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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 WEDNESDAY 24 APRIL, 2019

AT 2.00PM

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

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

THE COMMISSIONER: Thank you. One thing that I haven't told the parties, we're finishing at five to 4.00 today, but only for today. It's not a precedent. Mr Buchanan.

10 MR BUCHANAN: Thank you, Commissioner. If we could have a look, please, at the transcript for Exhibit 254. Mr Hawatt, this is a telephone conversation where Mr Azzi rang you on 18 March, 2016, commencing at 1.34pm, and there was conversation between you where you joked with him about whether anyone had come to see him that day. This is the day after the approval by council of a planning proposal for 198 Punchbowl Road for an FSR which was 2.8, which was greater than the planning proposal had originally provided for and you might recall that Mr Demian rang you and offered you tickets to a Bulldogs game. Do you remember that?---Yeah.

20 He said, "Thank you for last night," or, "Thanks for last night," to you and this is shortly after that. You're trying to find out, when you say to Mr Azzi, "So anyone come to see you today?" whether he had received a similar offer of tickets to a Bulldogs game, is that fair to say?---I, I don't recall it. "Anybody come to see you," I'm not sure. I'm not sure. Could be, could be a visit like he normally gets at his house, I don't know.

30 Well, if we just go to the bottom of the page, Mr Azzi said to you, "No, because I told them, I told them I have a 7 o'clock function. Charlie, Charlie, did Charlie call you?" And we go over the page of the transcript and we see you saying, "Yeah, he said that he had ticket. I said no, I have, I'm going to the city." So you can see that the two of you, you're talking about the same thing, each of you received an offer of a Bulldogs ticket from Mr Demian after he thanked you for the passing of the resolution for the planning proposal for 198 Punchbowl Road.---Yeah.

998 Punchbowl Road, thank you. Can I take you down a bit further in page 2, sorry, page 3 of the transcript where you mentioned meet up with George and go to the gym. Do you see that?---Yep.

40 And then Mr Azzi says this, "I asked him, I asked him, Charlie, he hasn't signed yet with CBRE, that's why they haven't called George yet. Today at 3 o'clock, he is going to sign." You say, "Okay, all right," and Azzi said, "Now, I will talk with George and I will tell him what's going on." You said, "Okay then. I'll give you a call back when I, when I finish from George in Earlwood, all right." Can you see that?---Yep.

It would seem from that conversation that you and Mr Azzi had already been talking about the question of who might get a vendor's agency from Mr Demian, wouldn't it?---Oh, I'm not sure, is that, this conversation, is

that after the call that I've spoken to Charlie Demian with, with Azzi? Or - -
-

10 Yes, it is, but that doesn't matter. The point is that Azzi launches straight into saying, "Charlie, he hasn't signed yet with CBRE." So he obviously assumes or knows that you know what he's talking about.---No, well, he must – because I was talking to Charlie when, when Pierre was there, and Charlie must have told him about the CBRE. He must have relayed what he told me to, to Pierre Azzi, he must have been at his house at the time when he called me.

Are you telling us that there was never a conversation that you had before 1.34pm, on 18 March, 2016, with Pierre Azzi, you and Pierre Azzi talking to each other about the question of who might get a vendor's agency out of Charlie Demian?---Well, to me that's a repeating of what Charlie told me when I was talking to him.

20 That's not an answer to my question, Mr Hawatt.---Well, no, it's, to, to me, Charlie would have told him.

Are you telling us there was no conversation between you and Mr Azzi before this conversation in which the question of a vendor's agency from Mr Demian had been discussed between the two of you?---I, I don't recall, unless he, he might have followed up, he might have called me in regards to what Charlie Demian told him when I spoke to him, I don't know, I don't recall this, no.

30 You don't say to Azzi, "How come you know about this?"---Because he was there when I spoke to Charlie.

Are you sure that you haven't had a discussion with Mr Azzi about this subject?---I don't recall, I don't recall.

Well, no, no, no. There's another way of answering it. Do you think it's possible that you had?---It could be possible, but I don't recall.

40 And why would it be possible that you and Mr Azzi had spoken about Mr Demian giving someone a vendor's agency for the Harrison's site?
---Because Charlie would have spoken to him, and - - -

To who?---To, to, to Pierre. And we might have just a passing conversation in regards to what these guys are doing. I mean, the chances are I could have spoken to Pierre about the Laki and John and, and, and the, and the rubbish they're going through. I could have pre-warned him. I just don't know. I mean, there could have, it could have happened, yes. I mean, I don't, I don't recall exactly.

Well, there were not many aspects of your business life that you didn't share with Mr Azzi at this time, were there?---I just said, I might have spoken to him in regards to what's happen - - -

That's not my, that's not an answer to my question. There were not many aspects of your business life that you didn't share with Pierre Azzi at this time, were there?---I don't talk, I, I don't share my business, my business with, with Pierre Azzi, no. Only council business we talk about. I don't talk to him about my personal - - -

10

And so was the reason that Pierre was talking to you about this, as far as you understood it, was that you and he regarded this as council business, that it had something to do with council?---No, it's to do with the discussion that was had in regards to those two guys that I've, I'm complaining about, in regards to, regarding to my discussion with, with, with Demian when Pierre was there. It's like it's all, it's all coming together, in this regard.

20

What's all coming together?---The discussions that we've had. Pierre was there with Charlie. I, I spoke, I spoke to them regarding this, this issue, where we heard the recording before lunch. I, I mean, that's, it adds up in regards to Pierre realising - - -

Adds up to what? Adds up to what?---Adds up in regards to Pierre understanding what's going on with those guys and what Charlie would have told them.

Excuse me, could we play, please, LII 7509, recorded on 27 April, 2016, commencing at 2.43pm?

30

AUDIO RECORDING PLAYED

[2.10pm]

MR BUCHANAN: Commissioner, I tender the audio file and transcript of that recording.

THE COMMISSIONER: The audio file and transcript of the recording LII 7509 recorded on 27 April, 2016 at 2.34pm will be Exhibit 291.

40

#EXH-291 – TRANSCRIPT SESSION 07509

MR BUCHANAN: And, Mr Hawatt, you recognise the voices of yourself and Mr Spiridonidis?---Yes.

You understood what he was talking about when he identified the subject matter, being the Canterbury Timber Yard as being Harrison's, didn't you? ---Canterbury Timber Yard was in Canterbury, the one next to the station. Canterbury Timber's there.

What was Harrison's?---Harrison is a hardware, hardware place and timber, timber and hardware.

10 Referred to sometimes at Harrison's Timber?---I don't know what it's referred to, but Canterbury Timbers is, there's a Canterbury Timbers in Canterbury as well.

Well, tell us then what you understood Mr Spiridonidis to be talking about in this conversation.---I don't even recall this discussion with him.

20 I'm not asking whether you recall it, I'm asking what do you understand him to have been talking about?---He must have had some, some site he wanted to talk about, but I don't, I don't recall this one and I don't even know which, which Canterbury Timber Yard is he talking about.

You seemed to understand at the time though, didn't you?---Well, he must have told me. I mean there's Canterbury Timbers - - -

No, no, no. My question is - - -?---I don't know which one it is.

- - - you seemed to understand at the time of the conversation what he was talking about, didn't you?---I probably said yeah, sometimes I say yeah but not necessarily understanding what he wants until I meet up with him.

30 Why is it that you now can't remember what it was that he was talking to you about when at the time you plainly did understand what he was talking about?---I, if I remembered he, he made that request I would have told you but I just can't remember.

And you also understood what he meant when he said, "We offer you 120." Didn't you?---120 what, per site? But he's talking about - - -

40 Yes, that's what you asked. You thought does he mean a site, and you then asked him.---That's per site.

And he said, "Yes."---120,000 per site?

Yes.---Yeah. I just asked him what, what is he talking about.

So looking at that now, what do you think he meant?---It's 120,000 per site.

Yes, per what?---Whatever's for some site in Canterbury, yeah.

Called Canterbury Timber Yard.---Well, he said Canterbury Timber, I don't know which one he's talking about, whether there's Canterbury Timbers in Canterbury or, or Harrison, I don't know.

You know that Harrison's was referred to as Harrison's Timber.---Yeah, but there's also Canterbury Timbers as well.

Yes, but how many - - -?---And that's been developed as well.

10 How many of them were either on the market or close to being on the market for in the vicinity of \$120,000 per unit?---Look, I don't recall but I wouldn't have followed it up anyway, even if he asked me I wouldn't have followed it up because I had - - -

Excuse me? You said - - -?---Yeah, correct.

- - - "All right. Leave it to me. I'll see what I can do. All right."---Correct, but I wouldn't have followed it then, I wouldn't have even, I might have just - - -

20

Are you saying that you were lying to him?---No, I was just being diplomatic. I'm being diplomatic.

It's quite plain, you knew that Harrison's was referred to as Harrison's Timber in the day, didn't you, having been a Canterbury councillor for 20 years?---Correct, yeah, but there's also Canterbury Timbers.

Didn't you, Mr Hawatt?---It could be, it could be, yes. I'm not saying no but there's also Canterbury Timbers - - -

30

Right and then you understood what was meant - - -?---Wait a second.

- - - when he said 120 a site, you understood it would be \$120,000 per unit? ---Correct.

Per residential unit?---Yes, yeah, correct.

We're talking Harrison's Timber, aren't we?---But I never relayed any messages in this regard.

40

No, no, no, no.---I never followed it up.

Please don't change the subject, Mr Hawatt.---But I haven't followed it up.

Please don't change the subject. You - - -

THE COMMISSIONER: We're taking it step by step. Listen to Mr Buchanan's question and answer it.

MR BUCHANAN: You understood exactly what he was talking about, \$120,000 on the table per residential unit for the site we know as 548-568 Canterbury Road and you know as Harrison's and that it was well known in the Canterbury local government area for many, many years as Harrison's Timber.---I, I'm not a hundred per cent. I don't recall this, I mean his, his comments is, is Canterbury Timbers. I don't recall. It could be, it could be Harrison's.

10 So then you said, "All right, all right. Let's leave it today. They're interested."---Oh, that's, I mean, I don't think Charlie would be interested in that.

Well, sorry, you're talking about Charlie Demian there, are you?---Well, I don't know who I'm talking about. If, if it's Harrison Timbers - - -

Well, it's your language.---I don't remember even this conversation. I mean, if it's Harrison, as you're saying - - -

20 I understand you say that you don't remember. What we're doing is analysing the fact that you have heard your voice using these words. ---Correct.

And you can take it from us that you used them on 27 April, 2016, around 2.34pm, and the question is, can you assist us, please, as to what you thought was going on at the time?---If, if he ask me, he probably made a request on behalf of, if I knew this guy, he might have known that I knew this guy from, from Laki and, and, and, and John.

30 When you say this guy, who are you referring to?---Steven. Sorry, the guy is Charlie. He, he would, no, he would have spoken to, to John and Charlie in regards to, they might have told him about Harrison's, for example, because they know each other and he might have asked me, knowing that I know Charlie, asked me about they've got an offer they want to give him but I don't recall even forwarding that offer to even Charlie to even following it up.

Well, leave to one side whether you followed it up or not. First of all, we want to establish you understood that Mr Spiridonidis, to use his words,
40 offer you – you, Mr Hawatt – 120 a site.---What, are you saying I'm getting 120?

Well, the words he used were "you".---Why would I get 120 per site?

Because you are the agent of the owner.---Oh, that's ridiculous.

Well, hang on, hang on.---You're interpreting that way.

What's ridiculous about that, Mr Hawatt?---That's very ridiculous. There's no way in the world, 120 a site for what, for me, you're talking about me getting it?

No, please, please, please.---Oh, come on.

10 "We offer you," purchaser offers you, you being the agent for Mr Demian, 120 per residential unit for the Canterbury Timber yard, which you knew was the Harrison's site.---That's incorrect because he must, he's wording - -

What's incorrect?---There's no way in the world he would offer me 120,000 for myself, you're saying. No way.

But he, I have repeatedly told you, that you - - -?---No. I say no.

THE COMMISSIONER: No, Mr Hawatt.

20 MR BUCHANAN: - - - means, in this context - - -?---This is ridiculous, turning that around.

- - - agent of the owner.---To pass it on to the owner, you're saying?

You being the agent for the owner, he offers that sum of money.---I'm not the agent for the owner. He's probably just passing, passing a thought he had to me, thinking I might talk to the, to the owner about it.

30 Well, can we just ascertain, you didn't say to him, "What are you talking about," did you?---I just said I'll follow it up.

THE COMMISSIONER: No.

MR BUCHANAN: No, please, Mr Hawatt.---I didn't, no, I didn't say it, no.

No. You obviously understood what he was talking about, didn't you?
---He, he might have mentioned something to me about it, yes.

40 Well, we know what he said to you because we've heard him talk to you.
---He might have called, spoken to me one on one maybe, I don't remember.

On other occasions, absolutely granted. Can you recall such occasions?
---No, I don't, I don't recall even him mentioning this.

You hadn't had any prior contact with Mr Spiridonidis in which he indicated an interest in the Harrison's site?---Look, I, I don't recall.

Was there, did you yourself take the Harrison's site to Mr Spiridonidis and ask him whether he would be interested, and then this was his response?
---No, no, I, I don't recall it. I don't recall even talking about it.

Well, is it possible that you did that on Mr Demian's behalf?---No, the, I can't speak on his behalf. I can't speak on Demian's behalf.

Well, did you do it without his authority?---I, I, well, I, I have, I don't even recall this, and I couldn't speak on his behalf. I mean, I can't just go give him an offer. Show me where I, I spoke about it. I don't recall it.

But you could certainly try to set up a deal which if then the owner accepted it would mean that you would be entitled to some commission.---No. I, the guy is asking me to pass on some information, which most likely I, I'm not, I, I don't recall this. I probably wouldn't have, most likely, from, from what I would know what I would do, but there's nothing in regards to me acting on behalf Mr Demian or acting on behalf of anybody. If somebody rings me and makes a thing, I say, "Let me look at it," or "Let me check it out," it, it's -- and I haven't followed it up, I don't know, I can't recall even that.

20

As you understand it - - -?---I can't stop people from calling me.

As you understand it, why did Mr Spiridonidis, in this phone call, indicate that he wanted to talk to you about the Canterbury Timber Yard if you hadn't previously talked to him about it?---Look, I, I have to just go back, step back one. Unless the, the, the people keep talking, oh, Charlie and, and John talking about they've got a, they've got a buyer for, for Charlie - - -

You mean Laki and John?---Oh, Laki, sorry, Laki and John. They could, they could be also mentioning Steven. I mean, I don't know. Because he never spoken to me, unless they, they didn't follow up with him, and he might have mentioned it to me, indirectly. I, I just can't, I can't recall. But that could be one of their, saying that I've got someone, I've got someone who's interested, and I passed that information on.

30

You see, I want to suggest that to you that the tenor of this conversation is one where you had indicated that you were looking for an offer for the Harrison's site, and Mr Spiridonidis responded, having thought about it, with an offer, namely 120 a site.---I can tell you one thousand per cent, I never forwarded to him any offers or tried to sell Demian's site whatsoever. He made that request. There's no way in the world I would have mentioned that to him.

40

Well, interestingly, he doesn't actually make a request. He simply says, "We offer you," and then he gives you a figure. There's no request involved.---Well, I don't know, I don't know his wording, his English wording, it's (not transcribable) could be offering me, it's just the way he is.

This is a guy who, who, who can't – he's, he's Greek background, and he's making a request, I mean, I can't control how, how people write things.

Where's the request? Where's the request?---Well, I just can't control how people write things and say things.

10 THE COMMISSIONER: No, no, no, you're being asked to identify in the transcript where the request is.---Well, he just, he, well, by him just giving me a figure like this, that's a request. I mean, it's just like, how could I make a decision?

MR BUCHANAN: Well, can I ask you then, what did you take it to be? A request to do what?---To talk to Charlie, if, if that's the case.

20 Why did you understand it to be a request for you to talk to Charlie?---He must have come up with some figures in his mind, knowing that I, I'm – he, he might have – look, I have to go back a little bit. It might, he might have spoken to me about what Laki and, and John were, were talking to him about in regards to all the sites. He might have had enough of them and maybe would bypass them to come and talk to me about it, and he says, "Look, this is my, my, my offer to, to these guys, and pass it on." I don't, I didn't even know.

But you're coming up with fantasy material, aren't you?---No, I'm not come up with fantasy.

30 Well, tell us - - -?---I, I don't even know how he could even say this, "Here's my offer." How can, how could I accept, or make a decision on an offer that's nothing to do with me?

Well, maybe you understood it as being a request that you take that offer to your principal, Mr Demian.---He's not my principal. He's not my principal.

So who were you talking about when you responded by saying, at the top of the second page of the transcript, "Okay, all right, all right, let's leave it today. They're, they're interested"?---Just, oh, be just a passing, I, I, it's, as I said, I'm quite diplomatic with people.

40 You're referring there to Mr Demian, aren't you?---Look, as I said, I'm quite diplomatic with people. I can't recall this situation and the way he worded it, it just doesn't make sense at all.

And Mr Spiridonidis responded by saying, "Yeah, yeah, if they interested," so he's referring to what you just said, "We'll make," something unintelligible, "information on the plans on that get sign." So he understood what you meant by, "They interested," namely, the owner.---Look, I don't know how he could be interested in such an offer.

No, no, no.---It doesn't make sense.

No, no. It's you were purporting to convey the information to Mr Spiridonidis that Mr Demian was interested.---Look, I'm not - - -

10 That was what you were doing on that occasion, wasn't it?---Yes, yes, but it's probably a diplomatic part of it. There's no way, look, during that period the sites were round 200, 250,000 per site, not 120,000, so there's no way in the world I would have even contemplated raising this with, with Charlie. It just doesn't make sense.

What did you mean by, "All right. Leave it to me, I'll see what I can do. All right."?---Just being diplomatic about it, that's all, being diplomatic.

What did you mean by it though?---Leave it to me, I'll talk to him, and when I saw him face-to-face I would have told him no, he doesn't accept it, without even talking to Charlie. I just can't recall this.

20 Can I take us, please, to volume 23 in Exhibit 69, page 165. This is a text message on 2 May, 2016, so five days later.---Yep.

It's to Charlie Demian, sent by you on 2 May at 9.31pm. "Hi, Charlie. I have a serious buyer who offered 120 per site for Harrison. Are you interested in talking with him?"---Yeah.

Why did you send that text message to Mr Demian?---I, Steven Spiridonidis might have asked me to send him that, that offer.

30 So you did - - -?---Because I mean if it's five days later, look, I'm just - - -

You did relay it to Mr Demian.---I must have. I can't, I can't recall that discussion.

Why did you relay it to Mr Demian, having told us that you wouldn't have done such a thing?---Well, I wouldn't have, it's unusual for me, unless Steven might have kept on pushing me to, to do that. I, I just can't recall this discussion.

40 And what was, what were you trying to arrange at that stage?---Just to pass on what he asked me to do, that's all. He asked me to do it.

You described him as a "serious buyer," Mr Spiridonidis.---Yeah, because I know he's a serious guy. He's, he's serious, he's not Charlie, sorry, he's not Laki or John.

And so would it be reasonable to say that you were hoping to put together a deal whereby Mr Spiridonidis would buy the Harrison's site from Mr Demian and you would gain an introducer's fee for that work?---There was

no, there was no intent in this regard, just to pass the message on for him, absolutely.

I'm sorry, I didn't quite hear that.---There was no intent in regards to any financial benefit except to pass that message on to, to Charlie from, from Steven, and that's a, and that's a ridiculous offer as well that there's no way in the world Charlie would accept.

10 Well, you're doing more than conveying the offer, you go further and say, "Are you interested in talking with him?"---Correct, yes.

So you're taking it a step further and trying to get a response to that question rather than simply saying, look, someone has conveyed to me an offer for the property, aren't you?---Well, I didn't, I didn't say come and talk to me about it, I said are you interested to talk to him.

Yes.---To follow it up with him, not with me.

20 Yes. You're trying to move the transaction along a step by eliciting a response from Mr Demian to Mr Spiridonidis's offer, aren't you?---No, I'm just saying somebody gave me this request, I've passed it on, are you interested in talking to him, not me, talking to me or, or me being the coordinator between the two, you go and talk to him. That's what I was saying to Charlie, if you're interested, go and talk to him, not to talk to me.

If we could play, please, the audio file for Exhibit 128. This is a record I should just put on record now while it's being lined up, Commissioner, made on 3 May, 2016, so the next day, commencing at 8.49am.

30

AUDIO RECORDING PLAYED

[2.31pm]

MR BUCHANAN: You recognise the voices of yourself and Mr Demian?
---Correct.

In that conversation, you were advocating for Mr Spiridonidis as a purchaser whose offer should be given very serious consideration by Mr Demian, weren't you?---I just passed that information on.

40

No, you did more than that. You did much more than that. You were plainly trying to tell Mr Demian that he needed to give Spiridonidis serious consideration.---I passed him the information. I said to him, "You can meet up if you're interested." And then I said to him on this phone discussion, "It's up to you if you want to talk to him," or, this there's nothing that I was pushing. I said if you can get more, if you can get it, great. I wasn't pushing to, to, to sell Steven's position. I, I just passed it on and I listened

to what Charlie is saying and I accepted what Charlie was telling me. I haven't pushed him to do anything further than that.

10 On the first page of the transcript, at a bit over halfway down, the fourth last entry, you say, when Mr Demian had told you that he had received higher offers than that, Mr Spiridonidis's offer, "That's good, then, if that's the case because I've been hearing that the offers coming through are not, not that crash hot." And just pausing there. From whom had you been hearing that?---I think from, from Charlie, sorry, from Laki and, and John. Most likely Laki.

How would they know - - -?---I don't know.

How would they know what Mr Demian's agent had received at that stage? ---I don't know. It's just the one, what I said I hear, that's exactly what I, I've been hearing before, before - - -

20 Yes, but from whom had you heard it?---I think it would have been Laki. Most, most likely would be Laki.

Why not George Vasil?---I don't think George would have, would have known. I don't think George would have been interested to, to that extent. I think Laki is the one who is more pushy.

George, you knew George was very interested in a vendor's agency - - -? ---Yeah, but he, he would not - - -

30 - - - from Charlie Demian, didn't you?---But, but he would not be spreading information that's incorrect. The other guy is spreading information that's not correct and it's, he's the only one who would do that.

So why were you saying that you'd been hearing that information which was not correct?---Well that's what I've been hearing, that's what I said to him.

Why do you say that to Demian?---Because I'm just telling him what's going on because it's the same people who have been pushing for him.

40 But is it going on or is it information that's incorrect? Which is it? ---Information that's incorrect.

Now, how did you know it was incorrect?---Because they're, they're, these guys are telling you something, where they, where they've got this and they've got that, and end of the day they're, they're just wasting each one's time, and as far as, as far as Charlie's concerned, you can see he's going public through the tender and he's been receiving his own offers. So the information, what he's saying and what other people are saying, it's incorrect.

So you knew at the time you were telling Mr Demian this that what you were saying to him was not correct?---Well, look, the - - -

Please, is that right or wrong?---Wait a second. When I sent him that message of what Steven asked me to send - - -

10 Mr Hawatt, can you not answer my question? You were giving Mr Demian information you believed at the time to be incorrect, that you'd been hearing that the offers coming through are not that crash hot? You knew it was incorrect or believed it to be incorrect. Why did you use that line with Demian?---Just to tell him what I've been hearing about his site.

You were trying to soften up the vendor into thinking, oh well, maybe I should give Spiridonidis a chance even if it is only 120 a unit.---He's not, he's not a stupid man, Charlie Demian, come on.

No.---Soften him up.

20 But you were trying to soften up the vendor, weren't you?---I don't need to soften up anyone. He made the decisions. He knew, I knew from day one what, that that's a ridiculous offer because I know what's around publically and, and I haven't pushed Charlie to do anything that he doesn't want, and as far as I'm concerned I said good luck and, and, and great, if you can get more, that's fantastic, and I never pushed him to, to, to meet up with Steven unless he wanted to.

30 Page 2 of the transcript in the middle entry you said, "What I heard, somebody told me, I don't know, some real estate agent's been calling some people and telling them oh, there's no, there's no, no bids, no buyers, you should, and they're, they're talking about, I mean," something unintelligible, "one stage they said doesn't really care."---That's correct.

You were trying to soften up - - -?---No, that's what I - - -

- - - Mr Demian into thinking he should give Mr Spiridonidis's offer - - -?
---No.

40 - - - serious consideration and not dismiss it out of hand.---Actually it's the opposite. I felt embarrassed. I felt more, it's opposite actually, I felt embarrassed that I sent that Steven's offer to, to Charlie when there's other offers going round that's far, far bigger than that and softening him up is just to remove the embarrassment, as far as I was concerned, and I said, yeah, good luck, fantastic, good news, great for this, in order not to follow it.

When you said to Mr Demian, "Somebody told me some real estate agent's been calling some people and telling them" et cetera, was that true?---Look, I think it was true, yes, I was told this.

All right. Who was the person who told you?---I, I don't recall. There was, there was a talk about, you know, Charlie's lying about this and Charlie's lying about that, I just, it's like I had to pass it on.

10 Well, the only people who have expressed an interest in it so far are John Dabassis, Laki Konistis, George Vasil and Pierre Azzi.---Yeah.

Is there anyone else?---No, that's, that's all the -- I think John - - -

It was one of those four, were you - - -?---Maybe John.

- - - that you're referring to?---John or Laki. John or Laki.

20 And one of them actually told you that there's no buyers?---Well, somebody's saying that the guy is, he's, he wants too much and like, it's just a general discussion about it and then, and then - - -

Weren't you just spinning him a yarn?---No, I'm not.

Weren't you just spinning Demian a yarn - - -?---I'm serious.

- - - to try to - - -?---No, no.

30 - - - A, elicit information from him about the market as Demian was finding it and, B, to make Spiridonidis's offer look good?---No. Look, Charlie Demian is not a stupid man. He knows the market better than anyone on, in, in New South Wales, so - - -

Because of course - - -?--- - - - there's no need to soften him.

40 - - - if there were, if it was true that there were no buyers around, then obviously Mr Spiridonidis's offer needed to be given serious consideration by any vendor.---No, it was the opposite, no it was an opposite, it was an embarrassment even for me to send it to him. It was an embarrassment to send it to him.

And then Mr Demian started telling you about the offers he had received, he identified one, being your friend, John Nassif, having offered 140-something.---I don't know John Nassif, I never, I don't know what he looks like, that's what I said and it's correct. He just said it like your friend, it doesn't mean he's my friend.

Now, if I can take you to the fourth page of the transcript, Mr Demian was starting to wind up his description of the market as he saw it. He said, the

fourth-last entry on the page, “We’ll see how, what develops over the next two weeks and then I’ll, you know, we’ll see where we go from there.” And you responded, “All right. I thought I’ll send you that thing, that guy sent it to me anyway just - - -” – and then Demian thought you were talking about George Vasil and you said, “No, nothing to do with George, it’s just someone completely outside.”---Yeah, Steven, Steven.

You’re talking there about Spiridonidis.---Correct.

10 Yes. So notwithstanding what Demian was telling you, you were still trying to push Spiridonidis’s offer to Demian.---No.

To ask him to give it very serious consideration, not to discard it.---No, no, it’s opposite, it was an embarrassment saying it’s completely independent from everybody else and I sent it on to him, based on what he’s saying he’s got offers, big offers, it’s an embarrassment to even consider this one.

20 Why in that case did you propose to compound your embarrassment by saying that you would send the offer through to him?---Because if people ask me to do it, I send that on. That’s the way I am. I always forward them on.

He didn’t ask you to do it. He said, “We’ll see what develops over the next few weeks. We’ll see where we go from there.” He didn’t ask you - - -? ---Steven, Steven asked me to - - -

- - - to send him anything. You were the one who was offering to do it. ---Steven asked me to send it to him, and I sent it to him, and I feel embarrassed sending it to him.

30 Now, can I go to the third, oh, sorry, the fifth page of the transcript, where at the top of the page, Mr Demian asked you, “Did George end up coming back to you with anything or not really?” And you said, “No, he’s waiting, I think, he’s, he’s still got the people,” and I know it says the word “go” there - - -

THE COMMISSIONER: I actually - - -

40 MR BUCHANAN: - - - but I think we all heard the word “got”.

THE COMMISSIONER: I heard “got”.

MR BUCHANAN: “Got the people and he’s waiting to, to talk to you in order to, to put that other one in, but it, I think he’s, he’s uncomfortable with, with dealing, because he’s got other people behind him, and they’re uncomfortable to deal with your agent, because you know.”---(not transcribable) with John.

Right. Your agent being CBRE?---Could be, yeah.

And so are you talking about Dabassis there - - -?---Dabassis and Laki.

- - - because you understood John to be working for Dabassis?---Correct.

I do apologise, my mistake, Mr Hawatt, you understood George Vasil to be working - - -?---Dabassis.

10 - - - with Dabassis?---Correct.

And then, towards the bottom of that page, the third last entry, you said, "It's up to them, correct, but that's the thing, the thing is, I mean, they got it there, but they want to build direct through you, that's what I, that's what he is saying." And then you go on to say, "Yeah, it's up to you, see, see how you feel in regards to the matter, and if you want to talk to him, he's available." That's Spiridonidis you're talking about, isn't it?---Could be, could be.

20 So you're pushing Spiridonidis, aren't you? You're marketing Mr Spiridonidis to Mr Demian?---No, if he wants to meet up with him, it's, he, he's available to meet up with him just to show that what I sent is not a, a fake. It's somebody that's there, and he can talk to him. As I said, it's, becomes an embarrassment, and he can, he can talk to him in order to save face, saying, yeah, the guy is, does exist. It's not a, more phony offers going through. Yeah, that's why. It's for him to meet up in order to, to justify that this guy is a, a genuine guy that send it to you, more than, than the opposite what you're thinking of.

30 So the stage that you understood things were at, as at the time of this conversation, was, on the information that Mr Demian was giving you, the, there was another week or so in the agency of CBRE, and Mr Demian proposed then to look at the offers that CBRE had been able to obtain from the market. Is that what you understood was happening?---That's, that's what he's saying, that was what he's saying.

40 Which would mean that after that period of time, unless he accepted one of those offers, then Mr Demian might be back in the marketplace looking for offers.---Well, he needs to go and talk to all those people he's been talking to, including Steven, including George, including whoever.

If we could try a transcript, please, we'll play the tape if it assists, Exhibit 197, a conversation on 6 May, 2016, commencing at 3.01pm. And I'll just check, excuse me, please. If you could read it to yourself, but just say so if you would either like the hard copy of the transcript, or to listen to the recording.---That's all right. It's easy to read. Yep.

And just before you get to the bottom, we go over the page, bottom of page 2 you can see the word in the third-last line, "contact," and it should be "contract," as you could understand.---Yeah.

And then going over the page.---Yeah.

Now, what was it that was occurring in this conversation, as you understood it?---Just, just, I don't know, just Laki pushing again for - - -

10 For whom?---(No Audible Reply)

As you understood it?---I'm just trying to, "when you see them," I don't know who he's talking about, "When you see them find out," contract, he could be talking about Charlie Demian, I don't know.

Well, but he wasn't acting for Charlie Demian, was he, he was working for Mr Dabassis with George Vasil and they had a set of purchasers that had come on the scene in early 2016.---But I can't work out who, "when you see them," I don't know who's them, I just, I don't know who he's talking about, that's all.

Well, the difficulty – it's not unusual, is it, for even a single owner to be referred to in the plural, the owners, in the industry?---I mean I can't, I don't know who he's talking about in this particular case, so yeah, maybe, maybe, I, I don't, I don't know who he's talking about there. "When you see them," I don't know who's them.

You didn't seem to have a question in your mind as to who "them" was when you were talking to Mr Konistis in this conversation though, did you?
30 ---Well, he could have been referring to Demian. I mean he's got, the guy's got the same, you know, the same way he's pushing and talking contracts and talking this and, and I take him, as I said, whatever discussions I have with him like many times with a grain of salt and I don't take him too serious, but I don't understand.

Why didn't you tell him, stop ringing me, Mr Konistis?---I wish I should have.

Yes, but that water's under the bridge.---Yeah, I know.

We want to just explore at the moment, please, why you didn't tell him, stop ringing me and instead here for example made sure that you had a correct understanding of what the offer that you were being told about actually was. ---Look, I, I don't even recall this and to me I've reached the level with Laki, whatever he says it's like, goes above my head and I don't, I just don't take him serious and as far as I'm concerned he just, I should have said, you know, get lost, but I'm a bit too courteous to do that to people, I don't normally offend people, I try not to offend them, I try to be nice to them

either way, and that's probably my fault, but I don't understand what he's talking about on this one.

Well, do you think it might have been an offer for the Harrison's site, the offer is in the ballpark of we're told 54 including GST, that would be 54 million. Correct?---Yeah.

10 That's bouncing around in the ballpark of the offers of which you were aware that were made or discussed for the Harrison's site in 2015-16, isn't it?---Yeah, but where does he get his figures from? This guy doesn't know what he's, I don't know. Look, as I said, whatever he says, it's not a, I mean, you know, it just doesn't make sense what he says to me.

What is it that didn't make sense in this conversation?---He's talking GST, he's talking, I don't know where he's got all his figures from, the net.

20 You understand what the GST is, don't you?---I know what GST. All I'm saying is I don't know where he's got his net figures with the GST, the 54, it's like how did they calculate it, based on what?

When Konistis says, second page, "They will clear just over 45," you knew that that was, as far as Konistis is concerned, the amount of money that the owner would receive in hand after expenses, taxes had been paid?---This guy is talking hogwash. How is it, at one stage you saw there was an offer from, from Spiridonidis of 120 per site. How on earth did you, how much is it per site - - -

30 You spoke to Spiridonidis about 120 per site.---No, he told me. I, I don't know about, he told me. He told me. I, I, why would I have mentioned 120 a site?

I'm not saying you did. The evidence that Spiridonidis talked to you about 120 a site.---Correct.

Konistis here is talking to you about a gross figure which, when you deduct expenses and taxes, would mean that the owner would clear over 45. You seem to understand what that was all about on 6 May, 2016.---As I said, I don't take this guy serious what he says. The, the - - -

40 Why then did you say in the fourth last entry on page 2, "All right, let me find out. I'm not meeting now, I'm meeting probably another two hours, all right"?---I don't know who, who I'm referring to (not transcribable).

Oh, you do know, Mr Hawatt. It's obviously you know who you're talking about.---Listen, I'm not saying, I'm not taking this guy serious. I don't know whether I followed it up or not with him. I don't recall.

Who could it possibly be that you were referring to other than the owner, the person in a position to accept such an offer, Mr Demian?---Mr Demian would, as he said before to these people, he only will go through his agents, through the public tender, and these guys are continually coming back in between. It's not, it's, he, he's not taking them serious and I don't take, I don't take them serious.

But you obviously are, Mr Hawatt.---No, I don't take them serious.

10 The conversation, the evidence shows that you're taking it seriously.---No. I respond a courteous response and that's the way it is. I don't take him serious at all.

The question is, why are you taking it seriously and why are you taking these offers to the owner and why are you trying to persuade the owner not to discount an offer once it's made to him, unless you saw that there as something in it for you?---There is, there is nothing in it for me. You show me where. I said I need this and that in discussion. I, there's nothing in it, I just passed the information on. This guy talks nonsense, he sends me
20 nonsense and I just take it with a, a, lightly and I don't, I don't take him too serious. If I pass it on, I don't think Charlie's going to accept it either.

Now, could we play please a recording, the audio file of Exhibit 93. This is a recording that was made on 7 May, 2016, so the next day from that conversation with Mr Konistis and four days after the conversation that you'd had with Mr Demian. This conversation on 7 May, 2016 commenced at 11.59am.

30 **AUDIO RECORDING PLAYED** **[2.58pm]**

MR BUCHANAN: You recognise the voices of yourself and George Vasil in that conversation?---Yep, yep.

Now, I just want to go through it and pick out some particular words first to establish that we all are on the same page. On the first page the entry in the middle where you say, "Oh, look, the guy," the guy is Mr Demian, isn't it?
---It could be, yeah, I just - - -

40

Well, who else could it be?---Yeah, yeah, yeah.

Yes?---Yeah.

And so let's keep on going. The entry five from the bottom on page 2 when you said, "When I spoke about third parties the guy didn't want to listen," you were referring to Mr Demian, weren't you?---Yeah, most likely, yeah.

And then when Mr Vasil said, "Okay. All I want to know, how much do they want," he's talking about Mr Demian too, isn't he?---No, how much the other guys I think.

How much, I'm sorry.---I'm not sure but he's talking about - - -

I missed a critical word, I apologise Mr Hawatt. What Mr Vasil said to you was, "Okay. All I want to know, how much do they want net." So that means the vendor, doesn't it?---The vendor, yeah, yeah.

10

And the vendor you know is Charlie Demian. Correct?---Yeah, yeah.

So here is an illustration of a real estate agent using the plural to refer to an owner even when it is a singular person, you understand?---Yeah.

And then keeping on going, down at the bottom of that page when you say, "Okay, I'll get that off him," him is Charlie Demian, isn't it?---Yeah.

20

And then going over the page, page 3, top of the page when Mr Vasil said, "That's all I want, how much do they want net," he's referring as you understand it to Mr Demian. Correct?---Yep.

And when he goes on to say, "The last price they want net," again he's referring as you understand it to Mr Demian. Isn't that the case?---Yeah.

30

So can I just take you then to the middle, about the middle of the first page, where that three-line paragraph that is in the transcript on the first page which commences, "Oh, look, the guy, it," and you go on to say, "It's a bit complicated the way they're doing it at the moment, you know," and I'll just pause there, take a step to one side and notice you also use the plural, "they" when referring to Mr Demian, don't you?---Well, it's probably his, his, his investors maybe.

That's okay. I'm not suggesting there's anything wrong with it, just as long as we all agree that in this case, in using these words, this language, we're talking about, sorry, Mr Vasil is talking about and you're talking about Mr Demian, that's all.---Yeah.

40

You go on to say, "You know, I think, I think it's, it's because it's a public company involved in it, it's too complicated for him to go round in, in circles like this," you were referring, were you not, to the fact that in the development project for the Harrison's site you had understood from Mr Demian that he was in a joint venture with a finance company called Abacus?---Yeah.

And it was a public company?---Yeah.

And you understood from Mr Demian that he felt constrained in the way and the time period during which he could negotiate with people other than people who'd made offers through the expression of interest to CBRE who had been retained as the official vendor's agent.---Yeah.

10 Now, can I ask you about page 2, the third entry. When you said, "For them to pay outside commissions," you were talking about commissions to people like you and George Vasil, weren't you?---No, commissions to Laki and, and John, because they're the ones who have been asking for them and they're the ones who have been asking for the commissions. If you see the messages I've been getting from Laki it's always been on commissions that they want, commissions, commissions, and they talk as, as, as we, but I had no interest whatsoever in getting any commissions from anyone.

20 You understood, didn't you, that when Konistis or Dabassis talked about commissions that you would be party to those commissions?---No. It's the commissions that they're after from the, from the, from the sale and they, and I recall John and Laki were completely concerned about how they were going to get paid in this regard.

Yes. And people are paid commissions for a contribution that they make to a transaction being finalised, don't they?---That's correct.

For work that they do to bring about a completion of the negotiated transaction, don't they?---Well, this, well, this is what Laki and, especially John and Laki were concerned about how to, how to get it done for themselves, yeah.

30 And as you understood it, they had the purchasers?---That's correct.

Whereas you didn't have the purchasers, you had the vendor?---No. I didn't have anyone.

Yes, you had Mr Demian.---No, I didn't.

40 You were the person who were closest to the vendor than any of the people we've spoken about, weren't you?---I was introducing, as I said originally, I was passing on information in between the parties, introducing them and they keep, and even George says, "They've been calling me every 10 minutes." Sounds like he's had enough and I just keep passing the information back and forward. It started off that way and finishing it off that way but there is no, there is no, any sorts of discussions or agreements or anything like that for me to take one cent.

Introducers' fees were part and parcel of the business in which you've been involved all your life, weren't they?---I, for financing, if I was doing financing on this, I would, yes, I would say yes, if I was doing the finance.

Why wouldn't an introducer's fee be payable to somebody who had brought about a transaction which would not otherwise have taken place but for their introduction of the purchaser to the owner and the owner to the purchaser?
---Because I wouldn't accept it. I wouldn't accept it.

But you had been all your life in other cases - - -?---In business, in business.

Yes.---Any to do with council, council issues and matters, no, I do not accept and I would never accept it because there's a conflict.

10

You contemplated, in this conversation, commissions in which you would participate, didn't you?---I didn't say any, but it's for John. This is what, George is getting calls every 10 minutes and he's saying it's, it's for them, they've been hassling him, and I recall them on many occasions, those two, how they're, how they're going to get paid, how they're going to get paid. That, that was the, the whole issue with the commissions for these two guys. Not even for George, it's for them.

20

Page 2 of the transcript, Mr Vasil said, "If they, if they can't pay commission, if this," and the word is "because" where it says unintelligible there, we can hear the word "because" being used by George Vasil, "if they can't pay the commission, if this because public company can't pay the commission, we organise another way." You were agreeable to that. You said, "Okay, that's a different story. All I, all I need then, I don't want to talk because when I spoke about third parties, the guy didn't want to listen."---Because Charlie cannot give commissions to, to people directly or through the sale, as you, as you can see from this discussion. The only thing Charlie – and, and he said, he will never, he'll never give anyone commissions from, from these guys and it sounds like they found a solution for them to get, collect commissions. It's nothing to do with me.

30

Sorry, who said that Charlie Demian said that commissions wouldn't be payable to those guys?---From, from my understanding from Charlie, he cannot pay anyone commissions outside the circle of the, the public company recognition and, and these guys, and he cannot give them commissions if they introduce the buyer, and it sounds like they found a solution for them to collect a commission with a sale. It's, it's, I don't know how complicated this is becoming but as far as I'm concerned - - -

40

When was it that you first spoke about commissions with Mr Demian?---I remember part of the discussion that we had when these guys that kept on pushing him, he said, "Look, I cannot. It has to go through the public, the public company and it's got to be done correctly," and he cannot just go ahead just because and come in with a sale, they've got to have a completely independent, he's got to have a completely independent hand from any sorts of commission payments, and I recall he didn't want to have anything to do with it on that basis and that's why these guys that came up with this

solution, sounds like. That's why they come up with this idea, this, this third-party way of doing it.

So who spoke about commissions first, you or Mr Demian?---No, these guys were talking about the commission.

No, no, no. You told us, now, that you and Mr Demian had a conversation or conversations in which - - -?---No - - -

10 - - - commissions were discussed, is that right?---Charlie was talking about, these guys, they, they want commissions to be paid. He says, "I cannot, I cannot pay these guys. I can't deal with them, because I cannot do it, because I got to go through the public system."

THE COMMISSIONER: So you had that conversation with Mr Demian? ---No, no, he must have talked, he, he was talking generally about these guys, who he doesn't want to deal with.

20 Yes, but no, I'm not, we're not about the content at the moment. You were having a conversation with Mr Demian in which he said that.---From memory, from memory there was a discussion that he cannot pay any guys any commissions like this.

MR BUCHANAN: Where did Mr Demian get the idea from that anyone was seeking commissions unless you had raised it with him?---(not transcribable) John, John and, and Laki's the one who's been pushing for this - - -

30 They weren't talking to Mr Demian. You were talking to Mr Demian.---No, they were, they wanted - look, they're getting their, the, the - - -

Please, please, please. We're talking about a conversation that you had with Mr Demian. There's two people in the conversation, you and Mr Demian. Commissions are discussed. You say it was Mr Demian - - -?---He was talking to - no.

40 - - - who said, "We can't pay commissions because of a particular structure in the joint venture." My question to you is, why did, where did Mr Demian get the idea from that commissions would be sought or required or needed to be paid - - -?---These guys - - -

- - - unless you raised it with him?---No, I haven't raised it with him. He had spoke generally about these guys, they've got buyers, and through their buyers they want to collect their commissions. They must have told him, what, what commissions they want. They already had figures worked out for themselves. And Charlie said, I, I, I can't do this. I've got to go through the normal process. It's a public company. You've got to go through this process. And that's why these guys seem to come up with this solution,

because he is not interested in dealing with these guys based on, on these things that they're after.

From the evidence you've given to us now, it would seem that you first raised with Mr Demian the subject of commissions being payable on a transaction of the kind that you were bringing to him that had been raised with you by Dabassis and Konistis and Vasil.---No, I did not raise any commissions with, with Charlie. He raised it based on what these guys wanted as a general discussion that it's got to go public, and he cannot deal with these guys, he can't deal with them, and because they're a, a third party coming in. And that was it, and reading this transcript here, this reading, is that they, they found a, some sort of a solution for themselves, and, and that was passed on to me.

Well, you're saying, aren't you, that George Vasil was indicating that there was a solution to the conundrum of how to get commissions.---Well, it, it, it, it sound, it sounded like, it sounds like it, but whether I passed it onto Charlie or not, I, again, I don't know how they would have calculated or worked it all out. That's between themselves.

Well, you seemed to think that it was a good idea, that it was, it meant that there was a viable third path – we've used this expression before – a viable alternative way if there was a problem in commissions being paid because of the involvement in the joint venture of a public company that Vasil had in mind, and you thought, well, that's a good idea.---No, I said that's a good idea in regards to, it may be a solution for, for him and for these guys that George is getting 10, every 10 minute calls from, and, and Charlie. I said, yeah, that's a, a good idea. But doesn't mean I had anything to do with it, as far as, as far as receiving anything, no.

So when Vasil said to you, top of page 3 in the transcript, "That's all I want, how much do they want net? The last price they want net, without mucking around, because they want a contract, we will get a contract," and you said, "Oh, let me, let me come back to you."---That's right, let me come back to you.

And we know what that means, because we've seen it now in conversation after conversation in which someone talks to you about trying to come to a negotiated arrangement for the Harrison's site to be sold by Mr Demian, namely that you would convey to Mr Demian what the person talking to you was proposing or asking.---Look, I've just passed on whatever information they give me, I've passed that on to, to them. And then it's between, between the parties, and they keep - - -

But can you - - -?--- - - - pulling me in. They keep pulling me in, because Charlie can't deal with them anymore, and they keep pulling me in and send me messages. But as far as I'm concerned, I just pass it on, and leave it to, to, to Charlie and these guys to work it out.

You can see the pattern though. The pattern suggests that you are the gatekeeper - - -?---I'm not the - - -

- - - to the vendor for the people with whom you're dealing who are trying to get involved in making money out of a sale of the Harrison's site by Mr Demian. You are the gatekeeper.---I'm not the - - -

10 That's the way they see it and that's the way you act.---The only way they see it is I have the contacts knowing him, I'm not the gatekeeper, I'm not the anything else except just passing information on between those two parties. That's all it is.

Commissioner, I note the time, a short - - -

THE COMMISSIONER: Did you want a quick break?

MR BUCHANAN: Or are you happy to go on?

20 THE WITNESS: No, that's okay, I can go.

THE COMMISSIONER: Okay. Thank you.

MR BUCHANAN: Thank you. Can I ask if we could have a look at the – or sorry, just excuse me a moment. No. Can we play, please, LII 8247, a recording made on the same day as that conversation with George Vasil, but 29 minutes later, that is to say on 7 May, 2016, commencing at 12.28pm.

30 **AUDIO RECORDING PLAYED** **[3.17pm]**

MR BUCHANAN: I tender the audio file and transcript of that recording.

THE COMMISSIONER: The audio file and transcript of the recording LII 8247 recorded on 7 May, 2016 at 12.28pm, will be Exhibit 292.

40 **#EXH-292 – TRANSCRIPT SESSION 08247**

MR BUCHANAN: Mr Hawatt, did you recognise the voices of yourself and Laki Konistis?---Yep.

And on the first page of the transcript, fourth-last entry, where you said to come and meet George the owner, that might have just been a slip, you didn't mean George the owner, did you, you mean Charlie Demian, the

owner, but you'd just been talking to George and maybe it was a slip of the tongue?---Could be, could be, I just - - -

Yeah.---But again it's a brush-off, brushing Laki.

Now, can I take you, please, to Exhibit 69, volume 21, page 165. This is a page from a schedule of messages extracted from your mobile phone, and item 317 is a text message on 7 May, 2016 that you sent to Laki Konistis. Number 317.---317, yep, yep. Yep.

10

Why did you send that text message to Mr Konistis at that time?---Laki would have been trying to organise a, asking me to organise a meeting, I don't know, it's - - -

Well, no, we've heard two consecutive calls earlier that day in which you said you had been about to have a meeting or were going to have a meeting. It seems rather that you had lined up or, at least in your own mind, intended to talk to Mr Demian that day and that on this occasion, at 5.14pm, you had Mr Demian's agreement to meet with Konistis, Dabassis and Vasil.---Could be, yeah. Just - - -

20

And indeed a time and a date, Tuesday at 4.30pm. Excuse me a moment. So 7 May was a Saturday in 2016 and the Tuesday after that was 10 May, 2016. So it was scheduled, as at this stage anyway, for Tuesday 10 May all right 4.30pm. Now, why did you say to Mr Konistis, "Tell George"?---I, I, I don't recall I'd been meeting with George. I don't, I don't know.

Why did you think George needed to know?---I don't, I don't recall this message and for me to say, "Tell George," he might be with George or meeting with George. I don't know.

30

Well, the most reasonable conclusion that one could draw is that you wanted George to know that there was to be a meeting with the owner on Tuesday at 4.30pm, correct?---Yep.

And as well that George should attend, should keep his diary clear so that he could attend?---Tell George, yeah.

Excuse me a moment. Now, I did, that message is at 5.14pm and can I just take you to volume 23 in Exhibit 69, page 169 A. Earlier, that is between the calls that you'd had with Konistis and Vasil on the one hand and then this text message at 5.14pm to Laki Konistis on the other hand, there were these text messages that were exchanged the same day, but around 12.10 in the first instance. You texted Charlie Demian, "I have George people chasing me re Harrison. They want a sale price and if acceptable will act quickly." So it would seem that you made good on your promise to take what Konistis had asked of you and what Vasil had asked of you to Mr Demian, correct?---Yep.

40

And then number 2 is a text message at 12.11pm on 7 May from Mr Demian to you. "Let's meet with you and George to discuss. May later on in the day if you available."---Yep

Item 3 at 12.13pm, you responded, "Okay. I am free after 4.00pm. Can we meet at either my house or Earlwood? Let me know." So you were there making an arrangement to meet that day with Mr Demian?---Yeah, I'm following on the request from George.

10

Now, when you said, "Either at my house or at Earlwood," you meant, didn't you, either at your house or at Ray White Real Estate at Earlwood, didn't you?---Oh, look, I don't, I don't recall that message. My house is my house, Earlwood could be the coffee shop. We don't, I'm not sure whether we haven't really confirmed the, the address as such so I don't know whether we met or not, I don't recall.

20

As at this time what do you think Mr Demian would have understood to be the venue if you'd simply used the word Earlwood?---Well, I, as I said, I don't know, he probably would have said, look, where in Earlwood. If he was going to meet up the next question is where in Earlwood, because we meet at coffee shops as well, it's not always George Vasil's house, we always meet more at coffee shops than anywhere else.

So was there a favourite coffee shop that you had to meet with Mr Demian at Earlwood?---Well, Frappe was the main one.

30

Thank you. Now, can I take you, please, to – I'm sorry, no, can we play – I withdraw that. Could we have a look at the transcript, please, for Exhibit 94. This is a recording of a telephone conversation at 1.51pm the same day, 7 May, 2016. It's only two pages, if you could read it to yourself, please. ---Yep. Yep.

And if we could go over the page.---Yep.

I can appreciate that, Commissioner, the transcript comprising the Exhibit 94 doesn't have the time on it, but I can inform you that from data available to the Commission the time that conversation commenced was 1.51pm.

40

THE COMMISSIONER: Sorry, 1.51?

MR BUCHANAN: 51pm. Have you had a chance to read that, Mr Hawatt?---I read it, yes.

On the first page you said to Mr Vasil that you got a message from Charlie and told him that, to use your words, "We'll meet today," and you said that you would be free after 4.00. And Vasil asked you, "You want me to be there or," and you said, "For sure. You and bring," and unfortunately what

you said then was inaudible. And you next said, "Well, I'm waiting," and then something unintelligible, "to call me back and I said either Earlwood," and then obviously you're referring to getting Demian to call you back and tell you or text you back and tell you whether it would be Earlwood or your place.---Yep.

When Mr Vasil said, "Do you want John to be there," that was a reference to John Dabassis?---Yeah.

10 And you said, "Yeah, bring whoever, it doesn't matter. All right." Do you see?---Yeah.

Things are getting serious now, aren't they?---(No Audible Reply)

This is not, you're not brushing off Konistis, you're arranging for the real estate agent who had the purchasers for whom Konistis was hassling you to attend a meeting with the owner along with George Vasil.---This is a request from, from the previous discussion with George, he asked me to, to meet up with Charlie and just follow up on that.

20

So is what you're saying that because the request came from George Vasil you were prepared to take it seriously?---Well, not seriously but George made the request, I would, I would follow it up on his behalf, yes, I would.

And what did you think was going to occur? What did you understand to be the purpose of the meeting you were trying to organise for later that day?

---Just to everybody talk whatever they want amongst themselves instead of going back and forward through, through myself, they can at least sit down and, and work out what they want to work out and so be it. That was my

30

intent, bring whoever.

Why would you have to be present?---Well, I didn't, I didn't have to be present, no, there's no need for me to be present, but I arranged the meeting, presumably that I feel that because I arranged the meeting to be there, that's basically it.

You wanted to be involved, didn't you. You saw yourself as being involved.---No. I made the, the meeting, I organised the meeting and I think, you know, for the, for the sake of, of organising the meeting, knowing everyone and I, I attended. It's something that at least they can all discuss and work out whatever they want to reduce the headache from them calling me.

40

Can we play, please, LII 8276, a recording of a conversation that commenced at 4.49pm on the same day, Saturday, 7 May, 2016.

AUDIO RECORDING PLAYED

[3.31pm]

MR BUCHANAN: I tender the audio file and transcript of that conversation.

THE COMMISSIONER: The audio file and transcript of the recording LII 8276 recorded on 7 May, 2016 at 4.49pm will be Exhibit 293.

10 **#EXH-293 – TRANSCRIPT SESSION 08276**

MR BUCHANAN: So you were taking a leading role in organising this meeting, weren't you?---I was requested to organise the meeting, yeah.

You were taking a leading role in organising it, weren't you?---Not a leading role, it's I'm the one who knew Charlie, I'm the one who knew John and Laki and I was the guy in between who could organise a meeting with Charlie on their behalf.

20

You were performing the role of the person who, if the transaction worked out, would be entitled to a commission.---There was no transaction, there was no intent for commissions, no.

But if the commission worked out you were performing - - -?---There's no commissions for me.

- - - the role of the person who would be entitled to a commission, weren't you?---I have no commission, no, there's no commissions for me whatsoever.

30

You were still playing the role of a person who would be entitled to one - - -?---I was - - -

- - - if the transaction worked out?---I was coordinating it on behalf of George and those guys and Charlie and I put them together. There was no intent of any commissions for me whatsoever.

40 You were doing work which would, if it was successful, would contribute to a transaction worth many tens of millions of dollars, wouldn't you?---I never even thought of it. It didn't even cross my mind about what value.

I'm not asking you that at this stage. I'm asking you simply to agree that you were doing work which would contribute, if it was successful, to a transaction worth many tens of millions of dollars.---Between the parties, not myself, yeah.

And people who do work usually expect to be paid, don't they?---Oh, not everyone.

And in your experience, are paid.---If I do finance, if I do finance, yes, I would have been involved in organising finance, a brokerage. But on this particular case, no.

Excuse me a moment, please. Can I take you then to Tuesday, 10 May, 2016? Did the meeting take place?---I, I don't recall, I, I don't remember.

Well, do you remember being at Frappe café in Earlwood in the late afternoon, evening of Tuesday, 10 May, 2016, where you were around a table with Charlie Demian, John Dabassis, and George Vasil?---I don't, I don't remember. I don't recall it, nah.

And talking about the approved development on the Harrison's site?---I don't recall that meeting.

How could you not have a recollection of that?---I don't recall it.

You accept that it happened, don't you?---Based on the, what, what I'm reading, it sounded like yes. But I don't recall being in that meeting.

How could you not recall it, Mr Hawatt? Is - - -?---I don't even remember what I - - -

How could that be an honest answer, is what I'm really saying.---I don't even know what I had for lunch this afternoon (not transcribable)

But that's not important, is it, whereas making millions of dollars is important.---Who said I'm making millions of dollars? That's your assumption, not mine.

Transactions - - -?---I never made a cent and I wasn't intending on making one cent, not one cent.

Transactions potentially involving millions of dollars - - -?---Oh, look, it's - - -

- - - are important, aren't they?---It's got nothing to do with me. I put the parties together. I had no intent on anything else except putting the parties together. And you can make all your assumptions under the planet, I have no intent of making one cent from any of these transactions.

And why did you bring the parties together?---Because I was requested, I was asked to. And I, and I help people, that's probably one of my biggest downfalls that I help too many people.

You help - - -?---People request things, I help them.

You help people who are businessmen - - -?---Anyone.

- - - to make an awful lot of money for themselves out of a transaction with each other, and having, you tell us, no expectation of participating in the proceeds of the transaction at all. Is that what you expect the Commission to believe?---See, I used to have arguments with my, my ex-partner in finance because I wouldn't charge people commissions and money. I just
10 relied on trailers because I do not like to, to put people in a, in a spot like this. This is the way I am. Money doesn't mean everything to me, otherwise I would have been a very wealthy man. I have more debts than, than anything else. So no, I don't, money is not my, not my life, no, it's not.

If we could have a look, please, at volume 23, in Exhibit 69, page 181? This is a series of text messages that you sent to Charlie Demian on 10 May, 2016. I'll just ask you to assume for the moment that the meeting that was scheduled for 4.30 on Tuesday, 10 May, went ahead. These are at 10.11,
20 2.46, and 4.14 respectively, the same day. And in the first message, you say to Mr Demian, "Have not received proposals. Can you send soon. Thanks, Michael." In the second message, you say, "Did you send proposals." In the third message, you say, "Spoke to George, meeting at Frappe café near carpark, the bus terminus. Please bring proposal with you. Michael."
---Correct.

What did you mean by "proposals" in those messages?---Look, I, I don't recall this, these meetings, honestly, and the proposal could be what, it's not my proposal, it's maybe what Laki and, and, and John and, and George were asking for. Just, that's why I keep saying, "Bring proposals," I don't know
30 what the proposals are. It's something that they're asking me for. I don't even remember this meeting.

THE COMMISSIONER: But you're asking Charlie Demian.---Yeah, but I don't recall what the proposals are. I, I can't remember this meeting being held.

MR BUCHANAN: But why are you asking him to bring proposals?
---Because they must have been asking me to, for him to bring some proposals. I, because they're the ones who, who want to talk to him about
40 it.

Now bring to bear, if you wouldn't mind, your accumulated experience in these sorts of deals that you'd had throughout your life. What are the sorts of proposals that you would expect a vendor, a potential vendor, to bring to the table at a first meeting with a purchaser's agent?---It's probably to do what he wants. Bring your whatever you want to these guys to talk to them about it. That's my, that's what they're asking me.

A proposal for the transaction?---Proposal of what he wants in regards to dealing with these guys.

Right, proposal for the transaction.---For the transaction, yeah, whatever.

So you wouldn't read it – I'm not saying it necessarily would be, I just want to exclude it, you wouldn't read it as development proposals, you'd read it as proposals for the transaction that we're going to talk about?---That these guys want.

10

Yes. Well, "these guys" is Mr Demian, his proposals.---To, to these guys, which is - - -

Vasil?---Vasil and, and Laki and, and John.

Right. And why were you sending, not one, not two, but three messages to Mr Demian asking him for the proposals?---Because they must have been, they must have been asking me to, to make sure he, he brings something with him.

20

Well, the first message, though, reads, "Have not received proposals." It sounds as if there was an arrangement that you'd made with Mr Demian whereby he would send you – the person who was closest of all of those people to him – his proposals?---Correct. So what they, what they're saying is, they're asking, there's a request for proposal of what he wanted and I said, "I haven't seen the proposal. Did you send the proposal?" Spoke to George, I mean, it's, yeah, it's like a, these guys are waiting on something and, and they want to meet you and, and based on the previous messages where they said they've got buyers and everybody else and put it together and sort it out together. That's with a proposal.

30

Is it possible that you initiated the request for proposals from Mr Demian for this particular meeting?---What for? What's, what's, what, as far as I'm concerned - - -

Well, because you wanted to make sure the meeting was a success and it was more likely to be a success if the vendor puts something on the table rather than simply sitting back and listening to the purchaser's agents.---No. George said that we're getting, he was getting calls nonstop, I was getting calls and I think we just wanted to finish it all off and just bring it forward and put it on the table to sort it out amongst yourselves.

40

Put what on the table?---Whatever he wants, whatever they want. Sit down together and sort it out.

Now, you met with these men at the coffee shop in Earlwood, Frappe, and Mr Demian brought with him stamped plans, did he?---I, I, don't remember that meeting, honestly.

Do you remember him bring what could be described as official plans?---I don't remember the meeting, what he had with him.

Well, there'd been development consent granted for the Harrison's site, hadn't there?---I don't remember that.

10 So you'd expect that stamped plans would be in existence, wouldn't you?
---So whatever he brought with him, I, I don't remember that meeting. I can't guess.

And you're quite sure that you didn't come to the meeting with Mr Demian?---I don't even remember the meeting, so why - - -

How could you forget it if you had attended the meeting with Mr Demian?
---Well, clearly I don't remember that meeting.

20 It wouldn't be surprising if you, being the person who was talking to the purchaser's agents on behalf of the owner, attended the meeting with the owner, would it? That's just the sort of normal role that you would expect yourself to play in that circumstance?---Not really. Why, why would I say I'll meet you at Frappe, I'll meet you at Earlwood, I'll meet you other places or how could I come with him there?

Well, that's to obtain Mr Demian's concurrence as to the venue and the time.---This, this is, I, I, don't, I don't recall that meeting at all.

30 Was there discussion at the meeting about – I withdraw that. Did Mr Demian express any curiosity about whether Mr Dabassis actually had client?---I don't, I don't remember that, that meeting.

Did he express any doubt or cynicism as to whether Dabassis actually had clients?---I don't remember that meeting.

Was there discussion about the price per site?---I don't recall the meeting taking place even.

40 And was there discussion about some extra units being built subject to a section 96 application being approved by council?---I don't recall the meeting.

You know that there had been interest in whether the property would include extra sites but subject to council approval?---I, I don't recall the meeting or what was discussed.

Did Mr Demian at that meeting indicate a price range?---I don't recall the meeting.

What did you say at the meeting?---I don't recall the meeting.

Is it possible that you spoke at the meeting about an outstanding section 96 application and that Mr Demian was trying to get an extra 17 to 20 units?
---Look, I, I don't recall the meeting.

Did you, is it possible that you said at the meeting or that Mr Demian said at the meeting that in relation to the section 96 application, no, no, no, we'll get it through?---I don't recall the meeting.

10

So it is possible, I take it from your answers to my questions, all of those things are possible. You accept the possibility, you just say I'm sorry I can't assist you because I don't actually have a recollection of it.
---I don't have a recollection of, of the meeting ever taking place.

But you don't deny the possibility that any of those things happened.
---I'm not going to mention what possibilities, I, I just don't recall the meeting at all.

20 Was there a discussion at the meeting of a commission, a global commission of roughly \$2 million or \$1.8 million?---I don't know where you got these figures from. I don't ever recall any, that meeting.

Or was there a discussion of a commission on a percentage basis, say around 3 per cent?---I don't recall these meetings at all.

How could such a meeting have taken place with you being present, if not actually also taking part, and you today not have a recollection of it, Mr Hawatt?---I don't recall being at that meeting.

30

How can it be true evidence that you have no recollection of it when you know from the evidence that you've seen that you arranged for it to take place and for you to attend?---I organised - - -

How can it possibly be that you now have no memory of it?---I'm remembering from what I'm reading and listening to transcript, I coordinated the meeting but I don't ever remember having that meeting at all.

40 Excuse me a moment. Can I take you to a text message, please, in Exhibit 69, volume 21, page 165. And this is text messages extracted from your mobile phone. If I could take you to item 321, please, and you can see that it's the next day, 11 May, 2016, at 8.35am, and Mr Dabassis has sent you a text message and it reads, "Gents, good morning. Great seeing you all at the meeting last night and thank you for your time. After further discussions with the purchasers they have," and the word there is d-i-s-a-t-e-d, but it might be read as, in its context, "decided". I read on, "not to increase their offer. They can see the market is going backwards and the risk is high,

paying for more than they've offered. They have asked me the below, the offer for Canterbury Road, Campsie stands at 54 million, inclusive of GST until 5.00pm Friday, 13 May, 2016. Regards, John Dabassis, Galazio Properties." You accept that you were at the meeting?---I don't, I don't recall this - - -

10 No, no, no. That's not my question. You accept, don't you, that you were at the meeting?---As I said, he said, "Good morning, gents. Great to see you all there." If he sent it to me, I might have been there, yeah, but I don't remember it.

So what was your understanding as to why Mr Dabassis sent you this text message?---So I could forward it on to, to Charlie.

20 And you can see that that's what you did, item 322, at 4.04pm, "FYI, waiting for info, Michael," and then you just copied and pasted. You see that?---So, yeah, so why, why would this be sent firstly to me then forwarded on to Charlie if, if Charlie and I were present at that meeting, why would he mention that again?

Well, bear in mind, you are the person closest to the vendor. You might be regarded as the vendor's agent.---I'm not even sure the meeting took place after reading this.

You are the introducer and it might well be that Mr Dabassis didn't send it to Mr Demian, but that's not what I'm asking. What I'm asking is, why did you send it to Mr Demian?---Because I forwarded it.

30 Yes, but why?---Because this is for, this if for Mr Demian, not for me and I forward it on. This is not, this is not my message. It's a message for Charlie Demian and I forwarded it on, but reading this, it doesn't make sense why, if we had that meeting, why would he go back and, and talk about these things? I mean, surely Mr Demian and whoever would have had the understanding of what, what they wanted. I not sure now if that meeting was held or not. Just doesn't make sense. Doesn't make sense

What doesn't make sense, Mr Hawatt?---What, what John Dabassis is sending a message - - -

40 Are you saying that he had further discussions with the purchasers? They had decided not to increase their offer, which sounds, doesn't it, as if at the end of the meeting the state of play was that he was to get instructions as to whether the purchasers could increase their offer to meet Mr Demian's expectations as to the price that he was looking for. That's what it looks like, doesn't it?---Well, I, I don't remember this meeting.

And that's not the sort of thing that would be terribly surprising after a first meeting between a vendor and purchaser's agent, that the vendor might

indicate they want a little bit more money than the purchaser's prepared to pay?---Well, this simply - - -

Would that be terribly surprising, Mr Hawatt?---Well this is a, this is a day before - - -

10 Mr Hawatt, listen to me. Would that be terribly surprising that a meeting would conclude, a meeting like that would conclude with the purchaser saying, no, I'm not satisfied with the offer you're making to me, I want more money, and the purchaser's agents going away just to take instructions?---Oh, look - - -

Would that be terribly surprising?---Look, nothing surprises me. I didn't have this, I don't recall this meeting or this discussion at all with them and, and if he sent me the copy, I'll forward it on to, to, to, Charlie and that's all it was. So, I don't even remember this meeting.

I note the time, Commissioner.

20 THE COMMISSIONER: Is that a convenient point?

MR BUCHANAN: Yes, it is.

THE COMMISSIONER: All right. All right, we'll adjourn and resume Friday at 9.30.

THE WITNESS STOOD DOWN [3.54pm]

30 **AT 3.54PM THE MATTER WAS ADJOURNED ACCORDINGLY [3.54pm]**