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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 29 JANUARY, 2019

AT 10.00AM

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

**Sensitive**

THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Commissioner, I have one housekeeping matter before asking for Mr Azzi to be recalled, and that is I have a personal, a matter of personal convenience to raise with the Commission. I would like to attend the swearing in of a new judge of the Supreme Court on Thursday. The swearing in is at 9.15.

THE COMMISSIONER: This is Mark Ierace?

10

MR BUCHANAN: Yes, it is, Commissioner, and it should finish by 10.00, and my application would be, if you were prepared to meet that matter of personal convenience, for the hearing to commence at 10.30 on Thursday, 1 February, and perhaps we could make up some of the time by sitting till 4.30 that afternoon.

THE COMMISSIONER: No, look, that's fine. So that's this Thursday.

MR BUCHANAN: This Thursday, yes.

20

THE COMMISSIONER: All right. So, everybody, we'll commence at 10.30 on Thursday but we'll sit through till 4.30.

MR BUCHANAN: I'm told it's 31 January. It is Monday, today, isn't it, Commissioner?

THE COMMISSIONER: So now you've confused me. Today's Tuesday.

MR BUCHANAN: I apologise, I apologise. Thank you.

30

THE COMMISSIONER: Tuesday. It's the 29<sup>th</sup>, so it's Thursday.

MR PULLINGER: The 31<sup>st</sup>.

THE COMMISSIONER: Thank you, Mr Pullinger.

MR BUCHANAN: I don't think there are any other housekeeping matters.

THE COMMISSIONER: All right. So we're ready to resume Mr Azzi's evidence. Mr Azzi. And we'll just administer the oath again.

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THE COMMISSIONER: Mr Buchanan.

MR BUCHANAN: Commissioner. Mr Azzi, on one of the last days that we were sitting here in December 2018, I asked you some questions about an occasion when you were at 23 Oatley Street, Kingsford [sic] -- -?---Yeah.

10

-- together with Mr Hawatt and Mr Occhiuzzi. Do you recall that I asked you some questions about that?---Yes.

20

And if I could show you, please, some transcript from that day, page 5751, and at about line 30 you told us Mr Occhiuzzi said, “‘Yeah, good, it’s a good idea but I won’t recommend it.’ I said to Mr Occhiuzzi, ‘You here and we are here to find a way and solution to this resident problems.’” Then at line 40 you said, “‘We are here for the demand council resolution to find the applicant the way, a solution, and if any we can deal with the situation, it’s your job to recommend us what we have to do.’”

MR PULLINGER: You left out the word “way” – any way we can deal. Line 41.

MR BUCHANAN: That’s not in my copy, line 40, any way we can deal.

THE COMMISSIONER: 41?

30

MR BUCHANAN: “If in any way we can deal with the situation.”

MR PULLINGER: Yes.

MR BUCHANAN: Thank you.

MR PULLINGER: Thank you.

MR BUCHANAN: If I left that out, I apologise. You see that, Mr Azzi, in the transcript?---Yes.

40

And then on page 5752 your evidence is recorded, line 13, “‘He, he starts like, said, ‘What do you want me to do now?’ I said to Mr Occhiuzzi, ‘Mate, all right, just write a report to the council, explain what’s on the ground and what the situation is and let us debate it at the council.’” Then at line 27, when I asked, “‘Were you angry with him?’” you responded, “‘I didn’t express my answer there,’ I’m sorry, “‘I didn’t express my anger there but I said to him, Mr Marcelo, ‘It’s not a good answer,’ you know, I told him that, I said, ‘When we get back to the council I want a report to the council what we’ve seen and we’re here to help the people, not make their

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life miserable.” And then on page 5753, line 27, you said, “We are there to just find a solution for the guy and make a report back to the council.” Do you see that?---(No Audible Reply)

This is at, just above line, you see the digit 30, the numerals 30?---Yeah.

Just above that. “We are there to find a solution for the guy and make a report back to the council.”---Hang on – oh, yeah, yeah.

10 So that was your evidence about your role and Mr Hawatt’s role on the day that you went there and met Mr Occhiuzzi, and I assume also the owner. Is that right?---Yes, yes, the owner was there.

Mr Azzi, you said that you were there for the demand council resolution. Do you remember that, 5751 line 40?---Yes.

Yes. What was the council resolution?---Site inspection.

20 And at what stage had that resolution been passed? That’s to say, had there been consideration of the matter at the council at all, a section 96 application to modify a consent?---I, I can’t remember what, the resolution but what I can remember, if I’m right, the guy, he’s, he kept the concrete. I, I’m not sure a hundred per cent what’s happened as to why, too long ago, but I, what I can remember, not a hundred per cent sure if the resolution, whether resolution passed the section 96.

I would like to show you a - - -?---I’m, I’m not hundred per cent sure.

30 I’m sorry, thank you. I’d like to show you a bundle of documents, 19 pages. At the front of this bundle of documents is a letter from Hall & Wilcox Lawyers and it’s dated the 17<sup>th</sup> of January, 2019, and it’s addressed to the Independent Commission Against Corruption, that Hall & Wilcox Lawyers are the lawyers who are appearing here in the inquiry for Canterbury-Bankstown City Council. You understand?---Yeah.

40 And in this letter, in the second paragraph, the author of the letter says, “Council staff have searched records, and as best council can ascertain, we are instructed that it would appear that the first occasion the matter came before council was on 8 May, 2014, where the agenda item was deferred to 22 May, 2014. On 22 May, 2014, the agenda item was approved. Following that determination, a motion to rescind the resolution for approval was dealt with on 26 June, 2014. We are instructed that the staff of council are unable to locate any aspect of a resolution making any reference to the site inspection in consideration of the application in question.” And then the letter says, “We enclose the council reports and resolutions referred to above for your records.” And if I can just briefly take you through them, Mr Azzi. If you can go to page 2 of this bundle, the numbers in the bottom right-hand side, there’s a copy there of an extract

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from the minutes of the meeting of council held on 8 May, 2014. That goes through to page 9, and on page 8 you can see that there's a recommendation there from the director of city planning that the application to modify the consent at 23 Oatley Street be refused, and then at the bottom, agenda item 10, it was resolved – moved Robson, seconded you – that the matter be deferred to the council meeting on 22 May, 2014. Do you see that?---No, I missed that. Which page was it?

Page 8.---Page 8.

10

THE COMMISSIONER: If it helps, Mr Azzi, it's up on the screen as well. ---Oh.

Is that easier for you?---Yes, yes.

MR BUCHANAN: So can you see the resolution at the bottom?---Yeah.

20 That you seconded, was that the matter be deferred to the council meeting on 22 May, 2014. Page 9 of this bundle is an extract from the minutes of the meeting of council held on 22 May, 2014 and on that occasion, page 15 of the bundle, can you see that again the recommendation of the director of city planning that the modification application be refused is set out at the top of that page? Can you see that?---Yeah.

Then agenda item 1, the resolution towards the bottom of the page – moved Hawatt, seconded Vasiliades – was that the application to modify the development consent be approved, and then it set out some terms and conditions. Do you see that?---Yes.

30 Then on page 17 of this bundle is an extract from the minutes of the meeting of council held on 26 June, 2014, and there at the top of page 17 was a motion on notice to rescind the resolution that had been passed at the meeting on 22 May that I took you to a moment ago, and then if I can take you to page 18, and towards the bottom of that page you can see the motion on notice was declared lost. Do you see that?---(No Audible Reply)

Can you see that the rescission motion was lost?---Oh, the motion's been moved by Eisler and Adler, is it, that you're talking about?

40 Correct.---Yeah.

And then there was another resolution to a matter of urgency brought forwards, this is page 19 of the bundle, that exactly the same motion of 18 May be resolved again, and it was, as you can see towards the bottom of the page, everyone at the meeting voted in favour of the application being approved with the conditions and terms set out there. Do you see that?

---Yeah, just give me a - - -

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All I'm taking you to it for, Mr Azzi, is to allow you to see that it would appear that, on the basis of what the lawyers for the current council have told the Commission, there was no council resolution for a site inspection. ---Well, I can't remember what happened that period, but what I can remember, we decide when we rescind the motion for a site inspection. That's what I can remember, why we visit the site, because we asked for it. When we signed the rescinding motion what you talk before, it's part of it to visit the site and inspect it. That's what I can remember that's happen. It's been discussion between us in the chamber.

10

Yes. Did you give evidence on 20 December, 2018, to the effect that you were there because of a demand, a council resolution at 23 Oatley Street, Kingsford [sic], on the occasion you were there with Mr Hawatt and Mr Occhiuzzi and the owner in order to mislead the Commission?---No, I don't mean to mislead anybody, that's just what I can remember, we visited the site.

It was misleading evidence though, wasn't it, that you gave?---No, sir, I don't mean to mislead anybody.

20

But it was misleading evidence, wasn't it? The impression you left the Commission with was that you and Mr Hawatt were there to conduct an inspection at the request of council, indeed by reason of council resolution. That was the evidence you gave?---That's, yeah, that's what I can remember those days.

And it was wrong, wasn't it?---I don't know if it's wrong, because we decided when we was at the council at the time being. I don't go by myself.

30

But you and Mr Hawatt went by yourselves.---And the director.

And the director. How did that occur?---That's what we decide in the meeting, inspect the site. That's why we did rescinding motion. It's for a reason, to go and inspect the site.

THE COMMISSIONER: And sorry, when you say meeting, that was a council meeting?---Council meeting, yeah.

40

It should have been recorded if it had been resolved?---It should be, yeah, it should be, ma'am, but I, I can't recall, we now refreshing my memory when I see the rescinding motion, when I did sign the rescinding motion for a reason and I have no idea why they didn't write the reason. Must be a reason to visit that site.

MR BUCHANAN: The rescinding motion, though, was moved on the last occasion, 26 June, 2014, that the matter was before council and it wasn't moved by you or Mr Hawatt, it was moved by Councillors Adler, Eisler and Paschalidis-Chilas. Page 17 of the bundle.---It's the rescinding motion?

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Yes.---Look, I can't remember what was, what, what was happening on that day but it was a rescinding motion and, and we supposed to go and visit the site and that's what I can remember. I, it's, it's a while ago. I didn't need to, to try to hide anything. I said we have to visit the site and that's what's happened. I report it back to council.

Commissioner, I tender the bundle of documents headed by the letter from Hall & Wilcox Lawyers, dated 17 January, 2019, to the Commission.

10

THE COMMISSIONER: The bundle of document which commences with a letter from Hall & Wilcox Lawyers, 17 January, 2019, concerning council resolutions dealing with 23 Oatley Street, Kingsgrove will be Exhibit 249.

**#EXH-249 – BUNDLE OF DOCUMENTS WITH A COVER LETTER  
ADDRESSED TO ICAC FROM HALL & WILCOX, DATED 17  
JANUARY 2019, INCLUDING MINUTES OF MEETING WITH  
COUNCIL HELD ON 21 FEBRUARY 2014**

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THE COMMISSIONER: Mr Buchanan, were you going to move on?

MR BUCHANAN: Yes.

THE COMMISSIONER: Have you still got the document in front of you? This concerned the concreting of the front yard?---Yeah.

30

And if you go to page 4 of the bundle, of Exhibit 249, that's a photograph of the front yard?---Yes.

The address is 23 Oatley Street, Kingsgrove. Was that part of the ward that you represented on council?---Yeah, yeah.

It was. And did you know Mr Mohamad Sleitini?---No. At that time, no. He made a call to me.

40

He rang you, did he?---He rang. Like, he rang a few councillors as well and he rang us all to explain what was going on. I didn't know him, like, before.

MR BUCHANAN: Can I take you back now to the events in late 2014, concerning the appointment by Mr Montague of Mr Stavis as director of city planning. The evidence before the Commission indicates that Mr Montague gave a letter or issued a letter to Mr Stavis, offering him that job on 8 December, 2014.---Ah hmm.

**Sensitive**

You discovered at some stage, did you, that Mr Montague was changing his mind or had changed his mind about honouring the offer of employment to Mr Stavis, is that right?---Can, can you repeat, please?

Yes, certainly. At some stage did you understand that Mr Montague changed his mind about Mr Stavis getting the job?---Yeah, when he called me.

When Mr Montague called you?---Yes.

10

And when was that?---I can't remember actually the day. It has to be, I don't remember it's been on the Christmas Eve day or the day before. I can't recall the day.

Had you heard from Michael Hawatt or anyone else that Mr Montague was changing his mind before you got the call from Mr Montague?---No.

And so when you got this call from Mr Montague it was a surprise to you?  
---Yes.

20

What did Mr Montague say in the phone call?---He said to me I have, how to say, said I can't keep going. I don't remember actually what he said, but what he said, said I'm not going to proceed with the employment of Mr Stavis as a director, and I would like to, like, I'm not going to give him the job.

And was this a phone call in which you spoke to him or was it a text message?---It was a phone call through his, I believe his PA called me and said that "The GM wants to talk to you." I'm not sure if I called back or I answered the phone straight away.

30

Did you get a text message from Mr Montague on the subject?---I don't remember, no.

And what did you do after you got that phone call from Mr Montague?  
---Nothing. I was, I was too busy at that day, I remember, and I said to Mr Montague, "Do you want me, do you want to talk to me? You want, you want to meet?" Said, he said, "No, that's it. I made up my decision." And I said, "All right. Thank you very much."

40

Did you talk to Mr Hawatt about the call that you had received?---I don't remember if I called him or Mr Hawatt called me when he received the same call. I can't remember.

But there was communication between you and Mr Hawatt, was there?  
---Yeah, I can't remember. Yes. He, he called me. I, yeah, Mr Hawatt I think called me or I called him. I can't remember.

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Yes. And what happened in that telephone conversation with Mr Hawatt?  
---He said to me the news and he said, he asked me when I go down the council. I said, "No, I'm too busy. I'm not interested." He said, Mr Hawatt said, "All right. I'm going down." I said, "All right. See you." That's it.

Did you discuss with Mr Hawatt what he would say to Mr Montague?---No.

Did Mr Hawatt tell you what he proposed to say to Mr Montague?---No, he said I want to go down and find out what was going on.

10

So did you then get a report from Mr Hawatt about having spoken to Mr Montague?---Well, I can't remember if Hawatt called me after or sent me a text. I don't know. I don't remember.

20

I wonder if I could just show you, please, some text messages on 17 December, 2014, at volume 4 in Exhibit 52, pages 17 and following. Now, if we could just look at the bottom, enlarge the bottom of page 17 in volume 4, please. This is a text message extracted from Mr Hawatt's telephone to Mr Montague which reads, "Hi, Jim. Pierre does not want to discuss the director position any further, it's now up to you. I personally had enough with all the instability of how this council is run, it's like the blind leading the blind. The ones we are having big issues with are back in control. I am of the same opinion as Pierre, it's up to you. However I do not want this council to be legally liable based on your judgement and then reversing it," And "than" reversing it, but I think you meant, "then." "This does not look good for this council or its reputation. Council endorsed your appointment of our new planning director, we do not want to be involved in any legal challenges or further cost to council for this change of mind. Michael Hawatt." So was that, was what Mr Hawatt said there about your opinion correct?---Yeah.

30

Can you see that the date of that text is 17 December?---Yeah.

So this is a few days before Christmas Eve.---Yeah.

And Christmas Eve was the day that you and Mr Hawatt went to Mayor Robson's house and delivered to him a call for an extraordinary meeting  
- - -?---Yes.

40

- - - to consider a motion to terminate Mr Montague's employment.  
---Correct.

So it looks as if, from the fact that this is dated 17 December, that before this text message at 10.55am you had already been told by Mr Montague that he was changing his mind.---Yeah, when he called me. I don't remember a date of the call.

I understand, but I just want to draw it to your attention.---Yeah.

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And you appreciate, do you, that it would look as if that communication to you by Mr Montague of what he was proposing to do or what he was doing was before 17 December, 17 December, 2014?---I think it's happened on 17, yeah, before or the 17<sup>th</sup>.

Thank you. So given the date of that text, being 10.55am on 17 December, 2014, what happened next?---Nothing.

10 Well, we know that you went with Mr Hawatt to Mayor Robson's house on Christmas Eve, 24 December, to deliver a call for an extraordinary meeting of council. What happened in between that text message on 17 December to result in you and Mr Hawatt delivering a call for an extraordinary general meeting to the mayor to consider terminating Mr Montague's employment? Something must have happened in between.---I don't remember what happened in between.

20 So why did you go to the mayor's house with Mr Hawatt and deliver a call for an extraordinary meeting to consider a motion to terminate the employment of the general manager?---As I said before, when I received this memo from the GM, when I read the memo and I noticed the council's going to be liable for compensation and we need to ensure the council's not liable for anything. That's why I've been angry, not about appointment, because I've seen it's going to be liability for compensation and the council hasn't been, they try to avoid council to discuss it. Like, the council has to approve payment, not the GM. GM can employ people but the council has to approve the payment.

30 And if the witness could be shown volume 4, page 46, please. Is this the memo that you mentioned a moment ago? It's dated 23 December, 2014, from Mr Montague to the mayor and all councillors about the appointment of a new director of city planning. And if I can take you to page 47 of volume 4. The last paragraph on that page says at the bottom, "It may be the case that we will need to offer Mr Stavis some minor form of monetary compensation for any inconvenience caused. However, this is not yet known." Then over on the top of the next page, "It is my judgement based upon long experience that any financial penalty we may face at this stage will be more than balanced against the organisational difficulties we would certainly have faced had he commenced in the role." Is this the memo that  
40 you mentioned a moment ago?---Yes.

And it was when you read the references there to the possible liability to pay Mr Stavis some monetary compensation that you decided you needed to terminate Mr Montague's job, terminate Mr Montague in his job, is that right?---Yes.

Can I ask you, did you have any discussions with Mr Hawatt about this?  
---When I received this memo, yes.

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Before you received that memo, did you have any discussions with Mr Hawatt about what should be done about what Mr Montague was doing to Mr Stavis?---I don't remember.

You see, you and Mr Hawatt worked very closely together in relation to many matters in relation to planning, didn't you?---We worked together on the council, yes.

10 And you certainly worked closely with Mr Hawatt in relation to the attempt to terminate Mr Montague in his job, didn't you?---Yes.

The Commission has evidence that Mr Hawatt was speaking to a third party about terminating Mr Montague in his job on 20 December, 2014, three days before Mr Montague's memo. Would you be able to assist us as to how that could be?---I don't know.

Does it come to you as a surprise?---Well, I was, I don't know.

20 All right. Well, perhaps if I could assist you. If we can show Mr Azzi page 40 in volume 4, please. This is a text message extracted from Mr Hawatt's phone and the text is addressed to Kent Johns. You knew who Kent Johns was at that time?---Yes.

Who was he?---He was a member in Liberal Party, president or something like that.

30 Did he have a position in relation to a council, Sutherland Shire Council?---I don't know. I know he's a member in Liberal Party.

And this text message that Mr Hawatt sent to Mr Johns reads, "Hi, Kent. I need your confidential input regarding the process to terminate a GM of council. Are there any specific requirements to follow or mention to remove a GM from council? Thanks, Michael Hawatt." Do you see that? ---Yes.

And do you see the date of this text message, 20 December, 2014, at 1.10pm?---Yes.

40 Why would Mr Hawatt have been sending a message like that to someone on 20 December if your concern leading to your attempt to remove Mr Montague from his position was a result of his memo sent to councillors on 23 December?---I don't know.

Does it come to you as a surprise to read that Mr Hawatt was apparently contemplating the removal of Mr Montague from his position before Mr Montague had ever sent that memo of 23 December?---Can you repeat this question, please (not transcribable)

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Yes. Are you surprised to see that text message from Mr Hawatt to Mr Johns talking about getting rid of a GM three days before the memo from Mr Montague about a possible liability to pay compensation to Mr Stavis? ---I don't know what I have to say.

10 Well, the first question I should ask you is, did you and Mr Hawatt talk about terminating Mr Montague in his job before the memo of 23 December, 2014?---I don't remember, sir. I don't remember what, I don't remember.

You'd agree, though, that it would appear from this text message that the move to terminate Mr Montague in his job came before any mention of a liability to pay compensation to Mr Stavis.---Can you repeat this question?

Yes. This was a move to terminate Mr Montague in his position, wasn't it, this text message?---What I can read here?

20 Yes.---Could be.

Well, what else could it be? The process to terminate a GM of council. What are the procedures required?---If you can read this text message (not transcribable)

So did you and Mr Hawatt have any discussions before Mr Hawatt spoke to Mr Johns about the removal of the GM?---I don't remember about any discussion. Too many things we don't discuss it together. I don't remember.

30 It would be unusual, wouldn't it, for Mr Hawatt to be talking to someone outside of council about procedures to get rid of the general manager of Canterbury Council without discussing it with you, wouldn't it?---I don't know (not transcribable)

That would be very unusual given the pattern of your conduct as a councillor working closely with Mr Hawatt, particularly in relation to terminating Mr Montague as general manager. It would be unusual, wouldn't it?---I don't know.

40 The likelihood is that you did talk to Mr Hawatt about terminating Mr Montague as general manager before he sent that memo of 23 December to you and other councillors about a possible liability to pay compensation to Mr Stavis, isn't it?---I don't know, sir.

That's what's likely.---I don't remember.

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You'd accept, though, that it's possible that you and Mr Hawatt spoke about this before Mr Hawatt spoke to Mr Johns?---I don't know. I don't remember.

Can I take you now to Exhibit 52, volume 4, page 69. And before I ask you to read that, and I'll take you to a specific part of it in a moment, when did you first talk to Mr Hawatt about getting rid of Mr Montague as general manager?---I can't remember, I spoke to him, I don't remember when it was, I don't remember, but I spoke to him to take action when I received  
10 this memo, that's what I can't remember.

So you're saying you spoke to Mr Hawatt on about 23 December or soon thereafter?---That's what I can't remember.

And did you speak to Mr Hawatt face-to-face or on the phone or by text, how did you speak?---I don't remember how, but mostly on the phone, possibly.

Well, thinking of you going to the mayor's house on 24 December, how did  
20 you get there?---How did we - - -

Did you walk there?---No, driving.

You drove. Did you drive with Mr Hawatt?---I don't remember if we went separate cars or with one vehicle.

And where did you set out from to go on that journey to the mayor's house?  
---I think we move from my place.

30 And had you - - -?---Or the - - -

- - - had a meeting with Mr Hawatt at your place about what you were doing that day?---I believe when we made the call and we arranged to meet and discuss it and we went to the mayor's from there.

Can you see, if I could ask you to have a look at the top of page 69 in volume 4, that this is a text message extracted from Mr Hawatt's telephone that he sent to the councillors identified on this page and page 70, which is  
40 Con Vasil, Fadwa Kebbe, Karl Saleh, Mark Adler, Pierre Azzi and Ken Nam, and it's the same text message that is sent on 24 December, 2014 at 11.05am to all these councillors. And we'll just blow it up so that it's easier for you to read.---Yeah.

The text message itself, "Confidential and without prejudice. I am calling for an extraordinary meeting ASAP to move the following motions. 1. To terminate the employment of the general manager under clause 10.3.5 at 11.3. This is a simple resolution to pay him out (38 weeks) without reason. 2. To determine our position re the employment of a new director of

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planning and his subsequent withdrawal by the GM. Your hundred per cent support is required on the day to clean up the mess. Councillor Michael Hawatt.” Do you see that?---Yes.

Did you discuss with Mr Hawatt him sending that text message to the other councillors?---No. No.

You had no discussion with him?---No, we were discuss the motion but I don't know what - - -

10

And where were you when you discussed the motion?---On the phone and at my place.

At your place. And how was it that Michael Hawatt was at your place? Had you had a discussion about him coming over?---That's what I, as I said before, I contacted him, I'm not sure how, by the phone or text when I received this memo to, to ask him what's his view about this.

20

Well, did anyone else come to your house, apart from Councillor Hawatt, on this occasion?---No.

And why did you contact Councillor Hawatt and no one else?---Because Councillor Hawatt was in the panel with me and the mayor as well, we have to go see him, talk to him.

And whose idea was it to sack the general manager?---I don't remember whose idea, it's - - -

30

Well, was it yours or was it Councillor Hawatt's?---I don't remember who was it, which idea it was, I can't remember.

Well, the proposal must have come up at some stage and you must have had a reaction to it.---We discussed it and we come out with this, I don't remember who, what's happened, whose idea was that.

So you might have proposed it yourself?---I don't remember. We been discussing what we have to do.

40

Did you discuss any other options, any other alternatives?---Well, no. We need, yeah, we have, said we have to meet, we need a meeting. Actually we been discussing if we can go and have an extraordinary meeting to discuss this memo before that. Yeah, that's what I ask him.

And are you saying that Mr Hawatt said, “No, no, we don't need to discuss it. We need to sack the general manager”?---No.

Okay. The - - -?---No. We have two option.

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- - - the motion that is proposed in this text message is not to discuss the memo but to terminate Mr Montague in his position.---Yeah, what in this motion, yeah.

But it doesn't say anything about the memo of 23 December.---Yeah, it was discussion between me and Mr Hawatt to go and go to the mayor and ask him if he can call for extraordinary meeting to discuss this memo before this.

10 So it comes to you as a surprise, does it? Or I withdraw that. It came to you as a surprise, did it, to receive a text message on 24 December – because it was sent to you as well – saying that the meeting was to consider motions being to terminate the employment of the general manager and to determine council's position on the employment of the new director of planning?---I didn't know if I was surprised, yes or no. I can't remember what my reaction.

20 But this goes a lot further, doesn't it, than simply discussing the general manager's memo of 23 December, doesn't it?---My intention was to go and solve this problem. I wasn't surprised. I don't know what's happened at this time and if I was surprised or not. And everybody has his own opinion. My opinion was I want to discuss this memo before anything else.

So did you say that to Mr Hawatt?---Yeah, we discuss it.

30 So the evidence you're giving essentially is you propose one course of action, a meeting of council to discuss the general manager's memo of 23 December, 2014, and given the material that's in front of us, Mr Hawatt proposed something else, a meeting of council to sack the general manager and discuss the employment of the DCP.---Yes.

So it was Mr Hawatt's idea to sack Mr Montague, is that what you're saying?---No, I can't say that.

But ultimately you joined him in that, didn't you?---Yeah, I did sign the motion.

Why did you join him in that?---In what, sir?

40 In calling for an extraordinary general meeting to consider a motion to terminate Mr Montague in his position as general manager.---Because I'm a councillor as well. I have responsibilities.

Yes, but why did you change your position from being one that was that there needed to be a meeting of council to talk about the general manager's memo to the position that there needed to be a meeting of council to sack the general manager? There's a huge difference between the two, don't you see?---Yes.

**Sensitive**

So how did you get from the position that you wanted to discuss the memo to the position that you wanted to sack the general manager? How did that happen?---Yes, it happen when we went to the mayor's house and I did ask the mayor to call for extraordinary meeting to discuss this memo. He refuse, and we been left with a second option.

10 And on that occasion, you had a motion prepared – a call, rather – for an extraordinary general meeting to terminate Mr Montague in his job and to consider the position of the director of city planning. You had that already prepared on a piece of paper, didn't you?---Yeah, all, both position.

Who had it prepared?---Mr Hawatt or - - -

20 Was there another motion that had been prepared to call for an extraordinary general meeting to consider the general manager's memo of 23 December, 2014?---Yeah, I had a motion. I don't remember where I, I had it in my pocket or in the car and I told him when they both refuse, to move into the second one.

No, no, no.---I don't remember what that is.

What did you do with the piece of paper on which you had written, had you, a call for an extraordinary general meeting to consider the general manager's memo of 23 December?---I don't remember what I did with it.

Where were you when you prepared that piece of paper?---At home.

30 At your home?---Yeah.

Did you type it?---No.

Who typed it?---Nobody.

Did anyone type it?---No.

40 Was a piece of paper ever created which contained a call for an extraordinary general meeting of council to consider the general manager's memo of 23 December?---No. We haven't handed it.

THE COMMISSIONER: Sorry, we?---No, we didn't give it to the mayor, no.

Well, you're saying you didn't give it to the mayor. Mr Buchanan's asking you whether it was actually prepared. When you went to the mayor's house, did you have a piece of paper which had a motion on it seeking an extraordinary general meeting to discuss Mr Montague's memo?---I don't

**Sensitive**

remember. I don't remember if I have it with me, ma'am, but we had, like, piece of paper at home preparing both motion, but we didn't type it.

No, that's okay. So, you handwrote it, did you?---Yeah, but it stayed at my place.

So, you handwrote it but it stayed at your house. It didn't go in your pocket or in the car when you went to Mayor Robson's house?---Yes.

10 MR BUCHANAN: Did you discuss with Mr Hawatt, when you were at your house, that what you wanted to do with Mr Hawatt was go to Mayor Robson and given him a call for a meeting of council to consider the GM's memo of 23 December?---Yes. I discussed it with him.

And did Mr Hawatt agree?---Yes.

So did either of you prepare or have a piece of paper which had printed on it a call for a meeting of council to consider or discuss the general manager's memo of 23 December?---It hadn't been typed, no.

20

THE COMMISSIONER: It hadn't, sorry? I didn't hear that.---I didn't type it.

No, no. We know you didn't type it. I think when Mr Buchanan said printed, he also means did you handwrite?---Yes.

MR BUCHANAN: You handwrote it, did you?---Yeah.

And did you give that piece of paper to Mayor Robson?---No.

30

Why wouldn't you give to him a call for a meeting that you went all the way out to his place in order to give to him?---Mr Robson refused to accept anything to discuss this memo.

THE COMMISSIONER: But you're saying you had prepared the memo by writing it out in hand at your house. At that stage Mr Hawatt, what did he want? Was he going to support your handwritten memo?---Yes. Mr Hawatt and I, we discuss it. He said we have to go first to discuss.

40 The memo?---The employment, the memo, the employment of Mr Stavis.

All right. So, you then went to the mayor's house. Now you said previously that your handwritten memo – sorry, I withdraw that – your handwritten resolution seeking the extraordinary general meeting to discuss Mr Montague's memo, you left that at home.---Yes.

So, why did you leave it at home?---I don't know why. Because it has to be the, to be prepared, I said let's go and talk. It doesn't have to be resolution,

**Sensitive**

we can ask and do it. Like, we can ask him and he can call for a meeting without, like, a motion, if he wants to. He doesn't need any motion for the mayor or the general manager to call by himself, a meeting.

MR BUCHANAN: Can I show you volume 4, Exhibit 63, please. If you could just have a look at that, please. It's dated in handwriting 24/12/14. It has your signature at the bottom and the date. Do you see that?---Yes.

10 And Mr Hawatt's signature and the date. Is that the call for the extraordinary general meeting, sorry, the extraordinary meeting that was given to Mayor Robson?---Yes.

And that was prepared by Councillor Hawatt, wasn't it?---He made the writing, yes.

Where were you when you first saw this document?---We were at my place.

20 And did you sign it at your place?---I don't remember where, if we signed it at my place.

And why did you sign it at your place?---I don't remember (not transcribable) I sign it.

THE COMMISSIONER: It was signed before you handed it to Mayor Robson?---Yes.

30 MR BUCHANAN: Where were you when you signed it?---I don't remember. I don't remember my place or Mayor Robson's place. I don't remember.

You didn't sign it in front of Mayor Robson, did you?---I don't remember.

This is the document that Mayor Robson says he received from you and Mr Hawatt, you understand?---Yes.

40 And so my question is, why didn't you give to Mayor Robson the piece of paper which recorded on it the call for the extraordinary meeting that you've told us about that you went there to give him, calling for a meeting to consider the general manager's meeting of 23 December?---Can you recall the question, please?

Yes, sure. You say, do you, that this was a piece of paper that you and Mr Hawatt gave to Mayor Robson?---Yes.

But you didn't give him the piece of paper which had the alternative call for a meeting on it, is that right?---Because I left it at home.

I'm sorry?---I didn't take it with me.

**Sensitive**

And was there a reason why you didn't take it with you?---No.

Why wouldn't you have taken it with you?---Because the mayor, we can request from the mayor to call for the meeting without a motion if he wants to.

10 Why, in that case, did you bother giving this piece of paper – volume 4, page 63 – to Mr Robson?---When Mr Robson refuse and the GM refuse, both of them refuse to discuss the memo, we been left without any other option.

I just want to get your understanding of what the mayor was required to do once he had received the written call for an extraordinary meeting from you and Councillor Hawatt. Did you understand that this obliged the mayor to call such a meeting?---Yeah, he must.

20 And so if you had given him a piece of paper calling for an extraordinary meeting to consider the general manager's memo of 23 December, he would have been obliged to call such a meeting, wouldn't he?---Yes.

You see, is it – I withdraw that. It doesn't sound – I withdraw that. From the fact that you did not give the mayor a piece of paper on it calling for an extraordinary meeting to consider the general manager's memo of 23 December but did give him this piece of paper, it would seem that what you and Mr Hawatt were intent on doing was not having council discuss the general manager's memo of 23 December, but instead getting rid of Mr Montague.---I don't understand your question, sir.

30 Well, you see you had two pieces of paper you tell us.---Not two pieces, I didn't tell you that.

But you had two pieces of paper at Mr Hawatt's house, sorry, at your house, didn't you?---Yes.

And you deliberately left behind one of them. Is that right?---Yeah, because hasn't been typed, so yeah, I left it there.

40 I'm sorry, I missed that?---Hasn't been typed and prepared properly.

So why didn't you type and prepare it properly?---It's handwritten.

Yes. What's wrong with handwritten?---I left it at home.

It sounds very much, Mr Azzi, as if you chose – I withdraw that. If such a piece of paper ever was brought into existence it sounds very much as if you chose to leave it at home and not give it to the mayor, and instead require him to call a meeting to have Mr Montague sacked, doesn't it?---No.

**Sensitive**

So Mr Hawatt showed you this piece of paper at your place before you went to see the mayor. Is that right?---Yeah.

Did he say anything to you about where he got the wording from?---No.

Did you know where he got the wording from?---No.

10 What did you think of it at the time you saw it?---(not transcribable) can read.

Yes, but did you think it was a good idea or a bad idea or something in between?---At the time I don't know, I don't know what I was thinking on that day (not transcribable)

20 Well, why did you bother going, why did you – I withdraw that. Did you understand that you were going with Mr Hawatt to Mayor Robson's house in order to give him this call for a meeting to consider the termination of Mr Montague's position?---(No Audible Reply)

Is that what you understood you were going to the house to do?---No, after I discuss with Mr Hawatt we have to ask the mayor to call for a meeting to discuss this memo. That was, was my intention.

THE COMMISSIONER: That was your intention.---Yeah.

30 MR BUCHANAN: And you understood that if he was given a call for a meeting like this one here which called for a meeting, but for a different purpose, he, Mr Robson, was obliged to call the meeting?---Yeah, when he take it, he accept it.

From the fact that you did not give Mr Robson a piece of paper calling for an extraordinary meeting to consider the general manager's memo of 23 December, but instead gave him this piece of paper calling for an extraordinary meeting to have Mr Montague terminated, it would seem that it was your intention on that day to have Mr Montague sacked, wasn't it? ---No.

40 Why not?---(No Audible Reply)

What's wrong with that proposition?---Mr Robson didn't ask for the motion to call for a meeting to discuss the memo, he asked for this motion. When we ask him to do, I did ask him, said, "You have to call for extraordinary meeting, Mr Mayor, to discuss this memo." He refuse. Said, "Up to the general manager to deal with it." Said no. And he didn't ask me for motion. I said, "All right. What about if we want to terminate the position of the GM?" Said, "All right. Get me a written motion."

**Sensitive**

And you had one in your back pocket.---Yes.

Had you had a meeting with Mr Hawatt or anyone else about what you were going to do that day - - -?---No.

- - - other than the meeting you'd had at your house beforehand?---Which meeting are you talking?

10 Well, you said that you met Mr Hawatt at your house before going to Mayor Robson's house on Christmas Eve.---Yes.

So you've told us about that meeting, but there was no one else there, just the two of you?---Yes.

Is that right?---Yes.

20 Had there been any other discussions involving councillors beforehand about calling for the termination of the general manager in his position?---I didn't call and discuss it with anybody.

Had there been any other discussions, though, to your knowledge?---No, not from me.

Had you been involved in any discussion with George Vasil about this?---I can't remember.

Had you been to any meeting at Ray White Real Estate Earlwood about this?---No. I can't remember who did any meeting and discuss it.

30 So, can I ask you to explain to us what your thinking was as to why you decided that it would be a good idea to call for an extraordinary meeting of council to consider a motion to sack Mr Montague?---As a, as a councillor, accountable to look after the benefit of the council. When you see the GM, your general manager is act inappropriately and not professionally to deal with matters, we should act. It's my job.

But you'd read Mr Montague's memo of 23 December, hadn't you?---Yes.

40 And you saw in that, that there was - - -?---23<sup>rd</sup>, sorry, 23<sup>rd</sup> or 24<sup>th</sup>?

The 23<sup>rd</sup>.---Oh, 23<sup>rd</sup> the memo was?

Ah hmm. You read it at the time, didn't you?---Yes.

Mr Montague gave an explanation for his decision not to honour the offer of employment to Mr Stavis, didn't he?---Yes.

And what was wrong with that explanation as far as you were concerned?

**Sensitive**

---Mr Montague, he failed to consult the council about his decision.

THE COMMISSIONER: Sorry, he?---He failed.

He failed.---He must call for, for a meeting to consult the council before paying any compensation.

10 But he hasn't, in that memo he hasn't decided to pay compensation, he flags – where is it?---There's going to be.

“It may be the case that we will need to offer Mr Stavis some minor form of monetary compensation.” So, he's saying it's a possibility and he's describing it as a minor form of monetary compensation.---Yes, but, but he must consult the council.

MR BUCHANAN: And he then went on to say that on balance, taking everything into account about, he's implying the risks involved in employing Mr Stavis, that was a risk in itself, the risk of having to pay some  
20 minor form of compensation, which was worth taking in his judgement. That was what he explained.---That's what I read in the memo. Yes.

And so there was, of course, nothing wrong with council discussing that, was there?---Not, sorry?

There was no obstacle to council discussing this at its next meeting?---Just explain your - - -

30 Yes, sure. You had the mayor's – I'll start the question again. You had Mr Montague's decision not to honour the offer of employment to Mr Stavis. You had his memo of 23 December explaining his reasons why. You had the Christmas/New Year period coming up. Mr Montague indicated that he intended to re-advertise the position. You had no reason, did you, to think that you wouldn't be allowed to discuss those at the next meeting of council, did you?---Yes. Because the next meeting gonna what you said. It's a long two months and it's going to be long time before, that period's a long period to wait for the, it's gonna be next February, the next meeting and it's a long, big gap. That's why we called for extraordinary meeting.

40 But the call for the extraordinary meeting was not to discuss the memo of 23 December, don't you understand? That's what you never did.---In this, in this motion, yes, but we asked verbally for a meeting and, yes, yes.

And so the question is, if you genuinely wanted such a meeting, why didn't you deliver a call for an extraordinary meeting in the same way as you did to Mayor Robson calling for a meeting to consider sacking Mr Montague?  
---I didn't ask for it.

**Sensitive**

Yes, the question is, if you genuinely were concerned about those issues, why didn't you deliver a written call for an extraordinary meeting to discuss it?---Because the mayor didn't ask for it.

Is it possible that, as far as you were concerned, you were upset that Mr Stavis was not going to be employed as director of city planning, and you were so upset about it that you wanted to reinstate the position where he would be employed and get rid of Mr Montague, the obstacle to him being employed?---No, no. No.

10

Excuse me a moment. Now, I'd just like to show you a text message, page 80 in volume 4. The Commission has this text message that was extracted from Mr Hawatt's phone from Mr Montague on 27 December, 2014, at 8.57am, and it reads, "Michael, any time." You see that?---Yes.

And then if I can take you to page 82, on the same day at 11.41 we have a text message from you to Mr Hawatt. It reads, "Can we meet up with JM at Canterbury Leagues Club late this afternoon to discuss his options? Let me know your thoughts and time you are free." Do you see that?---Yes.

20

You recall getting that message from Mr Hawatt?---Looks like I did get it.

And then there's a similar message that's sent to Mr Adler in item 2 on that page.---Yeah.

Do you see that? But there's no reply from Mr Adler, and instead there's a reply from you at item 3, at 11.45am, "Okay. Any time." Item 4 is again from you to Mr Hawatt at 11.49am, and it says, "Me, you, Jim, first." ---Mmm.

30

Do you see that? What did you mean by, "Me, you, Jim, first"?---I don't remember what was, why, why I said that.

Well, you'd received a message from Mr Hawatt which said, "Can we," which suggests you and him, "meet up with Mr Montague at the Canterbury Leagues Club," that afternoon, and you had agreed to it, "Any time." You can see that.---Yes, yes.

40

And you, four minutes later, said to Mr Hawatt, "Me, you, Jim, first."---I don't know. I asked, I can't remember why I said that.

Well, it reads as if you thought that there might be a risk that someone else might be there.---No.

Like Mr Adler.---No.

For example.---No.

**Sensitive**

But you were certainly proposing that the meeting, the first meeting before anything else, be you, Mr Hawatt and Mr Montague, weren't you? That's what you were saying there.---That's what, I said that but I don't know why.

And Mr Hawatt seems to have understood you. At 11.51, item 5, he said, "Okay, but don't say anything or make any commitment without consultation with our council colleagues." Do you see that?---Yes.

And then you replied, item 6, at 11.53am, "Okay, mate."---Yes.

10

Now, what was it, as far as you were concerned, that would be a good thing about having a meeting with Mr Montague on 27 December, 2014, at Canterbury Leagues Club, to "discuss his options", to use Mr Hawatt's words in those texts to you and Mr Adler?---I don't understand the question, sir.

Why did you agree to have such a meeting with Mr Montague at Canterbury Leagues Club that afternoon to discuss Mr Montague's options?---Because I want, I want everything to be solved.

20

I'm sorry, to be - - -?---Solved. Any issue - - -

THE COMMISSIONER: Solved.---Solved.

MR BUCHANAN: Solved. I'm sorry. Thank you. You wanted it to be solved. And were you proposing a solution?---No.

Did you have in mind some solution?---What I have in mind, I want everything to run, the council run back to normal. That's what my interest is.

30

And did that include that Mr Montague's offer of employment to Mr Stavis be honoured by Mr Montague?---It wasn't my intention. I want - - -

Because you wanted Mr Stavis to be employed as director of city planning all along, didn't you?---No.

From the time you first met him.---No.

40

From in fact an earlier time.---No.

Didn't you speak to Mr Montague to indicate to Mr Montague that Mr Stavis was to be given an opportunity to be interviewed by the interview panel, comprising you and Mr Hawatt and Mayor Robson and Mr Montague? Hadn't you said that to the general manager?---I don't remember if I, I don't remember I seen Mr, yeah, I don't remember I spoke to Mr Montague about this.

**Sensitive**

Had you had any discussion at all with Mr Montague before the interview panel sat about who the candidates to be interviewed should be?---No, I don't remember that I did.

Is it possible that you indicated to Mr Montague or got Mr Hawatt to indicate to Mr Montague on your behalf that you and Mr Hawatt wanted Mr Stavis to be a candidate who would be interviewed by the interview panel, of which you were to be a member?---I don't remember this.

10 But is it possible that that happened?---I don't remember.

I note the time, Commissioner.

THE COMMISSIONER: Is that a convenient point?

MR BUCHANAN: Yes.

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

20

#### **SHORT ADJOURNMENT**

**[11.29am]**

MR BUCHANAN: Mr Azzi, we were looking at some text messages that were sent on 27 December, 2014 – this is volume 4, page 82 – to you and from you, but that have been extracted from Mr Hawatt's telephone. Do you see those?---Yes.

30 What did you believe was the purpose of meeting with Mr Montague at this time?---We had a problem at the council, I'm looking forward to solve it. That's all my purpose.

And what would have been a solution as far as you were concerned?  
---No idea.

If I could show you, please, another document, volume 4, page 77 to 78. This is a two-page document that is handwritten and it is headed Without Prejudice and addressed, "Jim." Do you see that at the top of page 77?

40 ---Yeah.

And then it has a number of points written on it, 1, 2, 3, and then a series of dot points after that, and then going over to page 78, a series of further points but the lead-in is asterisks. Do you see that, stars?---Yes.

Have you seen this document before?---No, I can't remember I've seen it.

Do you recognise the handwriting?---No.

**Sensitive**

Could it be Mr Hawatt's handwriting?---I don't know.

Is it your handwriting?---No.

This appears to be a document in which the author, the person who wrote it, has set out the terms and conditions of a proposed agreement or a proposal for an agreement with Jim Montague. You understand?---I understand what you're saying but I have no idea at all.

10

Well, you went to this meeting at Canterbury Leagues Club with Mr Hawatt and Mr Montague. Is that right?---Yes.

And where did you meet, where in the club did the three of you meet?  
---In the club.

Yes, where in the club?---In the café lounge.

And was it morning or afternoon?---Oh, I don't remember the time.

20

Is there anything that you can tell us about the meeting?---What I can remember, yeah, we discussed the, I remember we discussed the situation (not transcribable) with Montague or it was to me the first time I met Mr Montague after and I heard from him, we discuss the situation, that's what we discussed.

And what was said?---Oh - - -

30

Who said what?---Most of the time I was listening to Mr Montague why, we discuss why he's doing this.

THE COMMISSIONER: Sorry, doing what?---Like, what's happened in the appointment of the director, why he skipped the first preferred candidate and now explain to us what's going to happen with Mr Spiro and how we can get out from this situation. That's the discussion started with, and I heard from Mr Montague propose if we can skip or whatever, delay the, keep pushing for the motion till August and he will leave.

40

MR BUCHANAN: Yes.---And the, the discussion, that's what's happened in the meeting, and what I said to him is that, all right, you want to stay until August but we still have the, the main problem, what you going to do with, with the director of planning. Give us a solution to it, what you going to do about it. We going to stay like this. And it all just happened during this meeting.

And did Mr Montague say anything in response to what you'd said?---I didn't say it. He said it, he want to stay until August, but at, at the time being, I can't remember Mr Montague come out with any quick solution

**Sensitive**

except we have a situation here, after it's been confirmed there's going to be some compensation being paid and - - -

THE COMMISSIONER: Sorry, this is compensation to whom?---Mr Stavis. And I said, I said to Mr Montague, it's your job, you find solution for this problem we create. Council, we can't do anything about it. Give us a solution.

10 MR BUCHANAN: And did Mr Montague give you a solution at that meeting?---No. That's why he want discussion. Said, if you can wait with proceeding with the motion until August and I will leave.

And did you or Mr Hawatt agree to that?---I said, it's your wish. Whatever you - - -

Who said that?---I said to Mr Montague, I said, whatever you want to do, it's your wish but my main reason here to, to agree to meeting with you to tell me how we're going to find a way out for this problem.

20 Yes.---That's what happened in the meeting.

And did you propose a way out?---Yes. At that, at that, I did.

What did you say?---I said, I gave Mr Montague a proposal.

30 What was that?---I said to Mr Montague what about, I said, you know better, what about if you can give Mr Stavis a job in the council for the money we're going to pay him, let him work for it, if it's possible. He said, I don't know but you know better. We, we are short of planners, that's my suggestion to him, that we, we are short of planners in the council. Give him a job as a planner if you don't want him as a director if this possible, and we can, he can work for the money, he's going to get paid. And at this period you see (not transcribable) fit to work, you can keep him. If he doesn't, at least he work for the money we're going to pay him as a compensation. That's my suggestion to him if it can be done. That's what I said to him.

At that meeting at the Canterbury Leagues Club on 27 December, 2014?  
---Yes.

40

Yes. What did Mr Montague say to that?---Well, I didn't get, I don't remember I get an answer at this time. He said he will, well, he will see because I didn't get an answer at this time. That's what's happened in this meeting.

Did Mr Hawatt say anything during the meeting?---Well, just, he had questions asked, I don't remember what he said but I can remember what I

**Sensitive**

said, you know? I was listening what he wants and that's what I said to him, that's all.

Now, is it possible that that account you've just given us is wrong?---Excuse me? I don't understand.

10 Is it possible that that account, that story that you have just given us about the meeting with Mr Montague and Mr Hawatt at Canterbury Leagues Club on 27 December, 2014, is wrong?---No, it's not wrong. That's what's happened.

Can you have a look at this handwritten document, volume 4, page 77 in Exhibit 52. What I want you to consider is that this is Mr Hawatt's handwritten.---I don't know, sir.

But you've seen his handwriting plenty of times, haven't you?---I don't remember I've seen his handwriting.

20 Did you see this document or – I withdraw that. Did you see Mr Hawatt with any document at this meeting?---No.

Did he have a document with him?---I don't remember.

Did he show a document to you before you went to the meeting or on your way to the meeting?---No.

How did you get to the meeting? By car or on foot?---By car.

30 In whose car?---I don't remember if I drove by myself or (not transcribable)

Where did you set out from for that journey?---Pardon?

Where did you start that journey that ended up at Canterbury Leagues Club on 27 December?---I don't remember (not transcribable) I don't remember.

40 Did you find Mr Montague there by himself or did you find him there with Mr Hawatt or did you and Mr Hawatt arrive there and find Mr Montague there or did the two of you arrive there and wait for Mr Montague?---I don't remember.

Did you and Mr Hawatt go to the meeting together?---I don't remember.

The chances are that you did, aren't they?---I don't remember.

Did anyone at the meeting say anything about a legally binding agreement for the general manager to resign his position at the end of August 2015?---I don't understand this question, sir.

**Sensitive**

All right. Sorry. If you could have a look at the top of the page that's on the screen – this is volume 4, page 77 – you'll see that it says in handwriting, item 1, "Legally binding agreement for GM to resign his position at end of August 2015."---No, we didn't give any document, I didn't give anything to him.

Did anyone say anything like that?---I don't remember we, we discussed what's in here.

10 So you've read this document before today?---No, I haven't (not transcribable)

Well, I'm taking you through it item by item, and I'm asking you, having regard to what's in this document, were the subjects or topics that are set out in this document, were they mentioned at the meeting with Mr Montague at Canterbury Leagues Club on 27 December?

MR PULLINGER: Perhaps before he answers that he should be given an opportunity to in fact - - -

20

MR BUCHANAN: Well, I'm taking him through it one by one.

MR PULLINGER: Thank you.

MR BUCHANAN: Give him a chance.

MR PULLINGER: Thank you.

30 MR BUCHANAN: So the first one is "Legally binding agreement for GM to resign his position at the end of August 2015." Did anyone mention that?---I don't remember, sir.

Did anyone mention a gratuity payout of 20 weeks for 32 years of service to council?---I don't remember, sir, we discussed any individuals.

40 Didn't you discuss Mr Montague's position?---No, he said (not transcribable) interest at that, at this meeting, and I said what I had to say, what I said, and that's always, I like to discuss what's most important. I, I didn't see this one. But what I believe something said, like Mr Montague will get his (not transcribable) entitlement if he want to leave. But not, I don't know what, if it's part of this. No idea.

So did Mr Hawatt say anything about Mr Montague getting a gratuity payout if he left?---I don't remember. That's what generally was said, his entitlement. That's what I can't remember. That's all.

You can remember - - -?---Entitlement.

**Sensitive**

- - - a mention of entitlements, can you?---Yeah, when he wants to leave.

And when he wants to leave.---Yeah.

And was Mr Montague agreeable to leaving if he got his entitlements? Did he say anything to indicate that?---Mr Montague come up, come out with this date. He said, "I want to leave in August." We didn't ask him, we didn't (not transcribable) the date.

10 And did you or Mr Hawatt offer any incentive for Mr Montague to agree to leave, such as a gratuity payout?---No (not transcribable) I said, Mr Montague, I said to him, we'll respect your decision. It's up to you. You decide when you want to leave or you want to stay. But that's all we, I can remember has happened.

Do you know the meaning of the word gratuity?---No.

20 Was there any discussion at any stage with Mr Hawatt, as far as you were concerned, about Mr Montague being paid money that he was not entitled to, but that it would be paid to him by council out of the goodness of its heart?---No.

Was anything said to Mr Montague at the meeting by way of a sort of bribe to give him an incentive to leave?---No, sir.

Looking at item 3, it says, "Either party may give notice at any time to leave with a payout of the balance of the value of the contract." Do you see that? ---Yes.

30 Was there anything like that, that was said?---I don't remember we discuss individual - - -

Was there any - I'm sorry, I interrupted you.---Because I don't discuss anything, I have no clue if it's legal or illegal. I didn't discuss it particularly, except what we discuss, what you're allowed to have and your entitlement, you can have it.

40 Was there any discussion with Mr Montague if he was going to leave in August what the process would be to find a replacement GM?---I don't remember we discuss this.

Wouldn't you be concerned, though, that there be a process to find a new general manager?---What I understand is, is a general manager leaving there's going to be another process to find another one.

Were you interested in seeing that there be such a process put in place to ensure a replacement of Mr Montague by the time he left?---I don't remember we discuss this at this time.

**Sensitive**

Was there any mention of Il Buco restaurant?---At the meeting?

Yes.---No.

When did you become aware that Mr Montague regularly went to a restaurant called Il Buco?---From the media.

10 When was that, sir?---I can't remember the date when it's been published.

You didn't hear anything about that beforehand?---No, sir.

Was there anything said at the meeting at the Canterbury Leagues Club on 27 December, 2014 about honouring the contract of employment of Mr Stavis?---No, it's, what we discuss is the general manager job. It's up to him to find a solution. I didn't ask him for anything.

20 Can I take you – this is on page 78 that we're looking at on the screen now, and the second-last star that's there reads, "Upon a legally-binding agreement for," f-o-r, "we will withdraw the extraordinary meeting." Do you see that?---Yes.

30 Was there anything discussed at the meeting on 27 December with Mr Montague about the circumstances in which you and Mr Hawatt might withdraw your call for an extraordinary meeting to consider a motion to have Mr Montague sacked?---What I say before, when Mr Montague come up, come up with a proposal to stay to August, I said, "We have no problem for you to stay until August." His suggestion, want to stay until August, that's mean we're going to withdraw the, the motion.

THE COMMISSIONER: But there it says you'd withdraw the motion on the condition that Mr Stavis's contract of employment was honoured.---No, I haven't seen this, ma'am. What I discussed with Mr Montague when he suggest to stay until August, that means he's, he's going to stay until August when he's set to finish 32 years' service in the council and leave with honour, and we said we have no issue with this if this your proposal, but you have to go out and set up, go out to the council and discuss it within the council, in the front of all the councillor and put your proposal on the table.

40 MR BUCHANAN: Can I ask that we have a look at another document, please. Volume 4, page 172. This is a memo that if we go to the second page you can see has the name of Mr Montague on it. So, going back to the first page, it has written on it in handwriting, "Not sent." Do you see that? ---(No Audible Reply)

But it is addressed to you and Councillor Hawatt and it's dated 12 January, 2015. Do you see that?---Yes.

**Sensitive**

And it reads, the first line, first paragraph reads, "This is to confirm the nature and outcome of a conversation that took place between us at Bulldogs Leagues Club on 27 December, 2014." Do you see that?---Yes.

And the second paragraph reads, "The meeting was arranged by mutual consent ostensibly," meaning on the face of it, apparently, "to discuss the appointment of a new director of city planning following the resignation of the former director, Mr Marcelo Occhiuzzi, on 7 November, 2014." I'll just skip over the next two paragraphs. He then says, "The preceding brief history is necessary to contextualise," give background, "our meeting at the Bulldogs Leagues Club on 27 December, 2014. At the club, you presented me with two options to consider. Option 1, I would be required to retire in August 2015. In addition to my normal entitlements, I would be paid an additional eligible termination payment equivalent to 38 weeks' pay based on my annual total remuneration package at the time of retirement." Now, that's what Mr Montague recorded that you and Mr Hawatt offered him at the meeting on 27 December, 2015. Is that right, that first option under the heading option 1?---We, I, what I remember I said, you can have your entitlement. I don't know how Mr Montague, he's a professional, how he's, what he wrote here, what, being his entitlement is. I have no idea. I didn't discuss it individually. I don't know what his entitlement is.

But it starts out, option 1, "I would be required to retire in August, 2015." In other words, his story is that what you and Mr Hawatt indicated, that he was required to retire at that time, not that he offered to.---Mr Buchanan, how I should know Mr Montague, he would finish 32 years in August? No, it's not correct. He asked for it.

And he says that in addition to his normal entitlements, he would be paid an additional eligible termination payment equivalent to 38 weeks' pay.---He knows very well he made the rules. I don't know nothing about this entitlement.

He's saying that he was offered more than his entitlements, that he would be paid what would be a very large sum of money, being what amounts to a gratuity of another 38 weeks' pay. That's what he's saying there that you and Mr Hawatt offered him on that occasion.---We offered him?

Yes.---I don't have (not transcribable)

No, but you controlled council, together with Mr Hawatt, didn't you?---I don't control council, sir.

If you talked to the other councillors, you and Mr Hawatt knew that you had a good chance of persuading them to agree to whatever you and Mr Hawatt asked them to agree to, didn't you?---No.

**Sensitive**

You knew, didn't you, that you were on a path to getting rid of Mr Montague. You had initiated a process to get rid of Mr Montague, hadn't you, you and Mr Hawatt?---Can you explain this question?

Yes.---We had a motion.

You had started a process to get rid of Mr Montague, hadn't you?---Yes. Yes.

10 And you had done that believing, didn't you, that you would have the numbers on council to agree to that. Isn't that so?---No.

And if you were able to offer Mr Montague an enticement to persuade him to leave, that would be a good result for you, provided you could get Mr Stavis into the job of director of planning.---Not true.

Now, the second option that is written on this page that Mr Montague recorded is "As above, except I would be given the opportunity to provide consultancy services to council to assist finalisation on a number of key  
20 projects, including council's response to the New South Wales Government's Fit for the Future reform package." And then he went on to talk about other things that he understood that he would be required to do. Did you and Mr Hawatt talk to Mr Montague at that meeting on 27 December about him being given the opportunity to be a consultant to council after he had left in August 2015?---I don't remember we said this. I don't remember, sir.

See, did you and Mr Hawatt put together a package in order to persuade Mr  
30 Montague to leave?---I don't understand the package.

A bundle of terms and conditions. He would retire at a particular time, he would be allowed to be a consultant afterwards. He would be not only given his entitlements, but another 38 weeks' pay. All of these are things which might be enticing to a man in Mr Montague's position to agree to leave in August 2015, rather than be sacked - - -?---No.

- - - by virtue of the motion that you and Mr Hawatt had put before the council.---No, no.

40 Did Mr Montague – and I'm just taking you now to the last paragraph on page 172 – indicate to you and Mr Hawatt that he would need to discuss his options with his family and the mayor before proceeding, that he would think it over and come back to you as soon as he could?---I don't remember what he said at this time. He said he'll, I remember he said (not transcribable). He'll get back.

Was there anything said at the meeting in which Mr Montague indicated that he would reappoint Mr Stavis?---No, he didn't confirm it.

**Sensitive**

Did the general manager advise that he wished to buy out the rest of his contract?---I don't understand, buy out?

Did Mr Montague say anything on the meeting on 27 December, 2014, to the effect that even though his contract was to go for longer than to August 2015, if he could get all his entitlements for the length of his contract, then he'd be prepared to leave earlier, like August 2015?---No. What I can remember that's what he said. I don't remember anything else.

10

Was there anything said about the mayor buying a new mayoral car and it being an Audi?---I don't remember if it's been said in the meeting or somewhere else, but it's been said, yeah.

Excuse me a moment.

I made a mistake, Mr Azzi. Did the general manager, rather than saying he wished to buy out his contract, indicate he wished to buy out his car, at this meeting on 27 December, 2014?---No, I don't remember, sir.

20

If I could take you, please, to page 148 in volume 4. Excuse me a moment. Can I take you to page 148, and if I can just take you to page 153. This is the last page, page 153, of this document, and it's got your signature on it. Do you see that?---Yes.

And if we can go back to the first page, this is a document that's headed Code of Conduct Complaint, and it's addressed to the Honourable Paul Toole MP, the Minister for Local Government.---Yes.

30 Do you see that? So you signed this document as true and correct?---Yes.

Can I take you to page 150. And can you see at the bottom there, there's an item number 25, and it starts, "A meeting was held at Canterbury Leagues Club with the general manager, Councillor Azzi and Councillor Hawatt." Do you see that?---Yeah.

"The points of discussion were, A, the general manager advised he would reappoint Mr Stavis." Did that occur?---It's been written here.

40 That's what it says here - - -?---Yeah, I can't - - -

- - - and you signed it.---Yeah, I can't remember what happened at that meeting except, it's a long time ago, but - - -

Did you read this document before you signed it?---Yes.

Did you sign it because it was true and correct?---What do you, like, it's been - yeah, true. Preferred - - -

**Sensitive**

Well, we can cut to the chase, can't we? The general manager, at that meeting at the Canterbury Leagues Club on 27 December never said he would reappoint Mr Stavis, did he?---Pardon?

At the meeting on 27 December at the Canterbury Leagues Club, Mr Montague never said he would reappoint Mr Stavis, did he?---Not that – I can't remember what he said. We discussed few things. That's what I can't remember I said.

10

If he had said he would reappoint Mr Stavis, you would have been very happy, wouldn't you?---Maybe.

That would have been what you've described as a solution, wouldn't it? ---Not paying compensation, yes.

20

THE COMMISSIONER: Well, if he appointed Mr Stavis, there wouldn't have been a need to pay compensation, would there?---No. Mr Stavis already been appointed. Yeah, if he kept going with the appointment, we don't have to pay.

And so, as Mr Buchanan put to you, that would have been a solution that you would have liked?---Solution to one of the problems, yeah, yeah. That's what I remember - - -

30

MR BUCHANAN: But it can't possibly have happened, could it? It can't have happened that at that meeting Mr Montague said, "I will reappoint Mr Stavis." It can't be right, can it? It must be wrong.---Do you understand why you saying this, Mr Buchanan. I said I can't remember what Mr Montague said at this meeting at the moment.

At point E, in paragraph 25, the code of conduct complaint that you signed said, "The general manager advised he wished to buy out his car." Do you see that?---Yes. Yeah. Now, must be said that I couldn't remember, not you asking me, I didn't remember what he said.

But you do remember it now?---Because I've seen it.

40

Yes. Do you remember him saying that?---No. Not at this time.

Do you remember, I'm looking at paragraph F of 25, the general manager also advised there may be an issue with the mayor buying a new mayoral car and it being an Audi?---No. Maybe it been said at this time. I can't remember what, at, at the time but it's been written here.

If we can go to another document, please. Volume 5, page 256 in Exhibit 52. This is a copy of an email from, as you can see at the top there, Michael Hawatt to Mr Montague, dated 13 January, 2015. Do you see that?---Yes.

**Sensitive**

Now, it reads without prejudice, like that handwritten document I showed you a moment ago, "Hi, Jim. See the following points as discussed." Now, please don't misunderstand me. I am not suggesting to you that this was arising from the 27 December meeting, but it is very close in time that this document, 13 January, very close in time to 27 December. Do you see that?---Yes.

10 And the points that Mr Hawatt said in this email to Mr Montague that had been discussed were, "Legally binding contract for the GM to cease employment with Canterbury City Council at the end of August, 2015." ---Yes.

Was that something that was discussed at the 27 December meeting at Canterbury Leagues Club?---That what I said, yeah. We discuss when he suggest he want to leave in August. And what I said before, he will get his entitlement.

20 And that it would be a legally binding contract which would oblige Mr Montague to retire at the end of August 2015.---I don't know about individual things in this.

This document that Mr Hawatt sent to Mr Montague on 13 January, 2015 went on to say, point 2, "A gratuity payout of 20 weeks for 32 years of service to Canterbury." Do you see that?---Yes.

30 So was anything like that discussed with Mr Montague at the meeting on 27 December at Canterbury Leagues Club?---My understanding is he will get his entitlements and I don't know how it must work out. That's what I know. 20, 30, 38, I have no idea.

This is more than his entitlements.---I don't know.

It's a gratuity. It's something the council doesn't have to give him but would decide to give him anyway out of the goodness of their heart.---I have no idea, sir, it is more or less.

40 So can I just ask, just pausing there, does it surprise you to see an email from Mr Hawatt to Mr Montague only a few days later – two weeks later, a bit over two weeks later – to Mr Montague, making this offer and indicating that it had been discussed?---I don't know.

You see, you and Mr Montague, I do apologise, you and Mr Hawatt worked together politically, didn't you, to achieve your political goals.---No.

The two of you worked as a pair in achieving the political goals that the two of you shared, didn't you?---No.

**Sensitive**

Can I take you to the bottom of that email, leaving aside it says, "Sent from a Samsung Galaxy," can you see that the last line reads, "Councillor Michael Hawatt on behalf of a number of councillors"?---Where's that?

It's the second-last line on the page, where the hand is - - -?---Yeah.

- - - jiggling up and down in the margin.---Yeah.

10 Did Councillor Hawatt write this email to Mr Montague on behalf of you?  
---I don't remember at this time (not transcribable) number of councillors. I don't know.

Was there any discussion at any time before 13 January, 2013, I'm sorry, 2015 - - -?---I don't remember.

20 - - - of which you were aware about Mr Montague being offered a gratuity, a payout that he isn't entitled to, in order to persuade him to leave early?---I don't remember we did that, I said anything. I didn't put up a date for him to leave.

I just want to check your use of the word "I don't remember". Is it possible that there was talk amongst councillors, involving Mr Hawatt and of which you were aware, about Mr Montague being offered something he's not entitled to in order to persuade him to leave, and you then forgetting it?  
---We normally, those councillor who signed, we used to meet regularly to discuss the situation. I can't recall what's been discussed individually.

30 And did Mr Hawatt never raise with you or suggest in your presence that Mr Montague be offered an enticement, a bribe, to leave early?---No (not transcribable) I won't agree.

You would accept, wouldn't you, that if I explained to you that a gratuity payout is something that council would give to Mr Montague that he's not entitled to but out of the goodness of its heart, that would be a bribe, wouldn't it?---Repeat the question, please.

40 Yes, certainly. What do you understand by the meaning of the word bribe?  
---Bribe, if somebody take things not entitled to, entitled to, like take anything is not entitled to get it.

Well, do you think it might be if, for example, hypothetically, a councillor offered that they would arrange for council to give a large amount of money to the general manager in order to persuade him to leave as general manager before his contract expired? That would be a bribe, wouldn't it?---I don't know.

Would that be the right thing to do or the wrong thing to do?---You mean if we can give somebody not his entitlement illegally?

**Sensitive**

Yes.---You can't do anything illegally.

You can't?---Illegally, no.

It would be the wrong thing to do?---If it's illegal, yeah.

10 And I just want to check, do you think it would be the wrong thing to do, forget about legal or illegal, do you think it would be the wrong thing to do to have offered Mr Montague money he wasn't entitled to in order to persuade him to leave early, rather than having to sack him?---Oh, if he's, what I say, I don't know about this, I can't answer, I don't know the answer of this question. If he's not entitled to have his money he shouldn't have it.

THE COMMISSIONER: So it would be wrong?---You can't give anyone money if it's not allowed to.

No. Because it's public money, isn't it?---Yeah, of course.

20 It's the ratepayers' money?---Yeah.

MR BUCHANAN: Do you know how much money a gratuity payout of 20 weeks for Mr Montague would have been?---I don't know how much Mr Montague get paid.

Do you think he would probably have been paid more than any other member of staff at council?---I don't know the numbers.

30 Who do you think would have been paid the most at council?---Usually the general manager.

And you approved his contracts from time to time as a member of council, didn't you?---Yes.

He had a salary that was in the vicinity of 100,000 or so, perhaps more, dollars?---I believe, I believe it was more. I don't know about how much exactly, I can't remember, but it's more than 100,000, yeah.

40 So 20 weeks of Mr Montague's salary would have been quite a large amount of money, wouldn't it?---It's money, it doesn't matter how much, yeah.

It would be a large amount, though, wouldn't it?---If you want to calculate it, I don't know how much his salary, it could be, yeah.

It would certainly be more than any compensation that Mr Stavis would be entitled to for not being employed as director of city planning, wouldn't it? ---I have no idea about, I didn't calculate, I don't know how much it was,

**Sensitive**

the 38 weeks, but what I know, the 38 weeks for Mr Stavis been around 150,000 (not transcribable)

And if I tell you that Mr Montague's salary was specified at \$337,997, does that sound about right to you?---338,000?

Yeah.---Could be.

10 You see, weren't you involved in offering a bribe to Mr Montague to leave his position before his contract finished, which would have cost council certainly a very large amount of money compared to the risk of having to pay some compensation to Mr Stavis before he got another job?---Is the question, can you repeat the question?

Yes. You were involved, weren't you, in offering to pay to Mr Montague a bribe which would have involved the payment by council of a large amount of money compared to, what I suggest, the relatively small amount of money that a mere director of planning would be entitled to for not having the job?---No.

20

Can I ask you this, if I can take you to the dot point that is in this item here. You see this goes 1, 2, 3 and then there's a series of dot points, do you see that?---(No Audible Reply)

And the first one reads, "Mid-June," and then I just want to take you to the next one. It reads, "Council to take appropriate steps." Can you see that paragraph?---Yeah.

30 "Council to take appropriate steps to streamline the planning process to include a panel consisting of the director of planning and councillors to look at the major DA submissions for comments." Can I ask you about that, is that something that you're aware of, that Mr Hawatt was proposing this on behalf of a number of councillors to Mr Montague as at 13 January, 2013? ---Yeah, what, what the question?

Did you know that this was being proposed to Mr Montague?---I don't remember.

40 Had you had any discussions involving Mr Hawatt about setting up a panel to consist of the director of planning and councillors to look at the major DA submissions for comments?---It has been some discussion in the council to form, like, committee in planning to look at the design. Yeah. Some, like, committee.

A design review panel?---Yeah. At the council, a committee, but didn't happen.

**Sensitive**

And the proposal here, though, is that the committee, the panel comprised of the director of planning and councillors. Not experts in planning but councillors.---That what, it's been a lot of talk in the council about it and I don't know when it's happened, but I can remember something happened and, like, set up, like, committee from councillors to look at the design or, like, design committee. Yeah. Suggested by the GM I think, this says.

10 Can I take you then to the last dot point. It reads, "Honour the employment contract of Mr Stavis to avoid an legal action against this council."---Yes.

And then on the second last line it reads, "The extraordinary meeting will be withdrawn." And the last line reads, "Councillor Michael Hawatt on behalf of a number of councillors."---Yes.

So, are you aware of any offer like this, set out in this document, being provided or given in any way to Mr Montague?---What did, I, what I can remember, no. I didn't remember we gave, I gave Mr, or discuss with Mr Montague his entitlement.

20 Did you talk to Mr Hawatt about these terms and conditions for the withdrawal of the call for the extraordinary meeting?---Well, we made, we, it, it's one of the purpose of the meeting if we, if the rest of the councillors agreed, the council agreed, when they agreed to let Mr Montague stay until August, they're going to be, we agreed to withdraw that motion. If the rest of the council would agree. That's what I mean. That's what I said, it's going to be put in the front of the council and they will decide the proposal of Mr Montague.

30 And my question for you is – I withdraw that. I just want to give you an extra piece of information. In relation to this email, it's dated 13 January, 2015. I just want you to assume that that email was sent by Mr Hawatt to Mr Montague after a meeting he had had with Mr Montague and Mr Charlie Demian that day in Mr Hawatt's office in Haldon Street, Lakemba.---Yes.

And so when he says, "See the following points as discussed," Mr Hawatt is saying this is what he discussed with Mr Demian and Mr Montague on that occasion. Do you understand that?---Yes.

40 And my question to you then is, do you agree, did you agree beforehand with this proposal being put by Mr Hawatt to Mr Montague?---I didn't discuss, I don't know, I didn't discuss it individually. I agreed about his entitlement only.

And so were you shocked to see that Mr Hawatt was making such a proposal in your absence to Mr Montague in Mr Demian's presence?  
---I don't remember I've seen this one.

**Sensitive**

No, I understand that. And so are you angry with Mr Hawatt that he would say he is writing on behalf of a number of councillors and making an offer like this, or is this the sort of thing you would have expected Mr Hawatt to do?---No, I don't think we will agree to get pay, like, I don't, personally I won't agree to paying anybody what's been discussing here, like, extra - - -

And so was it the wrong thing for Mr Hawatt to do, to send this email to Mr Montague?---Well, I, I don't know.

10 What, it might have been the right thing to do?---I don't know what Mr Hawatt think, I don't know.

You're going to be loyal to Mr Hawatt, aren't you?---No. I'm loyal to myself and the ratepayers only.

Why aren't you shocked to read that a gratuity payout of 20 weeks would be offered to Mr Montague for him to leave by August 2015 and the call for the extraordinary meeting being withdrawn, provided the employment contract of Mr Stavis was honoured, why aren't you shocked to read that?---I'm not  
20 shocked.

Because it's the sort of thing you would expect Mr Hawatt to have done?  
---No.

Why not then, why are you not shocked?---Because it mean nothing to me.

Why do you say it means – I withdraw that. What do you mean by saying, "It means nothing to me"?---Because if, what I can say, if he's not entitled to have this money I won't vote on it.  
30

THE COMMISSIONER: Sorry, you won't?---I won't agree.

Okay.

MR BUCHANAN: So are you saying that Mr Hawatt never said anything in your presence, whether to Mr Montague or just in discussing what should be said to Mr Montague, never said anything to you about a gratuity payout being offered to Mr Montague for him to leave early?---I don't remember I discuss individually with Mr Hawatt. Me, I have no idea what entitlement  
40 it's going to be, 20, 50, 60 weeks, I have no idea, that's why I don't - - -

But a gratuity – do you understand the word gratuity means it's not his entitlement, it's something on top of, in addition to his entitlements, it's something else? That's what it means.---Yeah. I don't know, but I can't answer, I don't know what I have to say. It's - - -

THE COMMISSIONER: Well, you were asked whether, Mr Buchanan's asking you about this promise to Mr Montague that he'd get an extra

**Sensitive**

payment that he wasn't legally entitled to, and what Mr Buchanan asked you was whether Mr Hawatt ever said anything in your presence about making such a payment - - -?---I don't remember.

- - - to Mr Montague.---I don't remember this, ma'am.

MR BUCHANAN: You would remember, though, if Mr Hawatt had said something to you about offering Mr Montague something he was not entitled to, wouldn't you?---No.

10

You would remember that. You wouldn't forget it, would you?---I don't remember.

But there are things that you would remember and things you wouldn't remember, perhaps, or that you might forget, and what I'm suggesting is if something is shocking to you, you're more likely to recall it. And you don't tell us you are shocked by this document, you simply don't remember.---I'm not shocked. I don't remember this because it doesn't mean anything to me.

20

THE COMMISSIONER: But you've answered that if Mr Montague wasn't entitled of the money, you weren't going to agree to it.---No.

Right. That's a very strong, forthright position, isn't it? You're saying not legally entitled, I'm not agreeing to it.---Ma'am - - -

That's your evidence?---I didn't discuss individual - - -

30

No, no, no. We're just taking it step by step. That's your position? No legal entitlement, I'm not agreeing to it, because you were loyal to the ratepayers of the council.---Yes.

Right. What Mr Buchanan is saying to you is, given what you've told us here, that's your position, if that was suggested at any time, you would remember it because you would have been horrified by it.---But it hasn't been put on the table.

All right. So - - -?---I didn't know anything about it.

40

MR BUCHANAN: But now it has been put in front of you.---Yes, here.

And so the question is, what is your reaction to seeing that this is what Mr Hawatt said to Mr Montague?---No - - -

How do you feel about that?---My feeling, it's his words. I don't feel nothing. If it's not his entitlement, well - - -

**Sensitive**

THE COMMISSIONER: It's not an entitlement.---Well, I don't care what he said. I won't support it. If he doesn't, it's, whatever, it's illegal, I won't support it and no one will support it.

MR BUCHANAN: When Mr Hawatt said in this document that he was writing on behalf of a number of councillors, was he writing on behalf of you?---I don't know. He said a number of councillors, I don't know who he means.

10 If he's writing on behalf of a number of councillors, that means there are a number of councillors who agreed with him writing this email and making this offer to Mr Montague.---I don't know.

My question to you is, who were those councillors?---I don't know.

Do you know of any reason why Mr Hawatt would have said he was writing this offer on behalf of a number of councillors?---No.

20 Had any councillors, to your knowledge, said anything to Mr Hawatt to say they would agree with any such offer being made?---No.

And are you telling us you never agreed to any such offer being made?---I agreed only one offer. Every, every - - -

No, no, no. That's not what I'm asking you. I'm asking you, you are telling us, are you, you never agreed to the offer in this email being made to Mr Montague?---This one?

30 Yes.---I was aware of it. I don't remember I've seen it before.

And you didn't agree to it being made, is that your evidence?---No, I don't remember at this time it being made.

Oh, so it's possible that you did agree- - -?---No, possible, no.

- - - but you've not forgotten? Is that what you're telling us?---I, I, I, was aware of this proposal, I've seen it here now, but if ask, you asking me now, for the first time I've seen this one and now you asking me the question. If I seen it now, I won't agree for it.

40 And therefore he made that offer without your agreement, is that your evidence?---Yeah, I don't remember we, we discuss it - - -

No, no, no. Are you telling us I could have agreed to it but I've now forgotten and therefore I don't remember? Is that what you're telling us? ---Yeah. I don't remember I've seen this.

**Sensitive**

Yes, but what does that mean? Does it mean I could never have agreed to this, I would never have agreed to it? Or does it mean I could have agreed to it, but because the time that's elapsed I've forgotten?---No.

What does it mean?---No. I won't agree for it. If I go back four years and I've seen this, I don't think I would agree for it.

I note the time, Commissioner.

- 10 THE COMMISSIONER: All right. We'll break for lunch and resume at 2.00pm.

**LUNCHEON ADJOURNMENT**

**[1.05pm]**

**Sensitive**