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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC
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PUBLIC HEARING

OPERATION DASHA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 29 JANUARY, 2019

AT 2.00PM

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

MR BUCHANAN: Mr Azzi, did you have contact with George Vasil about what Mr Montague had done in relation to his offer of employment to Mr Stavis?---No. I can't remember I discuss it with him, no.

10 Did you have any contact with Mr Vasil about the dispute with Mr Montague about the employment of Mr Stavis that you and Mr Hawatt had with Mr Montague?---Mr, excuse me, George Vasil or Con Vasil?

George.---No.

What were your relations with Mr Vasil, George Vasil, in December 2014, January 2015, February 2015?---Well, he was the father of one of the councillors and all - - -

20 I'm sorry. I might have misled you. I meant George Vasil, George.---Yeah, yeah.

The father.---Yeah. Yeah. Started, like after, it's become like a professional relationship and become, like, friendship, professional friendship, sort of the relationship.

How did that happen?---It happened, start seeing him regularly, it started, I don't know when it started, you know? Because his son, we used to see him most of the time and become, like, relationship like normal relationship. I don't know how it's happened.

30 And did you consider that you were a friend of George Vasil's by December 2014?---Not that close.

Did you have contact with him in 2014 and 2015?---I don't remember I have regular contact about, I don't remember that if I have regular contact with him at this time particularly, but I don't know, used to contact him sometimes, yeah.

40 Are you saying you had no contact with George Vasil in January 2015 or December 2014?---I don't remember. I don't remember if I contact him in this period.

But what would you have been talking to George Vasil about in that period, December 2014 to February 2015, if you did have contact with him?---I don't know.

Did you discuss with him the dispute you were having with Mr Montague about him not employing Mr Stavis?---No.

Why not discuss it with George Vasil?---I don't have to.

Did George Vasil have an opinion about it?---I don't know.

The dispute.---I don't know.

He didn't tell you what he thought about it?---No.

10 Were you doing business with George Vasil at the time?---No.

Were you a friend of his family or he of your family?---I don't know what you mean by friend. Like, we used to have a contact but - - -

What about?---Oh, sometimes discussing family matters or - - -

THE COMMISSIONER: Sorry, discussing what?---Family matters.

Family matters.---Yeah. My son, my daughter, his - - -

20 MR BUCHANAN: Yes. And the dispute with Mr Montague must have been a matter of some concern to you in January, I'm sorry, December 2014, through to the end of February 2015?---Yes.

It isn't something that you discussed with George Vasil?---No.

George Vasil had views about the politics of Canterbury Council, didn't he? He had opinions.---Could be.

30 Well, when you say could be, you knew he did, didn't you, because you discussed things with him?---Not in particular matters, no.

Well, if the witness could be shown Exhibit 244, please.

THE COMMISSIONER: You said you had a professional relationship with him and then you said a professional friendship with him. Professional in what way?---Ma'am, I used to contact George Vasil if I need any information - - -

40 About what?---About the DCP or LEP or any item I don't understand. Like a second opinion because he is, he has a, had a good knowledge.

Sorry, which exhibit, Mr Buchanan?

MR BUCHANAN: Exhibit 244, Commissioner.

THE COMMISSIONER: Thank you.

MR BUCHANAN: Mr Azzi, this is a table which is described as Call Charge Records and I think we went through this last year when you were giving evidence. It's a table of data called metadata about your telephone calls to the people identified at the top of that page, which are Hawatt, Montague, Stavis, Maroun, Khouri, Demian, Vasil. You remember we went through bits of this before?---I think so.

10 And you understand how it works, your phone number and name is identified in the left-hand side and then the person you're making the call to or attempting to make the call to or sending an SMS to is identified in the column headed Phone User 2, numeral 2, with the colours in it. Do you see that?---Yes.

And then there's a start time and, sorry, a start date and a start time, and then – this is reading from left to right – duration of call or contact. Do you see that?---Yeah.

20 Now, if I could just take you to pages that deal with late December 2014. It was in late December that you were having, you started to have this dispute with Mr Montague about him not employing Mr Vasil – I do apologise.
---Stavis.

Thank you. Mr Stavis. That's right. If I could just ask you to have a look at page 28. At item 1249 towards the top of the page, there's a call you put in to George Vasil and the – this is on 25 December, 2014, and the line was open for 1 minute and 44 seconds. Do you see that?---Yes.

30 And then if I can just take you down to item 1256, this is the day that you went to Canterbury Leagues Club to meet with Mr Hawatt and Mr Montague, 27 December, 2014, and you put in a call to George Vasil at 5.29pm and the duration of the call was 51 seconds. Do you see that?
---Yeah.

Was that a call you put in to Mr Vasil after having met with Mr Montague and Mr Hawatt at Canterbury Leagues Club?---What time was it?

5.29, sir.---I, I have no idea what, when we met Mr Montague.

40 Well, you were there.---Where?

At Canterbury Leagues Club meeting with Mr Montague and Mr Hawatt.
---Yeah, but I don't know what the time.

Right.---The time at the meeting or - - -

My question to you though is, knowing as you do the relationship you had with Mr Vasil during this period, does this record indicate to you possibly that you were giving Mr Vasil a report about what had happened at

Canterbury Leagues Club with Mr Montague?---I don't know what the cause of this call. It seems I called 51 seconds but we haven't speak to anybody.

Not necessarily, Mr Azzi. If we were to sit here for 51 seconds we'd be very bored very quickly. It's a long period of time to have a conversation. You can say a lot of things in that time. Now, what I'm just asking you is, why would you have called Mr Vasil at that time on that day if it wasn't something to do with what had happened between you and Mr Hawatt and Mr Montague at Canterbury Leagues Club earlier in that afternoon?
10 ---I can't remember what.

Can you look at item 1260 through to item 1265, and you can see that there are a number of attempts you've made to contact Mr Vasil on 29 and 30 December and that the line was open for the call initiated at 10.22pm for more than 6 minutes, and that for the call initiated at 10.42am on 30 December, the line was open for more than 7 minutes. What were you talking to Mr Vasil about on these occasions?---I don't remember, sir.

20 Was there any discussion about the politics of what you were involved in at Canterbury Council at this time?---I don't remember what the cause of the call.

Why would you have been calling Mr Vasil during this period of time?---I don't know.

Did you keep him informed about what was happening between you and Mr Hawatt on the one hand and Mr Montague on the other hand in relation to the employment of Mr Stavis?---I don't remember.
30

Yes, I'm not asking now about your memory so much as thinking back to the time, that period of time where you were having what might be considered to be serious disputes with your general manager and there were these meetings happening and you were calling for his sacking. Was George interested in that?---I said before I never discuss the situation about Spiro Stavis or the general manager with George Vasil before.

Did George Vasil indicate interest in the subject when talking to you?---I never, I can't remember, but I never discussed this with Mr Vasil.
40

Mr Vasil, George Vasil, has always been interested in the politics of Canterbury Council, hasn't he? You know that.---He's been there for ages.

Yes. And he's been interested in the politics of Canterbury Council for ages, hasn't he? You know that, don't you?---Maybe.

So these calls that you were making to Mr Vasil at the time are consistent with you discussing with him what was going on, giving him a report, aren't they?---I don't know. I can't remember.

Can you tell us any other, can you give any other explanation as to why you were calling Mr Vasil at these times?---I can't remember.

10 Can you give us any explanation, though, as to what you could have been talking about other than the turmoil with Mr Montague that you were involved in at this time, which was a subject you knew George Vasil would be very interested in, the politics of Canterbury Council?---I can't remember.

That's not an honest answer, is it?---I can't remember.

20 Can I take you to 13 January. Remember I showed you an email that Mr Hawatt sent to Mr Montague on 13 January, before lunch today, in which he reported the terms and conditions of an offer he made to Mr Montague as discussed? Remember I showed that to you earlier today? That was on 13 January, 2015.---(not transcribable)

You don't remember me showing it to you? It was an email.---No. Forget about it.

You don't remember?---Can you put it back again, please?

Yes, certainly. Volume 5, page 256. Do you remember me showing you that email earlier today?---Yes.

30 Can you see that it was sent at 6.39pm on 13 January, 2015?---Yes.

And I asked you had you had any discussion with Mr Hawatt about him sending an email like that to Mr Montague.---I don't remember, no.

Is it possible that he discussed it with you?---I can't recall anything.

Is it possible, though, that he discussed it with you?---I don't know, sir.

40 Why can't you tell me, no, it's impossible, that would not have happened, even if you don't have a memory, or if it was the case, yes, that's possible? ---I don't remember, sir. (not transcribable) that's what I remember.

You're not attempting to give honest evidence to this inquiry, are you? ---No, sir (not transcribable)

No.---If I don't remember, I don't remember.

Looking now back at Exhibit 244, the call charge records, and going again to page 29. Can you see that, commencing at item 1299, you started at 10.43 in the morning to make a number of attempts to contact Mr Vasil?
---Yeah.

And you can see that there are a series of them from item 1301 through to 1309, can't you?---Yes.

10 And you can see that during that time, at item 1306 on 13 January at 11.44am, you and Mr Vasil spoke for 8 minutes?---Yes.

And that's after having spoken for more than a minute, commencing at 11.32am. You can see that, can't you?---Yeah.

And then you can see, can't you, that on 14 January you attempted to call Mr Vasil and the line was open for more than 2 minutes? This is item 1308. Item 1308, the line is open for more than 2 minutes. Can you see that?
---Yes.

20 And then can you see at 12.59pm on the same day the line is open for more than 7 minutes between you and Mr Vasil?---Yes.

And this is after Mr Hawatt had sent that email to Mr Montague making him that offer, which included that bribe?---Yeah.

You and Mr Hawatt were close political collaborators at Canterbury Council, weren't you?---I don't understand what you - - -

30 You were working together politically closely at Canterbury Council?---No, it's not - - -

You and Mr Hawatt.---No.

And you certainly worked together with Mr Hawatt in relation to the dispute with Mr Montague about him not honouring his offer of employment to Mr Stavis, didn't you?---Yeah, I worked with him on this issue, yeah.

40 It's unlikely, isn't it, that even if you can't remember, Mr Hawatt didn't take you into his confidence as to what he was saying to Mr Montague in that email of 13 January? That's unlikely that he didn't tell you about it, isn't it?---Well, I said I don't remember anything about this email, sir.

Is it possible that you, in these contacts with Mr Vasil on the same day and the next day, were talking to Mr Vasil about the dispute you were having with Mr Montague about the employment of Mr Stavis? Is that possible?
---I don't, I can't recall anything why I have to discuss it with him, no.

Well, you had something to discuss with him – I withdraw that. Are you saying that Mr Hawatt never told you about his meeting with – I withdraw that question. Are you saying that Mr Hawatt never told you about his meeting with Mr Montague and Mr Demian in his, Mr Hawatt's, office on 13 January?---No, I don't remember he told me anything.

You see, I want to suggest to you that it's highly likely that Mr Hawatt told you about what happened at that meeting.---I don't know anything about this meeting.

10

And I want to suggest to you that it's highly likely that at the time that you were talking to Mr Vasil, you were talking to him about aspects of this dispute that you and Mr Hawatt, on the one hand, were having with Mr Montague, on the other hand?---No, I never discussed this with Mr Vasil.

Did you discuss with Mr Vasil the terms of any discussion that you were having with Mr Montague about how he could leave and save his dignity?
---Can you repeat the question, please?

20

Yes. At the meeting that you were at with Mr Montague and Mr Hawatt at Canterbury Leagues Club on 27 December, 2015, there was discussion, was there, about Mr Montague not being fired and instead retiring early in August, 2015? There was discussion about it, is that right?---At the meeting?

Yes.---You're get, you're getting me confused now, you changed the question, I was – can you go back again, please?

30

Yes. The meeting at Canterbury - - -?---Yeah.

- - - Leagues Club, 27 December - - -?---Yeah.

- - - you, Mr Montague and Mr Hawatt.---Yes.

What did you talk about?---We talk about Mr Montague proposal.

And it was a proposal you say for him to not be sacked but instead to retire early - - -?---That's what he's proposed.

40

- - - and get his entitlements.---Yeah, that was his proposal.

Did you talk to George Vasil about that?---No.

Did George Vasil ask you what's happening, what's happening, are you having any meetings with him?---No, I'd remember if he's been asking these questions, no.

See, I want to suggest to you that the pattern of your contacts with Mr Vasil around this time are consistent with you taking Mr Vasil into your confidence, you explaining to him what was happening in the dispute with Mr Montague.---No.

And you discussing aspects of the dispute with Mr Vasil.---I can't remember I discuss anything related to this issue with Mr Vasil.

10 Did Mr Vasil ever say anything to you about what he thought about you and Mr Hawatt trying to get Mr Montague sacked?---No, at the time, no.

He never said anything?---I never recall anything to me.

No, no, no. I'm asking you did he say anything to you about what he thought about the efforts you and Mr Hawatt were making to get rid of Mr Montague?---I can't remember he say anything.

Did he ever say anything to you about poor old Mr Stavis?---No.

20 Never said a word about it?---Not, not during that period, no, no, I never recall, I never heard anything from him about Mr Stavis before.

So can you suggest to us what it might have been that you and Mr Vasil were talking about in these contacts that you can see on page 29 of Exhibit 244 that range from 9 January through to 23 January that you were having with George Vasil? What was it that you were – I withdraw that. Why did you make these calls to him?---I don't know what was the purpose of these calls at the time. I don't remember.

30 Can you speculate as to what they might have been about?---No.

Or why you wanted to call him?---I can't remember.

But you know about your relationship with him at the time, you know about his interests at the time, you know what you were concerned about at the time. Is there any possibility that there was a discussion between you and Mr Vasil about what was going on with Mr Montague or Mr Stavis?
---I don't think it's, we should discuss it with him.

40 You, on that page we can see, almost as frequently, if not more frequently, spoke to Mr Hawatt.---Yes.

You initiated those contacts.---Yes, I can see that.

What did you talk to Mr Hawatt about in this time in January 2015?
---I can't remember what the cause of the calls, Mr – it was years ago.

Was there any discussion about the dispute with Mr Montague and trying to get him sacked?---Well, could be anything, that's, we can discuss anything, Mr Hawatt also in the council.

Was there any discussion between you and Mr Hawatt in January 2015 about getting rid of Mr Montague?---I can't remember what was the calls about. Could be yes, could be no.

10 It's likely to have been, isn't it?---I can't remember, sir, what happened in these calls.

That's not an honest answer, is it?---I can't remember what is happen between us in these calls.

You're attempting to cover up what you know really was happening. You might not remember a particular date but you know what was really happening between you and Mr Hawatt and indeed between you and Mr Vasil in this period of time, don't you, and you just don't want to tell us. ---Between me and Mr Hawatt - - -

20

Yes.--- - - - it's few things happening to be in part of it, but with Mr Vasil and with anybody else outside the council, never discuss it.

Now, you understood as at 27 December, 2015, did you, that if council terminated Mr Montague in his position of general manager without reasons, he'd be entitled to 38 weeks' pay?---That what I heard later on, yeah, it's going to be (not transcribable)

30 When did you hear this?---Some time later. I don't know. I don't remember. It's, everybody, like, from what I know from later on what's happened to Mr Stavis, after a few weeks when it's come back to the council, if anybody going to be, any contract going to be terminated, it's going to be 38 weeks' payment.

Did Mr Vasil ever discuss with you what Mr Montague's entitlements might be?---I can't remember, no. No.

40 Did Mr Vasil ever discuss with you the legality of what Mr Montague had done, as to whether Mr Stavis had a contract or not?---No, can't remember (not transcribable)

He never said anything to you about that?---No, I haven't discussed with Mr Stavis, with Mr Vasil. Stavis - - -

And did he discuss it with you?---I never discuss with Mr Vasil the issue of Mr Stavis.

At the time that you started the attempt to have Mr Montague sacked, what did you think his entitlements would be?---No idea, sir.

If he was paid his entitlements for whatever reason, however much they might be, the money would have to be paid to him by Canterbury City Council, correct?---Yes.

10 You have told us that you were concerned that Mr Montague had decided not to honour his offer of employment to Mr Stavis because you read in his memo that Mr Stavis might be entitled to some financial compensation.
---Yes.

How much did you understand that would be as at 23 December, when you read the memo?---No idea.

20 So you were putting in train as at 24 December, 2014, a process to get rid of Mr Montague, weren't you? You started a process, along with Mr Hawatt, a process to get rid of Mr Montague, have him sacked.---You're talking about the motion?

Yes.---Yes.

You knew that if that motion was accepted, if council agreed, then Mr Montague would be entitled to financial compensation.---Yeah.

30 And do you tell us that even though you were, you had initiated this process because you were concerned about the liability of council to pay Mr Stavis financial compensation for not getting his job, you didn't make any inquiry to find out the extent of council's liability to pay Mr Montague financial compensation for losing his job if council agreed to sack him? Is that what you tell us?---It's too long this question, sir. Can you - - -

You didn't attempt to find out what the liability of council was to pay Mr Montague compensation if he was sacked, is that right?---Yes.

Why didn't you try to find out?---Why? I don't know.

40 But I thought you said you initiated, so far as you were concerned, this process of getting rid of Mr Montague because you were concerned about the financial liability of council to pay compensation to Mr Stavis.---Yeah.

So why wouldn't you be equally concerned, if not more concerned, at council's liability to pay financial compensation if Mr Montague was sacked?---I don't know what the, the process was this time, at the time being but it's a different, it's different view. Mr Montague was negligent, and as the councillors we have to make sure we have the right person to lead the council. We didn't think about the money on this period.

But you were thinking about the money so far as it related to Mr Stavis?
---Yeah, because - - -

You just weren't thinking about the money so far as it related to Mr
Montague, is that your evidence?---Yes.

That doesn't make any sense, Mr Azzi, does it?---Yes, makes.

10 How does it make sense?---Mr Montague, he was negligent. He made this,
is his fault to employ Mr Stavis the first time and his fault to sack him
without consulting the council, and when I put the proposal to, motion to
sack Mr Montague, it's not my motion, the council has to agree to decide,
and he felt negligent not consulting to the council when he employed him
and sacking him, and this costing the council money without knowing,
without me and the rest of the councillor knowing and agree, and the
council agree to pay the money.

20 But you had embarked, you had set in train a process to get rid of Mr
Montague which would leave council liable to paying Mr Montague money
and you didn't know how much that would be.---Yes, it was.

You see, I want to suggest to you the inconsistency between your concern
with the financial compensation that council would be liable to pay Mr
Stavis, but your lack of concern with the compensation that council would
be liable to pay Mr Montague if he was sacked, tends to suggest that the
cost to council of paying out Stavis and hiring a new director wasn't the real
reason you wanted to get rid of Montague.---No, it was.

30 It suggests there was some other reason.---Something legal, something
illegal.

It suggests that in that period, late 2014/early 2015, you – together with Mr
Hawatt, but let's just confine it to you – you were trying to get rid of Mr
Montague in order to ensure that you could have Mr Stavis fill the position
of director of planning.---Not correct, no.

40 Certainly your goal throughout this exercise of the dispute with Mr
Montague was to have Mr Stavis employed as director of planning, wasn't
it?---No.

You certainly weren't going to agree to Mr Montague coming back without
Mr Stavis being appointed, weren't you?---No.

The inconsistency between your concern, your professed concern, your
claimed concern about the financial liability of council to pay out Mr Stavis
with your lack of concern with the liability of council to pay out Mr
Montague if he was sacked tends to suggest that, in your view, your
assessment, you balancing things up, you had decided that having Mr Stavis

in the position of director of planning was more valuable to you than having Mr Montague as general manager.---No.

And of course at this time Mr Stavis had no experience in a managerial position, let alone as director of planning, had he?---Excuse me?

Yes. At this time, 2014-2015, Mr Stavis had no experience as a director of planning, did he?---He wasn't, I admit he wasn't - - -

10 And he never had been?---Never had, had a job as a director.

Yes. Correct.---In the council or outside.

Anywhere.---No. During this period I think, a bit confuse this question, Mr, can you, can you explain to me?

To your knowledge, Mr Stavis had never been a director of planning anywhere before in his life until he was offered this job by Mr Montague. ---That's what I can recall. That's what I can recall.

20

But you knew that Mr Montague had decades of experience.---In the council.

On the council and indeed as manager of the council.---Yes.

And so you were going through this exercise of trying to get rid of Montague, a person who is highly experienced in managing the council, in order to try to get appointed as director of planning a person who had no experience as director of planning. Do you see the inconsistency there?

30 ---Mr Buchanan, I didn't put that motion to sack Montague to hire Mr Spiro.

Are you quite sure?---Yeah.

Do you remember what the motion was?---(No Audible Reply)

Do you remember what the motion was that you gave to the mayor on 24 December, 2014?---Yeah.

What did it say about Mr Stavis?---(No Audible Reply)

40

Can you remember?---Yeah.

It's in front of you now, volume 4, page 63.---Mmm, mmm.

The motion was in two parts. The first part was in relation to Mr Montague and the second part was in relation to Mr Stavis.---Yes.

“We discuss our position in respect to the appointment of the director of planning, Mr Stavis, and the subsequent withdrawal of his appointment by the general manager and take the necessary actions.”---Yes.

What did you envisage, what was it your intention would happen in relation to taking the necessary actions?---I don't understand your question.

10 What did you mean by “take the necessary actions”? These are your words. What did you mean by those words?---Any action, it mean necessary action, I don't know what the situation was at this time, at that time, any action.

So you didn't know what would happen? That all meant nothing to you, did it?---(not transcribable)

You weren't trying to achieve anything?---Well, the motion to achieve, the motion is clearly say we're going to terminate the contract if, if Mr Montague said he - - -

20 And as far as you were concerned, take what action in respect of Mr Stavis? ---Mr Montague has to explain himself.

No, no, no. This is Mr Stavis, the second part of the motion.---Yeah.

THE COMMISSIONER: See, the first part is you've sacked Mr Montague. ---Yeah, and the second part - - -

30 The second part says, “We discuss our position,” that is the councillors, “in respect of the appointment of the new director of planning, Mr Stavis, the subsequent withdrawal of his appointment by the general manager and take the necessary actions.”---Yes.

So “take the necessary actions”, does that mean to employ or to make sure Mr Stavis was appointed the new director of planning?---No, it wasn't my intention to do this, it's already Mr Stavis been hired and - - -

40 So take necessary actions to ensure that he starts as the director of city planning?---Necessary action to ensure the right process, to see what was going on. We weren't blind about Mr Montague decision, ma'am. We have no idea because we had not contact with Mr Montague to explain to us why he's doing all these changes. It's, it's, it's about the process and the respect of the council.

But you did have. You had a memo from Mr Montague dated 23 December.---That's it.

And also in that memo he finished with the comment, “I encourage any councillor who has questions regarding this matter to contact me directly to discuss their concerns.”---Correct.

So that was on the 23rd, and on the 24th you're at the door of the mayor with this motion.---When I spoke to Mr Montague when he contacted me, he was definitely, when I did ask him I repeat myself, "Do you need to discuss?" when he said to me, "I'm going to withdraw the offer of Mr Stavis." Said, I ask Mr Montague why. Said, "I have something on him." Said, "Can you prove it?" He said, "I have something on him." And I said, "All right, do you want to discuss it? You want me to come down to the council, discuss it?" He said to me, he replied, said, "I made up my mind." And said, "All right, you made up your mind. It's your job." And the conversation (not transcribable) that's mean he made up his mind to me. He said to me, "That's it. I made my decision." But I didn't know what the consequences after is going to be. It's an offer. He can withdraw it. No consequences. His job must - - -

Yes, but on the 23rd in the memo, Mr Montague has flagged that there, it may be the case that there's some minor form of monetary compensation. ---Yeah.

20 You've given evidence that you were concerned about that. In the last line he invites you to contact him directly to discuss your concern, and you don't do that. You go directly to the mayor with a motion for him to be sacked. ---I don't, I don't remember what's happened in this short period. Maybe it's calling for other councillor to contact him, because I made my contact to him and he definitely gave me the answer. And what I have to discuss with him anymore? He definitely said to me, "I made up my mind." And maybe for other councillor to contacted him, or I have no idea what's happened in this, that period, ma'am, but that's what's happened. And I said to him, "I don't want to involve anymore with this debacle because you're always
30 changing your mind. You're not telling us anything. And why you putting us in this – I don't want to be involved anymore." That's what I said to him at this, that stage. "Please leave me, and I did what you asked me to do, and it's your job now to, to run the council. But you have to tell us about the evidence to the council." And didn't happen.

MR BUCHANAN: But you did want to be involved anymore, didn't you?
---As a councillor.

40 Yes.---Remember I'm still a councillor, Mr Buchanan.

Exactly. And so it's misleading to say that you didn't want to be involved anymore. You did want to be involved.---Mr Buchanan - - -

Didn't you?---I don't want to be, don't want to be involved in Mr Montague decision and his job. (not transcribable) other things.

You had an investment in Mr Stavis at that time and you were angry at losing your investment, weren't you?---No.

Because you had a candidate for the job who you thought you would be able to control, you and Mr Hawatt.---No.

Isn't that right?---No.

As director of planning.---No.

10 And you were upset at losing that opportunity of having a director of planning that you could control.---No.

You said that, a little while ago, there had been a contract of employment made when Mr Montague offered the contract to Mr Stavis. Remember telling us that?---I heard it's going to, it's an offer.

Yes.---Yes.

20 Where did you find out that it was a contract of employment, that it was a valid contract of employment? How did you find that out?---Later on, I think. I have no idea when was the time but later, after we did consult with Michael, I think, I don't know. He said, and we, I still can remember I spoke, I don't remember, with legal advice. It said the offer's become a contract. It's come up later.

Mr Vasil, Mr George Vasil never said anything to you on that subject? ---No, I haven't spoke with Mr Vasil about this. I discuss it with Mr Hawatt only.

30 Mr Vasil never said that he had found out from a solicitor that it was a valid contract of employment, that it was an enforceable contract of employment?---Not to me. I never discuss it with him, no.

Why wouldn't you discuss it with Mr Vasil? What's wrong with discussing it with Mr Vasil?---It's not his job. Why I have to discuss it with him?

40 Can I take you to page 256 of volume 5, please, in Exhibit 52. Again, it'll be on the screen in a moment. There you are, this is the email I took you to earlier that Mr Hawatt sent to Mr Montague on 13 January, 2015. Do you see that?---Yeah.

And do you see that Mr Hawatt said, "See the following points as discussed," and if you have a look at the last dot point, it reads, "Honour the employment contract of Mr Stavis to avoid any legal action against this council"?---Yes.

Did you agree with that, that that was what you wanted to see occur? ---Well, I don't know about the answer, about the legality of this, but if I want, you want my opinion, if the GM made something, any promises, it

doesn't matter who he is, he must honour from, from, like, legality and, he must honour his words.

But that's a ridiculous position to take, isn't it, Mr Azzi? If you take it to an extreme, if the GM had made some fundamental mistake that was very, very bad for council, then it should be honoured, is that your position?---No.

No.---It must, Mr Buchanan - - -

10 And so, therefore, it depends upon - - -

MR PULLINGER: No. I object. Can he be allowed to continue his answer without being interrupted?

MR BUCHANAN: I take my friend's point. Please continue, Mr Azzi.

THE COMMISSIONER: You were asked about if the GM made a fundamental mistake that was bad for council, could he act or - - -

20 MR BUCHANAN: Are you saying that he would be obliged to follow that through no matter how bad the mistake and no matter how bad the consequences for council?---No, he shouldn't. He must go and report to the council before he make, he can continue. He has to provide himself to the council and put himself on the stage and make this, one, two, three, four and I made a mistake. He want to continue with his mistake, he will be liable to the council but he can go on by himself and going without reporting back to the council. That's, that's what I believe should be done.

30 I just want to point out to you that Mr Montague did report to the council in his memo of 23 December, 2014, two and a half pages of report about the matter and that it was his decision as to what to do in relation to hiring and firing senior staff, not council's.---Yes. But he must consult with the council.

Yes.---That's, I'm not disagreeing with this. His job, that's why I pulled out, he accused me for, I said your job to employ and hire and fire. Our job is, when I was in the panel, give you a request, will give number 1, number 2, number 3, and his job. That's why I pulled out from all this debacle.

40 So can I take you back then to this email of Mr Hawatt's to Mr Montague of 13 January, 2015, volume 5, page 256, the last dot point. Did you agree at that time with the position that Mr Montague was required to honour the employment contact of Mr Stavis to avoid any legal action against this council? Is that something you agreed with?---Agreed or, there's two section of this question, mister. I agree to Mr Montague to honour his words and to explain the council and if Mr Montague believe Mr Stavis shouldn't be hired, give explanation to the council, I respect his view. The decision, we want Mr Montague to explain himself and tell us the truth,

that's all, his job to fire and hire, and I don't, I didn't ask Mr Montague to honour or dishonour, he's already said hire Mr Spiro, I didn't ask him to honour, I ask him to explain to the council why this happening, that's all, explain himself.

So can I just check this then. You're saying, are you, I do not agree with what Mr Hawatt said to Mr Montague in that email of 13 January, 2015 in the last dot point? I disagree?---Disagree on what?

10 That's what I'm asking you.---Yeah.

You say, do you, I do not agree that Mr Montague be told by Mr Hawatt he should employ Mr Stavis?---Mr Buchanan, I don't know anything about this one.

That's why I'm asking you now.---Yeah. If you ask me now, because I've seen it the first time, what I want from Mr Montague, if you made a promise he must honour.

20 So you did think that Mr Montague should employ Mr Stavis.---No, no.

You see, you're being inconsistent in your answers, I want to suggest to you, Mr Azzi.---No. Mr Buchanan, I don't think you understand what I'm saying or misunderstand each other. Mr Montague has to prove to the council to honour or dishonour the contract, his job to honour and dishonour, but he must explain to us, simple as that. I don't care who he employs because Mr Montague, he can employ anyone he like.

30 Right. I understand that position. So what that necessarily means is, I do not agree with what Mr Hawatt said in that email to Mr Montague on 13 January insofar as it said, "Honour the employment contract of Mr Stavis." ---Honour the contract for what?

Are you saying you agree with what Mr Hawatt said to Mr Montague in that email or are you saying you disagree?---For what reason?

Now, it's your evidence, is it, that Mr Hawatt never showed you this email, he never discussed it with you. Is that right?---No, yeah.

40 He did it behind your back?---I didn't see it.

Without consulting you?---I didn't see it.

Did he consult you?---No, I haven't (not transcribable) haven't spoken. We didn't discuss, we didn't discuss this email, what's been in it, we didn't discuss it.

Was there discussion between you and Mr Hawatt about what is in the email, the terms and conditions that Mr Hawatt was laying down to Mr Montague?---I haven't seen this email before.

That's not what I'm asking you. I'm asking you, looking at the content of it, had you and Mr Hawatt talked about those terms and conditions?---No, why would - - -

10 So Mr Hawatt was doing all of this on his own account without your agreement. Is that right?---I haven't seen this before. What I just remember, I discuss at the meeting what - - -

What meeting?---What, that meeting on - - -

27 December?---Yeah, was, was Mr Montague proposal and the explanation, he said he will leave till August and will get his entitlement, and the rest I have no idea about what he wants to do.

18 Is it, does it come to you as a surprise to see that Mr Montague was sending this - I'm sorry. Does it come to you as a surprise that Mr Hawatt was sending to Mr Montague an email like this?---(No Audible Reply)

Or is this the sort of thing you expected him to do at this time?---No, no, it surprise me, but - - -

It does surprise you, is that what you're saying?---Well, I don't know if it surprise me or not. You know, it mean nothing to me this. What I said, it mean nothing to me.

30 Why does it mean nothing to you to find that this email was sent by Mr Hawatt to Mr Montague on 13 January, having regard to its contents, which include a gratuity payout of 20 weeks for 32 years of service to Canterbury?---It don't mean anything. I don't know. I, this mean nothing to me. It's between him and Montague. I have no idea what, what this comes from.

If Mr Hawatt had come to you and said, "I've got this agreement with Mr Montague and it's in these terms," would you have been happy with that? ---If it's legal, yes.

40

THE COMMISSIONER: What do you mean if it's legal?---It's legal, if it's legal, this demand, legally, legal, it's not illegal. Legal. If it can be done legally, yeah, why not. If it's, it's anything illegal with it, I won't support it. Simple as that.

MR BUCHANAN: When did you first find out that Mr Hawatt was offering a gratuity payout to Mr Montague?---Later, when I start hearing about it, and then when this started.

Indicating this inquiry?---Yeah.

But you'd never heard of that before?---I heard about this entitlement. We discuss the entitlement but never came to weeks and payment.

So if your evidence is correct, that means Mr Hawatt was doing this all by himself without your agreement.---I, I, no, I don't remember if I been discuss this, that certain, like, individual what's been.

10

Was there any other councillor that, as you understood it at this time, Mr Hawatt was talking to to get their agreement to terms and conditions like this?---I don't know if he spoke to other councillors.

You were the most likely person he would discuss this with, weren't you? ---Yeah, I said what I discussed with him (not transcribable) discuss in the meetings.

20

But you were having regular contact with Mr Hawatt during this time, weren't you?---Could be, yeah.

What were you talking about if you weren't talking about this very serious dispute you were having to get the general manager sacked and Mr Stavis appointed? What were you talking about if you weren't talking about that? ---I don't, I don't know what we talk about, but we didn't get to numbers and weeks and payment. I didn't do any calculation. Mr Montague, he's the one who does all these things. He knew.

30

Well, let me just check something, then. We haven't heard from Mr Hawatt yet, but if Mr Hawatt comes to this inquiry and says, "Mr Azzi agreed with me to make this offer to Mr Montague," what would you say about that evidence?---What?

What would you say? Would you say that evidence was true or not true? ---No, well, I didn't see it. How I should agree?

THE COMMISSIONER: So you would say it's not true?---No, no. I didn't see this email.

40

So it's not true?---Yeah.

MR BUCHANAN: And would you say that it's not true that Mr Hawatt ever discussed with you making a gratuity payment to Mr Montague to persuade him to leave council, leave his position as general manager early? ---What we discuss, his entitlement, what he deserve to get. If he can, what he's legally deserve to get.

And you do understand, don't you, that a gratuity payment is not his entitlement?---I don't know.

You do understand that, don't you?---I don't know what his entitlement is, Mr Buchanan.

But you can take it from me that it doesn't include a gratuity.---What gratuity?

10 THE COMMISSIONER: It's like a gift.---Well, if he deserve a gift and the council want to give him gift, it's not my job. What is legal, he can get paid the entitlement. I don't make payments.

When a contract of employment is terminated, if the employee, for example, has accrued annual leave they get paid their annual leave and that's called an entitlement. They could legally go and sue on it. They could take the employer to court and sue and say I had four weeks' leave and I should have been paid out my leave and they didn't pay me out. A gratuity is something that you can't go to court and say I had a legal entitlement to that. As Mr
20 Buchanan has said, it's like, I described it as a gift. It's something extra that's given.---Like a bonus.

Kind of, yes. It's to kind of – if I describe it, Mr Buchanan, as like a sweetener.

MR BUCHANAN: But to persuade him to leave council before his time was up.---No, no.

30 And to honour the employment contract with Mr Stavis.---Well, I said before, we didn't offer Mr Montague any payment like to sack him or whatever he said. Mr Montague came to the party when he asked for a meeting and I've been invited to a meeting to discuss if there's something to discuss. My intention to, was at the meeting, to find answers and bring back the council in the right track. That's my intention. Mr Montague - - -

Well - - -?---Please let me finish.

Yes, certainly.---Can I finish?

40 Yes, yes.

THE COMMISSIONER: No, no, go on, Mr Azzi.

MR BUCHANAN: Yes, you can.---Mr Montague, all was said, guys, I have 32 on the, whatever, in the council. I don't want to leave the way, this way. I will leave in August. I said, so, that's what he said. He came up with August. I had no idea he want to leave in August. I said, all right what else, why you doing all this? No answer. I said, at, my position was, at this

time to discuss it, we have to, from my position make myself clear. My position was to Mr Montague, Mr Montague I'm not after you personally, just you have 30 years' experience, a hundred time, like, 30 years more than me. Give us a solution for this problem. We more, you are the professional and you are the director. Without a general manager, we can't solve these issues. I don't care when you want to leave. You want to leave in August, you can leave in August. If you want to leave in September, you can leave in September. Just find a solution the council's disrupt. We have, my intention, I need to settle the council, and we didn't discuss any particular offers. He is expert, expert with the offers and he knew. I am a taxi driver, I have no idea how this works. That's why, what I can remember what happened this meeting. I said I don't want to discuss anything else. Just you make sure bring the council back on the track. He has more service in this council than anybody else. I think you love this council more everybody else. That's what we want from you, is the truth. It's my idea. I said I'm not after you. If I want to go after you, I would be upset when you said I don't want this first person. That's my recommendation. I don't care who you employ. It's your job but please let us know. Now, every councillor asking who's going to be and what's going on and tell us the truth. Why you don't want this person and now you hire this one and you withdrawing and with no answer and that's what's happened at this meeting. I didn't discuss any individual payment to Mr Montague or how much money you can get and what you want to take with you. So, you want to leave, you are the expert to make all the payment and you have all the, the support and that I didn't discuss any 20 weeks or 38 weeks or any one day or whatever it takes. So, whatever, put it back on the council and the council will approve it if legally you're entitled to this money. That's what's happened in this meeting.

30 But the necessary background to understand what was really going on is that you had lodged a call for a meeting, an extraordinary meeting of council, to have Mr Montague sacked.---Correct.

And you and Mr Hawatt controlled the numbers on council and Mr Montague knew that, and so Mr Montague was in a very difficult position, wasn't he?---No, he wasn't.

And you wanted Mr Stavis to be employed, you'd wanted that all along, hadn't you?---No.

40 And what were you offering to Mr Montague then that would persuade him to achieve what you wanted achieved? Was there any offer that was made to him?---Nobody can give offers to Mr Montague, he's the expert, he knew very well what he has to do and I didn't offer him anything. I told him bring the council back in track, that's it.

But did Mr Hawatt offer, make an offer to Mr Montague with your agreement?---I don't, I don't recall it happening and I never heard, I can't remember it happening there, like discussing individual.

See, the evidence we have from Mr Montague is that at the meeting at Canterbury Leagues Club on 27 December, the offer that you and Mr Hawatt made to him was, "pretty much," to use Mr Montague's words, along the lines of this email dated 13 January.---No.

10 That's what Mr Montague says happened.---I don't recall this we discuss individual payment. I don't remember.

Can I ask you, can we go now to another document, exhibit 59, please. While it's coming up, you remember the media that you've told us about that talked about Il Buco restaurant and Mr Montague?---Yes.

On the screen now in front of you is the first page of a print of the first article by the journalist, Ms McClymont, on 12 January, 2015, on the subject of Mr Montague's lunches at Il Buco restaurant. Do you see that?
20 ---Yes.

And if we can just quickly flip through the other pages, a series of invoices, a photo of Il Buco restaurant and a number of pages of story by Ms McClymont. That was published on 12 January, 2015. When were you first aware about this story?---On the day it's been published.

Did you find out from Mr Hawatt about it?---No.

30 Do you know who gave this information to Ms McClymont?---No.

Did Mr Hawatt have any discussions with you about putting pressure on Mr Montague to persuade him to leave and to appoint Mr Stavis by creating publicity which was adverse to him, which was unfavourable to him?---You refer to this one?

Yes.---No.

40 Did you talk about the story, about Mr Montague and the Il Buco restaurant bills that council paid in, during the period December/January/February to anyone?---This issue's been discussed before.

Yes.---That's it. I haven't discuss it when, no.

Did you use this story as something that could be included in motions to be considered by council?---No.

Did you talk to other councillors about this story?---No, not really.

THE COMMISSIONER: Were you contacted by Ms McClymont or anybody else from Fairfax about the Il Buco bills?---Yes.

Who contacted you?---McClymont.

And when was that? Around 12 January?---I don't remember the date. Some time in this period, yeah.

And what did she ask you?---How much I know about Il Buco.

10

Ah hmm?---Yes, she ask me the same question, if I know anything, and I was aware of it until she publish it.

So she contacted you before the article was published?---No, no, after.

All right. Because - - -?---I don't remember. After, after the article been public. About, when I - - -

20

I'm sorry?---When she contacted me, already the Il Buco been published, I think I remember.

All right. It's just – could we go to, sorry, Exhibit 59, page 2. Right down the bottom, the last paragraph, you can see she says, “Councillors contacted by Fairfax Media expressed their shock at the extent of the general manager’s Il Buco bills.”---Yeah.

“Especially as the council voted for a 7.5 per cent increase,” blah, blah, blah.---Yeah.

30

That would suggest that at least some of the councillors were contacted before the article was published.---I can't - - -

So do you think she contacted you before the article was published?---I, I don't think so because, no, because I'm sure I been contacted after the article been published, I think.

Right.---Because (not transcribable) about it.

40

MR BUCHANAN: Did Mr Hawatt have any discussion with you about the Il Buco restaurant bills?---Only that - - -

Either before or after the story was published for the first time.---Oh, we discuss it at the, with all the councillors when, I think it was the general manager start contacting and telling us. I think I heard from him after or before this article be published. Jim Montague called all the councillors. And I don't remember, maybe yes, maybe no, the same day we contacted each other.

You and Mr Hawatt?---No, I don't remember with Mr Hawatt, and with other councillors as well.

Well, my question is Mr Hawatt. I'm after - - -?---I, I don't remember.

I'm interested in your contacts with Mr Hawatt about this.---Could be yes, could be no, sir. I don't remember if I did contacted the same day, but we discussed it.

10 So Mr Hawatt never told you that he was providing information to a journalist about the Il Buco restaurant bills?---He, he told me he's been contacted by the SMH.

Did he say he was providing that information to the journalist?---No, later, after it been published, he's been contacted he said, when they contacted me as well.

20 Yes. So I just want to make it clear, was there any contact between you and Mr Hawatt before the publication of this story on 12 January, 2015 – the first article that was published – about Il Buco restaurant bills and Mr Montague.---We've been aware of it. No idea, no.

That's not what I'm asking you. I'm asking you was there any contact between you and Mr Hawatt about the subject of Il Buco restaurant bills and Mr Montague before this article was published?---No.

30 And so if Mr Montague, I do apologise, if Mr Hawatt was providing information to a journalist about this before this article was published, that's a surprise to you?---Yes. I don't know, I didn't know, I don't know. Because it's - - -

Would you have agreed with him providing that information to the journalist?---Before it's been published?

Yes.---I wouldn't give anything to the media before. No. I don't agree (not transcribable)

40 But it's a good way of putting pressure on Mr Montague, isn't it, to subject him to the stress of unfavourable media publicity at a time when you're trying to get rid of him.---It's been before.

What I am putting to you is that to use, for Mr Hawatt to use this story at a time when you and he are trying to get rid of Mr Montague is a good tactic to use, isn't it, to put him under additional stress of adverse media publicity?---No.

It's not a good strategy?---No. We didn't do it.

You disagree with it?---Yeah.

All right, thank you. And is that because it would be the wrong thing to do, to use the media in your dispute with Mr Montague over Mr Stavis?---Well, I don't, I don't like the media to be interfere. I never, I, I don't know, I never tell the media to interfere with this situation.

10 So, did you feel sorry for Mr Montague when this story was published?---I didn't felt sorry. I said Mr Montague (not transcribable) said it's nothing, he's entitled to do it. Why I have to feel sorry for him?

You didn't feel sorry for him receiving this publicity, which on one view, was very unfavourable at a time when you're in dispute with him?---No, it wasn't. When this being published, I wasn't in dispute with him.

On 12 January, 2015.---Yeah.

You were trying to get rid of him.---12th?

20 12 January. On 24 December, you and Mr Hawatt had delivered to the mayor, a call for an extraordinary meeting of council to get rid of Mr Montague, correct?---Yeah.

The meeting didn't happen until 27 January, 2015, correct?

THE COMMISSIONER: The extraordinary general meeting was on 27 January.---Yeah.

30 MR BUCHANAN: Didn't last very long but - - -?---Yeah.

Yes. 27 January, this is two weeks beforehand, this story was published on the 12 January, 2015. You were in high dispute with Mr Montague at the time. You are trying to get rid of him.---Yeah.

So, were you unhappy or happy to see that Mr Montague was exposed to unfavourable publicity at a time when you were in dispute with him? ---Yeah, I, I wasn't happy.

40 You weren't happy?---No.

Weren't you happy because it was another cudgel, another stick with which to beat him?---No.

It was something that you could use with the other councillors to persuade them to vote to get rid of him?---No.

Now, did you find out that – no, I withdraw that question. You had this dispute with Mr Montague, you were trying to get rid of him. Did the dispute come to an end at some stage?---What, can you go back, please?

Yes. You were having a dispute with Mr Montague about the employment of Mr Stavis, is that right?---Yes.

Did that dispute come to an end, did it finish?---Yeah, it finished at one stage.

10

How did it finish? Can you tell us the event or events that were involved in the dispute finishing?---I don't know, actually, I don't know how Mr Montague, did he finish it. Mr Montague admit he made a mistake and because of the situation, what he, he reported to the council this way, he said after he reviewed the situation and took, I can't remember actually what in the closed council, it's been the closed council, what's in the items and what he's report, but I can't remember that after, considering legal advice, a review on his position or situation, he, he backed off and he went again with the appointment of Mr Stavis.

20

He decided to honour the offer of employment?---Yes.

And when did that happen?---Oh, I can't remember the date. One of the meeting.

Was there a council meeting?---Yeah, I think it was a council meeting. I can't remember because it, it's in the report of the council.

30

There's something I overlooked and I need to take you back to early January, 2015, Mr Azzi. Do you remember I showed you that code of conduct complaint that you and other councillors, including Mr Hawatt, had signed on 7 January, 2015 and it was addressed to the Minister for Local Government?---Ah hmm. Excuse me?

Yes.---Can I have a two minutes break?

Of course. I'm sorry, Commissioner.

40

THE WITNESS: Can I?

THE COMMISSIONER: Yes. Hold on for a sec. We'll just adjourn for a couple of minutes.

SHORT ADJOURNMENT

[3.30pm]

MR BUCHANAN: Mr Azzi, could I show you again, please, the code of conduct complaint which you signed on 7 January. This is volume 4, commencing at page 148 and going through to page 153. You're looking there at the first page, it's on the screen in front of you. Do you recall this document?---Yeah, the motion.

No, no, this is - - -?---(not transcribable)

10 - - - a letter to the Minister for Local Government - - -?---Oh, yeah.

- - - complaining about Mr Montague under the code of conduct.---Yes.

And it's signed by you on 7 January, 2015, page 153. Do you see that?
---Yeah.

When you signed this document, where were you?---At the, Mr, Councillor, Councillor Vasil's office.

20 And were there - - -

THE COMMISSIONER: Sorry, at his office?---Councillor Vasil's.

MR BUCHANAN: Councillor Vasiliades.---Vasiliades.

THE COMMISSIONER: So at the real estate?---Yeah, his office there.

MR BUCHANAN: And were the other councillors who signed it there at the same time?---Yes.

30 And how did you come to be there?---Oh, it's arrangement to meet by the councillors and we decide to meet at Councillor Vasiliades' office.

And was Mr George Vasil in the building?---No. He was in the building but not in the office.

Did Mr Vasil take part in this meeting at all, Mr George Vasil?---No. I can't remember seeing, he was in the other room.

40 Did you talk with Mr George Vasil on this occasion, 7 January, 2015?
---About this?

Yes.---No. Hello, how are you, that's all.

And where did this document come from?---This?

The code of conduct complaint signed by you and the other councillors.
---Oh, it's been, it's been, like three councillors join, Michael, Mark and Con, because they are expert.

I'm sorry, I didn't quite hear what you said there. Three councillors?---No, no. You said where this idea has come, idea, or who write, who, who - - -

Where did this document come from was my question, yes.---It's from the night there. They prepare.

From the?---Been prepared there.

10 Been prepared where?---At the office of Councillor Vasiliades.

How do you know that?---Because I was there.

And who did the typing?---I think it's been joint by Councillor Adler and Councillor Vasiliades.

And did you have any input into any part of this document? It goes for a number of pages. The content of it goes for five pages.---Yeah.

20 Did you provide any of the details in it?---I don't remember what, I don't remember if I, they ask me for anything and I answer it, but I didn't, I didn't write anything. I don't know.

Do you know who drafted it?---It's been combination by, it was Mark, Con and Michael.

So Mark Adler, Con Vasiliades and Michael Hawatt?---Yeah.

Is that right?---Yeah.

30

And how do you know it was that combination?---Because I was there.

And did you see the beginning of its creation, the start of its creation? ---Yeah, later, after it been typed.

No, my question is, were you there when it started to be typed?---Yeah.

40

And who was doing the typing?---I think, I'm not sure. It's between Councillor Adler or Con Vasiliades. Both of them. I'm not hundred, I can't remember who, who did it, but they was both working around the computer.

And did anyone have a draft document that they were working from?---I can't remember. I don't know. I can't remember they have something at their desk because (not transcribable) the, the meeting desk.

THE COMMISSIONER: So you had a meeting desk?---At the meeting desk, and the, the computer is in other table.

In the same room?---In the same room, yes. It's on the side.

MR BUCHANAN: And you and these other councillors were sitting around compiling it? Or was it being compiled by Adler and Vasiliades and Hawatt?---I don't understand what you mean.

Sorry, I'm trying to work out who was contributing to its creation. Who was helping provide the content for it?---The three councillors.

10 Those three councillors. No one else?---No.

There are references to you in here.---Yeah.

Did you provide that content where it referred to you?---Verbally I think, verbally, when we been discussing the issues.

And whose decision was it that it should be created in the first place, that a code of conduct complaint should be created and sent to the minister?
---Well, I can't remember (not transcribable) to be, I don't remember whose, whose idea coming from.
20

Did it come from Mr Hawatt?---Well, maybe, but I can't, I can't recall who it come, Hawatt or Mark or (not transcribable). But I didn't know about (not transcribable) sent this. Not me.

It was a complaint, though, about the general manager and the mayor.
---Yeah.

Is that fair to say?---Yeah.
30

And the mayor was your political opponent, wasn't he?---Yeah, same party.

He was your political opponent on the council, though, wasn't he?---What do you mean, opponent? We are on the same party, Labor.

What did you think of Mayor Robson at this time?---What I did, at this time?

Yes.---Yeah, he wasn't cooperating.
40

THE COMMISSIONER: He wasn't cooperating?---Yeah, he wasn't, like, sharing (not transcribable)

MR BUCHANAN: You disagreed with him politically, didn't you?
---Politically?

Yes.---Sometimes, yes.

And you certainly did about the decision that the general manager had made in respect of Mr Stavis, didn't you?---I disagree with him.

Yes, the mayor.---No, I disagree with him about, not the employment of Mr Stavis, about the way it's been conduct.

Conduct what?---The process.

10 What process?---Like of the, what we're talking about, the, Mr Stavis, not Mr Stavis, the way the general manager was processing - - -

The offer of employment to Mr Stavis?---The, not only for Mr Stavis, for all this, the employment of the director.

You knew that Mayor Robson did not support Mr Stavis, didn't you?---No, he was supporting Mr Stavis.

20 THE COMMISSIONER: You say he was supporting Mr Stavis?---Yeah, because he named him in the shortlist.

MR BUCHANAN: And when was that?---When in the panel.

At the time of the interview panel - - -?---Yes.

- - - after the interviews had been conducted in the afternoon of 17 November, 2014?---Yes.

30 Mayor Robson supported the candidate, Karen Jones, didn't he, not Mr Stavis?---No (not transcribable)

And you at that time and Mr Hawatt said you supported Mr Stavis at that time, didn't you?---No.

40 Was this code of conduct complaint, as far as you understood it, sent to the minister in order to put pressure on Mr Montague in your dispute with him about the employment of Mr Stavis?---Why I can't understand as the Minister of Local Government, he must ensure the code of practice meeting be conducted. The chair has to be accountable and the meeting has to be conducted.

But you knew, didn't you, that if you were able to persuade the minister that the general manager had behaved the wrong way in relation to the offer of employment to Mr Stavis, that that would be of assistance to you in your dispute with Mr Montague, didn't you? You know it was a good tactic to use - - -?---No, no.

- - - against Mr Montague?---No.

It certainly would have put pressure on him if the minister had agreed with your complaint, wouldn't it?---I don't know.

Well, would it help you in a dispute with the general manager to have the minister on your side?---We asked the minister - - -

No, no, no. My question is, if you have the minister on your side when you are in dispute with the general manager, that would help you, wouldn't it?
---It would help, yeah, yeah, it would help the councillors, you know, yes.

10

This code of conduct complaint was a tactic that you and your colleagues, in particular Mr Hawatt, used in order to put pressure on Mr Montague to back down and employ Mr Stavis, wasn't it?---No.

And it wasn't compiled by Mr Adler and Mr Vasiliades, was it, it was compiled by Mr Hawatt?---I don't understand your question.

The code of conduct complaint - - -?---Yeah.

20

- - - the document itself, the question is, where did it come from, and what I'm suggesting is you know it came from Mr Hawatt.---No, it was worked, I said to you, it was combination of the three.

Did Mr Hawatt have the assistance of anyone outside council to put this document together?---Not at the time being, no.

Did he have the assistance of Kent Johns to put this document together - - -?
---I don't know, not - - -

30

- - - before 7 January?---I don't know.

Would it come to you as a surprise if I told you that the evidence shows that he did have Mr Kent Johns's assistance in compiling this document?---No.

It wouldn't surprise you. And why is that?---Because I knew Mr Hawatt and Mr Johns, they're good friends.

40

And did you understand that Mr Johns was a person that Mr Hawatt consulted sometimes about political mechanisms to use?---Not, not before I've seen it here.

You know this document was brought to the Ray White Real Estate Earlwood building by Mr Hawatt, don't you?---Excuse me?

You know that this document or a version of it was brought to the Ray White Real Estate building on 7 January by Mr Hawatt, don't you?---I don't know if Mr Hawatt, I know that we all agreed to meet at Con Vasil's office.

Can I go back to the call charge records, Exhibit 244 – I'm sorry, have I got that right? Yes, 244. I just want to ask you about a couple of aspects of contacts that you initiated in the period during this dispute with the general manager. Can you see that – if I can take you to page 27, please. Page 27 starts on 10 December, 2014. Can you see that date under the heading Start Date on the first row?---Date at the - - -

Where the hand is.---Yes.

10 And you can see that there are a number of contacts that are in green that were initiated by you with Mr Montague or his office in that period, 10 December down to 23 December, 2014. You can see that?---Yes.

And can you see that at the top of the page as well, item 1200, 1201, 1203, you initiated contacts with Bechara Khouri as well?---Yeah.

And then the contacts or the attempts to contact Mr Khouri stop. The last one, I'd ask you to accept, is 12 December, 2014. This is after the time that the offer of employment has been made to Mr Stavis and the next one that
20 appears that you made or attempted to make with Mr Khouri is on page 31 on 17 February, 2015, item 1414.---Yeah.

And this is at 11.44 and at 11.54, you had another short contact with Mr Khouri's phone. Do you see that?---Yeah.

You attempted to call him again later on 17 February, this is item 1421. And then on 18 February, you had a number of contacts with him starting at 1.21pm, this is item 1430 and following on. Do you see that?---Yeah.

30 Why were there no contacts? Why did you – I withdraw that. Why did you not attempt to contact Mr Khouri between about midday on 12 December, 2014, until about midday on 17 February, 2015? Why is that gap in contact?---Is the question?

Yes.---Why I didn't contact him?

Yes.---I, I don't want to contact him. I don't know.

40 Why did you not want to contact him during that time?---I have no idea. Nothing, I don't know.

That's not an honest answer, is it?---Why?

Yes. You know exactly why, don't you?---Why?

You knew that Mr Khouri was a good friend of Mr Montague's?---Yeah, he's a good friend.

Mr Khouri told you that he supported Mr Montague, didn't he, in this dispute? He was on Mr Montague's side, he didn't want Mr Montague to be sacked?---He's always on his side.

Did you not learn from Mr Khouri that he did not want Mr Montague to be sacked?---Oh, he wasn't, mister, from what I can remember and I think I discussed it with mister only once, he asked me once why, this shouldn't be happen, it's not good. I said to him, don't interfere, don't talk about it, I don't want talk to you about it. Don't discuss it. That's it.

10

And you then didn't discuss it until it came to the issue being resolved - - -?
---Yes, because - - -

- - - in mid-February.---Yeah.

And we can tell that because your contacts with Khouri restart at the time – this is page 32, going over to, I'm sorry, 31 going over to page 32 – the contacts with Khouri restart at the time your contacts with Mr Montague restart.---Yeah.

20

Around 17 February, 2015 and following.---Yes.

So did Mr Khouri indicate to you that he disagreed with you trying to get Mr Montague sacked? Is that fair to say?---No, he didn't say anything to me. I said to him, "It's not your business. Stay away of it."

Tell us a bit more, if you wouldn't mind, about what Mr Khouri said that made you say, "It's none of your business."---I said to him none - - -

30

Yes, but why did you say that to him?---Because he's try to mediate between us and Montague, and I said to him clearly, "Stay away of it. I don't want anybody to talk to me about anything else. I don't want anybody to interfere. It's my own problem." Simple as that.

Thank you. Excuse me a moment, please, Mr Azzi. Mr Chris Watson. Does that name sound familiar to you as a man that Mr Hawatt communicated with to be acting general manager - - -?---Yes.

- - - to replace Mr Montague?---Yes.

40

Did you have anything, any contact with Mr Watson?---I don't remember. We met once in one of the legal, lawyer's office. I, I can't remember definitely but I had, I've seen him once at, I think it's a legal firm.

And was that during the time of dispute with Mr Montague over the employment of Mr Azzi? I do apologise, over the employment of Mr Stavis?---Yes, during that period.

And whose legal offices, sir?---I think it's, I don't remember. It's in Kingsgrove.

And was Mr Hawatt with you?---Yes.

And who were the lawyers acting for? Who was their client?---Acting, us, the councillors.

10 Were they council's lawyers?---No, no, no. We're being advised in something, I don't know (not transcribable). We're being advised by the local government to take - - -

Yes, by the Local Government Association? Yes.---Yeah, no, Local Government, no, no, the Office of Local Government.

The Office of Local Government. Thank you.---After this dispute, we go and take legal advice.

20 Yes.---Outside the council, like, the council not - - -

Outside of the council's lawyers?---Yeah, and the council not liable. You have to take your own legal advice.

I understand.---And that's why we went to some firm for this question.

Do you remember the name of the firm?---Well, no, sorry, I can't remember the name of (not transcribable) Kingsgrove. I - - -

30 THE COMMISSIONER: Can you remember the solicitor you spoke with, that person's name?---Not at this moment. I don't know. I will search for it and I'll give you the name tomorrow if you like.

Do you remember where in Kingsgrove?---Ma'am, I don't remember actually, but it was in Kingsgrove, the office.

It was in Kingsgrove?---Yeah, but I will, I will get you the (not transcribable), I will make the search and get back and - - -

40 MR BUCHANAN: Was there some councillor or some person such as Mr Hawatt who already had, who knew this firm? Who introduced the firm to you?---I don't remember (not transcribable). It's well-known person to us and we went to consult with him, and I have no idea who's referred us to this one.

THE COMMISSIONER: And when you said you were advised that the councillors should seek some independent legal advice, which councillors joined in with you, it was you and Mr Hawatt.---No.

Anybody else?---All the councillors who been putting this motion, signing on this motion, like the, the - - -

So the ones - - -?---The complaint. You see the complaint?

The, sorry?

MR BUCHANAN: Compliance?

10 THE WITNESS: The code of conduct.

MR PULLINGER: The complaint.

MR BUCHANAN: Oh, complaint. I do apologise.

THE WITNESS: The complaint.

20 THE COMMISSIONER: The code of conduct complaint?---To the minister.

Those signatories?---Yes. We've been advised by the Office of the Local Government Minister to seek legal advice independent and don't cost the council any money. It's a letter been sent.

MR BUCHANAN: I note the time, Commissioner. I'm happy to continue on if you would like me to.

THE COMMISSIONER: We might go for about another 10 minutes.

30 MR BUCHANAN: Certainly, Commissioner. Now, if I could take you back, please, to this table of call charge records, Exhibit 244 and to page 31, please. You see there that after, and if we could just flip back to page 30, page 29, there had been no contact by you or attempted contact by you with Mr Montague since 31 December, 2014, that's item 1271, when the line was open between you and Mr Montague's office for more than 13 minutes. Do you see that?---Yes.

40 And then if we go over to page 29, this is in January, no contact. Go over to page 30, this is in January/February, no contact. Page 31, towards the bottom of page 31 on 17 February, as I pointed out to you earlier when I was asking questions about Mr Khouri, there is the first contact you have attempted with Mr Khouri – I do apologise – with Mr Montague, and it's a text message on 17 February at 5.25pm. Do you see that?---Ah hmm.

First contact since December. What was the contact between you and Mr Montague, what was the SMS that you sent him, the text message?---I did send him?

Yes.---I can't remember what was that.

Why did you start talking to Mr Montague again, why did you start communicating with him again?---(No Audible Reply)

10 What was it that happened?---I don't know what's happened. Look, we come, said I have no problem, but during that period where we went off, it was the council was off and it was dispute and I've been advised by legally stay away, don't talk to Mr Montague until – I try to put myself, like, I'm sick of what's going on, nothing to discuss with him.

But you were trying to get him sacked, weren't you?---Yeah, on 24, 27 of December.

And that was a call for a meeting to discuss such a motion?---Yes.

Then the meeting happened on 27 January.---Didn't happen.

20 Yes, you shake your head because it wasn't a very, didn't achieve very much that meeting. Is that right to say?---It didn't happen.

Right. Thank you. But there was a very short meeting. The mayor made a statement and then closed the meeting straightaway.---Yes.

And then there was, the meeting purportedly continued.---Yes.

And the motion to get rid of Mr Montague was purportedly agreed to and he was sacked.---Yeah.

30 But you later received legal advice that that was ineffective. Is that right? ---I don't, that's why we've been told by the Local Government to go and find both sides legal advice. We have, I don't think we come to any solution.

So, were you contacting Mr Montague on 17 February to talk about his sacking or were you talking about something else?---I don't remember what were that.

40 Well, you see, 13 February was a day in which there was another meeting of council at which there are a whole series of motions which assume that Mr Montague had been sacked and that Mr Watson would be appointed as acting general manager. You remember those motions?---Yes.

And they were all moved out of order, ruled out of order by the mayor. ---Yeah.

And so it was a meeting where it could be said that neither side lost anything. Mr Montague didn't lose anything, he was still general manager according to the lawyers.---Yeah.

And you didn't lose anything.---It was both side of the law, everybody like, as legal firm and, what I can say, when the council, I don't know, nobody knew anything. We, we, we get in no man's land.

10 And so was the dispute – I'm sorry. I didn't mean to interrupt you.---It's, we get to position frustrating everybody and that's why we have to come to handle this. The public start - - -

Are you telling us that was your thinking at around this time, 17 February, when you are making contact with Mr Montague?---I don't remember what all was about but I did contact Mr Montague, but it was my feeling.

20 Well, you sent him three text messages that you can see at the bottom of page 31 on 17 February, 2015. This is in Exhibit 244, and then going over to page 32, on 19 February, you attempted to contact him. 20 February, there was a 7 minute and 23 second telephone call to Mr Montague's office, which is likely to have been you talking to Mr Montague, isn't it?---I, I have no idea what the reason of the call at this time but seemed like I start making contact with him and I did contact with him but I, I can't recall what I said to him.

30 Was there another meeting that you had with Mr Montague and Mr Hawatt at a leagues club around this time? I want to suggest 18 February, 2015.---I don't remember I met Mr, I don't remember if I met Mr Montague after that meeting, no.

You remember the meeting though?---I don't remember that meeting. 18 January?

THE COMMISSIONER: No, February.---February. Oh, I don't know if I can, we met in February.

40 MR BUCHANAN: Well, was there a meeting that you had with Mr Montague and Mr Hawatt at a leagues club at which there was an agreement that hostilities would cease? That you would cease having a dispute, you would cease trying to get rid of him on the one hand and he would get Mr Stavits to come to work on the other hand?---I don't remember, I don't recall this meeting but, but I can't recall, I don't know when it's happened, this date or after but something happened, I can't remember, if it happened - - -

And what was the something?---Like, to come to end. Coming to end all this.

Can I show you please, volume 5 in Exhibit 52, page 106 and I just want to take you through a series of emails at the bottom of the page, if we can enlarge the bottom of the page. You can see that on 18 February at 10.51am, Mr Hawatt sends an email to Jim asking for something to be put on the agenda for the next council meeting and above that you can see a reply by Mr Montague, "Michael, no worries. When are you free to chat today?" That's at 11.24am. And then at 11.56am on 18 February, Mr Hawatt says to Mr Montague, "I have a meeting in the city and it should be okay around 3.00pm. Let me know when you want to catch up with Pierre."

10 Now, just stopping there, does that refresh your recollection about a conversation that you might have had with Mr Hawatt about meeting up with Mr Montague?---No, I can't remember this. I don't, but because I was refusing to catch up with him.

And then if you have a look at the next item, which is about halfway down the page, at 2.16pm, Mr Montague says to Michael Hawatt, "Can the time be changed to 5 o'clock?" And then two-thirds of the way up the page, where the hand is, can you see that Mr Hawatt said to Mr Montague, at 3.34, "Is 5.30pm with Pierre at the Lantern Club, Roselands, okay? We all feel

20 the same and need to move forward for the sake and benefit of council. Let's have an open dialogue to help resolve the issue and get back to normality." You see that?---Yeah.

And then at 3.59pm, Mr Montague suggested a change of venue to the Bulldogs Club instead. Do you see that?---Yes.

Is it coming back to you now, that there was a meeting that you had with Mr Montague and Mr Hawatt starting at around 5.00pm on Wednesday, 18 February, 2015 to wrap this matter up, to stop the hostilities?---I can't

30 remember anything about this meeting. I can't remember. Could be happen but I don't remember anything.

Did Mr Hawatt contact you and tell you that there had been a meeting, that he'd had a meeting with Mr Montague, and what the outcome of it was?---I don't remember, Mr Buchanan. It's long, long time ago. But I don't know if this meeting happened, but could happen. Could be and could not. I can't confirm it because I don't remember.

Excuse me a moment, Commissioner. This would be a convenient time.

40

THE COMMISSIONER: All right. All right, we'll adjourn and resume tomorrow morning at 10 o'clock.

THE WITNESS STOOD DOWN

[4.13pm]

AT 4.13PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.13pm]