to Elcheikh himself?---He doesn't know him. He's a friend of mine. George doesn't know Elcheikh.

How did – I'm sorry, go on.---George doesn't know Elcheikh. I do. And as I said, I happen to know the two parties. See what happened is, George was dealing with Gary but he didn't know the, story behind, the issues between Gary and Elcheikh but I knew it because I knew both parties and that's why I was able to continue with it.

How did George know that you had some sort of dealings or relationship with or knowledge of Mr Elcheikh, the owner?---I told him, I said, "I've always known the guy. I've known him for years."

Oh, do you mean you told him before any of these meeting started?---Yes. Because, because as soon as he mentions the, the site, I've always known that these guys always owned the site for many, many years.

10 And in what circumstances did George mention the site to you in the first place?---Well, it started off as Gary introduced, introduced it originally and then Gary disappeared and then I knew the site and I knew the owners and then I stepped in to continue with it.

Yes, but I'm trying to understand, how did George know, as far as you understand, that you had this connection with the owner?---I told him, I would have told him.

20 But when had you told him that in relation to - - -?---From day one, from day one that I knew, from day one that I knew that that was the site.

Yes. Had you told George Vasil that you knew Mr Elcheikh, who was the owner of that site before Mr Konistis ever had contact with you about that site?---I don't recall. All I, all I know is I knew the guy, Gary, knew, knew George. Gary might have been talking to George. I don't know. But from what I know, I knew everybody, I knew George, I knew Vasil, I knew sorry Elcheikh, I knew Gary. I knew the whole lot. So - - -

30 Yes but, and so just tell me if I've got this right. From what you understood, George knew from the outset that you knew the owner?---Well, he must have because I would have told him if, because I knew the owner.

And George knew that there was an investor who was looking for a site for a particular purpose?---Look, at, at that time, it's all, really, it wasn't serious situation. It was just like a, a very iffy proposal because I didn't know Steven at the time and, and then there was Laki and John who were two guys all over the place. So I didn't take them really serious until I met, until I met Steven and then I started being a bit more serious about it.

40 And have I got this right, that you think that the meeting that Mr Konistis talked about in his text with you on 22 September, 2015 at La Plaka café at Burwood was probably that occasion?---Could be, yeah.

And you went away I take it from that meeting understanding that Mr Spiridonidis's interest was in a development site - - -?---Sorry.

I'm sorry, go on?---I'm just, you're saying that, I don't, I don't recall having Laki with Steven and John.

Okay.---I don't recall meeting.

Okay. I understand that.---With George, with George, yes, but I don't recall with them.

I understand what you say. So going back, though, to the fact you think that Laki having told you about the fact that there was to be a meeting at La Plaka café at Burwood, you think that might have been the occasion where even though Laki wasn't there, you met Steve Spiridonidis.---With George.

10

With George. And as soon as you met Steve Spiridonidis, if not before, you knew his interest was identifying a potential development site for a private hospital.---No, he's just, look, he's, he's done one before and he has experience in regards to private hospitals and it was based on, he took it lightly as well, and we're, you know, yes, he's interested in that site and then it just kept on going from there, building up and building up. Originally it was really very iffy, just general discussions here and there, until I, I got involved directly with the owners and Steven and then that dragged on for years, I mean after that we sort of, there was a break off with Laki and, and John and even George and it became Steven and I because it became really complicated and it just went on and on for like three years now, it still hasn't finished.

20

Right. Well, I'm just trying to focus at the moment on this stage that we're looking at here that we've got an insight into because of the evidence that's before the Commission that in late September, the second half of September, you're meeting up with the investor and with George Vasil with a view to you introducing the investor to the owner. Is that right?---To the owner, yes.

30

And if we have a look then at page 147 in volume 21, number 18, it's not a very good – excuse me. I've got the number wrong, I'll just find it. Excuse me a moment. Item 12 on 22 September, 2015, 11.15am, from Laki Konistis, "Be ready, they may ask you how quickly you can get contract to them." Do you see that?---Yeah, yeah.

And Mr Konistis was an enthusiastic person. Is that fair to say?---100 per cent, yeah.

40

But what he was indicating here was that there, as far as he was concerned, might be a possibility that the purchaser, the potential investor, would be looking for a contract from the owner.---Oh, look, I, again - - -

Is that how you understood it?---No, it's not. It's, so what happened, Laki and, and John on a number of occasions tried to backstab Steven in regards to, oh, well, don't worry about Steven, we've got, we've got other investors who are interested in this project. And they were playing a game back and forward, and then when I saw Steven and he really, he said, look, he doesn't

want to have anything to do with these guys because he's, you know, they, he, he heard about them and he doesn't want to deal with them, including the architect that was working with this, with John. So there was again a breakup between John and Steven and Laki. So Steven didn't want anything to do with them, and then that's why I, I continued with Steven, and whatever these guys kept going behind his back saying, oh, we've got investors, we've got investors for this project, don't worry about Steven, you know, I thought these guys are just all over the place and I didn't take them serious after that. So whatever messages he sent me, I, I took it with a grain of salt and I didn't take them too serious and I just kept going with Steven and the owner of the, of the site.

Well, can I take you to page 148, item 27, 29th of September, 2015. Laki Konistis said to you, "Okay, George and I are meeting for Revesby today as well at 1.00pm. We'll catch up after that if you can." You said to Laki, "Keep me in the loop. Either way we need to finish this project soon. Michael."---Correct. I thought - - -

It sounds as if you're as - - -?---No.

- - - almost as enthusiastic as Mr Konistis.---The guy is, is, is really pushy, and as far as I'm concerned I just kept him in, in contact to get him off, get him off my back, basically. But, no, I didn't take him seriously.

Was he playing a particular role? That is to say, was he acting for a particular side in this attempted transaction?---No, he, he was all over the place. It's like he was with John, he was with George, he was with me, he was with, do this and do that. It's like - - -

Well, he wasn't with Mr Elcheikh, was he?---No, he didn't know him. I'm the only one who knew Elcheikh.

And George was with Mr Spiridonidis.---Well, even - - -

And Konistis was with George.---Well, as I said, Mr Spiridonidis basically (not transcribable) on all of them – John, George and, and Laki. So the three, he didn't want to have anything to do with them and he just said, look, I'm going to walk, walk away unless, and he put trust in me. He knew that at least I knew the owner.

Who put their trust in you?---Steven.

Going then to item 30, from Laki Konistis to you at 2.16pm on the 29th of September, 2015, "Need to deliver two letters and contracts." Did you understand what Konistis meant by that?---I wouldn't have a clue, unless he's talking – I wouldn't have a clue, no, just - - -

Well, at your meeting at La Plaka café in Burwood, had Mr Spiridonidis indicated to you what he needed before he could give serious consideration to acquiring the site as a development property?---He had an architect that was doing some, some plans for him at first. He wasn't moving ahead with it. He just, he had an address and an architect to do some plans, and he had a fallout with the architect as well.

Did he indicate to you that he needed political support for any investment if he were to make one?---In where? Revesby?

10

The local council, the State Government.---Where, in Revesby? For Revesby we're talking about?

Yes.---I knew the owner.

Yes.---So why would he need political support when I knew the owner?

20

Well, the purchaser might want some assurance that the plans for what they intend to do with the site if they're going to invest in it can be realised.---I think there was a correspondence made with the Department of Health, from, from memory, and to see if they had interest in, in a private hospital, and I think the feedback is, yes, they're interested, and that was, and that was it for, for Steven, and then he appointed an architect, and then he got rid of that first architect and then the design completely changed and, and he moved on with the, some new architect.

30

Could we have a look at Exhibit 188, please? This is an email conversation. That page is occupied mainly by an email from Matthew Stewart at Bankstown Council to you. Subject is "Letter of support, 297-299 Canterbury Road." And that's at Revesby, isn't it?---Yeah, that's right, yes.

Mr Stewart said, "Michael, as discussed." What was the discussion you'd had with Mr Stewart that he was talking about there?---I think it's to do with the, if they're happy to support a private hospital on that site.

40

And what were you doing having a discussion with Mr Stewart about that? ---Because Steven needed assurance that the, the council will support a project, and as far as I was concerned it was allowed on that, on that zone, and at the same time it was something that's an infrastructure, it's not a, it's not a development site, it's an infrastructure facility that has a, a demand for it, it's a private hospital.

And why was it that you had had that discussion with Mr Stewart rather than Mr Spiridonidis or Mr Konistis to Mr Dabassis or George Vasil? ---Because I, because I was representing Steven and, and also the owner.

So had Mr Spiridonidis asked you to arrange for assurances of political support for the project before he invested in it?---Not political support,

council support. Just for council to see if they had an interest in that site and, and from what I understand gathers, of course, it's a good, it's a good development.

Council support and State Government support?---Yeah.

So Mr Spiridonidis asked you to arrange for the provision to him of assurances of support from the local council and from the State Government for the development he had in mind?---Correct.

10

And you then - - -?---Made enquiries.

- - - made those arrangements?---Made the enquiries.

Well, it's not making enquiries, is it? It's actually arranging for things to happen.---It's an enquiry.

Yes, well that's fair enough, so long as we are on the same wavelength. When you use word enquiry, you mean something that we know means making things happen?---An enquiry, this is, again, this had nothing to do with Canterbury, I don't know why you're bringing this up for. It has absolutely nothing to do with Canterbury Council.

20

THE COMMISSIONER: Just answer the questions.---Yeah, but it's an enquiry on behalf, to see what Bankstown Council, if they had an appetite for hospital, private hospital on that particular site.

MR BUCHANAN: And when you say making an enquiry with someone such as with Spiro Stavis, you mean getting him to do something or not do something as the case may be? That's what you mean when you use the work enquiry. Is that fair to say?---No. No. It's not fair to say.

30

What's wrong with that?---Enquiry, an enquiry is to find out if it is permissible to do this type of project on that particular site. That's all it is. It still had to go through the normal process, it has to go through the, the planning process, it has to go through the, the planning proposals and everything else. So, I don't see the issue.

And you then forwarded that email to Laki Konistis, this is on 2 October, 2015 at 6.02pm.---Yep, looks like it.

40

Why did you send it to him and not Mr Spiridonidis?---Because he's the one who is hassling me more than anyone else so I just sent it on to him.

You see, there's an enormous amount of contact between you and Mr Konistis in relation to the Revesby site. You hadn't dismissed him as a fruit loop or anything like that.---I did.

You were dealing with him on a regular basis.---Correct. At the beginning, at the beginning, yes, and then as soon as there was a fallout between Steven and them and, and the architect that we're using and then when they were, started backstabbing Steven to get other, different investors then I stopped making the contacts with Mr, Laki. There was a period of time.

THE COMMISSIONER: And when was that?---Oh, that would have been six months down the track maybe, 12 months down the track. I don't recall.

10 MR BUCHANAN: And if we could go to page 8, please. This is the letter that was attached to the email that you sent to Laki Konistis and it's signed by Mr Stewart, dated 2 October, 2015. Do you see that?---Yep.

You obtained that from Mr Stewart?---That's correct.

And you were getting that from Mr Stewart in order to try to assist a person who wanted to invest in the purchase of a site for the purposes of development?---Correct.

20 What was in it for you?---I was getting, consulting, I was acting as a consultant. At one stage, I was acting as the, the agent, as a commercial agent, based on the advice of my lawyer. And, and then later, I became just as a acting consultant between the two parties.

So who was paying your fee?---I wasn't paid anything. I never received a cent throughout the whole - - -

Well, when you say you were acting as a consultant, to whom were you acting as a consultant?---The two parties. The owner and the, and, and, and the, and the purchaser.

30

And was there any arrangements or agreement or hope on your part of achieving remuneration?---Oh, look, we've had agreements between the parties, but none, none of them has been fulfilled. There's been a lot of changes. But end of the day, I never received a cent during the period of, since the day we started it up to now. I've never received a cent, and still hasn't finished.

40 But as at 2 October, 2015, were you hoping to get remuneration from somebody at, out of your efforts in putting this transaction together?---Well, I had, I had agreements between different parties in, in order to get paid, but as I said, it, it, it never went through.

What, who were the parties with whom you had those agreements?---With the owner of, of the property.

And when you - - -?---And, and other agreements with, sorry, and Laki and, and John.

You had an agreement with Laki and John?---Well, John, actually, it wasn't Laki, with John.

I'm sorry?---John.

John Dabassis?---Yeah. Wasn't Laki, just John.

10 And was it a separate agreement from the agreement with the owner?
---Yeah, this is completely separate, yeah.

So, the arrangement with John Dabassis and Laki Konistis, you had an agreement with them to - - -?---Not, not Laki, just John.

Just John?---Yeah.

To get remuneration?---Yeah, but that - - -

20 Is that right?---Because John was representing Laki, and, and whoever was
part of it, so (not transcribable)

You mean Laki was representing John?---Yeah. Sorry, John was representing Laki. John, John, I have an - - -

Just thinking about it, it's late in the day, I know, but - - -?---I have an agreement with him.

30 One of them was a real estate agent and the other one was not.---Well, I had
an agreement with John. And - - -

Yes, the real estate agent.---Yeah. And then John was supposed to be looking after Laki. So I had no agreement directly with Laki.

I understand. Thank you.

THE COMMISSIONER: And was that in writing?---Yeah.

40 MR BUCHANAN: Now what was the arrangement with the owner?---The,
to, to, to, to get the buyer (not transcribable)

You, oh, I'm sorry, I, I'll reframe the question. Did you have an actual agreement with Mr Elcheikh?---I had, I had a few agreements, but they, so far they're all fallen apart. I had a few agreements, yeah, but they haven't - as I said, there's been a lot of changes since the time. And it's all changed from day one.

THE COMMISSIONER: And those agreements anticipated that you would receive a fee at some stage?---Yes, a fee, but it, it hasn't happened, because there's been, the option expired and it had to be renegotiated.

And were any of those agreements in writing?---There was, all in, everything's in writing. Everything's in writing.

10 MR BUCHANAN: And why were they in writing?---Well, to, to protect myself. I mean, on, acting on behalf of the owner and the, and the other, and the, and the buyer, so - - -

So your, you were trying to protect your interest in receiving a consultancy fee - - -?---Well, it - - -

20 - - - on the one hand from the owner, and on the other hand from the buyer's camp. Would that be a fair way of putting it?---Well, I was acting on behalf of the, the, the two parties, and as far as the, the, the owner of the land, I, we, we made an agreement, and he, he agreed to it, and we signed it. But as I said, it, it's all expired. It's all, it's all null and void.

But don't worry about what happened to it. What I'm just interested in what was entered into.---Yeah, it's all none, none, null and void. It's all null and void.

Yes, that might be the case. But what was entered into was an agreement with the owner on the one hand, now turning to the purchaser's side, you had an agreement with John Dabassis, who as you understood it was going to look after Laki Konistis.---Correct.

30 And again, that was to provide yourself with some sort of fee in the event that an introduction of purchaser to owner led to a contract for sale. ---Correct. And then during that period I had an agreement with John, he goes behind my back to Elcheikh, the owner, and, and tried to get another agreement to basically backstab, backstab me in that transaction and I was told by Mr Cheikh, because I was overseas at the time, and, and then he realised that Steven didn't want to have any, any dealings with John so the guy cancelled any agreement he had with, with John and, and, and Elcheikh because of the guy didn't tell him the truth with regard to the transaction.

40 At the time you entered into the agreement with John Dabassis, did he know about your agreement with Mr Elcheikh?---He knew I was, I had an agreement in order to, for me to pay them, to pay them, so there was an agreement - - -

So introduce them?---Yeah, I had to pay them in order - - -

Sorry, you had to pay who?---I had to pay John based on the agreement, whatever I collected I had to give him whatever the agreement was.

A share?---A share. And, and that was it. But as I said, John went behind my back to Elcheikh and, and he had another agreement which was cancelled later down the track.

Very well. Can you have a look, please, at Exhibit 187. We can probably just flip through it on the screen. It's four pages but you'll get the gist of it. Commissions and Compensation Agreement prepared by Sterling Legal. Going over to the first page of it, this is page 3 of the exhibit, you can see
10 that it's made with the date inserted in handwriting on 2 October, 2015?
---Yeah.

So that's the day that you forwarded to Konistis Matt Stewart's letter of support.---Could be, I can't remember, yeah, maybe, I, I don't remember sending that to them, but I think I did, I think - - -

Well, is that your handwriting, the signature at the bottom right-hand corner?---Yeah, it's my signature but I don't recall sending it to John. That's different - - -
20

I'm not suggesting you did.---Oh, I thought you said - - -

You sent the letter of support to Laki Konistis.---Oh, the letter of support, yeah.

Going back to this agreement, you were the person described as intermediary.---Correct.

Mr Elcheikh was the person described as the vendor.---Yep.
30

Is that right? And so far as you were concerned, the agreement said that you, paragraph 1D, sorry, 1A, were retained by the vendor on an exclusive basis to offer for sale and otherwise facilitate the transfer of a property for and on behalf of the vendor to the purchaser. Then D, you were independent and the fee rate is paid for services that are provided and will provide in arranging the purchaser and then facilitating the sale of the property, and H, will be entitled to the fee rate. Do you see that?---Yep.

And then perhaps the operative clause, clause 2, if the property is sold by
40 the vendor to a purchaser introduced by the intermediary and the vendor receives the proceeds of the sale of the property, the intermediary shall be entitled to receive the commission at the fee rate. Is that right?---Yeah.

You agree at paragraph 12 on the second page that you were not a real estate agent or acting as such?---Ah hmm.

Page 3, you signed it and it was witnessed, your signature was witnessed by Tom Zreika.---Yeah.

Do you see that?---Yeah.

Going over the page again, page 6 of the exhibit, the fee rate was identified at \$5 million. Is that right?---Yeah.

Mr Zreika was acting for Mr Elcheikh in this transaction between you and Mr Elcheikh.---He happened to be a lawyer for both.

10 Was he acting for you in this transaction with Mr Elcheikh?---Well, he said he, he said he didn't but he still did it, he made the agreement but he acted for both I have to say.

Okay. You say he said he didn't. You mean he told the Commission, because you've read his evidence where he said he didn't act for both? ---No, but he told me as well, he said, "I can't, I can't act on your behalf," but he still did the agreement.

20 Now can I take you, please, to Exhibit 189. This is an email conversation -- well, really, it's just an email from you to office@skinner.minister.nsw.gov.au. Jillian Skinner was then the Minister for Health, is that right?---Yeah, yeah, yeah.

It was a Liberal Party government?---Yeah.

30 And the subject was "Construction of a private hospital." You said, "Dear Minister, I'm acting as consultant (not lobbyist) to put together the development of a five-star private hospital on Canterbury Road, Bankstown. The same people who did the Wollongong Private Hospital. Your endorsement is needed for this project to move forward. I, with the principal, wish to meet with you as soon as possible to discuss this project further." You then sent that to yourself for reasons we don't need to go into.---Yeah.

You sent that to Minister Skinner, is that right?---Well, yeah, I must have.

40 And you got a response, did you? You told us earlier this afternoon.---I got a response from the director at the time, the Director of Health, I can't remember her name.

Yes. Was it positive, negative or neither?---No, they said we're interested, I mean it's a private hospital so they're interested in the project.

Thank you. Can I ask you, so far as concerns your email to the minister, what did you mean when you said, "I am acting as a consultant (not lobbyist)"?---Because as a lobbyist you have to be a registered lobbyist. I'm not a lobbyist.

I see. You don't think that in this particular instance you were acting as a lobbyist?---No, because I, I'm the finance, I should have said consultant finance broker because I, my, my fees are based on the amount of finance I arrange as well. So that's the project. It's consultant, should be consultant finance broker.

You weren't lobbying the minister to achieve approval of a five-star private hospital at that site?---No, I didn't talk to the minister about it at all.

10 Well, the minister's office.---Well, the minister's office. I sent this and it went to the director to look into it, planning.

No, no, we know what happened to it. You've told us. What I'm asking is, isn't it an accurate characterisation of your conduct to say you were lobbying the minister, or her office, to get State Government approval of this private hospital?---I was making an inquiry in regards to that. It's an inquiry.

20 But you wanted something to be given to you, didn't you? You wanted a letter or an email indicating support.---I made an inquiry to see if, if the Department of Health were interested in a private hospital.

And it's the same sense of the word inquiry as you've used throughout your evidence, that is to say you say it's an inquiry but in fact what you're asking is for someone to give you something or to give someone something. You want an outcome.---I want a – it's an inquiry based on what their position is in regards to having a private hospital on that site. That's all it is. Tell me if you're interested or not, otherwise the guy would not move forward with it.

30 And can I then take you, please, to Exhibit 97. This is a document headed Introducer's Remuneration Agreement. It's dated in handwriting 10 December, 2015. The parties are yourself, called the agent, and Galazio Properties Pty Ltd, described as the introducer. If I can ask you, could we just flip over to the second and the third pages quickly so that – can you see what is set out is some sort of preamble under the word "here as", and then over the page, a series of signatures. Do you recognise your signature?
---Yeah.

40 And what was this agreement, as far as you were concerned?---That I would, if, if something happens with the hospital, I will pay these guys a, a fee for, for introducing the project.

That is to say you, the agent, will pay Mr Dabassis, who is Galazio Properties, the introducer, a fee?---From what I earn.

And why did you enter into this?---Because he's the one who introduced me to Steven through the - - -

But did someone indicate that it was needed or required before something else could happen?---Yeah, John, John, John wanted it. Just, he kept, Laki,, Laki and John kept hounding me for it.

And you were reluctant to enter into it?---Oh, look, I had no problems in, in, in going into it but after, after they went, backstabbed me with, I went directly to the owner and then I thought this is, these guys are not, not sincere or genuine.

10

And the remuneration concerned in this case was one and a quarter million dollars?---Yeah, that's, yeah, that's what we agreed on. It's, it's meaningless unless you get paid. It's not something that's, everything's collapsed anyway, the whole thing.

Was George Laliotis involved in the production of this document?---(No Audible Reply)

20

Did you go to Laliotis Lawyers with George Vasil?---No, I didn't actually, no. He brought it to the, he brought this to the café, coffee shop.

George Vasil brought it to the - - -?---No, no. John.

John Dabassis brought it?---Yeah. We met at the Frappe, I think, and he brought it with him.

I'm sorry, I absolutely stand corrected, Mr Hawatt. You didn't go but it was brought to you by John Dabassis, is that right?---Yep.

30

When he brought it to Frappe coffee shop, who was present?---Definitely Laki. George could have been there but I don't recall George being there but Laki is, definitely was there because he, he signed the witness.

Did you draft this document?---No, no. It's a legal document, it's not - - -

Yeah, I'm not suggesting it's not.---Well, it's a legal person I should say, legal person who, who would have done that. I think, look, I, I just, unless - no, no, I think he would have done it because it, there's information there that I wouldn't, I wouldn't - - -

40

There's a couple of indications that it might have been drafted by a lay-person rather than a lawyer.---I can't remember actually. I don't, I don't - - -

It's possible that you drafted it?---It's, it's possible, actually, it is possible but I, I don't remember. I don't remember.

And in any event, it was at a meeting at Frappe, was it, that it got signed?

