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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION AERO

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 10 SEPTEMBER, 2019

AT 10.00AM

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: Chief Commissioner, in terms of the programming for the remainder of this week and for today, today will be Mr Tong and Mr Yip. I anticipate that we'll finish with Mr Tong before the ordinary lunch hour but I won't be in a position to call Mr Yip until immediately thereafter, but otherwise it will be a relatively full day today, although perhaps with a longer lunch, and I otherwise anticipate that the program for the remainder of the week will be as published. As matters presently stand I will recall Mr Ian Robertson for any cross-examination by those with permission to do so on Wednesday of next week. If that changes I'll let interested parties know, but at this point that's almost certainly likely to be Wednesday of next week.

THE COMMISSIONER: Thank you.

MR ROBERTSON: Those are the only housekeeping matters immediately.

THE COMMISSIONER: Yes, thank you.

MR ROBERTSON: I recall Mr Steve Tong.

THE COMMISSIONER: Mr Tong. Good morning, Mr Tong.

MR YAU: Good morning, Commissioner.

THE COMMISSIONER: I'll just administer the oath or affirmation.

MR TONG: Affirmation.

THE COMMISSIONER: Thank you. Just take a seat there, Mr Tong.

<ROY YUN TSZ YAU, affirmed

[10.13am]

THE COMMISSIONER: Sorry, would you just put on the record your name.

THE INTERPRETER: My name is Roy Yau, surname spelt Y-a-u.

THE COMMISSIONER: Thank you.

THE COMMISSIONER: Thank you, Mr Tong. Mr Tong gave evidence on a prior occasion in this public inquiry. On that occasion I made a declaration under section 38 of the Independent Commission Against Corruption Act. That declaration continues to apply to today's evidence. Yes.

10 MR ROBERTSON: Mr Tong, can I ask you how it was that you came to hear about the death of Dr Liao?---*Kenny rang me and advised me of that. He rang me for two things. Firstly was that Wong Kwok Chung, Ernest Wong would like to see me in Chatswood for a yum cha. Secondly, he said to me, "Do you know, a lot of things have happened in the company?" And I told him, "How would I know? Because I, I don't have any more dealings with the company." And he told me that on the other day Dr Liao took his life. Yeah. And I ask him, "How did he suicided?" And he said, "Let's not talk too much here. I don't know too much about it."*

20 You referred to Kenny, is that a reference to Kenny Zhan?---Yeah, it's Kenny Zhan. *Yes.*

And it was Mr Zhan who called you, is that right?---*Yes.*

Do you recall approximately when that telephone call occurred?---*14 September, I think it was a Friday.*

30 During the telephone call, did Mr Zhan tell you anything else about Dr Liao's death?---*He said he committed suicide. As to how he committed suicide, he didn't say it.*

You said that Mr Zhan proposed that you have yum cha with Mr Ernest Wong. Did you ultimately have yum cha with Mr Ernest Wong?---*No, that's what he proposed, but we did not end up having a yum cha. Later he changed his mind. And I ask him, "I'm not very familiar with Ernest Wong, why should I be having yum cha with him?"*

40 And what did he say to that?---*And Kenny said, "I don't know, I'm only passing on the message," yes.*

Did he indicate who he was passing on the message from? Was it Mr Wong, or was it from someone else he was passing the message on from? ---*He didn't say whether it was from, for Mr Wong or for someone else.*

THE COMMISSIONER: Had you ever met Mr Wong before this phone call that you had with Kenny?---*Yes, I, I had been to a farm, like a farmland of the company with Mr Wong on a previous occasion. I think it, I think it was from a long time ago. I can't really remember the time.

Perhaps it would have been in 2017, but I'm not too sure. I think it was 2017.*

Was that in relation to some work that was being done by Wu International?
---*Yes.*

And on that occasion you had a site inspection, Mr Wong was there, is that right?---*Yes.*

10 Apart from that one occasion, had you ever met Mr Wong at any, on any other occasion?---*No.*

Well, did you feel it was strange that you - - -?---Sorry. Sorry.

Did you feel it was strange that Mr Kenny was now passing on a message for you to meet Mr Wong at yum cha?---*I thought that, yeah, I thought that was strange, why would he be wanting to have yum cha with me? What does he want from me?*

20 MR ROBERTSON: You mentioned that you were at a farm with Mr Wong. Do you remember who else was at that visit at the farm?---*Alex Wu, myself, and perhaps there was a driver too, but I'm not too sure, or I, I was the driver. But we went to Mr Wong's home to pick him up first.*

Do you know why Mr Wong was there at the farm?---*I think our boss was wanting some help from Mr Wong to develop the farm.*

30 What sort of help do you mean by that?---*Because they want, they, they, they wanted or they were planning to develop a, a, a, some sort of residential property, so Ernest being a government official maybe he makes it easier for him to talk with other government officials.*

Do you know what sort of government official Mr Wong was at the time that he visited the farm?---*I, no, I don't know.*

Do you know that Mr Wong was a councillor on the Burwood Council in his past?---*I didn't know.*

40 At that point in time, you simply knew he was a government official, but you didn't know his job, is that right?---*I know that he's a, he's, he was an official from the Labor Party, but I wasn't too sure as to what official he was.*

Do we take it from what you said before that in September 2018 Mr Zhan gave you a call to arrange for yum cha with Mr Wong, but did he then ring you another time to say that it couldn't happen at yum cha and other arrangements were to be made?---*I think it was on the 14th that when Kenny Zhan rang me, and on the same day he later rang me and advised me

that Ernest Wong didn't have time to have yum cha with us, so the, the meeting location was changed to, was changed at, at, at the State Parliament.*

And did you tell Kenny that you were happy to meet with Mr Ernest Wong?---*I can't say whether I was happy or not, but I was invited by a government official to have a meeting, so if I refused him it seems very impolite for me to do so.*

10 At the time of your telephone call with Kenny, what did you think the meeting with Mr Ernest Wong was going to be about?---*I really didn't know. I don't know what he was going to talk about.*

Did Kenny tell you why Mr Ernest Wong wanted to see you?---*He didn't know too. He didn't know too.*

Did you ultimately go to see Mr Ernest Wong at Parliament House?
---*Yes.*

20 How did you get there?---*It was 17 September, a Monday. Kenny came to my home to pick me up. He parked his car at 650 George Street and then I walked on foot to the State Parliament.*

And when you walked, did you walk with Kenny as well?---*Yes.*

Doing the best you can, do you remember what you discussed with Kenny when you were in the car from your house into the city to go to Parliament House?---*I asked him constantly why would Ernest Wong, why would he be wanting to see me.*

30 And what was his response?---*He said, "I don't know." And I also asked him why did Dr Liao took his life and he said he wasn't too sure too, it was something about he was being asked to provide some information to the government, but he said he wasn't too sure.*

You know Kenny Zhan to be an employee of Wu International. Is that right?---*Yes. He was an accountant or he was an accountant, yeah, by the name, yes.*

40 Was he there when you were working at Wu International?---*Yes.*

Do you know whether Mr Zhan is related in any way to the Wu family, either Alex Wood or Bobby Wu?---*I know them, they are connected, they are, they have some familial relationships.*

Do you know whether Kenny was working on a full-time basis on that time?
---*Yes.* Full-time.

He was working full-time?---*Yeah, he was working full-time, but at the same time he was also studying.*

And I think you told us that you were travelling to the city for the Parliament House meeting on a Monday. Is that right?---*The 17th. I think it was a Monday.*

10 Do you know then why Kenny was driving you around as a full-time worker on a workday?---*I wasn't really too sure because he is a family of the boss, so if he doesn't turn up for work then we don't have, actually we don't have a right to ask.*

When you say the boss, do you mean Alex Wood?---Yeah.

Did you ask Kenny to drive you to Parliament House or did Kenny offer to do that for you?---*No, because I actually don't know how to get to the parliament, so Kenny said, "Oh, I'll take you there, let's go there, I'll drive you there together."*

20 Did Kenny tell you that he had been asked by someone else to drive you to Parliament House?---*No, no, he said Ernest Wong will see us, Ernest Wong will see us in there, we just only have to go there.*

You've told us how Kenny drove you into the city and then you were walking on foot with him in the direction of Parliament House. Is that right?---*Yes.*

30 And then did you ultimately go into Parliament House?---*Yes, entrance hall. Yes, he and I went into the Parliament House and when we were there, Ernest Wong was already there waiting for us.*

So taking that in steps, did you enter through the front entrance on Macquarie Street, is that right?---*Yes.*

And then you went into the entrance hall and Mr Wong was waiting for you. Is that right?---*Yes.*

40 And what happened then?---*So we were taken, he took us through a gate and at the gate there were two like police officers guarding or standing at the gate. So only through the gate we then made our way to his office.*

Just pausing there for a moment. Did Mr Wong sign you in to say that you were permitted to go past the security point?---*Yes.*

And then having done that, you and Kenny and Mr Wong walk in the direction of Mr Wong's office. Is that right?---*Yes.*

Did you have any discussions with Mr Wong as you were walking from the security point to Mr Wong's office?---*No.*

And what happened when you arrived at Mr Wong's office?---*So, there are two parts to his office. When we first got there, there was, we were greeted by a man, was quite senior, and we were told that man was Mr Wong's secretary. Then we went, then we went further in, inwards, to his office, and, and that's where his office is. And so Ernest Wong closed the door, but when we were starting to speak, they took away my, my mobile, and also Kenny's mobile.*

So just pausing there, who took away your mobile telephone?---*Ernest. Ernest Wong.*

So just to be clear, when you were in the outer office, you saw Mr Wong's assistant, who was a man, is that right?---*Yep, was quite elderly in terms of age, yes.*

Do you happen to know the name of that person?---*No.*

And then you go into Mr Wong's office along with Kenny or without Kenny?---No, with Kenny. *With Kenny.*

And then Mr Ernest Wong closes the door, is that right?---Yeah.

And when you're in Mr Ernest Wong's office, is it just you, Mr Wong and Kenny, or was anyone else in the room?---No, just – *No, just three, just the three.*

And you then sit down, do you?---*Yes.*

And you sit, do you sit down at Mr Wong's desk, or do you sit down at a conference table in his room, do you remember?---No. *Well, his office is not very big, so there wasn't a meeting table, so we were only sitting at his desk, and there were chairs next to the desk.*

And Mr Wong asks you for your phone, is that right?---*Yes.*

Does he make the same request of Kenny?---Yeah.

And do you and Kenny then give Mr Wong your telephones?---*Yes.*

And what did Mr Wong do with those telephones?---*He put it in a drawer.* Yeah.

A drawer in his desk, is that what you mean?---No, the drawer. *Yes.*

Was Kenny present throughout the whole of the meeting that you had with Mr Wong in Mr Wong's office?---*Yes.*

He didn't leave, for example, to go to the bathroom while the meeting was on?---*No.*

Now, doing the best you can, what did Mr Wong say to you and what did you or Kenny say to Mr Wong during the meeting in Mr Wong's office?
---*In, in, he started by asking me --* My healthy, my health. *He, he, he
10 asked, he started by asking my health. He said, "I heard that you haven't been doing so greatly in terms of health-wise." Kenny didn't speak much. He was only sitting there. I, I said, "Yes, I, oh, thank you for your concern." And he asked me, "Has anyone from the election office been calling you?" I said no.*

Just pausing there, I just want to be clear on the translation. Did you say electoral office, is that what you said?---*Electoral office, yes.*

And after Mr Wong referred to the electoral office, what then happened?
20 ---*I said, "No, they haven't been calling me and they haven't been sending me any letters.*

And what happened then?---*And then we went on to speak more and he said, "Quite well, maybe this matter is now over." And I said, "I hope so." And I said to him, "I don't wish to be involved in any of your matter." And I said, "The whole thing was done without my knowledge, it was done by the company, Wu's International. They used my name to make a donation. I only know about it when I received an invoice from the Labor Party."
30 And I said to him, "I hope I will not be involved furthermore in this matter of donations."*

You mentioned a moment ago that you said to Mr Wong that, "I don't want to be involved in your matter." Can you just explain what you meant by "Your matter?"---*Of course that was my own opinion, to me I thought the whole matter was initiated or was caused by Ernest Wong.*

Why did you think that?---*Because he is a representative of the Labor Party, he always, he would go around and ask people to donate to the Labor Party, you can always see that on the Chinese newspaper.*
40

Did Mr Wong say anything else to you during the meeting that you can now recall?---*After airing my grievance with him he said, "That's fine. If anything happens in the future you just stick with the thing that you had said earlier in the company." He said, "The company will hire a lawyer to deal with the matter for you.*

When you say the company, which company are you referring to?---*Of course Wu's International.*

You referred to the fact that Mr Wong said that you should stick with what you said earlier. What's that a reference to?---*To say what I had said to the electoral office earlier based on what Dr Liao had asked me to say.*

How did Mr Wong know what you had told the electoral office earlier?---*That I don't know. I'm not too sure. How does he know? I don't know.*

10 But are you saying it was clear to you from your meeting with Mr Wong that he already knew who you were and what you had told the electoral office?---*I dare not to say because I can't speak on his behalf.*

Are you clear in your mind, though, that when you met Mr Wong at his Parliament House office, you told him that Wu International had used your name to donate money to the Labor Party?---*Yes.*

20 Do you recall whether Mr Wong said anything else to you during your meeting with him in Parliament House?---*I told him that I was very angry because they used my name to make the donation and Ernest Wong did not say anything in response. And he said, "Just say whatever you told the electoral office in the past.*

Did Mr Wong say anything else to you about what you should do regarding this issue of donations?---*No.*

And do you recall anything else that Mr Wong said during the course of the meeting in Parliament House?---*No.*

30 To your memory did Kenny say anything during the meeting?---*No. Kenny was only sitting there. He didn't speak. He was listening to what we were saying but he did not say much.*

When you say he was sitting there, was he sitting next to you?---*Yes.*

And he appeared to be listening to what was being said, is that right?---*I think so.*

40 And so is it right that Mr Ernest Wong was sitting in his chair on one side of the desk, and you and Kenny were sitting on the other side of the desk, is that right?---*Yes.*

Around about how long did the meeting take?---*A bit more than half an hour.*

THE COMMISSIONER: Could I ask you this? When you arrived at Parliament House to see Mr Wong, how were you then feeling? Were you relaxed, or were you apprehensive, or how would you describe it?---*I, I, I

couldn't say either way. I was more wanting to know what he was going to tell me.*

And you said when you entered Mr Wong's office that you were asked to hand over your phone, is that right?---*Yes.*

Mr Wong made that request, did he, or was it the other man?---*Mr Wong took the mobile phones off the two of us.*

10 That's off you and off Kenny?---Kenny.

So both of you had handed over your mobile phones?---Yeah.

You saw Mr Kenny hand over his mobile phone, is that right?---*Yes.*

And then Mr Wong put them in a drawer?---*Yes.*

20 How did you feel being asked to hand over your phone?---*I think, to me, I, I thought maybe he was concerned that may, we, we could be recording. So on that night, I used, I wrote down a, a record myself.*

Was that after the meeting?---*On, on the night of the meeting, I wrote it at home.*

We'll come to that in a moment. But, so when the discussion took place between Mr Wong and yourself, you said Kenny was sitting nearby listening, is that right?---*Yes.*

30 Was he during the conversation playing with a mobile phone, or was he just sitting there listening?---*No, no mobile phone, he was just only sitting there, not, not speaking a word.*

Now, just going to the conversation that you had with Mr Wong, it became apparent once Mr Wong started talking that what he was talking about had something to do with the donations to the Labor Party, is that right or not? ---*Yes, of course, asking about my health was an introduction.*

40 But after the introduction, did it soon become apparent to you that the, what the purpose of this meeting now was about?---*Yes, because he went on to ask me if I had been receiving any calls from the electoral office.*

Now, you said then that in the course of the conversation he said something to the effect that if anything happens in the future, you just stick with what you had said to the electoral office. . Is that right?---*Yes.*

So in effect he was on your account giving you a direction that in the future you should stick with what you had earlier said or indicated to the electoral office about this question of donations. Is that right?---*Yes. He said,

“That’s fine, you just continue,” or, “You just say what you said to the Electoral Commission earlier and say what Dr Liao had asked you to say earlier.”*

10 And how did that make you feel, getting told by Mr Wong what to do in the future about this matter in dealing with the Electoral Commission? If that occurred, how did you feel about receiving that statement or direction from Mr Wong?---*To me, he asked me to continue to say what Dr Liao had asked me to say, but of course what Dr Liao had asked me to do was very clear, he was telling me not to tell the truth, to continue with the lying of telling lies, but of course what Mr Wong was telling me at the time wasn’t so clear or straightforward, he wasn’t so obvious in that he didn’t ask me to tell, to telling lies.*

But you say you took his meaning to be clear to you?---*I was very clear that he said his intention was for me to continue with the lies.*

20 MR ROBERTSON: During the meeting did Mr Ernest Wong refer specifically to Dr Liao, did he use the name Dr Leo or Dr Liao?---*He didn’t say, he didn’t use the name or say the name, he only said, “Just continue with what you had said earlier.” But because at the time Dr Liao had, was already dead.*

Did he refer to Alex Wu or Alex Wood or Bobby Wu?---*No.*

Did Mr Wong explain to you why he wanted to take your phone during the meeting?---*No.*

30 During the meeting Kenny was sitting next to you. Is that right?---*Yes.*

And you took him to be paying attention and listening to the discussion. Is that right?---*Yes.*

He wasn’t looking out the window, not paying attention. Is that right?
---No, no, no, no, no. He sitting next myself.

When you first met - - -

40 THE COMMISSIONER: Sorry, did we get the interpretation?

THE INTERPRETER: “He was sitting next to me, yes.”

THE COMMISSIONER: Yes, thank you.

MR ROBERTSON: When you first met Mr Ernest Wong in the entrance hall with Kenny, did it appear to you that Mr Wong knew that Kenny was coming?---*Of course he would know because he ask him to take me there.*

But did it appear that Mr Wong knew who Kenny was? Did it look like they had met before?---*I think they were very close, they know each other very well.*

Why do you think they knew each other very well?---*Because they always, they always attend functions or events together within the Chinese community.*

10 So are you saying that you've seen Kenny and Ernest Wong at events together in the Chinese community? Is that what you're saying?---*I haven't seen them together myself but that's what I think. I always, I think they always saw each other.*

But how do you know that?---*From the way they speak, to me it makes me feel that they know each other well.*

What about Ernest Wong and Alex Wood? Do you know whether they know each other well?---*Of course.*

20 How do you know that?---*Yeah, because they always, they, they were always attending functions together, like Peaceful Unification events or Lions Club events.*

When you say Peaceful Reunification events, do you mean the Australian Association for the Peaceful Reunification of China, is that the organisation you're referring to?---*I, Australian Peaceful Unification Associations.*
Yeah. *Yeah, my, our boss was very fanatic.* Yeah. *He knows the officials from China. When the Prime Minister was visiting Australia, I was asked to, to, to, to be cheering for the Prime Minister. I then, but I refused.*

30 So you're referring to the Chinese Prime Minister now, is that right?
---*Yes.*

And which one was that, which individual are you now referring to?
---*Li Keqiang. When you go to my, my boss's office now you can see a, a big photograph of him being together with John Howard.*

And when you say your boss, the boss, are you referring to Alex Wood?
---*Boby Wu.*

40 THE COMMISSIONER: Sorry, who was in the photograph?---Boby Wu, John (not transcribable)

And anyone else?---*The one who was, who was pushed out of his office.*
Oh, what is it? *Forgot his name.*

There's been a few that fit into that category in recent times.---(not transcribable) really, really funny, oh, really arty, I can say, you know (not

transcribable) you know the guy is really, really (not transcribable) something like that. You know? And then (not transcribable) Kevin Rudd. Kevin Rudd.

Kevin Rudd?---Kevin Rudd. *Kevin Rudd I mean.* Yeah. *And, yes, and Li Keqiang from China.*

And?

10 THE INTERPRETER: Li Keqiang from China.

THE COMMISSIONER: They were all in the photograph? Is that what you say?---No, no, no.

No.---Separate.

Separate photographs?---Yeah.

MR ROBERTSON: If we can just unpack some of that, are you saying that
20 Bobby Wu has been involved in the Australian Council for the Promotion of Peaceful Reunification of China, is that right?---*Yes. He's a member.*

Have you had any organisation in that association?---Because I no interesting. I don't like any such thing. I, I, I, I, I (not transcribable) but I never, never for the intention on that.

Do you happen to know who the leader of that council was in 2015 and 2016?---*I don't know anything about these things. I don't have any
30 interest in these things.*

To your knowledge, was Mr Alex Wood involved in that organisation, the Australian Council for the Promotion of Peaceful Reunification of China? ---*I don't think so. He might have been attending the events, but I don't think so.*

You mentioned a little while ago that after your meeting at Parliament House you took a record of that meeting. Is that right?---*Yes.*

40 Can we have on the screen, please, volume 5, page 71 of the public inquiry brief. Mr Tong, if you can just have a look on the screen, I've put up a document called Record of the Meeting in Parliament House. Do you see that there? We can zoom it in if it's a bit hard to see.---*Yes.*

And is that the note that you prepared after the meeting at Parliament House?---*Yes.*

And does that note faithfully record what occurred at the meeting at Parliament House?---*I can say it is 100 per cent authentic. But I made a

mistake in one of the words in there. I've written "donation office" but I think I meant "electoral office" there.*

In February of this year some officers of this Commission came and asked to see your computers. Is that right?---*Yes.*

And you gave them your computer to have a look at. Is that right?---*Yes.*

10 And I'll just ask you to have a look at the top of the page in red writing.
Can you say it says, "Created 2.08pm, 18/09/18." Can you see that there?
---*I think the correct date should be the 17th, not the 18th.*

So it is your best recollection that the note that we can see on the screen you prepared on the evening after the meeting at Parliament House. Is that right?---*Yes.*

20 Is it possible that you actually prepared it a little bit later and prepared it sometime on the next day?---*Perhaps at a later time, but not a day later, because the fact that Ernest Wong took away my mobile phone, I had a feeling that something would happen in the future.*

And is that why you prepared this note?---*Yes.*

Chief Commissioner, I tender the document that's on the screen, being page 71 of volume 5 of the public inquiry brief.

30 THE COMMISSIONER: 234, thank you. The typed note by Mr Tong in relation to the meeting with Ernest Wong 17 September, 2018, the note created 18 September, 2018, will be admitted and become Exhibit 234.

#EXH-234 – RECORD OF MEETING AT PARLIAMENT HOUSE WITH ERNEST WONG ON 17 SEPTEMBER 2018 CREATED BY STEVE TONG ON 18 SEPTEMBER 2018

40 MR ROBERTSON: Mr Tong, did you send this note to anyone or did you just keep it to yourself?---*I've sent it to Kenny and I also had explained to him as to why I was sending this to him.*

How did you send it to Kenny?---*Via the internet.*

Does that mean you sent it to him by email?---*Yes.*

And was that to his Wu International email address or to some other address?---*To Kenny, yes, by using the Wu International address, yes.*

Did you send the note to anyone else?---*No. I explained to Kenny the reason why I'm recording this. I said perhaps in the future it might be needed.*

So to be clear about that, are you saying that you had another conversation with Kenny after you prepared this note?---*I explained to him via the internet.*

10 So did you send this to him as an attachment to an email and then you explained to him in the email why you were sending it to him? Is that how we understand what you've just said?---*Yes.*

Do you recall roughly when you sent this to Kenny, was it soon after you prepared it or was it a long time after you prepared it?---*Soon. I sent to him very quickly.*

20 So maybe within a few days of the meeting at Parliament House. Is that right?---*I think I sent it to him on the next day, after I had written it I sent to him.*

After your meeting with Mr Ernest Wong and Kenny in Parliament House had finished, what then happened on that day?---*After about half an hour with the meeting we then left and it was already about 5 o'clock and Kenny and I went to get something to eat.*

Can you remember where that was?---*To have something to drink and something to eat. I can't remember.*

30 And what happened then? Did Kenny drive you back home like he drove you in?---*Yes.*

And what did you and Kenny talk about in the time from finishing the meeting at Parliament House and him dropping you back home?---*Since you've asked me now, now I remember I said to him, "When I go back I will make a record in case it is needed or it is of some use in the future."*

Did you also discuss with Kenny what had just happened and what Mr Wong had just said during the meeting in Parliament House?---*No.*

40 So you didn't have a discussion that says, "Well, this is what Mr Wong has said and this is what I'm going to do now," something like that?---*No.*

But you did tell Kenny that you were going to take a record of what had happened and send that record to Kenny, is that right?---*Yes. Yes.*

After Kenny dropped you off at home, when did you next speak to Kenny, can you remember?---*Not, not, not until I have, not until I had received a summon, a, a summon, then I, then I spoke to, I spoke with him about that.*

So just pause for a moment. Can we have on the screen, please, the first summons issued by this Commission to Mr Tong? Mr Tong, you've just referred to a summons. I've put up on the screen a document called Summons to Appear and Give Evidence. Can you see that on the screen?
---*Yes.*

10 And if we just turn the page, please. Can you see that it's dated 2 November, 2018?---Hai. Yeah.

And can we just turn to the next page, please. Can you see there's a little note there by Mr Smith, saying that it was given to you on 19 November, 2018, do you see that there?---*Yes.*

Now, is it consistent with your recollection that someone from this Commission came and gave you a copy of this document on or about 19 November, 2018?---*Yes.*

20 And so is the document that I've just shown you on the screen, is that the summons that you were referring to a moment ago?---*Yes.*

Before I forget to do it, I tender the Summons to Appear and Give Evidence that is on the screen, issued to Mr Tong.

THE COMMISSIONER: Yes, the copy of the summons to Mr Tong to attend a compulsory examination in, thank you, in December, 2018, would be admitted. It'll become Exhibit 235.

30 **#EXH-235 – SUMMONS TO STEVE TONG TO APPEAR AND GIVE EVIDENCE AT A COMPULSORY EXAMINATION ISSUED 2 NOVEMBER 2018 AND SERVED 19 NOVEMBER 2018**

40 THE COMMISSIONER: Could I ask you, Mr Tong, after you say you sent a copy of your statement that you made after the meeting with Mr Wong to Kenny, after you sent it to Kenny, did you ever hear anything from Kenny after that about the statement that you had sent him, or about the discussion that had taken place with Mr Wong in his office?---*No, no, no. No. Only on that day.*

Thank you.

MR ROBERTSON: Chief Commissioner, the summons that I've now shown of course impliedly indicates there was a compulsory examination. In the face of that, I seek a limited variation of the existing section 112 direction that's been made. I seek that in a form to the following effect, of the direction that was made under section 112 of the Independent

Commission Against Corruption Act 1988, in relation to the compulsory examination of Mr Tong on 4 December, 2018, is lifted insofar as it would otherwise prohibit the publication of the fact that Mr Tong gave evidence on 4 December, 2018, and insofar as it would otherwise prohibit publication of any evidence given in this public inquiry.

THE COMMISSIONER: Yes. In respect of the compulsory examination of Mr Tong in December 2018 I vary the section 112 direction I made on that date in terms stated by Counsel Assisting.

10

VARIATION OF SUPPRESSION ORDER: IN RESPECT OF THE COMPULSORY EXAMINATION OF MR TONG ON 4 DECEMBER 2018, I VARY THE SECTION 112 DIRECTION MADE ON THAT DATE INsofar AS IT WOULD OTHERWISE PROHIBIT PUBLICATION OF ANY EVIDENCE GIVEN IN THIS PUBLIC INQUIRY

20 MR ROBERTSON: It may have been Commissioner Rushton. I don't immediately recall.

THE COMMISSIONER: Sorry?

MR ROBERTSON: It may have been you, Chief Commissioner, or it may have been Commissioner Rushton on that occasion. I don't immediately recall.

30 THE COMMISSIONER: All right. Whether it was a direction made under section 112 by myself or Commissioner Rushton the direction is varied in the terms stated by Counsel Assisting.

MR ROBERTSON: May it please the Commission. Mr Tong, after you received the summons that I showed you on the screen, what did you do in relation to that summons?---*After receiving the summons I said to Kenny, "Now I'm being, I now have to go to ICAC. What your company can help me with?" And on that night him and Alex came to my home, in front of my home, he didn't, they didn't go in.*

40 And did you have a discussion outside of your home on that evening?
---*Yes. And Alex said to me, "Just stick with what you had said earlier then it will be fine.*

To be clear, who was present at the meeting outside your house? You referred to Alex, so that's Alex Wood. Correct?---Yeah, I think.

Alex Wood or Alex Wu?---Alex Wu. The same person, okay.

I think he's changed his name formally from Alex Wu to Alex Wood, but we're talking about the same person. Correct?---Yeah.

And you were present. Who else was present at that meeting?---*Kenny was there.*

And was Kenny present throughout the time that you spoke with Mr Wu outside your house on the day that you received the summons from this Commission?---*They drove over and we were talking in the car.*

10

You were talking in the car. Is that what you just said?---*Yes.*

So they drive over to your house, someone knocks on your door or presses your doorbell?---No. *They rang me. They rang me saying, "We're here."*

And you then came outside of your house. Is that right?---*Yes.*

And then you had a discussion with Mr Wu. Is that right?---Hai.

20

And where did that discussion take place?---*In the car.*

Were you driving around at that time or was the car just stopped on the street?---*Around the streets.*

So there were three people in the car, is that right, Mr Wu, Kenny and you? ---*Yes.*

And you started at the front of your house and were driving around the streets. Is that right?---*Yes.*

30

Do you remember how long the conversation took roughly?---*Only for a short while. 10 or 20 minutes.*

Doing the best you can, what did Mr Wu say to you and what did you say in response?---*He said, "Just stick with the evidence that you had given to the Electoral Commission then it should be fine."*

40

And did you say anything back to Mr Wu in relation to that matter?---*I said, "Okay, I'll do what you've said." That's why on my first appearance I told lies.*

We'll come back to what happened on the first appearance, but just focussing on what's happening in the car, did Kenny say anything during the time that you were speaking with Mr Wu and driving around near your house?---*No. He was only a driver.*

But he was driving the car at the time. Is that right?---Yeah, hai.

And then ultimately Kenny drops you back at the front of your house. Is that right?---(No Audible Reply)

You said that after you got the summons from this Commission, you contacted Kenny. Is that right?---*Yes.*

Can you remember how you contacted him, was it by telephone or did you go and see him?---*Telephone.*

10 And you told him that you'd received a summons from this Commission. Is that right?---*Yes.*

Why did you contact Kenny in relation to that matter?---*Because he said if anything happens the company will deal with it for me.*

And so you were ringing Kenny up to say that you wanted the company to help you with the fact that you'd received a summons from this Commission. Is that right?---*Yes. I said, "How can you help me?"*

20 And who made the arrangements to meet with Mr Wu outside your house that evening?---*Kenny said, "I'll drive over to your house. When we arrive just come out then we have a talk."*

And did that talk happen during the day or during the night, can you remember?---Night, in the night.

Do you remember around about what time?---*I think after 8.00, close to 9.00.*

30 When did Kenny or Mr Wu tell you that they were coming over to your house?---*After 7.00. They said, "When we arrive we'll give you a call."*

But to be clear, when did you first know that Mr Zhan and Mr Wu were going to come to your house that night?---*That night, that evening.*

So did they call you in advance and say that they were coming or did they just turn up and say we're outside, please come out?---*In advance, because I rang Kenny to advise him that I had received the summons and they said, "Let's have a talk and when we arrive we'll give you a call."*

40 So you made arrangements with Kenny earlier in the day to meet with Kenny and Mr Wu. Is that right?---*I think so.*

THE COMMISSIONER: Mr Robertson, we'll take a break at some stage for morning tea. Is this a convenient time or not?

MR ROBERTSON: This is.

THE COMMISSIONER: Do you want to finish this segment?

MR ROBERTSON: No, that's fine.

THE COMMISSIONER: We'll take a 15-minute adjournment, morning tea break, Mr Tong, and then we'll resume.

SHORT ADJOURNMENT

[11.34am]

10

MR ROBERTSON: Mr Tong, the email that you sent to Kenny with the note that you made of the Parliament House meeting, do you remember, was that the same computer as the computer that you gave to Mr Vickery to look at when Mr Vickery came to your house, or might have it been a different computer?---*No, it's a, it's the same.*

20

So you're quite sure it's the same computer that Mr Vickery had a look at when he came to your house, is that right?---*Yes.*

Now, moving back to the meeting after you received the summons from this Commission, and focusing when you were in the car driving around the streets with Kenny and with Mr Wu, were you sitting in the front seat or the back seat, can you remember?---*Alex Wu and I were in the back.*

So Alex Wu and you were in the back, and Kenny was driving in the front seat, is that right?---*Yes, he was the driver.*

30

And other than what you told us before the morning break, can you recall anything else that Mr Wu said to you during that meeting as you were driving around?---*Nothing much, mainly I was asked to repeat to ICAC what I had told the Electoral Commission earlier.*

When you contacted Kenny about the summons that you'd received from this Commission, do you remember if you called him on his mobile telephone or could have it been his landline, his office phone?---*Mobile.*

40

Are you fairly sure it was the mobile phone, or is it possible that you called him on his office phone?---*I think it was to his mobile via WeChat. WeChat. Yeah, only people from, from the mainland would use it. That, that, this app here.*

So you're saying that you may have made contact with Kenny by WeChat on that day, is that right?---*I think, yeah, the, the people from mainland use WeChat, because the, the messages get deleted on a weekly basis.* Automatic delete. *It, it, they, they get deleted automatically.*

Mr Tong, do you know what the Mid-Autumn Festival is, which is sometimes referred to as the Moon Festival?---*Yes, but I, I don't care about it too much.*

About what time of the year does the Mid-Autumn Festival happen?
---*Usually it's on 15 August on the lunar calendar, but I'm not too sure when in Australia.*

10 Mr Kenny Zhan has suggested to this Commission that he may have met you on 19 November, 2018 to give you season greetings for the Mid-Autumn Festival.

THE INTERPRETER: Sorry, I missed the date.

MR ROBERTSON: I'm sorry. Mr Kenny Zhan has said that he may have met with you on 19 November, 2018, the date that we're talking about where you received the summons, to give you season's greetings for the Mid-Autumn Festival. Do you have any comment about that?---I don't think so. It will be over. *I don't think so because it was already over.*
20

So it would be very strange, wouldn't it, to give season's greetings for the Mid-Autumn Festival in November because that festival would be over and finished more than two months ago or around two months ago. Is that right?
---*I think that's an excuse.*

But are you quite clear in your mind that when Mr Wu and Kenny came to your house after you received the summons it was to talk about the summons, it wasn't to give you season's greetings for the Mid-Autumn Festival?---*Of course not, and I remember that they also brought along two
30 bottles of wine for me.*

So what, Mr Wu brought some bottles of wine for you. Is that what you're saying?---Yeah, hai.

And gave it to you what, when you were in the car driving around near your house, is that right?---Yeah, after that, after that and they he gave me, something like that.

40 And then after driving around they dropped you at the front of your house again. Is that right?---*Yes.*

After that point in time, when did you next have any contact from either Kenny or Mr Wu?

THE INTERPRETER: Sorry, sorry, I'll have to get Mr Tong to repeat what he said.

THE WITNESS: *On the next day after the summons, Kenny gave me a call. He wanted to know what I had said, but I didn't say anything to him because I'm not at the liberty to tell you anything because the Commission had asked me at the time not to make public the things that have been said.*

10 MR ROBERTSON: So I just want to be clear about the chronology. So you received the summons from this Commission on 19 November, 2018 and you had the meeting with Mr Wu and Kenny driving around near your house on the same day. Is that right?---*I'm, I can't remember whether it was on the same day or the, one or two days after.*

But it was within a short period of time of you receiving the summons and you telling Kenny that you had received the summons, is that right?
---*Yes.*

And then you participated in a private hearing before this Commission on 4 December, 2018, is that right?---*Yes.*

20 And did you have any contact with either Kenny or Mr Wu between you being dropped off, having driving around and discussing, up until the point at which you came to this Commission in a private session?---*No.*

But are you saying that Kenny made contact with you after you were first here for a private examination, is that right?---*Yes.*

But you told him that you couldn't speak to him about it, is that right?
---*Yes.*

30 After that point, have you had any other contact with either Kenny or Mr Wu?---*No.*

To your knowledge, has either Kenny or Mr Wu tried to contact you, for example, leaving you messages or having missed calls from them?---*I think, I think they have tried to ring my landline, to my home, but I was, I wasn't at home at the time, but my, so my wife answered. And my wife said, "I don't know anything about it, don't talk to me about that."*

40 But after the telephone call you had with Kenny after you were first here for the private examination, when you said to him, "I can't talk to you," you've had no further discussions with either Kenny or Mr Wu, is that right?
---*Yes.*

You haven't communicated in another way, such as by text or email, with either of those two?---*No.*

The last time was within a short period of time of coming here for your private examination, is that right?---*Yes.*

Now, when you participated in the private examination here on 4 December, 2018, you said that you had made a \$5,000 donation to Ernest Wong, is that right? Did you say that to the Commission?---*Yes, on the, on the first occasion I told a liar, I, I, I told a lie.*

So it was a lie to say to the Commission that you had made a \$5,000 donation to Mr Ernest Wong, is that right?---*Yes.*

10 In truth you have never made a \$5,000 donation or any other donation to Mr Wong or anyone else associated with the Australian Labor Party, correct?
---*No.*

You've never made a donation to the Country Labor Party either, is that correct?---*Correct.*

20 Why was it that you lied when you first came to this Commission in the private examination on 4 December, 2018?---*Like what I said before, before attending for the summons I had a talk with Alex. Alex asked, Alex told me to persist with what I had told the Electoral Commission earlier and that I just listened to Dr Liao's instruction and tell what he asked me to tell.*

30 Why have you now decided to tell the truth to this Commission?---*Like what I said before, when I went home my family asked me, "Have you told the truth?" And I said, "On the first occasion I didn't." And they said, "Why didn't you tell the truth?" So I felt I was wrong. And myself, I never tell lies but for this I don't want to continue with the mistakes. And my lawyer, Bernard, advised me to tell the truth, I must tell the truth. Therefore I am telling the truth now because otherwise I would not be sleeping well, I would not be eating well.*

That's the examination, Chief Commissioner. I should indicate that I've had a discussion with my learned friend, Mr Hale, who appears for Mr Wong and he's indicated that he doesn't seek leave to cross-examine. So far as I'm aware there's no other application, but I may be mistaken about that.

40 THE COMMISSIONER: I'll just check. Are there any other applications to cross-examine Mr Tong? Very well, there's no applications. Mr Wong, you may go. Any reason why – perhaps the summons should be kept on foot just in case something arises.

MR ROBERTSON: Just in case, but I hope not too.

THE COMMISSIONER: Mr Tong, it's unlikely that we'll need to recall you but the summons that's been served upon you remains on foot. If you were required to return you'd be given as much notice as possible. It's

unlikely but it's possible. Thank you for your attendance here today. You may step down. You're free to go.

THE WITNESS: Thank you very much.

THE COMMISSIONER: Thank you.

THE WITNESS WITHDREW

[12.11pm]

10

MR ROBERTSON: Can I deal with one housekeeping matter that I neglected to deal with this morning. There was a document that I referred to yesterday but neglected to tender. It's an email from Mr Ian Robertson to Ms Kaila Murnain, 15 September, 5.38pm, entitled Receipt of Money by Members of Parliament, which was in pages 6 and 7 of what I described as the 35(2) bundle. I tender that document.

20 THE COMMISSIONER: Thank you. That's an email from Ms Murnain to who?

MR ROBERTSON: From Mr Robertson, from Mr Ian Robertson to Ms Murnain, 15 September, 5.38pm.

THE COMMISSIONER: Yes, the email from Mr Robertson to Ms Murnain, 15 September, 2016, 5.38, will be admitted, become Exhibit 236.

30 **#EXH-236 – EMAIL FROM IAN ROBERTSON TO KAILA MURNAIN AND ORS ON 15 SEPTEMBER 2016 AT 5:38PM TITLED 'RECEIPT OF MONEY BY MEMBERS OF PARLIAMENT'**

MR ROBERTSON: May it please the Commission.

THE COMMISSIONER: Well, then, Mr Robertson, there's nothing before 2 o'clock?

40 MR ROBERTSON: No, Mr Yip requires a translator, and so I'm not in a position to call him immediately. I propose to do so at 2.00pm.

THE COMMISSIONER: Yes, very good. I'll adjourn until 2 o'clock.

LUNCHEON ADJOURNMENT

[12.15pm]