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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION AERO

Reference: Operation E18/0093

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 4 OCTOBER, 2019

AT 2.00PM

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

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

MR ROBERTSON: I recall Kenrick Cheah.

THE COMMISSIONER: Yes, thank you. Mr Cheah, do you take an oath or an affirmation?

MR CHEAH: Affirmation.

THE COMMISSIONER: Thank you.

THE COMMISSIONER: Thank you. Take a seat. Now - - -

MR ROBERTSON: I think Mr Cheah previously gave evidence subject to a declaration under section 38.

10 THE COMMISSIONER: Yes. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr Cheah, and any documents or things produced by him in the course of this public inquiry are to be regarded as having been given or produced on objection. There's accordingly no need for Mr Cheah to make objection in respect of any particular answer given or document or thing produced.

20 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR CHEAH, AND ANY DOCUMENTS OR THINGS PRODUCED BY HIM IN THE COURSE OF THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION. THERE'S ACCORDINGLY NO NEED FOR MR CHEAH TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Yes.

30 MR ROBERTSON: Mr Cheah, do you agree that it would be very, very, very uncommon for anyone in the ALP to accept money without a form corresponding being collected with it?---Again, sorry?

Do you agree that it would be very, very, very uncommon for anyone in the ALP to accept money without a form corresponding being collected with it? ---Depends on the circumstance.

So do you agree with the proposition that I've put to you or not?---No.

40 Can we go please to page 53 of the transcript, line 44? I draw your attention to the very bottom, the last answer that you gave to a question that I asked you. Do you see that there? Where you'll see the words that I, after - do you see that there?---Yes.

And do we take it from the first answer that you gave me that, on reflection, you wouldn't have answered the question that I asked you in that fashion, but rather you would accept that on at least some occasions, people within

the ALP would accept money without a form being collected with it that corresponds to the money.---At a function that would possibly be the case.

Well, on more than just at a function, it was common, in 2014, 2015, and 2016, for money to be received at head office without corresponding forms being received at the same time, do you agree?---Yes, but when I say that, without being banked.

10 Well, do you agree to this proposition then, the ALP doesn't bank any money unless it comes with the appropriate form for the appropriate amount?---Yes.

You agree with that proposition?---I do.

That's not an invariable rule, though, is it? There's been occasions in which you've been involved where money has been banked without the appropriate form accompanying it, do you agree?---No, I don't believe so.

20 There's been occasions in which substantial amounts of money, in the tens of thousands of dollars, have been banked but without even the identity of the donors being known for some months later, do you agree?---No, sir.

Can we go, please, to the 2014 email chain, and to page 2 of that email chain, please. Mr Cheah, do you see there an email from Maggie Wang to you of 9 July, 2014?---Yes.

And do you see that Ms Wang notes that there's \$3,105 that requires forms? ---Yes.

30 So do you accept that this was at least one occasion in which head office had money but did not have forms associated with it?---I, I, I just said previously, it wouldn't be banked without the forms.

So you're saying that without the forms, there's never an occasion, that you can recall, where money has been banked without the forms. Is that what you're saying?---Not to my knowledge.

40 But this is at least an occasion, isn't it, in which the money was received, might not have been banked, but it was received at the Sussex Street office without forms associated with it. Do you agree?---Yes.

Can we go back to the preceding page? Here's another example, I suggest to you, now in June of 2014, to make up a shortfall of \$8,250. Do you see that there?---Okay.

Do you see that on the screen?---Yes, sir.

And you've then said to Ms Wang, "Okay, I'll tell Ernest about that matter."
Do you see that?---Yes.

And I take it that that's a reference to Ernest Wong, do you agree?---Yes.

And so do you accept that at least in 2014 there were a number of examples
in which money had been received at head office but without having forms
received at the same time?---If you say received as in, yes, brought into
head office.

10

Cash physically in the office.---Yes.

But are you saying that that cash would never be banked until the forms
catch up with it, as it were?---To my knowledge, yeah.

Do you at least accept that it was common in 2014 and 2015 that after
events, money would be received at head office – in other words the money
would physically be there, cash would be there or perhaps credit card forms
and the like – but there would then be an exercise of attempting to chase up
forms that match the cash?---Yes.

20

That was a common experience. Do you agree?---I don't know about
common, but it happens.

An important part of your role, or at least a regular part of your role, was to
chase down forms with a view to having forms matching the cash. Do you
agree?---Yes.

30

And in particular in relation to Chinese Friends of Labor events, it was
common for there to be a mismatch between the money that was at head
office and forms. Would you agree?---I don't know, I don't think I could go
that far to say that it's common to have a mismatch.

At least in 2014 you would accept, wouldn't you, that money had been
received, physically received at the Sussex Street office in relation to
Chinese Dinner, if you look at the subject heading, but without forms being
received at the same time. Do you agree?---Yes.

40

Do you also agree that on at least some occasions there has been money
received and someone other than the donor of that money has signed a
disclosure form saying it was their money?---Repeat the question, please.

Do you accept that on at least one occasion there was occasions in which
money was received by the Sussex Street office and someone other than the
donor was asked to sign a disclosure form in relation to that money?---I
wouldn't be aware. I take it at face value if the form comes with the money.

I suggest to you that on at least one occasion you were party to an email in which a person who was not the donor of a particular sum of money was asked to sign and say that they were the donor of that money. Do you agree?---I don't have any recollection of that.

So are you saying you're not denying that that occurred, you're just not having a recollection of that?---I don't have any recollection of it.

10 But surely you would have a recollection if it happened. It would be a serious matter, wouldn't it, if someone other than the donor of funds to sign a form to say that they were the donor?---Yes.

So you would agree with me, wouldn't you, that this isn't simply a matter of forgetfulness. If that had happened, if you were copied to such an email, you'd remember it. Do you agree?---If I remembered, I would remember it, but it's not intentional or unintentional.

20 I suggest to you that there was at least one occasion in which you were party to an email, by which I mean you were copied to it, either in the "To" field or the "Carbon Copy" field, in which a person other than the donor of a particular sum of money was asked to sign and say that they were the donor. Do you agree?---I don't recall any email that - - -

You at least accept that if someone was to make such a request – in other words, to get someone to sign a form saying that they're a donor but they're not a donor – that would be a serious matter. Do you agree?---Yes.

30 It would be a matter that you would draw to the attention of your superiors. Correct?---If I, yeah, if I'd noticed, yeah.

And it's a matter that you would either report to the Electoral Commission yourself or at least report it to someone more senior to you with a view to have it reported to the Electoral Commission. Would you agree?---If I, if I had noticed that that was the case, yes.

Can we go, please, to Exhibit 188. And can you have a look at the email that you sent on 24 September, 2014, to Mr Wong and Mr Sin. Do you see that there?---Yes.

40 And you then say, "There is \$725 worth of cash from the Minns raffle at the Chinese fundraiser that someone/s needs to account for with a signed form, please." Do you see that there?---Yes, yes.

So this is an example, isn't it, of where the cash has been received at head office but there aren't forms that correspond with the cash. Do you agree with that?---Yes.

And do you see then that Mr Sin writes to you and to Mr Wong and says, "Well, how do we deal with that?" Do you see that?---Yes.

And the response from Mr Wong is, "Get someone," – I withdraw that. The response from Mr Wong is to Dominic, to Mr Sin, telling Mr Sin to sign off on the form. Do you see that?---Yes.

But Mr Sin wasn't the donor of all of the \$725 worth of cash in the Minns raffle, was he?---I don't know if he was or wasn't.

10

It's clear from the face of this email, I suggest to you, that what Mr Wong is asking Mr Sin to do is to sign off as being the donor of the money, even though he was not, do you agree?---It doesn't, there's no, there's nowhere were it says - - -

Mr Cheah, even Mr Wong accepted that. Mr Wong accepted almost no proposition I put to him.---I'm just, I'm just - - -

20 MR DIXON: I object to that line of questioning. If Mr Wong accepted it, that's one thing. The email (not transcribable) - - -

MR ROBERTSON: I withdraw the question. It is clear on the face - - -

THE COMMISSIONER: Sorry, just before you go on. The subject of this is entitled "Chris Minns Raffle Money".---Ah hmm.

And that's the context in which this email seems to have been sent. So, anyway, proceed. Yes.

30 MR ROBERTSON: I suggest to you, Mr Cheah, that it's clear on the face of this email that Mr Wong is telling Mr Sin, "Sign off as the donor of this money, even though you're not." Do you agree?---There's nowhere where it says that he, that Dominic isn't the donor of the money.

Now, have a look - - -?---On face value.

Sorry?---On face value.

40 I'm saying it's clear on the face of the email from Mr Wong that he's asking Mr Sin to sign off and say that he's the donor of the money, even though he is not the donor of the money, do you agree?---In my opinion he's asking, he's definitely asking Dominic to sign the form that he's the donor of the money, but I don't see the inference that you're drawing that Dominic wasn't the donor. I don't know either way.

You have had extensive experience in events, including events to the benefit of Mr Minns, correct?---No.

You've at least had experience in connection with fundraising events, correct?---Yes, sir.

It's common in fundraising events to have a raffle, correct?---Yes, sir.

A raffle would usually be sold as having ticket prices of, say, \$2 or \$5 or \$10, correct?---No. We often have quite high amounts of raffle prices to, to promote a whole book of raffle tickets being sold.

10 A ticket for \$725? Come on.---It wouldn't be one ticket.

I suggest - - -?---For example, a ticket could be \$1 a ticket, then five for 20, \$50 for 100 or something like that, whatever the, the increment that we decide is best to market it.

Are you seriously suggesting that Mr Sin may have bought \$725 worth of raffle tickets for the Chris Minns raffle in 2014?---I don't know.

20 Let's get serious. Come on, come on. It's clear on the face of Mr Wong's email that he's asking Mr Sin to sign off as the donor, whether or not he's the true donor, do you agree?---I agree with the part where you said he's asking Dominic to sign off for that amount of money.

Whether or not he is the true donor or not, do you agree?---I can't draw that inference only on the basis of this one email or this, this email chain.

30 THE COMMISSIONER: What was Dominic Sin's position, do you know, as at September '14?---He was a, I think he was an elected councillor in that local area, Hurstville.

A local government councillor?---Yes, sir. Yes, sir.

So do you have an understanding, what was Dominic Sin's relationship to the matter of this email?---So he would have been probably one of the organisers of this event.

That's what you - - -?---That's what I surmised. As a councillor, he's a local leader.

40 So if you're talking about raffle money and you're talking about a donation, how is the raffle money treated as a donation? Does it represent accumulated funds which a number of people have contributed to by buying raffle tickets or what - can you help me on that?---Sorry, if - - -

Okay. He's included the word "donation" in the context of raffle money. ---Yes.

Well, is raffle money seen to be and classed as a donation?---Yep. In the same way as ticket money.

So, but the raffle money is, what, they raffle something or other.---Sure.

And there might be 10, 20, 100 people buy tickets in the raffle.---Yes.

So, okay. Mr Robertson, we're proceeding, are we, on the basis that where it says, "If you donation to Chris," it should read, "If your donation"?

10

MR ROBERTSON: Yes.

THE COMMISSIONER: "To Chris has not gone over, can you sign the form that you are the donor?" So how do we make sense of that, Mr Cheah? The subject matter is that it's a parcel of money. It does form a donation. But if this is saying your donation hasn't gone over 2,200, you can sign the form, that you are the donor for that amount of money - - -?---Right.

20 It doesn't sound to me as though what Mr Wong is suggesting is kosher, if I can put it that way. Is that what you, how - - -?---So - - -

How do you see it?---My, that's one way to interpret it. Another interpretation could be, if your donation is, if your donation to the Minns campaign has gone over the cap, then don't sign the form, and then we can refund – I mean, if that is his amount of money, that eight whatever, 725, they will return the money to you, because you've gone over the cap. It's the same, it's the same inference as going over. Isn't it?

You go ahead.

30

MR ROBERTSON: Oh, I suggest to you that's a nonsense answer you've just given to the Chief Commissioner.---I'm just, I'm not saying that's what happened. Just saying from the face of this email, that's what - - -

Well, what I'm suggesting to you is that it's clear that what Mr Wong is asking Mr Sin to do is to sign the form as if he is the donor, even though he was not the donor for the full \$725 worth of raffle tickets. Do you agree? ---Don't agree with the second part of your, of your proposition.

40 Now, you said - - -?---Because I don't have that knowledge.

No, what I'm suggesting to you is – well, withdraw that. You were copied to this email, correct?---Yep.

You would have read this email within short order of it coming to your email box on about 25 September, 2014, correct?---Yep.

Now I suggest to you that having read it, you would have realised that something was not kosher, to use the Chief Commissioner's words, because Mr Wong was asking Mr Sin to sign as the donor of the \$725 in raffle tickets, whether or not he was in fact the donor. Do you agree?---Again, sorry?

10 I'm suggesting to you that when you read this email, on or about 25 September, 2014, it would have been clear to you that Mr Wong was suggesting something that was not kosher, that is to say, that Mr Sin should sign and say that he was the donor of the \$725 in raffle tickets, whether or not he was the true donor of the \$725 in raffle tickets. Do you agree?---If you say is whether or not, then why would I think it's not kosher?

I'll put the question again.---Because if he was the true donor, then it's, then it's fine.

I'll put the question again.---Okay.

20 I suggest to you that Mr Wong is making clear to Mr Sin that he wanted Mr Sin to sign and say that he was the donor of the \$725 in raffle tickets, even if he was not the donor of the \$725 in raffle tickets. Do you agree?---It doesn't say that in the email, so - - -

So you don't agree with what I've put to you?---I don't, I, I can't read the mind of the email, of - - -

No, no, no. I'm going to keep putting it. You received the email that's on the screen, correct?---Yes, sir.

30 And you read the email - - -?---Yes.

- - - when you received it, correct?---I, I read it at some point.

40 And I suggest to you that when you read it you understood Mr Wong to be saying to Mr Sin, so long as you haven't already donated \$2,200, you should sign and say you're the donor, whether or not you're the true donor. I suggest that's what you understood Mr Wong's email to Mr Sin to mean when you got it on or about 25 September, 2014. Do you agree?---Not, not necessarily.

Well, are you rejecting that's how you read it?---I think I read it - - -

You've qualified by saying "Not necessarily."---Because I don't remember this email at all, except for you bringing it up on screen now.

Well, reading it now, now having read it and now me having asked the question a number of times, I think you at least accept that one available reading of the email from Mr Wong is that he's telling Mr Sin that he should

sign as the donor of the \$725 in raffle tickets, even if he's not the donor of the \$725 in raffle tickets. You at least accept that, don't you?---That that's a possible - - -

That that's a possible reading of Mr Wong's email.---Yes, yes.

You accept that, don't you?---I do accept that.

10 And I suggest to you that's the only fair reading of the email. Do you agree?---You could say it's the most obvious.

So you accept that it's at least the most obvious reading of the email. Is that right?---Not my most obvious but it could be taken as the most obvious. Sorry, I'm not trying to be misleading or obfuscationary or obfuscate.

I don't understand your last answer. Are you accepting that the most obvious reading of the email is the one that I've been seeking to put to you? ---Do I accept that?

20 Do you accept that the most obvious reading of the email from Mr Wong to Mr Sin is that he's telling Mr Sin that he should sign and say that he is the donor of the \$725 in Minns raffle tickets, even if he is not the true donor of the, or the true purchaser of the \$725 in Minns raffle tickets?---Like I said, it's a possible inference and - - -

No, I'm not asking about - - -?--- - - - probably on my account - - -

Let's do it in stages.---Okay.

30 You've accepted it's a possible one. I'm now putting to you for you to accept or reject that that's the most obvious reading of Mr Wong's email. Do you agree with that or not?---To me it's, it's just an inference that you can, that you can draw from it.

Do you accept that the most obvious reading of the email from Mr Wong to Mr Sin of 25 September, 2014 is the one that I've sought to summarise? Do you accept that or not?---No.

40 THE COMMISSIONER: Can I ask you this. Take a hypothetical example. If there's a raffle at a fundraising dinner and it raises \$1,000 - - -?---Yep.

- - - and 50 people have contributed to the raffle, in other words, 50 people have bought raffle tickets which altogether make a sum of \$1,000. Is there a requirement for those who've contributed, those 50, to sign a form or if not then, who does?---No, it's a requirement of anyone who contributes I think more than \$1 must sign a form, a disclosure form or something like that.

A disclosure form.---Something like that, yeah.

All right.---Identifying that they have donated by, by purchasing a raffle ticket, more than \$1 worth.

I see. Right. Thank you.

MR ROBERTSON: And after that exercise occurs, the forms and the money go to the Finance Department. Is that right?---Yes.

10 And they get processed within the Finance Department. Is that right?
---Yes.

And they issue a tax invoice or receipt in relation to the money. Is that right?---Yes.

And is that receipt always sent to the donors directly or sometimes is it sent to people other than the donors?---Usually it will be sent to the donors.

20 Always or just usually?---Usually.

In what circumstance would it be appropriate to send it to someone other than the donor?---Only if it's clearly an easier route for the money ah, money, for the receipt to get to that donor via someone else.

So are you saying that there's circumstances in which you've been involved where tax invoices or receipts have gone to people other than the donor?
---Only from other information that I've read from this hearing.

30 So you don't have any specific recollection yourself? You only recall from the preparation you've done for your examination today, is that right?
---Well, I take interest in the entire hearing.

But the - - -?---Because I'm a witness.

40 Yes, but the matter that we're now discussing is not something that you can recall from your previous experience. It's something that you only know about because you have been preparing for the examination today, is that right?---I can remember at times if a receipt was for myself, someone from Finance might walk it over to me and give it to me, rather than sending it to my home address. That's what I'm using as a baseline.

But that's got nothing to do with what I'm asking. I'm asking about circumstances in which receipts go to someone other than the donor, and you've just given an example of where the receipt goes to the donor just in person, rather than by mail. So let's be clear about it. Are you saying that there's occasions on which you've been involved in which receipts have not been sent to the donor, they've been sent to someone else instead?---Only from the evidence I've seen in other people's testimony.

So no recollection of you having any involvement in an issue of that kind?
---No. No.

You've never said to the Finance Department, "Look, don't worry about sending out receipts for particular donations"?---Never.

10 You've never said, "Don't send receipts to the donors. Go and send them to someone else"?---I recall seeing an email in other evidence that mentioned me issuing that instruction, but I don't recall giving that instruction.

When you say "that instruction", what do you mean?---To send the, send receipts to one person instead of the donors themselves. I think it was, I think it was, to be clear, receipts to Ernest Wong's office.

20 So you have a recollection, do you, having looked at some of the evidence before this Commission, of giving an instruction to the Finance Department to send a tax invoice and receipt not to the donor but to send it to Ernest Wong instead, is that right?---Only from, yeah, only from the evidence of someone else I can't remember.

So you don't remember actually doing it, but you have seen the evidence before this Commission - - -?---Correct.

- - - and you're now, you're accepting that it's happened because someone else has either said that or you've seen it in the documents.---I think I saw it in the documents.

30 You've seen something in a document but you don't recall giving such an instruction?---Correct.

Why would you give such an instruction, though?---Like I said before, only if it would be easier in terms of that person dispersing the receipts rather than going out by mail.

Why would it be easier to give a receipt to Ernest Wong rather than to a true donor?---For him to disperse the receipt to the true donor.

40 But why is that easier? At least assume for present purposes that for a particular invoice and receipt the Finance Department has both a physical address and an email address. Why in that circumstance would it be easier to do anything other than email it to the email address - - -?---Sometimes - - -

- - - or post it to the post box that's been provided?---Sometimes people don't keep a proper track of their donations. And so if Ernest has organised or invited someone to come to an event or something like that, then if he gives it to them, that triggers them to remember, okay, that was for that,

rather than coming back to us later. So they might have received it in the mail, gone, "What the hell is this for? Labor Party? I don't know what this is about." 'Cause they might even characterise an event as an Ernest Wong event.

So I take it when that happens you keep a record that it's gone to Mr Wong rather than to the donor directly, is that right?---Like I said, I don't recall except for the evidence.

10 Well, if you were to do that, you would keep a record, would you not?---No.

Are you serious? You wouldn't keep a record of that?---Of - - -

You wouldn't keep a record of the fact that you've given a direction to the Finance Department to not send a tax invoice or receipt to the donor, but instead send it to someone else?---No. If I understand your question correctly.

20 The provision of tax invoices and receipts to donors is an important part of tracking and reporting of donations, correct?---Yes, sir.

It's particularly important when the donation is more than \$1,000 because, as you know, donors of more than \$1,000 have to make their own reports, correct?---Yes.

30 So you'd have to accept, wouldn't you, that as a matter, at least as a matter of good practice, if you were to give a direction that a particular donor doesn't receive a tax invoice or receipt directly, but rather it's given to Mr Wong, at least as a matter of good practice you'd have to keep a record of that, surely.---It would be good practice to do that.

But on the at least one occasion that you accept that you gave a direction contrary to that, you didn't keep a record. Is that right?---I don't - - -

40 MR DIXON: Well, I object to that. That's an unfair proposition to put to the witness. He didn't say, he didn't ever say that he gave a direction not to send the receipt to the actual donor, he was, he was only talking about sending it to Mr Wong, so there are a number of possibilities that arise out of that.

MR ROBERTSON: Well, I'll put it squarely. On at least one occasion you have given a direction to the Finance Department to send a tax invoice and receipt to Mr Wong rather than to the donor. Do you accept that?---For him to pass to the donor.

On at least one occasion you have instructed the Finance Department to send a tax invoice or receipt directly to Mr Wong and not directly to the donor. Do you accept that?---I said earlier I had no recollection of that.

Well, I'll keep putting the proposition. Do you accept that on at least one occasion you instructed the Finance Department to send tax invoices and receipts to Mr Wong's office and to not send them directly to the donor. Do you accept it or not?---Only from, only from the evidence.

Well, what does that mean? Do you accept the proposition or not?---I don't recall the event occurring. I don't recall ever issuing that instruction.

10 THE COMMISSIONER: Well, do you recall the particular evidence that Counsel Assisting's referring to which relates to receipts going to a number of people - - -?---Yes.

- - - being sent to Ernest Wong?---Yes.

And you've seen the document in evidence, haven't you?---Yeah.

20 Right. And that was, as my recollection goes, an email between you and Ernest Wong saying, is that right, it's an email which went to Ernest Wong enclosing or attaching the invoices in question.---I'm not sure. I'm not sure to be honest.

Well, what I'm seeking to ascertain from you is, from the evidence which does relate to that particular instance, do you accept that that would have come about by someone giving a direction to Finance to do that and that if such a direction was given it would have come from you? Do you accept that or not?---I accept that a direction would have been given to Finance if that were to happen. I don't have any recollection of me doing that, except for that email.

30

Well, if a direction was given to Finance, where would it have come from, most likely?---Either from, like you said, possibly myself or any other staff that Ernest might have contacted.

MR ROBERTSON: What other staff? Focussing here on a Chinese Friends of Labor event, what other staff would give such a direction other than you? ---If he'd been in touch with the general secretary or any other staff.

40 Any other staff? The receptionist?---Possibly, he could leave a message for the reception. I know you think it's, it's ah - - -

So if the receptionist says to the Finance Department, please don't issue tax invoices to the donors directly, give them to Ernest Wong, they'd accept that direction, would they?---If the receptionist says to the Finance staff, Ernest Wong rang and asked for the donations from whatever, whatever, whatever, to go to him for him to disperse, then I think that's a reasonable

- - -

Let's try and be clear. Chinese Friends of Labor events only I'm talking about at the moment. The Finance Department would accept a direction from you to send the receipts or the tax invoices not directly to the donor but instead to Ernest Wong's office. Would you accept that?---Is that hypothetically?

Yes.---Yes.

10 And moving from the hypothetical to the real, you in fact gave such a direction on at least one occasion. Do you agree?---I don't recall that at all.

You don't recall ever doing that, even with the benefit of the documents that you've now seen. Is that right?---Yes.

Is it right to say though that for Chinese Friends of Labor events, if the Finance Department wanted directions in relation to things like to whom should a receipt be issued, they would seek that direction from you? Do you at least accept that?---Yes.

20 No one else within Sussex Street office, they would seek it from you. Agree?---I'd be their first point of contact I would think.

It would at least be your first port of call. Correct?---Yeah.

Do you accept that, in relation to at least one Chinese Friends of Labor event, substantial amounts of money in cash were received and banked, but the donors in relation to that money were not known for some number of weeks or months later, do you agree?---Which one are you talking about?

30 On at least one occasion, for a Chinese Friends of Labor event, in any year, cash was received, substantial cash was received, more than \$10,000, banked, but the donors in relation to that cash were not known by you or by head office until some number of weeks or months later, do you agree?
---We don't bank the money until we know who the donors are.

You're quite sure, you'd never bank the money until you know who the donors are, is that right?---Correct.

40 Can we go to Exhibit 188, please, and can we start on page 2, PDF page 2, paginated page 1. Oh, sorry, Exhibit 298, I'm sorry. PDF page 2, paginated page 1. Now just to give you the context, Mr Cheah, this is not an email that you were copied to, but I'll take you to emails you were copied to in a moment. Do you see there Ms Wang writes to Mr Wong, talking about a Chinese dinner in April of 2016 this time, and says, if you look at the third paragraph of her email, "We still have not received the name of the 10 donors for the \$50,000 in donations," do you see that there?---Yes.

Now, I want you to assume that the \$50,000 in donations is cash. I'll show you a reference to that later.---Okay.

And I also want you to assume that the \$50,000 has in fact been banked. I'll take you to some documents about that in a moment.---Okay.

10 But then if we can please move to PDF page 6, which is paginated page 5, do you see there Ms Wang sends an email to you and says, "I'm still waiting for the donors for the \$50,000 from the last Chinese dinner," do you see that there?---Yes.

Now, does that refresh your memory that at least in 2016, there was an example in which cash had been at least received – we'll come back to banked – at least received, but the donors of that cash had not been identified for some number of weeks or months later?---That appears to be the case.

20 Not only does it appear to be the case, that's now refreshed your memory that that was in fact the case in 2016. Do you agree?---I don't remember any \$50,000 donation.

You've got no recollection of the subject matter of what we can see on the screen, is that right?---Not, not money that I brought in, as I - - -

I'm not asking you about money you brought in. I'll put the question again. Do you have any recollection of \$50,000 in cash being received in connection with the Chinese Friends of Labor event in 2016?---No.

30 You've got no recollection notwithstanding looking at the email that you can see on the screen, is that right?---No.

Do you have a particularly faulty memory?---I think I have an average memory.

It'd be a serious matter, wouldn't it, to have \$50,000 or perhaps \$100,000 received in cash at the Sussex Street office?---At the office?

Yes.---Yes.

40 In terms of cash itself, it's right, isn't it, that if, that cash would ordinarily be banked quite promptly on it being received, is that right?---Cash gets banked when the forms correspond to it, so that we don't get in trouble with the Electoral Commission.

So if you're to assume, in respect of this one on the screen, if you were to assume that the cash had been received in or about April of 2016, but the donors is not known in June of 2016, are you saying the cash would just be sitting in the office for a few weeks or months? Is that - - -?---I don't know.

And if we then look a bit further up this page, you'll see Ms Wang then responds, and you say, "I'll talk to him again today." Do you see that there?---Yep.

So you're agreeing to speak to Mr Wong regarding the matter?---Yep.

Still no recollection about any of this? No?---No.

10 Let's go to the preceding page. Ms Wang says, "Sorry to hear about that, but he's chasing you up again." And you say at the top of the screen, "No worries. Of course we need that info. Totally understand." You see that there?---Yes.

Still no recollection?---No.

And if we go back a preceding page, "I'll talk to him again today," I think we see that. You see that towards the top of the page?---Yes.

Still no recollection?---No, sir.

20

Do you have any recollection of Mr Wong ultimately identifying some individuals as being the donors of the money?---No.

And if we can then go, please, to – you don't have any recollection of being happy when Mr Wong finally identifies who the donors should be identified to be?---I don't have any recollection of it.

30 No. Let's go to PDF page 8. PDF page 8, paginated page number 7. See the email from Mr Cheah to Ms Huang towards the bottom of the page? ---Yep.

You know that Ms Huang worked in Mr Ernest Wong's office as at June of 2016, correct?---Yes.

You're chasing her up again for details of the \$50,000 in donors, correct? ---Yes.

Still no recollection?---No.

40 Let's go back a page. Ms Huang, "Yes!" and identifies a series of donors, now a couple of months after the event, and you respond, "Yay!!" You see that there?---Yes.

Any recollection yet?---No.

And then Ms Zhao says, "Do we need to issue them receipts?" You see that there?---Okay, yes.

Can you remember responding to that email?---I don't know. I don't recall, sorry.

Still no recollection?---No.

You in fact responded and you said that the receipts should not be mailed to the donors but they should be sent to Ernest's office, do you agree?---Okay.

10 You do agree that that's what you did?---Oh, I, I, show me. I don't have any recollection of this, so if you can show me my instruction.

Do you agree that in response to the email that you can see on the screen from Ms Zhao you told Ms Zhao, "Don't mail them out to the donors, send them to Ernest's office"?---I think that would be in relation to what I said earlier about seeing other evidence.

Well, what's the answer - - -?---See, if that's, if that corresponds - - -

20 - - - what's the answer to my question, then?---(No Audible Reply)

I'll put it again. In response to the email from Ms Zhao of 25 July, 2016, did you tell Ms Zhao not to mail them to the donors but instead email them to Ernest's office?---I think I read that in other people's evidence or, or in another exhibit.

Do you accept that in response to the email from Ms Zhao of 25 July, 2016, you responded and you said, "Don't mail them to the donors, instead email them to Ernest's office"? Yes or no?---I can't accept it when I'm not sure.

30 Now, if you have a look further down the page, do you see we've redacted it, but do you see that there's addressed, mobile phone numbers and contact emails, at least for the first four donors, do you see that there?---Yes, yeah.

Now, on the face of that, you'd have to agree with me, wouldn't you, that the most convenient way to send the invoices and receipts to those individuals would be simply to email it to those individuals in the, by way of their contact emails, would you agree?---Well, because it's so far down the track, might be easier just for Ernest to give them out. Might be what we were thinking at the time.

40 Why would that be easier? One simply sends an email.---Like I said before, people don't keep a track of sometimes their donations. So if it's given by the person who organised the donation, it's a trigger for their memory to realise what it's about.

A pretty good trigger would be just sending them an email, wouldn't it? ---Well, I ignore a lot of emails. I think a lot of people do. I often get

receipts in the mail which I don't have any idea what they're for because they don't - - -

An email with an explanation then, "By the way, just a reminder that you donated money a couple of months ago, and here's the receipts."

10 THE COMMISSIONER: I mean in this modern day and age it's up to the receiver to read his or her emails. If they don't, it's their bad luck if they miss something they should have kept or attended to. So I'm struggling to understand, if you had email addresses for these five people, I'm not sure if you had five or not, but anyway there's a number there, all necessarily have had emails?

MR ROBERTSON: Six with emails and all with addresses, Chief Commissioner.

20 THE COMMISSIONER: Right. I don't understand why wouldn't they just be processed in the ordinary way? I mean it doesn't cost much to send an email and it's quick, easy, you just – why wouldn't it be done that way? There must be, it seems to me, a particular reason in relation to these people why the ordinary processes weren't followed. Would you not agree? There had to be a story behind this. Of all the donors, why pick out six who've got emails for not being processed like all the rest of them? There must be a particular reason, would you not think?---I know that he's close to some of these people, hence, hence what I said about giving to them in person.

30 But he would have been, well, not close but he would know a good many people who were at the dinner who were associated with Chinese Friends of Labor, wouldn't he?---Yeah. I don't - - -

Well, why, what's the story behind these six? If you don't know, what's the likely story?---Honest recollection, I don't - - -

Or explanation?---I don't know whether this \$50,000 was connected to a dinner or not. It might have been but I have no recollection. That's what I'm trying to say.

Well, whatever it was for, there's got to be a reason, hasn't there?

40 MR ROBERTSON: And could I just - - -

THE COMMISSIONER: There's got to be an explanation.

MR ROBERTSON: And can I just assist you this way, Mr Cheah. One of the emails I showed you from Ms Wang to you said, "I'm still waiting on the donors for the \$50,000 from the last Chinese dinner."---That may not have been a Chinese dinner which had let's say like the Bill Shorten one

that's under question for 300, 400 people, it might have been a smaller dinner of 10 people for a higher amount of money.

Sorry, I interrupted one of your questions, Chief Commissioner. You would at least accept that as a matter of practice as at 2016 the Finance Department would send tax invoices or receipts directly to the donor, to their postal address or to their email address if those details were known by the Finance Department. Do you agree with that?---Yes, yes.

- 10 And the only reason they would depart from that practice is if someone outside of the Finance Department gave them a direction to depart from that practice. Would you agree?---Yes, yes.

And in relation to Chinese Friends of Labor matters, a person who might give such a direction is you. Do you agree?---Yes.

- 20 Do you also agree that at least if you accept that for each of these donors there was an address and a contact email, there would be no proper reason to not send a tax invoice and receipt directly to those donors. Do you agree with that?---I disagree that there's no proper reason.

And what would be the proper reason to not send it to the donors?---The same reason that I gave earlier, that's it's easier sometimes - - -

What, that it's more convenient to give it to Mr Wong to give to the donors rather than to email it to the donors.---Yes.

Is that your answer?---Yes.

- 30 Even if that added something to the exercise, why wouldn't you simply do both, rather than say don't send it to the donor and just send it to Mr Wong? ---That's a fair, that's a fair - - -

Well, what's the answer to it?---I don't have an answer to it.

- 40 But you have to accept that there would be something awry, wouldn't there, something not kosher, to not send a tax invoice and receipt to a donor, at least where you've got an email address, and instead only send it to Mr Wong. Do you agree?---No, because I would expect him to disperse the receipts to those people. They're all, if it's, if it's these amounts, \$5,000, they're all over \$1,000 so they have to be declared, so they would know at some point that they have to give a return to the Electoral Commission.

And so what - - ?---So if he was to not disperse these receipts, it would be, it would be found out sooner or later.

And a good way to avoid that risk of it not being sent around is to simply email it directly to the donor, do you agree?---That's true.

If we go, please, to PDF page 9, three pages along. One further page along, please. One page back, I'm sorry. See there an email from you to Ms Zhao where you say, "Instead of mailing them," not in addition to, instead of mailing them, "email them all to Winnie in Ernest's office." Do you see that there?---Yes.

Any recollection of sending that email?---No.

10 Any recollection as to why you would send such an email?---I can surmise it's faster to email.

Faster to email them all to Winnie's office rather than email them to the individual donors, is that right?---Yes.

Isn't the whole purpose of this exercise to get the tax invoices and receipts to the donors?---Yes.

20 And so it's easier to send them to Ernest's office and then leave it to Ernest's office to make other arrangements to send them to the donors, is that what you're saying?---He might be in constant contact with these people to give it to them.

An email of the kind we can see on the screen, is that an email that you would send on your own initiative, or would you only do it on a request from Mr Wong?---On the request of someone else.

On the request of someone else, is that right?---Yeah.

30 So is it right that you don't have any recollection of you deciding don't worry about the usual practice, sending it directly to donors. I've got a better way, send them to Ernest or send them to someone else?---No, of course not.

You would only do something like the email that we can see on the screen if you were asked to do that by someone like Ernest, is that right?---Correct.

40 In relation to Chinese Friends of Labor events, to your knowledge does all the money from such an event find its way into an Australian Labor Party or Country Labor Party bank account or has it been considered acceptable, or at least tolerated, that some money goes somewhere else?---It should all be banked with NSW Labor or Country Labor.

You're quite sure about that?---Yes. I, I know what you're getting at, but yes.

Is it the case that you ever had an unofficial agreement with Mr Wong that amounts from Chinese Friends of Labor events should go somewhere else?
---No, I've never signed off on that.

10 So I want to be very clear about this, then. Did Mr Wong ever ask for your approval, agreement, acquiescence to money from Chinese Friends of Labor events being deposited somewhere other than an Australian Labor Party bank account?---Multiple lots of the LACs, including Chinese Friends of Labor, make the request that can they use the money that they fundraised, sorry, can they use the money that they fundraised for their own activities. And my answer's always the same, you can ask for permission from head office but it's got to be banked with us first.

20 But what about even further afield than their own activities? You would have read that Mr Wong said that some of the money from the 2015 event found its way into a Friends of Chinese Community bank account, being an organisation that had nothing to do with the Australian Labor Party. You remember seeing either that evidence or at least a report of that evidence, is that right?---I remember seeing that evidence, yes.

Before Mr Wong fessed up to that, did you know that that had happened in relation to the 2015 event?---No. No.

30 Did Mr Wong, even if you didn't ask for permission, did Mr Wong say to you, "Well, look, this is what I'm going to do and I think it's fair enough"?
---He might have mentioned that, oh, we should, we should use some of the money for some of our own, like, activities, some of the things to do with the Chinese Friends of Labor, such as, such as what he mentioned in his testimony. But I would never, I would never unequivocally sign off and say, "That's fine, you can bank it somewhere else." I would always say the money's got to come back to the head office. Always.

So I'm not talking about money finding its way to the Labor Action Committee or, for example, Chinese Friends of Labor. Let's focus specifically on the money that Mr Wong has said in evidence found its way to Friends of Chinese Community Incorporated.---Okay.

40 Was there any suggestion by Mr Ernest Wong at any point, whether by way of asking for approval or not, any suggestion that he was going to divert some of the money from the 2015 event to an organisation not associated with the Australian Labor Party?---No.

No indication or suggestion - - -?---No.

- - - indication at all, is that right?---No. No, not, not from my understanding.

Well, I'm asking for whether you have any recollection of Mr Wong saying anything to you about that.---No.

Because I take it you've seen if not the transcript, but at least by way of reports, that Mr Wong says that he had, to use his terms, an unofficial agreement with you that money from the 2015 Chinese Friends of Labor event, at least some of it, could go to Friends of Chinese Community Incorporated.---No.

10 You're aware that Mr Wong has given evidence to that effect?---I am aware of that, but that's either a miscommunication or a misunderstanding.

THE COMMISSIONER: Well - - -

MR ROBERTSON: Well, do you deny that Mr Wong ever said to words to the effect of, "I'm planning for some of the money that comes out of the 2015 event not to come back to head office. I'm going to put it into another bank account"?---No. No, because I would never, I would never sign off on that.

20

And you're quite clear in your mind, are you, that if he asked you for permission, agreement, unofficial agreement, whatever that means, you would have made clear to him that's not an acceptable course, is that right? ---Right. The most - to couch it in terms of, I, I would say no straight up. If we were, if we were talking in terms of what the money could be used for, I might say, "Let's talk about it later."

30

But to be clear, you have no recollection of Mr Wong saying, "I'm planning on not sending all the back to head office, I'm going to send some of the money to another" - - -?---Never.

- - - "another organisation," is that right?---I'd be too scared that I'd be getting in trouble to agree to that.

And if he had said such a thing, you would have made clear to him that at least from your perspective, that's not an acceptable course to take, is that right?---100 per cent not, not acceptable.

40 Jumping forward to April, 2015, you've given evidence that you saw Mr Huang bring in a bag and meet with Mr Clements, correct?---Yes, sir.

That meeting happens for a relatively short period, 20 minutes, half an hour, something like that, correct?---Something like that.

And out of that meeting comes Mr Clements and a ALDI bag of cash, correct?---Yes.

Mr Clements gives you both cash and forms, correct?---Yes.

And I think you weren't clear about whether the forms were in the bag, or whether they were being provided separately but at the same time, is that right?---Pretty sure they were in the bag, but - - -

You might be mistaken about that. Probably in the bag, but at very least, you got them at the same time. Is that right?---Got them at the same time.

10 Are you quite clear in your mind that on that occasion, you received 20 forms, not 21, not 22, not 23, not 19?---I'm quite clear.

20 forms?---I am quite clear.

You then seek to reconcile the cash to the forms, correct?---Yes.

You don't finish that exercise on a particular day before the banks have shut, is that right?---Correct.

20 You've taken the cash home for at least one day, I think you said it was probably one night, it's possible it was two, but you think it's more likely one night, is that right?---Correct.

And ultimately, you give the forms and the cash to the Finance Department, correct?---Correct.

30 Now, you told the Finance Department that half of the money should be banked in NSW Labor and half of it should be banked in Country Labor. Is that right?---I don't recall saying that, but - I don't recall giving that instruction.

Well, you know, don't you, that the forms, the 20 forms that we're talking about, none of them said on their face that they were going to Country Labor, is that right?---Right.

40 You accept, don't you, and I think you accepted this last time, but let's be clear, that you told the Finance Department that \$50,000 of the money should go to Country Labor and \$50,000 should go to the state campaign account, do you agree?---I think because the donors filled out two forms each.

Well, let's do it in parts, though. The first proposition is that you told the Finance Department 50 grand for ALP, 50 grand for CLP. Is that right?---I think so.

And the reason you told them that is the one that you were just starting to explain, which was for each of the individuals involved you had two forms. Is that right?---Yes.

And you knew at that point in time – I withdraw that. Your understanding was that at that point in time the cap on donations to a political party was \$5,000. Correct?---5,600 I think. I'm not sure, but yeah.

The form itself referred to \$5,000 - - -?---Oh, okay.

- - - as being the cap I think.---Okay.

10 The actual cap in fact was a little bit more, which is what you might now be recalling, but the point was that you had two forms for each of the individuals forming part of the 20. Is that right?---Yes.

And as I understood your evidence last time, you took from that, that the intention of the donor was to give 5,000 to the state account and 5,000 to Country Labor. Is that right?---Either that or I would have been told.

Told by who?---I'm not sure.

20 Well, as you appreciate, this is an important point. As I understood your evidence last time, but tell me if I've got it wrong, you had 20 forms given to you by Mr Clements. Is that right?---Yes.

And the forms were 10 times two times five, in other words, you had 10 individuals or companies, two forms from each of them, each for \$5,000. ---Yes.

Have I got that right?---Yes.

30 And at least as I understood your evidence, but tell me if I've got it wrong, you inferred from the fact that there were two forms from people that they weren't intending to give all of it to the state, to NSW Labor, you inferred from it 5,000 for NSW Labor and 5,000 to Country Labor. Is that right? ---Yes.

Because if the intention was to make \$10,000 to a particular political party, you would expect them to have one form that says \$10,000. Correct? ---Yeah.

40 And so that's why you drew the inference that the intention must have been 5,000 to NSW Labor, 5,000 to Country Labor. Have I got that right?---Yes.

And that's the basis on which you gave the instruction to the Finance Department to say 50 grand to NSW Labor, 50,000 to Country Labor. Is that right?---Yeah, to the best - - -

Have I got all of that right?---To the best of my memory, yeah.

Well, you don't have any other recollection inconsistent with that, that's the best memory you've got as to what happened in April 2015. Is that right?
---That's right.

And you then give it off to the Finance Department, it's then Finance Department's job to deal with it after that point in time. Is that right?
---Correct.

10 And so at least as a matter of ordinary procedure and practice, they would process the money in the MYOB system, bank the cash and then it would be their job to issue the tax invoices and receipts. Is that right?---Right.

In respect of the 2015 event, did you give any direction like we saw in 2016 to not send the tax invoices or receipts directly to the donors?---I don't think so.

20 So you've got no recollection of saying to Ms Zhao for example, don't worry sending it directly to the donors, it would be much more convenient or easy just to send them to say Ernest's office. Is that right?---No, I don't recall doing that.

Can we go please to the bank deposit slip. I know I'm just passing after 3.00pm, Chief Commissioner, but I'd just like to finish this topic if you wouldn't mind.

THE COMMISSIONER: Keep going.

30 MR ROBERTSON: What I'm going to show you, Mr Cheah, is a document produced from the MYOB file of NSW Labor that identifies cash banking on 9 April, 2015.---Okay.

And you know now by reference to the evidence that it was 9 April, 2015 when the \$100,000 in cash was banked in NSW Labor and Country Labor.
---Okay.

Correct?---Okay.

40 Now, if you just have a look at this, though. The first one, just to get your bearings, is ALP NSW Country Labor's Campaign. Do you see that there? It's on about the fourth black line on the page about three-tenths of the way down the page.---Yeah.

And a little bit further down, about halfway down the page, ALP NSW State Campaign. Do you see that there?---Yep.

Now, in point of fact there are two separate bank accounts that are maintained, is this right, one for the NSW Labor State Campaign and a separate one for Country Labor. Is that right?---I think so.

You know that that's, as a matter of administration, what happens within NSW Labor and Country Labor, is that right?---Say, say that again, sorry.

You're aware that there are separate bank accounts for Country Labor versus NSW Labor, correct?---Yes. Yes.

10 So this is what the MYOB file presently shows as to the donors of \$100,000 on 9 April, 2015. But can I just draw your attention to the Country Labor amounts and the last two. You see, one is Quanbao Liao.---Okay.

And one is Steve Tong. Do you see that there?---Yep.

If you then have a look at the NSW Labor figures, there's no Quanbao Liao and no Steve Tong, do you agree?---Okay.

20 What I'm trying to understand is this. If in point of fact you received the forms in the way that you said that they did – in other words, 10 times two times five – how can it be that at least the MYOB file shows only one donation of \$5,000 for Quanbao Liao, one donation of \$5,000 for Steve Tong, and then to add to the story, one \$5,000 donation from Valentine Yee and one donation of \$5,000 for Harbour City Group? Can you assist us as to how that might have come about?---Don't know, sir.

No recollection about that at all?---I was answering, in terms of the 10 times two times five, that was to the best of my recollection.

30 But what I'm trying to understand is how can it be that the MYOB file seems to show something inconsistent with the 10 times two times five? Are you able to assist us as to why that might have arisen?---Maybe I was mistaken about there being 10 times two times five.

But if that was the case, how would you know that Steve Tong's amount should be allocated to Country Labor and not to NSW Labor?---I don't know. I would have - - -

40 You said to us before that you were able to draw the inference, and it's a logical inference. These donors must know they can't donate more than the applicable cap, \$5,000 or \$5,900. If there's two forms, obviously they want some money to go into one account and some money going into the other account.---Mmm.

That makes sense as a matter of logic. What I don't understand, and I'm wondering whether you can assist us with this, is how could that be the approach that you took in April of 2015, where the accounts of NSW Labor say that on 9 April, 2015, only \$5,000 was received from Steve Tong, Quanbao Liao, and the remainder were five times two in the way that

you've explained? Can you help us with that at all?---Like I just said, maybe I was mistaken about the 10 times two times five theory.

But if that's right, then the basis for the direction that you gave to the Finance Department, that it's half Country Labor and half NSW Labor, doesn't work, does it?---No.

10 So what's the explanation? Can you assist us at all?---The only other explanation would that I, would be that I would have been told that half of the donations are for Country Labor, half are for NSW Labor.

But assume that to be right, how do you know that Mr Steve Tong's falls in the Country Labor half, rather than the NSW Labor half?---If you do the, if you do the addition, there's what do you call it, 10 donors who want to vote, who want to donate to one, to one entity, and eight of the same on the other side, then logically wouldn't that be - - -

20 No, but how do you know that Steve Tong wants to donate to Country Labor rather than to NSW Labor? You've already accepted from me that all of the forms said nothing about Country Labor at all.---Yep.

And your explanation, which is a logical one, is that in the case of people like Jonathan Yee, he's put two forms in. If he really wanted to donate \$10,000 to NSW Labor or Country Labor, he would have put in one form. ---Right.

He's put in two, so you've drawn the inference that he's intending to donate to two parties. That stands to reason as a matter of logic.---Right.

30 But how do you know that Steve Tong's form, a form that says nothing about Country Labor at all, was intended to go to Country Labor rather than it being intended to go to NSW Labor, and the \$100 split up being, say, 60/40 rather than 50/50?---Well, the most, the most likely would I've been told, would that I have been told, Steve Tong's donation goes to Country Labor.

Told by who?---(No Audible Reply)

40 Did you call Mr Tong up and say - - -?---I don't know Mr, Mr Tong is before these proceedings.

THE COMMISSIONER: See, it's obvious however it got into the Country Labor account was not through any intent or intention that Mr Tong had. It's evident, isn't it, that it's somebody else's decision to put it into Country, not Mr Tong?---It's, yeah, that's possible, yeah.

Well, that's the way it appears, doesn't it?---Yeah, yes.

Well, that then throws into question the validity, doesn't it, of the allocation of these donation funds to one or the other, that is, Country or Labor?---Yes.

So it suggests that the moving mind behind, we're talking about Mr Tong, is not Mr Tong, but some other person - - -?---Yes.

- - - making the decision.---Yes. That appears to be the case.

10 MR ROBERTSON: And so who is that guiding mind?---I don't know.

Well, from – you speculated that someone might have told you that Steve Tong wanted to donate money to Country Labor rather than NSW Labor, is that right?---I speculated, yes.

But it's not Mr Tong? You didn't speak to Mr Tong about it?---I don't know him.

20 So who would have given you such an indication that that was Mr Tong's intention?---It would only be probably Ernest or Jamie.

Do you remember asking anyone about these matters?---No.

Are you at least clear in your mind that it wasn't you that decided - - -?---I don't - - -

- - - that Steve Tong and Dr Liao should be allocated to Country Labor rather than NSW Labor?---I don't have the authority to make those calls.

30 So, you might draw an inference where it's apparent, either on the face of the document or in context, that someone wanted to donate to Country Labor rather than to NSW Labor, is that right?---Yes.

But where it's unclear, you wouldn't seek to make that call yourself, is that right?---No, no.

And the Finance Department certainly wouldn't seek to make that call, correct?---No, definitely not.

40 As a first port of call, if they were unsure, they would speak to you, correct? ---Yes.

And you would either answer, if you thought you could, based on the information that you had, correct?---(No Audible Reply)

Or you might make – oh, sorry, you need to answer aloud.---Sorry, yes.

Or you might make some enquiries yourself, correct?---Yes.

And if you were to make enquiries in relation to a Friends of Chinese Labor event, to whom would you make those enquiries?---If it was in terms of a Chinese Friends of Labor event, Ernest.

So if you were unclear as to a matter such as where Mr Tong should be allocated to, you would speak to Ernest Wong, is that right?---I would think so, yes.

10 What I want to suggest to you is that on 9 April, 2015, you didn't have any forms from Dr Liao or from Mr Tong. Do you agree?---I don't, don't have those forms?

You didn't have any forms from Dr Liao or Mr Tong on 9 April, 2015. That's what I'm suggesting to you.---I can't remember who gave what forms.

20 What I'm suggesting to you is that Mr Wong gave you two forms for those individuals, but he didn't do it until 17 April, 2015, do you agree?---Yeah, I think I've seen that in other evidence, yes.

No, no, you haven't seen that in other evidence. Are you accepting, though, that you didn't receive forms in relation to Dr Liao and Mr Tong until 17 April, 2015?---I don't recall which names were on the forms.

Well, let me put it this way. \$100,000 in cash came, to your knowledge, on or about 7 or 8 April, 2015, correct? Came to your knowledge and came into your position.---Yeah.

30 It was banked on 9 April. You got it either the day before or the day before that, correct?---Right.

You got it from Mr Clements, who got it from Mr Huang Xiangmo, correct?---Right.

At the time that you were given the cash, you were also given forms, correct?---Right.

40 After the money was banked – so after you gave it to the Finance Department on 9 April, 2015 – did Mr Wong make contact with you and say, “Hang on, hang on, hang on, don't use the forms that you had on 8 and 9 April, 2015. I want you to switch to, I want you to change from the forms you used before. I want you to get rid of a couple of them. I want you to replace them with another two”? Did Mr Wong say that to you?---I don't have any recollection of that, but I've seen, I've seen attachments to that effect.

Well, what attachments - - -?---In the evidence.

- - - what attachments have you seen to that effect?---That there was an email with two forms attached to it.

THE COMMISSIONER: Dealing with which entities or persons?---I think one was Steve Tong and I think one was Mr Liao.

MR ROBERTSON: Emails from who to who are you now referring to?---I think they were from Ernest to myself.

10 That must at least jog your memory, surely, that you had some communications with Mr Wong in relation to that matter.---Honestly, no.

You'd have to accept, wouldn't you, that it would be a serious matter, a matter that would stand out, any suggestion that you should on one day say that money has been received by, say, Valentine Yee and instead say the same money was in fact received by Steve Tong?---Yes.

Surely if that happened, you'd remember it.---I don't remember it.

20 Even with an average memory, surely you'd remember that.---I don't remember it.

You don't remember it even after seeing the emails to which you've just drawn attention, is that right?---Correct. I don't remember it.

Now, the emails you're referring to, that's an email from Mr Wong to Dr Liao asking for two forms to be filled out. Is that the email that you're referring to?---There were, yeah, the attachments I think, yeah, there's an email, I can't remember from who to who, but, yeah, there were two, two
30 forms attached to it.

Well, let me put it this way. Can we go to Exhibit 163, please. What I want to suggest to you is that on 17 April, 2015, Mr Wong said to you, "Whatever you do, don't send out the receipts for the money that was banked on 9 April, 2015." Do you agree with that?---I don't recall that at all.

You called in to head office and you said, "Please get a message urgently Ms Zhao, the finance officer, and tell her not to send out the receipts," do
40 you agree?---Only from the emails that you showed me previously.

Well, do you agree that you did that?---Only for the emails you showed me previously.

I don't know what that means.---I don't recall doing that.

Are you just agreeing that there's a document that says that? Or are you agreeing that that's what you in fact did?---I don't recall doing that.

So you're not denying it, you're just saying you don't recall one way or the other, is that right?---Correct.

10 And so just to put that in context, let's go to Exhibit 163. What I'm suggesting to you is that you made contact with the receptionist and you asked for the receipts the subject of the \$100,000 not to be sent out. Do you agree?---I, this email from Ellyse to Jenny I don't think puts me in the, as the only person that could have made this call. A third person could have made that call.

Maybe you don't understand my question. I'll take that off the screen so we're not worried about the document.

20 THE COMMISSIONER: Mr Cheah, just let me say this. We are looking to you to assist the Commission in relation to matters about which questions are now being directed, and other matters, and you will have no doubt been following the proceedings, and you are aware that many questions have been raised about the conduct of Mr Wong, is that right?---Yes, sir.

We appreciate that he was a man who was older and probably had much more experience than you did in 2015 and it may be that you did, maybe you didn't, but maybe you did follow instructions to do things which you may have had some misgivings about, but for different reasons you might have acquiesced or done something that you were asked to do by somebody more senior to you, whether it be Mr Wong or somebody else. I'm not suggesting Mr Wong did such a thing but I'm just putting you in the picture as to where you are at this very moment, and that is whatever you did or didn't do at anybody's behest, what's on the line now is your credibility.
30 Do you understand what I'm saying?---Yes, sir.

40 You can, like any witness, sit there and lie, but witnesses will find out that if they try that they end up digging a great big hole for themselves and it would have been much cleaner and better for them had they said I did it and then they'll be given an opportunity usually to say why they did it and how they might acknowledge that what they did was wrong, but the circumstances in which they did it are whatever they be. That can work to the advantage of that person through their honesty, even though they're admitting to having done something that may not be seen to be or may not be the correct thing to have done. Now, I appreciate that you are a person of considerable younger years and were at 2015 than other people, for example Mr Wong, but I'm trying to emphasise before we go any further with these questions that you be given this opportunity to pause and think of yourself and where your position is going to be at the end of this inquiry, and if you assist this investigation, assist this Commission, even if it means that you're putting your hand up on some issues, then it's most likely you'll be in better shape at the end of this investigation than if you try and just not cooperate with the Commission and tell lies. I'm not suggesting you would do that,

but I'm just giving you the opportunity of just thinking about where you're going so that you will do your best to cooperate. That's in the interests of this Commission, but it's in your interests. As I say, you're a younger man than some of the other people who've given evidence here, I'm just simply pausing to say these things so that you can concentrate on these questions, protect your credibility and give truthful answers. And in nothing that I've said am I suspecting that you're not trying to do that, but I would not like to think that you'd go into this investigation thinking that, well, perhaps because I've been manoeuvred into a situation I can try and fight this by
10 lying. I think as a person in the position you are in it's important that I just emphasise in your own interest to protect your credibility in this and just listen to the questions and give your honest responses. All right. Having said that, now, Mr Robertson, I've side-tracked you also. We might start again.

MR ROBERTSON: On 17 April, 2015, Ernest Wong contacted you and said that the receipts for the \$100,000 should not be sent out. Do you agree? ---Don't recall, honestly.

20 You don't recall one way or the other. Is that right?---I don't recall that conversation.

But on 17 April, 2015 you received for the first time forms for Steve Tong and Quanbao Liao. Do you agree?---Don't recall that independently, but from the evidence.

So having now seen an email that shows Steve Tong's form and Quanbao Liao's form being forwarded to you from Ernest Wong, you agree that that was the first time you received those forms, is that right?---Yes.
30

On 17 April, 2015, you're actually having coffee with Mr Wong, is that right? You had coffee together, is that right?---I don't recall. Maybe.

Does that not ring any bells?---I have coffee with him over the years plenty of times.

Well, let's try and get your bearings. 7 or 8 April, 2015 was a big day in your life, wasn't it, in that it was a pretty extraordinary thing to happen, \$100,000 in cash to turn up for you to count and to reconcile, is that right?
40 That's something you've got a clear recollection in your mind?---Yes.

Because that doesn't happen to you every day, correct?---Correct, yeah.

It hadn't happened to you before, hasn't happened since.---Correct.

A Chinese billionaire coming in with a large bag of cash, the general secretary giving it to you.---Ah hmm.

It's not something you'd forget.---Yep.

So that gives us one point in time clear in your mind.---Yes.

What I'm suggesting to you is that in a short period of time after that, say a week, you're having coffee with Mr Wong and Mr Wong is speaking to you about that very donation. Does that ring any bells at all?---No.

10 No recollection of Mr Wong saying, "Hang on, we've got a problem with the forms. We're going to have to do a switcheroo," is that right?---No recollection.

But you at least accept, don't you, that the first time you got any forms in relation to Mr Tong and Mr Liao was 17 April, 2015? You at least accept that, having seen the evidence that's been before this Commission.---Yes.

20 And just to look at that tangibly, can we go to volume 2, page 194, public inquiry brief, also Exhibit 191. In any event, while that's coming up, following receipt of those forms, you gave instructions to the Finance Department to use those two forms in replacement to two of the forms that you had and that you gave to them on 9 April, 2015, do you agree?---Like I said, I don't recall doing that.

Well, how could you not recall such a thing? It's a significant thing, wouldn't it be, you would accept, to change, for example, a Valentine Yee to a Steve Tong, do you agree?---Yes, it is.

30 And if you did give such an instruction, you'd remember it, I'm suggesting. ---But I don't remember it.

Well, I suggest to you that you did do that and that you remember doing it, do you agree?---I might have done it but I don't recall it.

What in fact happened was this. Mr Wong gave you instructions in April of 2015 to do a switcheroo in relation to two forms. He said, "Get rid of a Valentine Yee form and a Harbour City Group form and replace them with a Quanbao Liao and a Steve Tong form," do you agree?---I don't have any recollection of that.

40 And you gave instructions to the Finance Department to do exactly that, do you agree?---Like I said, I don't have any recollection of that.

Mr Cheah, what I want to suggest to you is that you actually know somewhat more about this donation scheme than what you've let on in the evidence that you've given to this Commission, do you agree?---No, sir.

You're aware, aren't you, that Jonathan Yee, May Ho Yee, Valentine Yee, Patricia Siu, Teresa Tam, Lei Mo, Wei Shi, Johnnie Lin, Steve Tong, To

Yip, and now even today Mr Kenny Zhan, have come clean and given evidence, including evidence that was inconsistent with evidence that they'd previously given to this Commission. You're aware of that now?---Yes.

You've been following this inquiry very closely.---Yes.

10 I suggest to you it's time for you to come clean, and I'm going to ask the Commission to adjourn shortly and I want you to consider your position very carefully over this long weekend. Because as the Chief Commissioner has emphasised to you, even if you have some involvement yourself, and
20 even if you have some culpability, you may ultimately take the view that you should do something similar to what each of those individuals I've just identified has done, and consider that on reflection, there's some additional material that you may be able to give to this Commission. Is that a convenient time, Chief Commissioner?

THE COMMISSIONER: Mr Cheah, you should heed those words. They're words of advice. You're free to accept them or reject them. They are for you. You are fortunate in that you have legal representation, so you can talk to
20 your lawyer about these matters. There is, as your lawyer will explain to you, we have procedures here whereby people who give evidence in these investigations may consider the benefits of what is termed witness cooperation. There is much evidence, as you would appreciate, that the particular matter that's been investigated, the fundraiser in 2015, was affected not only by serious error, but by serious malpractice and wrongdoing. Witnesses have lied. Witnesses have been sought to be influenced. This Commission has sought to be misled. The Electoral Commission has sought to be misled. All of that, as you would appreciate, unfortunately for you, that
30 you were the witness of a fundraising exercise that will be notable for its failure to conform with even the most basic principles of honesty and integrity. You are part and parcel of the facts and the events which are being investigated, and you would do well to consider what Counsel Assisting has put to you, and to take the benefit of having legal advice, so that you can determine your position in this. As has been pointed out, some of those who have been guilty of serious wrongdoing have cooperated with this Commission now, and the public interest has benefited from them doing that. As I said before, you are a young man, you've got a long career ahead of you, and I would urge you to give this Commission your full cooperation. I'm going to adjourn very shortly. You'll have the opportunity to think and
40 discuss it, and on Tuesday we'll resume. Now, is Mr Cheah programmed for

MR ROBERTSON: To continue into Tuesday.

THE COMMISSIONER: Tuesday, yes.

MR ROBERTSON: Followed by Mr Xu, so I would hope to proceed with both of the witnesses on Tuesday. If not, Mr Xu may well need to go over

into Wednesday. But we are still looking relatively safe for next week.

THE COMMISSIONER: Yes. Very good. So Mr Cheah, if you'd return Tuesday for a 10 o'clock start.---Yes, sir.

MR ROBERTSON: Can I deal with some formal tenders?

THE COMMISSIONER: Yes.

10 MR ROBERTSON: First, I tender the emails, email chain between Ms Wang and Mr Cheah, 9 July, 2014, 4.08pm, and 27 June, 2014, as a bundle.

THE COMMISSIONER: Yes, those two emails will be admitted as one exhibit, Exhibit 314.

#EXH-314 – EMAIL CHAINS BETWEEN KENRICK CHEAH AND MAGGIE WANG ON 27 JUNE 2014 AND 9 JULY 2014

20

MR ROBERTSON: Next, I tender the document entitled Bank Deposit Slip, 9 April - - -

THE COMMISSIONER: Just before you go on - - -

MR ROBERTSON: I'm so sorry.

THE COMMISSIONER: - - - you may step down, Mr Cheah, thank you. ---Thank you.

30

THE WITNESS STOOD DOWN **[3.39pm]**

MR ROBERTSON: The second document is entitled Bank Deposit Slip, 9 April, 2015, ALP NSW Branch.

THE COMMISSIONER: It'll become Exhibit 315.

40

#EXH-315 – ALP NSW BRANCH MYOB BANK DEPOSIT SLIP FOR 09-APR-2015

MR ROBERTSON: Next, and I'll just put this on the screen, Mr Valentine Yee has provided a statement following the evidence that he gave before this Commission in public session. I'll just quickly put it up on the screen to identify it. In the course of which Mr Yee gives written evidence, as

you'll see, Chief Commissioner, really starting at paragraph 6 about a meeting in a private room with Mr Ernest Wong and which seems to be consistent with the evidence that Mr Jonathan Yee gave in terms of organising the said meeting. And I note that in paragraph 9 Mr Yee says, Mr Valentine Yee says that Mr Wong said words to the effect of, "You should stick to the version of the truth we have given as evidence in the private inquiry." And at paragraph 10 - - -

10 THE COMMISSIONER: Paragraph 10.

MR ROBERTSON: Paragraph 10, said, "The Commission does not have sufficient evidence to prove donations by Emperor's Garden," et cetera. And if we then just turn the page, "The hardest and most uncomfortable thing about a public inquiry is the media chasing," et cetera.

THE COMMISSIONER: Yes.

20 MR ROBERTSON: I tender the statement of Mr Valentine Yee of 1 October, 2019, that appears on the screen.

THE COMMISSIONER: Yes. The statement of Mr Valentine Yee, 1 October, 2019, becomes Exhibit 316.

#EXH-316 – STATEMENT OF VALENTINE YEE DATED 1 OCTOBER 2019

30 MR ROBERTSON: And I should indicate that if anyone considers that they should have leave to cross-examine Mr Valentine Yee by reference to this statement, they should draw that to my attention.

THE COMMISSIONER: Yes.

MR ROBERTSON: That's all for my part.

THE COMMISSIONER: Yes, thank you, Mr Robertson. I'll adjourn till 10 o'clock on Tuesday.

40 **AT 3.41PM THE MATTER WAS ADJOURNED ACCORDINGLY**
[3.41pm]