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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 THURSDAY 12 SEPTEMBER, 2019

AT 2.00PM

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

THE COMMISSIONER: Mr Robertson.

MR ROBERTSON: Okay, Mr Yee. Back to lucky money. So average of \$100, correct?---Yes, sir.

10 Some less than 100, some more than 100, but average of \$100, correct?
---Yes, sir.

And that's the sole source of the money that became the \$5,000 that you gave to Jonathan at the Chinese Friends of Labor dinner on 12 March, 2015, correct?

MR GLISSAN: I object, I object to that question, because you, respectfully, Commissioner, asked him that question earlier and his answer was, no, it was not.

20 THE COMMISSIONER: He's just testing the proposition. If he's consistent, he'll - - -

MR GLISSAN: He, no - - -

THE COMMISSIONER: No, no, I'm going to allow it.

MR GLISSAN: Well, perhaps you might hear me on the basis of whether it's fairly put or formulated.

30 THE COMMISSIONER: Mmm.

MR GLISSAN: It's inconsistent with the evidence, and to put it as an affirmative proposition is unfair to the witness and it ought not to inform your consideration, in my respectful submission.

THE COMMISSIONER: Yes, all right.

MR ROBERTSON: I press the question.

40 THE COMMISSIONER: I'm going to allow it.

MR GLISSAN: (not transcribable)

MR ROBERTSON: Is it the case that the sole source of the money that became the \$5,000 that you gave to Mr Jonathan Yee on 12 March, 2015, was lucky money?---More or less.

No, not more or less. The sole source of the \$5,000 - - -?---The primary source, primary source.

Well, let's be clear about this, is it the case that the whole of the money that you gave to Mr Jonathan Yee on 12 March, 2015, was from lucky money?
---Yes, sir.

All of the money was from lucky money packets, correct?---Yes. Yes.

10 And that was money that you had received in lucky money packets in the 2015 calendar year, correct?---Yes, sir.

On average, in the lucky money packets was \$100, correct?---Yes, sir.

Some of the money in the lucky money packets was more than \$100, correct?---Yes, sir.

And some was less, correct?---Yes, sir.

20 But the only denomination of money you gave to Mr Jonathan Yee on 12 March, 2015, was \$100 bills, correct?---Yes.

So where lucky money was less than \$100, obviously enough there wasn't a hundred dollar note in the packet, correct?---Yes, but I change it, just to make counting easy, I changed it at the bank.

I see. So there's another step in this exercise, is it? So we have lucky money in packets, and you then go and change it, is that right?---Change it to make up the, to, to, the denomination to be \$100 notes to, to give to
30 Jonathan.

But why did you do that? If you decided to pay \$5,000, why does it matter whether it's in \$100 notes, \$50 notes, or in any other denomination?---It's easy to, to actually give it to him that way.

Well, if it's \$50 notes it only takes up twice as much room, correct?---Yes.

THE COMMISSIONER: You'd just have a bigger envelope, don't you?
---Yes. Huh? Well, I, I thought it was more easier to do, actually have it all
40 in \$100 notes.

MR ROBERTSON: But why would you spend the time changing it over, when you've decided to pay \$5,000, and all you need, as the Chief Commissioner has just said, is a bigger envelope or perhaps a different vessel?---I just thought it was easier, that's all. That's my answer.

Did anyone ask you to provide it only in \$100 bills?---No.

Or did you decide yourself?---I decided myself.

And the reason you did that was what, you thought it would be easier - - -?
---To count.

Easier for Jonathan to count?---Yes.

Is that an honest answer?---Yes, sir.

- 10 It's right, isn't it, that generally speaking, you will receive less red packets when you're married than when you're unmarried, correct?---Yes, sir.

In fact, generally speaking, and perhaps with the exception of close relatives, you tend not to receive red packets once you're married, correct?
---Not necessarily.

Red packets are usually given to children and to unmarried adults, correct?
---Yes, sir.

- 20 You are married, aren't you?---Yes.

What's your wife's name, again?---Yoon Hye Rim.

And so, despite what you've just said, is it still your evidence that 50 people - - -?
---Yes, sir.

- - - gave a married man red packets of an average of \$100 in 2015?---Yes, sir.

- 30 That's your honest evidence, is it?---Yes, sir.

Now, a few times this morning, you qualified some of your answers by saying you were referring to the money that you donated, rather than the company Emperor's Garden Pty Ltd, correct?---Yes, sir.

To your knowledge, did Emperor's Garden Pty Ltd either buy a table or make a donation in connection with the Chinese Friends of Labor dinner on 12 March, 2015?---Yes, sir.

- 40 What did that company do? Did it buy a table, or did it make a donation, or did it do both of those things?---Well, it made a donation of 5,000 to Country Labor, and a, and a donation of 5,000 to Labor NSW.

So does that mean Emperor's Garden didn't buy a table, it only made a - it made two donations, one to Country Labor and one to Labor NSW, is that right?---That's right.

So there were no Emperor's Garden Pty Ltd tables at the event, is that right?---Not, that's not – sorry. That's what I'm aware of.

Well, so your understanding of it at least is that Emperor's Garden Pty Ltd bought zero tables at the Chinese Friends of Labor event, correct?---To my knowledge, yes.

But did make a \$5,000 donation to Country Labor and a \$5,000 donation to Labor NSW, is that right?---That is correct.

10

Did you make the decision to make those two donations or did someone else make that decision?---My father would make that decision.

You father did make that decision, is that what you said?---He makes the decision, yes.

So your father, that's Stanley Yee, is that right?---That's correct.

He decided to make those two donations, is that right?---That's correct.

20

But you agreed with that as one of the directors of Emperor's Garden, is that right?---Yes.

Did you see Stanley Yee provide the money for that donation?---The envelopes, yes.

And was that provided at the table that you were sitting at that you told us about this morning?---Yes.

30

But didn't you tell us this morning that the money that Stanley was providing was for the table?---He also would provide the money for the company as well. As in, because any ultimate major decisions, as I explained, it would have to go through him.

I just want to be clear about this. Are you saying that your father, Stanley, bought a table in his own name and then the company made a donation, is that what you're saying?---That's right.

40

So you told us about one envelope that you saw your father, Stanley, passing to Jonathan on the night?---Yes.

Are you now saying there was more than one envelope or is all the money in one envelope, are you saying?---Well, he wouldn't have provided all the money – I can't remember whether it's two envelopes or just one envelope.

Well, you at least have a recollection of him providing one envelope to Jonathan Yee on the evening of the event of 12 March, 2015, correct? ---That is correct.

And are you saying you don't have a recollection of it being more than one envelope, is that right?---That is correct.

But you do know that Emperor's Garden Pty Ltd decided to donate \$10,000, correct?---That is correct.

And you also know that, separately from that, your father Stanley bought a table in his name, is that right?---Yes, sir.

10

Now, how did you find out about your father's decision to donate \$10,000 on behalf of Emperor's Garden Pty Ltd?---Basically both my mother and my father being people who, who are immigrant from overseas, their English is not as good as my brother and me, the major disclosure forms for the company, donor forms was completed by me and I can't remember whether I signed it at that time as well.

20

So are you saying you didn't find out about the donations until the disclosure forms were being signed?---The amounts, you're talking about, sir?

No, about whether there was going to be a donation at all at the moment.---I know there's a donation, yes.

So, well, prior to the dinner on 12 March, 2015, did you know that your father wanted to make donations to Country Labor and Labor NSW on behalf of Emperor's Garden Pty Ltd?---Yes, sir.

30

How did you know that?---Well, he, he said he was going to make a donation.

So your father told you in advance of the dinner of 12 March, 2015, that he was going to make a donation on behalf of Emperor's Garden Pty Ltd, is that right?---When you mean by in advance, sorry, I just want to clarify - - -

I mean before you turned up to the dinner on 12 March, 2015?---No, I, I, I found out on the night.

40

I see. So during the course of the dinner, at the table that you, your father and the others you identified this morning are sitting on, your father told you that he intended to make a donation on behalf of Emperor's Garden Pty Ltd to Labor NSW, is that right?---Labor NSW.

And to Country Labor?---Yes, that's correct.

So I just want to be clear about it. So, there's a conversation that happens whilst you're sitting at the table on 12 March, 2015 with your father, and your father tells you that he is going to donate \$10,000 of Emperor's Garden

Pty Ltd money, \$5,000 of which is going to go to Country Labor and \$5,000 of which is going to go to Labor NSW. Have I got that right?---Yes.

And is that the first time you found out about it?---No. Various conversations I guess previously may have made mention indirectly or directly.

10 Well, let's be a bit more precise about it. Are you saying that your father told you before you turned up to the dinner on 12 March, 2015, that he intended to use Emperor's Garden Pty Ltd money to make donations to Country Labor and Labor NSW?---Yes.

When was that? How soon before the dinner did that happen?---Maybe at most a day before or the, or the one or two days before. I can't exactly recall.

20 So briefly before the dinner, within a couple of days of the dinner, your father tells you that he's going to use \$10,000 of Emperor's Garden Pty Ltd money, half of which will go to Country Labor and half to Labor NSW. Is that right?---Not specific like that, he's making donations.

Did he make it clear that he intended to use Emperor's Garden Pty Ltd money to donate to both Country Labor and Labor NSW?---Not clearly in that sense.

By which you mean he referred to the Labor Party rather than Country Labor. Is that what you mean?---Yes.

30 And in advance of the dinner, before you turned up to the dinner, did he identify the amount of money that he proposed to done from Emperor's Garden Pty Ltd money?---I don't recall, I'm sorry.

So he may have, but you don't recall one way or the other. Is that right? ---That's correct.

But he at least made it clear at the dinner itself that he intended to spend \$10,000 of Emperor's Garden Pty Ltd money, 5,000 to Country Labor and 5,000 to Labor NSW. Is that right?---That's correct.

40 He told you that when you were sitting at the table that you were both sitting at. Correct?---I know he was donating money, I just, I couldn't exactly remember whether he said the 10,000 or 5,000, so I can - - -

So at that point of time at the table you knew that he was going to donate money but you didn't know how much. Is that right?---I can't recall.

Well, doing the best you can, did you know how much money was going to be donated at the time of the event or did you not know?---It was either five or 10, I can't remember.

Surely you at least wanted to know, because you're the Chief Financial Officer of Emperor's Garden Pty Ltd, aren't you?---Yes, sir.

10 And so I take it that you took up in the accounts of Emperor's Garden Pty Ltd the fact that a donation was made in 2015 from Emperor's Garden Pty Ltd money. Correct?---Yes, sir.

So if we look at the – do you use MYOB or what accounting software do you use?---I use MYOB.

20 And so are you saying that there's an entry in the journals of Emperor's Garden Pty Ltd in MYOB showing a \$10,000 donation being made in the 2014-2015 financial year?---I guess I need to explain then the fact that me being an accountant myself, okay, a lot of things like, as explained previously, I'm not, if I'm not sure I wouldn't take, if it's not tax deductible I would not take it up.

THE COMMISSIONER: All right. Now you might answer the question. ---Yes.

Put the question again, please.

30 MR ROBERTSON: Do the accounts of Emperor's Garden Pty Ltd have an entry that indicates that a \$10,000 donation or two \$5,000 donations were made in the 2014-15 financial year?---No, sir.

Why not?---It was just something I thought, I thought wasn't, I know it's a donation but I, I didn't account for it.

THE COMMISSIONER: Why not?---Huh?

Why not?---Because as I explained, where it was something that I, where I'm not sure whether it's deductible or not, I, I don't take it up.

40 Well, the normal thing is if you're not sure you check it out to see if it is or it isn't. Isn't that right?---Yes.

Okay. Did you check it out?---At the time I didn't and now I know it's not deductible.

Why didn't you check it out? That's the most logical thing to do, isn't it? ---Yes, sir.

Why didn't you do the most logical thing, in this case, concerning the donation?---Because the fact that I think that if it's a, if it's an area that I'm not sure I just don't take it up at all.

As discussed a moment ago, if you're not sure you look it up and check it to see whether it is or not claimable. Correct?---Yes, sir.

Is that correct?---Yes, sir.

10 How long have you been an accountant? What year did you qualify?
---2005.

2005. So you had qualified for something of the order of 10 years by March 2015?---Yes, sir.

You regard yourself as a competent accountant?---Yes, sir.

Now, can you explain why you didn't do what you would normally do? That is, if there's a question about whether something's claimable as a deduction you look it up, check whether it's legally permissible or not.
20 Why didn't you do that?---The expense itself is not really that big.

It's a fair amount of money, though, nonetheless, isn't it, in anybody's language, if it's \$10,000?---We have a turnover of 13 million, sir.

No, no, just answer my question. It's a fair amount of money, isn't it, \$10,000?---To an individual, yes.

30 It's large enough to make it worthwhile making a claim if you're legally entitled to make a claim.---Yes, sir.

Why didn't you do it?---Because as I said to you, sir, I didn't, I wasn't sure whether claimable or not and I didn't, I just took the safe route.

That's the point. That's what I'm asking you. You say you weren't sure, so you look it up, don't you? That's what you normally do. That's what you said, right?---Yes, sir.

40 Why didn't you look it up?---I didn't - - -

Why didn't you check it out?---Didn't thought about it at the time.

You didn't think about it at the time. Is that the best excuse you can come up with?---No, sir. I had too many other things to think about besides that.

Had too many other things. Like what?---Like my other, in regards to my work, besides that \$10,000 deduction.

MR ROBERTSON: Mr Yee, deductible or not, as a matter of proper accounting practice it should be recorded in the books of Emperor's Garden Pty Ltd, shouldn't it?---Yes, sir.

Where did the money come from, the money that was said to have been donated on behalf of Emperor's Garden Pty Ltd, where did it come from?
---I'm assuming it's from the cash takings of the business.

Well - - -

10

THE COMMISSIONER: You should know.---Yes.

Where did it come from?---Cash takings of the business.

How do you know?---Huh?

20

How do you know?---Oh, each day my father would, like, at the end of each day or each time the amount of money that finishes at that time, he does the end-of-day reconciliation and then basically he would put all the cash into the safe.

MR ROBERTSON: So are you saying this is \$10,000 of money that has no recognition at all in the books of Emperor's Garden Pty Ltd?---The sales are all recognised.

The sales are recognised?---Yes.

30

I see. So MYOB is a system of double-entry accounting. Correct?---Yes, sir.

You know what double-entry accounting is?---Yes, sir.

You in fact worked at Ernst & Young for a number of years, correct?
---Yes, in auditing.

In auditing, yes, but you're a qualified accountant, correct?---Yes, sir.

And you know how accounts work. Correct?---Yes, sir.

40

So are you saying that the MYOB file for Emperor's Garden records that \$10,000 being received as income - - -?---With MYOB - - -

- - - or at least as revenue?---So basically with MYOB it records income but basically we use MYOB to record purchases and sales but because each - we've got about, I don't know if you know we've got four, you mentioned before there was four business units.

Yes.---So basically with all the four business - - -

Yum Cha, barbecue shop, cake shop - - -?---That's right.

- - - et cetera.---So basically with MYOB itself we, we use that to keep track of the working capital, like outstanding amounts owing and outstanding amounts that we have to pay the debtors, or creditors.

If you could just direct yourself to my question.---Yes.

10 The \$10,000 that was said to be donated on behalf of Emperor's Garden Pty Ltd is cash taking from the Emperor's Garden business. Correct?---That's right.

Are you saying that the accounting records show that \$10,000 as revenue of the business?---You mean the actual donations?

No, no, no. I'm going to do this in stages.---Yes.

20 On a day-to-day basis you sell people meals and other things.---Yes.

And they pay you money. Correct?---That's correct.

Sometimes they might pay in credit card, sometimes they might pay in cash. Correct?---That's correct.

At the end of each day you count up and work out how much cash has been received. Correct?---That's right.

30 Now, do you record that total amount of cash as revenue in MYOB's accounts or do you take some of the money out first before you do that? ---I don't – for that particular donation, not on, we have a system of MYOB doing the accounting system but we also have a POS system to record our sales.

What I want to know is whether the cash sales that we're speaking about are recorded as revenue or not. I think you told me before that they were recorded in MYOB's accounts?---Yes, yes.

40 But if that money is then spent, basic double-entry bookkeeping, you need to identify how it's been spent, correct?---Yes, sir.

Otherwise it won't reconcile, will it?---Yes, sir.

So what do MYOB records record, if anything, in relation to the \$10,000 that we're talking of? You understand what I'm asking, don't you?---Yes, sir. Yes, sir. I understand.

The accounts don't work if you've got \$10,000 received and it then disappears somewhere, unless you put in an entry to say where it's disappeared, correct?---Yes, sir.

So what do the accounts show on this matter?---On this matter, like, because this is a donation thing, rather than, and, and it's not deductible, we put it through an account either called drawings or, or director's loans.

10 I see. So the \$10,000, at least as a matter of accounting, is treated as either a distribution or a loan to one of the directors, is that right?---Yes, sir.

And so we'll find somewhere in the accounts \$10,000 that is credited in that fashion to your father, is that right?---That would be a theoretical thing to do, yeah.

Well, I'm asking you what happened with respect to this particular one.---I couldn't remember whether I actually accounted for this one to be honest.

20 But unless you're saying to me – I mean you're an accountant, you know exactly where I am going with this, don't you?---Yes, I do.

And you can't have it both ways. Either there is cash that you haven't accounted for as revenue and it's just disappeared and it's been off the books, that's one possibility, but I think you're denying that possibility, is that right?---Well, we, we account for our revenue in - - -

You account for every cent of your revenue, is that right?---Yes, sir.

30 You don't do things off the books, is that right?---No.

Is it the case that for your employees, you always put employee payments through the books?---Yes, sir.

So you never pay anyone in cash, any employees in cash in a way that's not recorded in the books?---Yes, sir.

THE COMMISSIONER: Is that right?---Yes.

40 Yes?---Because of single touch for payroll.

No, no, no. No, no, no. Is that right?---That's correct, sir.

Thank you.

MR ROBERTSON: You were about to talk about single-touch pay, is that right?---Single-touch payroll, yes.

But that wasn't in existence in 2015, was it?---I understand that, yes.

In 2015 you paid your staff in cash, correct?---Yes, sir.

Are you saying every cent of what you paid in cash to employees in 2015 went through the books of Emperor's Garden?---Yes, sir.

Every cent?---Yes.

Are you quite sure about that?---Yes.

10

If that didn't happen you would know about it as chief financial officer, correct?---Yes, sir.

Now, let's go back to where we were. You accept, don't you, that in relation to the \$10,000 we're talking about, for the books to balance, there's only two possibilities. Either the money has been accounted as revenue received and then there's another entry showing that money going somewhere, for example, by way of a drawing in the way that you've identified. That's one possibility, correct?---Yes, yes.

20

That's the correct way to do it, correct?---Yep.

Or at least a correct way of doing it, correct?---Yes, yep.

Another possibility is there's revenue that has been completely off the books, correct?---No. We account for our revenue.

So you're excluding that as a possibility, correct?---Yes, sir.

30

So that must mean, mustn't it, that there is some entry by way of director's drawings, or perhaps of director's loans, or perhaps of shareholder's loans, something along those lines, that shows that \$10,000 going out of the Emperor's Garden business, correct?---Yes, sir.

So this particular \$10,000, how was that accounted for? I think you've told us it wasn't accounted for as a donation so it must have been accounted for in some other fashion. Which fashion was it accounted for?---Well, there's no other way besides drawing, that's all I could say,

40

So the accounts show that there is a drawing in favour of, what, your father, is that right?---Yes, sir.

For \$10,000 - - -?---Yeah.

- - - or perhaps for an amount that includes the \$10,000, correct?---Yes, sir.

And that's the source of the money that was reported as being paid by Emperor's Garden Pty Ltd, correct?---Yes, sir.

Now you'll appreciate that at least as an accounting matter that means that the owner of that money is not Emperor's Garden Property Ltd, it's in fact your father, correct?---Yes.

And so it follows from what you've just said, doesn't it, that although to your knowledge there was a declaration of donations being made by Emperor's Garden Pty Ltd, in point of fact the true donor was your father, correct?---No, sir. No, sir.

10

Well, that follows from the answers that you've just given me over the course of the last 15 minutes, doesn't it?---Okay. Yes.

Do you accept that?---I accept that.

Can we go back, please, to - - -

20 THE COMMISSIONER: Mr Yee, should the Commission require the accounts of Emperor's Garden's to be audited, you are prepared to fully cooperate with the Commission in that regard?---I, I don't know if I still kept those records at the moment.

I can't hear you.---I, look, I still have to go back and look at those records.

No, no, no, that's not my question. As with some other questions, I'll repeat them a second time so that I get an answer out of you.---Yep.

30 In relation to the matters about which you've just been asked, if the Commission wishes to audit Emperor's Garden's accounts, are you prepared to fully cooperate in such an audit?---Do I have a choice?

You have a choice. You can yes or no now, to, what actually happens is another question.---No for the moment.

Sorry?---No.

You would not cooperate?---Yep.

40 Why would you not?---Privacy reasons.

Privacy reasons, yes. Is that the only reason?---Yes, sir.

Assuming that the Commission has the power to override any claim for privacy, would you be fully prepared to cooperate in an audit of the accounts of Emperor's Garden's?---If that's the case, no, yes.

You would?---Yeah.

Right. Do you give an undertaking that you will cooperate in any audit that's undertaken?---Yes, sir. Yes, sir.

Yes.

MR ROBERTSON: The MYOB files that we've discussed are electronic files, obviously enough?---Yes.

10 Are they electronic files that are stored locally on a computer that you operate, or are they electronic files that are stored in what's sometimes called the cloud?---It's locally.

On your computer at Emperor's Garden restaurant, correct?---Yes. Yes.

And the file in respect of the financial year ending 30 June, 2015, would therefore be on your computer, correct?---Yes, sir. Or a hard drive.

20 On the hard drive that you operate, is that right?---Yeah. I need to check where it is at the moment. I've got to check whether it's been saved on that hard drive that it's on my computer or is it an external hard drive.

So it may well be in the internal hard drive on, of your machine, or it may be in an external hard drive that is connected to your machine, is that right? ---Yes, sir.

That external hard drive, does that, is that usually present with your computer, or is that a, a hard drive that you carry around with you and take to different locations?---It's in the office.

30 It's in the office and presently in the office now, is that right?---Yes, sir.

40 Chief Commissioner, in my submission, you should make an order under section 35(2) of the Independent Commission Against Corruption Act requiring production of the electronic MYOB file for the yearend of 30 June, 2015, that I've just discussed with Mr Yee. It's obvious enough that that file contains material that will be of relevance to the investigation, in particular the way in which if at all the supposed donation of \$10,000 on behalf of Emperor's Garden Pty Ltd has been accounted. In my respectful submission, that's an appropriate order that's to be made, and should be implemented shortly.

THE COMMISSIONER: What I propose to do, I'll make a direction, and I suggest that the direction be typed up so that Mr Yee will have it in written form as well. I make an order pursuant to section 35(2) of the Independent Commission Against Corruption Act that the witness, Valentine Yee, Chief Financial Officer of Emperor's Gardens, produce to the Commission electronic MYOB files for the financial year ended 30 June, 2015 in relation to that entity.

I MAKE AN ORDER PURSUANT TO SECTION 35(2) OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT THAT THE WITNESS, VALENTINE YEE, CHIEF FINANCIAL OFFICER OF EMPEROR'S GARDENS, PRODUCE TO THE COMMISSION ELECTRONIC MYOB FILES FOR THE FINANCIAL YEAR ENDED 30 JUNE, 2015 IN RELATION TO THAT ENTITY, INCLUDING ANY BACK-UPS TO SUCH FILES.

10

THE COMMISSIONER: How long will it take you to produce them?---Um

MR ROBERTSON: I'm sorry, Chief Commissioner. You should also add including any back-ups of that file.

THE COMMISSIONER: Yes. I add to the description, including any back-ups to such files.

20

THE WITNESS: When do you require it?

THE COMMISSIONER: When required?

THE WITNESS: When you require it, sir.

THE COMMISSIONER: When required.

THE WITNESS: Yeah.

30

THE COMMISSIONER: The documents are to be produced to the Commission by 4.00pm tomorrow. Do you understand?---Yes, sir.

That direction will be typed up and provided to you so that you'll have it in writing.

MR ROBERTSON: Now, in relation to the donation that was said to have been made by Emperor's Garden Pty Ltd, did you have any involvement in disclosure of that donation?---Yes, I did, sir.

40

Did you sign any forms with respect to that matter?---Yes, sir.

And can you remember what things you did in relation to that matter of disclosure of that donation?---Disclosure of the donation of \$5,000 to Country Labor and, and, and NSW Labor.

That's right. What role did you play in that matter?---Filling in the form and then having, presenting the receipts to be sent to the, to the FDC.

Let me try and do it this way then. Let's go please to volume 5 of the public inquiry brief, which is Exhibit 152. Just while that's happening, just in terms of practicality in producing the electronic file, that's simply a matter of copying it onto another hard drive or USB stick in order to produce that. Is that right?---Yes, sir.

And that's something that can be done within quite a short period of time. Is that right?---Yes, sir.

10

Just have a look on the screen. We'll go, please, to page 18 of that bundle. Now, the signature in the bottom right-hand corner, whose signature is that? ---Jonathan.

So is it right then that – I withdraw that. Did you have any involvement in causing this form to be signed and delivered to anyone or did you leave that all to Jonathan?---No, Jonathan.

20

And do you know whether there was one form or two forms in relation to the donations you say were made on behalf of Emperor's Garden Pty Ltd?---I don't recall.

So is it right to say then that you haven't seen forms like this for Emperor's Garden Pty Ltd?---No, sir.

Is this the first time you've seen a form of this kind?---That one, yes.

30

But I think you said you had some involvement in disclosures to the Electoral Commission. Is that right?---That's correct.

Do you recall ever seeing a tax invoice in relation to the donation that was said to have been made by Emperor's Garden Pty Ltd?---Yes, sir.

And when did you first see a tax invoice of that kind?---A reminder for, a reminder from the ALP to disclose these amounts.

40

So again it's not invoices that you would have seen within a few weeks of the Chinese Friends of Labor event, rather later on after the end of the financial year, is that right?---That's, that's right, sir.

And so your best recollection is probably that you saw them about the same time as you saw the one that was issued in your name, is that right?---Yes, sir.

Now did you ask for those invoices to be provided or was that something that was left to someone else to deal with?---I – because I filled in the form, then I had to ask Jonathan for the - - -

So as well as asking Jonathan for a copy of a tax invoice for you, you asked him for a copy of a tax invoice or Emperor's Garden Pty Ltd, is that right?

---Yes, sir.

And that would have been about October of 2015, is that right?---Yes, sir.

And is that the first time that you've seen any tax invoices in relation to Emperor's Garden Pty Ltd for the 2015 Chinese Friends of Labor event?

---Yes, sir.

10

Can we go please to the Emperor's Garden Electoral Commission bundle and we'll go please to page 16 of that bundle. I've put up, and I appreciate it's fairly faint, but I've put up a copy of a disclosure of political donations for a major political donor for the year end of 30 June, 2015. Do you see that on the screen?---Yep.

And that's your signature, I take it, towards the bottom of the screen?---Yes.

20

And so this is you making a declaration that money was contributed by, this time, Emperor's Garden Pty Ltd. Is that right?---Yes.

And if we then just turn to the next page. Now, that page there is blank and we'll then turn to the next page. "Reportable political donations made, fundraising function or venture." And do you see there that there's two items there, each for \$5,000?---Yes.

Now, the text that we can see there, who typed that in, was that you or was that someone else?---It was me.

30

So you typed the two sets of \$5,000 into the form, is that right?---Yes.

And then can you see that there's two receipt numbers that are identified, 4-0-9-1-6?---Yes.

And 4-0-9-2-6, do you see that there?---Yeah.

40

And do we take it from that, that at the time that you were filling out this document you had two receipts or tax invoices available to you for Emperor's Garden, one with an invoice number 4-0-9-1-6 and one with an invoice number of 4-0-9-2-6, correct?---Yes.

And again, those are tax invoices that you asked Mr Jonathan Yee to procure so that you could fill out this form, is that right?---Yes.

Now, was this a form that you filled out of your own initiative or were you prompted to do that by either NSW Labor or by the Electoral Commission? ---I, I would have, I got a letter to actually fill, because it's it a major political donation. So I, I filled it in based on what I, by Labor Party.

But are we talking about a letter from NSW Labor like you and I discussed before or are we talking about a letter from the Electoral Commission?
---From NSW Labor.

So a letter like the one that you and I had a look at a moment ago?---Yes, yes.

10 If we can just turn the page. Is it your best recollection that it was this letter, 6 September, 2015, a very similar letter to the one you and I already discussed?---Yes.

Now, can you see there that that letter had the receipt numbers on it, 5-0-9-1-5 and – sorry, I withdraw that. 4-0-9-1-5 and 4-0-9-2-5. Do you see that there, just in the tables towards the middle of the page?---6.

I'm sorry, I will start again because I gave you the wrong numbers. 4-0-9-1-6 and 4-0-9-2-6. Do you see that?---Yes.

20 So you had from the Labor Party the receipt numbers in September 2015, correct?---Yes.

So having now seen that, are you sure that you actually had the actual tax invoices with you when you filled out the disclosure form for Emperor's Garden Pty Ltd or is it possible that you just took the receipt numbers off the letter from NSW Labor?---No, I would have got those receipts, the proper receipts.

30 You're pretty confident that you had the receipts before you, when you filled out these forms in the latter part of 2015. Is that right?---Yes.

Now, I'll just get us to go back to page 11 of this bundle, please. We'll go to page 10 first. Do you see there an email from your brother, Jonathan Yee, to what's described as FDC inquiries, which you can see is part of Elections NSW. Do you see that there?---Yep.

And then if we just turn the page to see the attachment, you'll see that the first version of this for Emperor's Garden - - -?---Yep.

40 - - - seems to have been signed by Jonathan Yee. Correct?---That's correct.

Now, did you have any involvement in this particular form or was this all left to Jonathan Yee?---I, it was Jonathan Yee's (not transcribable)

But then you took responsibility for signing the further form that we saw at page 16 a moment ago. Is that right?---Yeah.

So we'll go back to page 16. Now, you realise that by signing that form you were declaring to the Electoral Commission that your company, Emperor's Garden Pty Ltd, had paid \$5,000 to NSW Labor - - -?---Yep.

- - - and \$5,000 to Country Labor. Correct?---Yes.

Now, that declaration was false, wasn't it?---No.

10 Well, it was at least false in the sense that as a matter of the accounts of Emperor's Garden Pty Ltd, as you and I discussed a moment ago, there was no donation made to either of those entities. Correct?---There was donations made to those entities.

No, no. According to the accounts, I thought we established this a moment ago, according to the accounts of Emperor's Garden Pty Ltd there was no donation made to Country Labor or Labor NSW. Correct?---No, sir.

20 THE COMMISSIONER: Would you answer the question?---No, we did donate to the Country Labor and - - -

MR ROBERTSON: No, no. Listen.

THE COMMISSIONER: Listen to the question.

MR ROBERTSON: Listen carefully to my question.

THE COMMISSIONER: I think I've told you at least three times now to listen to the question. Listen to this question and answer it.

30 MR ROBERTSON: According to the accounts of Emperor's Garden Pty Ltd, no donation was made to NSW Labor or Country Labor in the year ended 30 June, 2015. Correct?---If strictly according to the books, no, but we did donate through the - - -

According to the accounts of Emperor's Garden Pty Ltd for the year ended 30 June, 2015, no donation was made to NSW Labor or Country Labor in that financial year. Correct?---Strictly accounting, no.

40 THE COMMISSIONER: Listen.---Sorry.

I'm going to have that question put a third time to you and you'll either reply yes or no. It's a yes or no answer to a question such as the one that's about to be put to you a third time. Listen to it.

MR ROBERTSON: According to the accounts of Emperor's Garden Pty Ltd for the year ended 30 June, 2015, no donation was made to NSW Labor or Country Labor. Correct?---Correct.

According to those accounts a drawing or perhaps a loan was made to your father, Mr Stanley Yee. Correct?---Yes.

And so at least as a matter of accounting, the true source of the \$10,000 referred to in this disclosure was not Emperor's Garden Pty Ltd, it was your father, Stanley. Correct?---No, sir.

10 Well, I thought we established that at least as a matter of the account of Emperor's Garden Pty Ltd, your father had had a drawing or perhaps a loan of \$10,000. Correct?---Yes.

And so at least as a matter of those accounts, that money is then your father's, correct?---Theoretically, yes.

Are you agreeing with me, yes?---Yes.

20 And so therefore, the true source of the \$10,000 referred to in this form is not Emperor's Garden Pty Ltd, it is your father Stanley, correct?---No. Reason for that is because my father's got a, he's always had a, he's always propped up the business, but whenever he can get money from the company to repay himself for the money, then he can use those moneys to pay the donations.

But the accounts of Emperor's Garden don't show that, do they?---Well, I guess so.

THE COMMISSIONER: Well, do they or not?---As a, as a shareholder's loan (not transcribable)

30 MR ROBERTSON: The accounts of Emperor's Garden Pty Ltd don't disclose a donation by Emperor's Garden Pty Ltd to NSW Labor or Country Labor in the financial year end of 30 June, 2015, correct?---That is correct.

So far as the accounts are concerned, \$10,000 has been advanced to Mr Stanley Yee, either by way of a drawing, or director's fees, or perhaps a shareholder or director's loan, correct?---Correct.

40 So at least so far as the accounts are concerned, that \$10,000 is Mr Stanley Yee's money to do with it as he pleases, correct?---Yes.

And he did of it as he pleased by donating \$10,000, correct?---Yes.

And in the face of that, this disclosure should have shown, if your other evidence is truthful, that Mr Stanley Yee, rather than Emperor's Garden Pty Ltd, made the donation, correct?---No.

THE COMMISSIONER: Why no?---Because he wanted to use it, donate the money using the company's name.

MR ROBERTSON: I see. So are you saying that this form was essentially an artifice to say that although it's his money, although it's Stanley Yee's money, he wants to pretend that it's Emperor's Garden money - - -?---It's not pretend.

- - - is it that effect of what you're saying?---The money is earned by Emperor's Garden.

10 Yes, it's earned by Emperor's Garden.---Yes.

But it's advanced to Stanley Yee, by way of a drawing, or a loan, or in some other fashion to make it his money, correct?---Yeah, I guess you can put it that way, yes.

Well, not only can I put it that way, that's the correct way of putting it, isn't it?---Yes.

20 So on the face of that, this disclosure form is at least misleading if not false because it suggests a donation by Emperor's Garden rather than by Stanley Yee, correct?---No, sir. I disagree.

You're denying that, are you?---I disagree. I disagree.

Why?---Because basically Emperor's Garden itself was established my father, and he runs, this is a company that runs its business, him being a director, me being a director, my mother and my brother being a director.

30 You know what separate legal personality is, don't you?---Yes, sir.

You're a trained accountant, you know about things of that nature, correct? ---Yes.

Is your answer effectively to say, well, ignore separate legal personality and corporate forms, what's Emperor's Garden's is Stanley Yee's, and what's Stanley Yee's is Emperor's Garden's, is that the effect of what you're saying?---Based on the way he runs his business, yes.

40 Well, you know that - - -

THE COMMISSIONER: It's a complete nonsense, isn't it?---No.

It's a complete nonsense to say that, isn't it?---(No Audible Reply)

Isn't it?---No, sir.

Well, Emperor's Gardens is a corporate entity, isn't it?---Yes, sir.

For all relevant purposes, including bookkeeping and taxation, it is the owner of Emperor's Gardens, isn't it? It's the operating entity.---Yes, sir.

And it, every year, submits returns on that basis?---Yes, sir.

Always has done.---Yes.

10 And your father, I trust, would submit such returns as he is required to submit in his own name to authorities such as the taxation authority, is that right?---Yes, sir.

MR ROBERTSON: So on the face of that, you have to accept, don't you, that what you told us a moment ago was legally nonsense, in other words that there was any proper reason for declaring this money as being Emperor's money donation as distinct from Stanley Yee's donation, do you agree with that?---Separately reporting it, yes, but I guess if, if you, I don't know if you understand a family run business where my father started it up himself. A lot of the decisions are still made my him.

20 Yes, but you know that Emperor's Garden Pty Ltd is a separate legal person to Stanley Yee, correct?---Yes.

That's one of the things that you would have training in an education in learning to become an accountant, correct?---Yes, sir.

Now, on the face of that, if what you've otherwise told us is true, you would agree, wouldn't you, that the disclosure should have shown Stanley Yee as the donor and not Emperor's Garden, do you agree?---If you're going to do down that legal track, I guess so but - - -

30 Well, does that mean you agree or not?---Legally, strictly, yes.

Legally, strictly, the disclosure that was on the screen, page 16, should have been Stanley Yee, not Emperor's Garden, correct?---No, sir. Because the money has come from the company.

Are we going to do this all over again?---No, well, I'm not going to agree with that, that, that, that point.

40 THE COMMISSIONER: You just won't agree with it because it's uncomfortable to agree to.---No, sir.

MR ROBERTSON: At as an accounting matter, the money was Stanley Yee's money, correct? That's how you recorded it in the accounts, correct? ---Yes.

Having done that, you should not have signed the document at page 16 that was on the screen to say that it was Emperor's Garden's money rather than Stanley Yee's money, correct?---Correct.

Now, other than signing that form – I withdraw that. After signing that form, did you have any other involvement in responding to the Electoral Commission or making disclosure to the Electoral Commission on behalf of Emperor's Garden Pty Ltd?---I think I did, yeah.

- 10 Do you recall what other things you did in relation to Emperor's Garden Pty Ltd?---Actually, wait, now I think about it, I can't exactly recall.

Let me help you this way. Can we go to page 21 of the Emperor's Garden bundle. See there a notice to produce – I withdraw that – a cover letter entitled Notice to Produce, issued to Emperor's Garden on 22 February, 2017?---Yep.

- 20 Did you have any role in responding to that notice to produce on behalf of Emperor's Garden Pty Ltd?---Yes. I think I provided some back statement and tax receipts.

So if we just go, please, to page 26 of the bundle. If we can just go to the previous page, just so you can get the context. You see there, that's the formal notice from Mr Baragry containing a similar explanation to the one that you and I discussed before, do you see that there?---Yep.

And then if we just turn the page, you'll see what was required to be produced by the proper officer. See that there?---Yep.

- 30 And was it you that was responsible for responding to this notice?---Yes.

And do you see number 2 says, "Provide copies of the receipts given to you"?---Yep.

In relation to donations on 12 March or 9 March. See that there?---Yep.

Now, were they receipts that you already had or did you ask for them again from Jonathan?---I believe I asked from Jonathan.

- 40 So for this one, you took a similar approach to the one that was issued directly to you, in other words, you requested again from Jonathan, the production of the invoices, is that right?---Yes.

And you told us before that you had the tax invoices or receipts for registration when you signed the first of the documents we saw, which I think was about November of 2015, correct?---Yes.

But you didn't use those, you asked for an additional copy. Correct?---Yes.

And just so we can see what was produced, if we go to page 28, do you see again, if you look at the bottom left-hand corner, we've now again got an invoice referring to the 2016-2017 financial year. Do you see that there?
---Yes.

But again do you say you don't know why this tax invoice refers to the 2016-17 year rather than the year in which it was made, namely 2014-2015?
---Yes, sir.

10

Does that then complete the involvement that you had on behalf of Emperor's Garden Pty Ltd in relation to inquiries by the Electoral Commission?---Yes.

You're aware aren't you that your mother was also the subject of notices to produce and questions by the Electoral Commission?---Yes, sir.

Did you assist your mother in responding to those inquiries?---Yes, sir.

20

So what was your first involvement with the inquiries made of your mother, May Ho Yee?---She got a letter from the Electoral Commission to request specific information.

So can we go to the May Ho Yee Electoral Commission bundle, please, and can we go please to page, go to page 6 of that bundle first, if we may. Mr Yee, here's a letter sent to your mother described there as May Yee rather than May Ho Yee of 20 January, 2016. Do you see that there?---Yep.

30

Is that the letter you're referring to or might have it been a later letter?
---It was, it was this letter because she didn't disclose as a major donor.

So is it right that your mother received this letter and then drew it to your attention, is that right?---Yes, sir.

And if we then just turn over to page 9, do you see here now there's a letter of 25 August, 2016 saying, "Caution. Failure to lodge declaration." Do you see that there?---Yep.

40

Do you recall whether you assisted your mother before this letter of 25 August or was it after this letter, because you'll see this is a letter that is giving her a caution for failing to lodge on time.---Um - - -

Well, let me assist you this way. If you have a look at the paragraph just before the bold paragraph.---Yes.

It says, "This is a caution notice to alert you that the declaration received on 8 February, 2016 was invalid." Now, does that assist your recollection that you may have assisted your mother in preparing the declaration of 8

February, 2016 after you received or, sorry, after she received the notice of 20 January, 2016?---Well, this letter would have been received after receiving the original - - -

That's my point.---Yeah.

So the chronology seems to be your mother gets the January letter, draws it to your attention, and then you assist her in providing a response on 8 February, 2018. Is that right?---Yep.

10

If we go then, please, to page 12. Now, the typewriting, "May Ho Yee," for example, is that you that typed it in or is that her or is that someone else? ---I would have helped her typed it up, yes.

Does that mean you typed it up and you gave it to her or does that mean something else?---I, I typed it up for her and explained it to her in regards to what, what needs to be done.

20

So when you say you explained it to her, what do you, what do you mean by that, what did you explain?---Well, basically explained to her that these details and also what she's donated, what her donation relates to and then, and then basically I helped her email it to her ah, the Electoral Commission.

So I think you told us before that at least as at the time of the dinner in March of 2015, you didn't know how much your mother was donating. Is that right?---Can't recall, yeah, yeah.

30

Well, what's the truth then? Did you know how much your mother was donating when you saw her pass the money to Jonathan Yee on 12 March, 2015 at the table that you were sitting at?---No, no.

So I take it you later found out how much she intended to donate?---Yes.

When did she tell you that?---Well, the letter, the, the tax receipts, that she needs to fill in this form and send it off to the - - -

40

So is it right, then, that as at January of 2016 when she received the letter that we saw and drew it to your attention, you still didn't know how much money your mother had donated, is that right?---Not exactly the amount, don't know.

So you knew that she donated money because you saw it at the event, correct?---Yes.

And you knew it was a substantial amount of money because the envelope was thick, correct?---Ah hmm.

Yes?---Yes.

But you didn't know precisely how much money, is that right?---Yes.

And do we take it that you asked her how much money for the purposes of assisting her in completing the disclosure form that we saw on the screen?

---Yes.

So if we can have that back on the screen, please. And if we turn two pages along to page 14, again I take it that you typed this data into this form?

10 ---Yes.

But where did you get the information from in order to type that in?---Oh, I requested the receipts from, with the consent of my mother, through Jonathan, to get it to me so I could fill it in for her.

I see. So, what, your mother told you that she – well, did your mother tell you that she had donated \$5,000 or did you find that out from Jonathan?---I found out, it was either from Jonathan or my, my mother.

20 Sorry, I didn't hear that answer, I'm sorry?---I found out from my mother.

So we've got a blank form, your mother tells you, \$10,000, \$5,000 to each of the two political parties, correct?---Yep.

And then what happens next? What, you ask, what, do you ask her for the receipts to see if she's got them, did you do that?---No. I asked Jonathan.

Well, how did you know that your mother didn't have the receipts?

30 ---Because, sorry, I asked my mother and then she, she doesn't have those records, so I had to get it from Jonathan.

So is it correct to say that, at least as you understand the position, your mother wasn't sent a tax invoice in the same way that you weren't sent a tax invoice, is that right?---That's correct.

And so you requested your brother to acquire one in the same way as you made that request on behalf of Emperor's Garden Pty Ltd and on your own behalf, is that right?---Yes.

40 And so then Jonathan gives you those invoices and that gives you the data that you then put into this disclosure form, is that right?---Yes.

And did you say a moment ago that you then explained your mother what this form was all about?---Yes.

And what did you explain to her, what did you say to her?---I explained to her that, because she made two lots of donations, so she needs to submit this with the Electoral Commission.

Now, if we go back to page 12. You told her, did you, that she needed to sign this document?---Yes. And this document is potentially maybe filled out incorrectly.

This particular one I'm showing you is an amended disclosure form, as you can see in the top left-hand corner, but is it your evidence that you assisted her both with the original one and the amended one, is that right?---I recall it with this one, yes.

10

So you recall the one that's on the screen of what appears to be February of 2016, is that right?---Yes.

And can we go now to page 18, please. Do you see here another one here called the Disclosure Form?---Yep.

And I take it you assisted your mother in filling out this form in the same way as you did in relation to the other form that I've identified?---Yep.

20

Just pardon me for a moment, Mr Yee.---Yeah.

If we just turn the page, please. So page 19, blank page, if we can go to the next page as well.---Mmm.

Again, this is material that you typed in, correct?---Yes.

But you'd typed in by reference to a tax invoice that Jonathan Yee provided to you, correct?---Yes.

30

Now, your mother was later asked by the Electoral Commission to produce documents, is that right?---Yes.

And did you assist her in collating those documents and sending them to the Electoral Commission?---Yes, sir.

So if we go to page 22 of the bundle, please. Again, you'll see a cover letter from Mr Baragry, correct?---Mmm. Yes.

40

Fairly similar to the other ones that you and I have discussed, correct?
---Yes.

And if we turn now to page 26, you there see the formal notice to your mother.---Yep.

Turn the page, and copies of personal bank statements and receipts are being asked for, correct?---Yes.

Now, did you organise the personal bank statements or did your mother do that?---She gave me her, her bank statements and I scanned it and emailed it for her.

And then in terms of the receipts - - -?---Yes.

- - - did you request a further copy of those receipts from your brother in the same way as you did in relation to you and Emperor's Garden?---Yes.

10 And if we can just quickly look at those, page 31, again we have, if you look in the bottom left-hand again, they refer to 2016-2017, not 2014-2015, correct?---Yep. Yes.

But again, you are not able to assist us as to why it has the wrong financial year on that document, is that right?---Yep. Yes, sir.

You can't assist us with that, is that right?---I can't. Yes.

20 Then later your mother was asked to answer questions - - -?---Yes.

- - - concerning the issue of donations, correct?---Yes.

If we go to page 34, we there see the cover letter.---Yep.

And if we turn to page 38 now, you'll see the formal notice, similar to the ones that you and I have already discussed.---Yep.

30 But with some further explanation. See in particular the fourth paragraph with the dot points?---Yep.

And can we then go, please, to page 41, where you'll see a series of questions. Do you see that there?---Yes.

You've seen those questions before?---Yes.

40 Did you assist your mother in providing responses to those questions?---I, I translated these, these questions to her, and then put it on a, a document that was similar to mine, that I, that we saw previously. And then explained to her and confirmed with her whether this is what you, you've told me. And then I, I, I scanned it and emailed it to the Electoral Commission.

So let's just unpack that, unpack the steps.---Yep.

So you've got this document in front of you.---Yep.

And you translate it for your mother, correct?---Yes.

And you produce a document, an electronic document - - -?---Yes.

- - - probably a Word document, that has the questions on one side, correct?
---Yes.

And you then ask your mother the questions, I withdraw that. You translate the questions and you ask your mother what the answers are, is that right?
---Yes.

10 And are you saying that in that document, you've faithfully recorded what your mother said in response to each of the questions?---Yes, sir.

Is that your honest evidence?---Yes.

So, when we go to the document that was ultimately produced, the answers are not your answers, they're your mother's answers, correct?---That's correct.

In respect of each of the questions that we can now see on the screen.---Yes.

20 Do you want to just reflect on whether that's your honest answer - - -?
---That's my - - -

- - - before we go further?---Yeah.

THE COMMISSIONER: Did your brother Jonathan assist your mother?
---No.

Are you sure about that?---Yes, I'm sure.

30 Just stop and think about it for a moment. Did your brother assist your mother in preparing the answers?---No, sir.

MR ROBERTSON: Can we go, please, to page 42? So is this the document that you've just referred to? In other words, copying and pasting or retyping out the questions asked by the Electoral Commission, and your mother's responses? Is that right?---Basically this document was actually created – like, because I did my document first, and then what I did was because she donated 5,000 to Labor Party NSW and 5,000 to Country Labor, so it was a 10,000, like, basically because her situation's different
40 than mine, so I have to explain to her that this, basically how, how it came about and explain to her, when she gave me the answers, I explained to her again the same thing.

So just to unpack that, is it right to say that you started this exercise by creating a copy of the document you prepared for yourself - - -?---Yes.

- - - and then you made amendments to reflect the fact that your mother's situation was slightly different to yours, is that what you're saying?---Her situation is different to mine.

But just to understand the steps.---Yes.

Is it right to say that you first prepared the responses to the questions asked of you?---Yes.

10 And you finalised them and you sent them off to the Electoral Commission, correct?---Yes.

And then you took that same Word document that had the questions asked of you and the answers that you were giving, but then, what, you made amendments to that document to reflect your mother's situation, is that right?---Well, yes, that's right, and then I explained to her about whether she agrees with it or not.

20 Well, does that mean that you were suggesting answers to your mother?
---No.

So is it right to say that where we see the responses on the right-hand side, you didn't suggest any of that text? You simply faithfully recorded and translated what your mother had said to you, is that right?---Yes.

You didn't give any suggestions on - - -?---No.

- - - potential responses or how it might be phrased, is that right?---No.

30 Are you quite sure about that?---Well, she wouldn't be comfortable with it.

That wasn't what I was asking.---Yeah.

The right-hand side column is a faithful translation of what your mother told you, correct?---Yes.

And it's not you suggesting any particular form of words to your mother, is that what you're saying?---No, no.

40 THE COMMISSIONER: So in other words, the material set out in your responses on the screen in the right-hand column represents her own independent recollection of events as she told them?---Yes. Yes, Commissioner.

MR ROBERTSON: And not prompted by you - - -?---No.

- - - other than by translating the questions to her, is that right?---That's correct.

Can we have the comparison document on the screen, please? What I'm going to do, Mr Yee, is put up on the screen on one side the response produced on behalf of your mother, and on the other side the response produced on behalf of you that you and I discussed earlier today. So on the right-hand side is the document that you prepared that you say faithfully records, without your prompting, what your mother told you. On the left is the document that you prepared on your own behalf. Do you see that there?---Yes.

10

THE COMMISSIONER: Just scroll down a little bit to get the last questions and answers. Yes, thank you.

MR ROBERTSON: Would you agree with me, Mr Yee, that at least on what you can see on the screen, the answers that are given are almost identical?---Yes.

So it was false what you told us only five minutes ago that all you did in relation to your mother is faithfully record and translate what she told to you without your prompting, do you agree?---Yes.

20

Can we just go to the next page? Now, the cells don't line up completely, but the questions and answers essentially do. Do you see, though, on the right-hand side - - -?---Yep.

- - - you made an error with that in that it says, "Valentine Yee's responses"? See that on the right-hand side?---Yep.

Even though they're supposed to be May Ho Yee's responses, correct? ---Yes.

30

So the responses that you're putting in on behalf of your mother weren't her answers at all. They were your answers, weren't they?---No.

She didn't tell you, for example, that "All of the cash was received from lucky money packets given to me by friends and relatives."---She told me that.

So are you saying it's pure coincidence that she told you exactly the same thing that you had told the Electoral Commission in your own document? Are you seriously saying that?---That's right.

40

Is that your serious evidence?---That's what it is.

It was pure coincidence, was it? It was pure coincidence that what your mother told you without your prompting was identical to what you'd already said on your own behalf? Let's get real, Mr Yee. That's not your serious evidence, is it?---That's my serious evidence.

THE COMMISSIONER: What's your answer?---Serious.

Mr Yee, I'm flabbergasted, to be quite honest. The very wording is almost identical to the wording you had earlier used in your responses to the Electoral Commission, aren't they?---Yes, sir.

Almost every full stop, comma is the same, isn't it?---Yes.

10 Is that just sheer coincidence? Is that what you're asking us to accept?
---Yes.

You said yes? See, I earlier said you're an intelligent man. I'm still of that view. What's puzzling me is that an intelligent man couldn't have given the answer you just gave, to say that on two separate occasions, two separate people gave responses to a government authority asking questions, and just by coincidence it happened to be that almost identical words are used on two separate occasions by two separate people. The prepositions, full stops, so on, all being identical is sheer coincidence. Now, do you want to change
20 your evidence?---No, sir.

How do you explain the coincidence that your mother's words are identical to yours? How do you explain that as a coincidence, which you've twice said it is?---But that's what I've been told by my mother, that that's - - -

No, no. How can you explain such a remarkable coincidence?---I've got no further comment with that.

30 You can't? You see, in a sense, using an analogy, your responses and her responses are like identical twins. I'm just putting to you that couldn't be a coincidence. What do you say? You still say it is a coincidence?---It is what it is.

Sorry?---It is what it is.

A coincidence?---Mmm.

Is that right?---Yes.

40 You've now said that three times, and you've said it three times on your oath. Are you sure you want to consider your position one last time and tell us the truth?---No.

You don't?---Don't need to.

You don't want to take up the offer?---No.

No? You have to say yes or no so it's recorded.---No.

No.

MR ROBERTSON: Mr Yee, you told us this morning in relation to lucky money packets that they are usually given up the family tree.---Yes.

So to ancestors rather than to descendants, correct?---Correct.

10 Well, how do you explain that in your mother's responses she seems to be receiving exactly the same number of lucky money packets in the same number of circumstances in the same period of time as you? How do you explain that?---Well, I can't question what she, when she got the money.

You would agree, wouldn't you, that you have more living ancestors than your mother does, correct?---Correct.

How old is your mother?---71.

20 Are her parents still alive?---No.

So who's giving her all of the lucky packets that she can accumulate \$10,000 over in approximately one month?---She's still got aunties, uncles around.

You at least accept don't you that she has less ancestors and persons senior to her who might give her lucky packets. Correct?---Correct.

30 So when she gave you this answer which by astonishing coincidence is exactly the same as the answer you've already prepared for yourself, did you not say to her, well, that doesn't sound right that it could have come from lucky packet money, there must be some other explanation. Did you say that to her?---No.

You just faithfully recorded what she told you, what, without noticing that it was strikingly, not just strikingly similar, identical to what you'd written down for yourself. Is that right?---Yes, sir.

40 Now, if you just have a look at the first question and answer, I just want to be clear. Did your mother tell you that she donated \$5,000 to Country Labor and \$5,000 to NSW Labor, is that right?---Yes.

A total of a \$10,000 donation. Correct?---Yes.

Isn't the truth this, with respect to this form, you prepared your responses, you then made an amendment to the first question and then you just sent it off. Correct?---No.

You didn't care what answers your mother was giving you, you simply repeated the answers that you had prepared for yourself. Correct?---No.

No?---No.

Is it your honest evidence that you sat down with your mother and you went through each of the questions on page 41 of the Electoral Commission bundle, let's go back to that, please, page 41 of the Electoral Commission bundle, and faithfully recorded her responses to each of those questions?
10 ---Yes.

Is that your evidence?---Yes.

You went through them one by one and you said, "What's your answer to that question?"---Yes.

And can we just have that back on the screen, please, page 41. So each of those 13 questions you asked and you faithfully recorded the responses. Correct?---Yes.
20

Are you sure about that?---Yep.

The response you provided on behalf of your mother had 12 answers, not 13, didn't it?---Yeah.

You were asked 12 questions, your mother was asked 13 questions. Correct?---Yes.

So you couldn't have done it the way that you just said. That's another lie you've told to this Commission. You didn't go through question by question, you simply sent off your own responses a second time. Correct?
30 ---No. I must have missed - - -

I see. So you asked her all of the questions, did you, except the one that you weren't asked. Is that your evidence, is it?---(No Audible Reply)

Mr Yee, come on, come on. Seriously? Would you like some time? Would you like the Commission to adjourn briefly to just have a think about whether you've been giving honest answers today? Because with respect to
40 you, much of what you're saying is utterly hard to believe, utterly hard to believe.---(No Audible Reply)

It just does not stand to reason based on these documents. Maybe you're trying to protect your family, maybe you're trying to protect Jonathan and your mother, one can understand that, but let's get real. You have given an oath to tell honest evidence before this Commission. The Chief Commissioner has warned you that lying or giving misleading evidence to this Commission is a serious offence, punishable by up to five years in

prison. Do you want some time just to reflect on whether you've been giving honest evidence or do you still want to stick to the evidence that you've been giving during the course of the day?---I think I'll adjourn. Let me think about it.

THE COMMISSIONER: You want an adjournment?---Yeah.

10 Very well. Just before you go, is your mother a Labor supporter or is she more like you, she's more on the conservative side of politics, if I can use that expression?---She's not a, she's not a – I'm not sure whether she's a Labor supporter. I don't think she is a conservative. I don't think she's a conservative.

Yes. But you don't know whether she's a Labor - - -?---Well, basically, my understanding is, as I said, in the whole family, besides myself, I'm, they follow my mum.

20 Now, if we are going to adjourn so that you can think about what's being put, the purpose of the adjournment is for you to reconsider the answers you have given, in particular in relation to the answers attributed to your mother. As Counsel Assisting has reminded you, wilfully giving evidence that's either misleading or false constitutes an offence under the Independent Commission Against Corruption Act, which we act under and a person who has committed such an offence, if proved, is liable to a term of imprisonment. I will just repeat that because we are dealing with a serious matter here and I think you should have time to reflect and consider your position. Now, just before I do adjourn, Mr Robertson, it seems to me that it would be appropriate for Mr Yee to have the benefit of discussing this particular aspect, that is the segment of evidence that we are not concerned
30 with, with Mr Glissan, senior counsel and - - -

MR ROBERTSON: I was going to propose precisely that.

THE COMMISSIONER: - - - junior counsel and solicitor.

MR ROBERTSON: And a related topic, namely the witness cooperation policy that this Commission has. I have no difficulty with my learned friend Mr Glissan raising those matters at all, in fact that would be appropriate, with great respect.
40

THE COMMISSIONER: Well, that's accessible on the website.

MR ROBERTSON: It is. I have a copy with me in any event.

THE COMMISSIONER: Mr Glissan, anything?

MR GLISSAN: No, I would be obliged for that opportunity, Commissioner.

THE COMMISSIONER: Yes, thank you. What I'll do is, we'll adjourn for 10 minutes or thereabouts. So it's quarter to 4.00. We'll just review the position when we resume at quarter to 4.00.

MR ROBERTSON: May it please the Commission.

SHORT ADJOURNMENT

[3.33pm]

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MR ROBERTSON: Commissioner, thank you for that indulgence. That's meant unfortunately though that we've now hit 4 o'clock. I'll therefore need to recall Mr Yee on a later date to be announced, probably likely to be during the course of next week, but when I'm in a position to confirm that I'll identify that.

THE COMMISSIONER: Yes. All right.

20 MR ROBERTSON: And that obviously means that I won't be able to get to Mr Lin today, but we'll have some discussions with his team with a view of rescheduling Mr Lin.

THE COMMISSIONER: Yes, well, perhaps Mr Lin has been waiting I understand today.

MR ROBERTSON: He has. I apologise to him.

30 THE COMMISSIONER: In order to minimise the inconvenience to him, perhaps rather than call him tomorrow we'll find a date that suits him next week.

MR ROBERTSON: Yes. That's what I propose to do.

THE COMMISSIONER: What I might do, Mr Yee, you can step down if you would.

THE WITNESS STOOD DOWN

[4.03pm]

40

THE COMMISSIONER: I'll adjourn and take things from there.

MR ROBERTSON: May it please the Commission.

AT 4.03PM THE MATTER WAS ADJOURNED ACCORDINGLY

[4.03pm]