

AEROPUB01113
16/09/2019

AERO
pp 01113-01167

PUBLIC
HEARING

COPYRIGHT

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 MONDAY 16 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 program for this week, I will shortly recall Mr Valentine Yee. I don't expect that to take the whole day. In fact, I expect that to finish by lunchtime. Otherwise, the program will generally proceed as per what's been published, but with two riders. First, tomorrow I'm likely to call Lei Mo before I call May Ho Yee. So the same witnesses tomorrow, but in the opposite order to that which has been published. And as I indicated last week, the program of witnesses for this week is somewhat ambitious, and so there is a realistic prospect that there'll need to be either a change of order or alternatively that that will spill
10 into next week. I'm unlikely to make any changes to calling Mr Ian Robertson or recalling Mr Ian Robertson on Wednesday, but there may well be changes to the program either for tomorrow or more likely for Thursday and Friday this week.

THE COMMISSIONER: Right. Very good. Thank you, Mr Robertson.

MR ROBERTSON: That's the only housekeeping matter from my perspective. I recall Valentine Yee.

20 THE COMMISSIONER: Yes, thank you.

MR OVERALL: Commissioner, just before he's recalled, I seek leave to - -

THE COMMISSIONER: Sorry, could you just move closer to the microphone? It's hard to hear otherwise.

MR OVERALL: Sorry. Commissioner, I seek leave to appear for Mr Wei Shi. My name is Overall of counsel.

30 THE COMMISSIONER: Just pardon me, yes, take a seat there. Yes?

MR OVERALL: My name is Overall, O-v-e-r-a-l-l, of counsel. I seek leave to appear for Mr Wei Shi.

THE COMMISSIONER: Yes, I grant leave, Mr Overall.

MR OVERALL: Thank you, Commissioner.

40 MR ROBERTSON: I apologise to my learned friend, Mr Overall. I forgot about that application for leave.

THE COMMISSIONER: That's all right. Very good. All right, we're ready to proceed. Now, Mr Yee, just remind me, do you take an oath or an affirmation?

MR YEE: Affirmation.

THE COMMISSIONER: Thank you. Would you mind just standing?
Thank you.

THE COMMISSIONER: Thank you, Mr Yee. Just take a seat. Mr Yee was called to give evidence in the public inquiry last week. I made a declaration in respect of, pursuant to section 38 of the Independent Commission Against Corruption Act. That declaration continues to apply to the evidence that he gives today. Yes, thank you.

10 MR ROBERTSON: Mr Yee, did you donate any money in connection with the Chinese Friends of Labor dinner in 2015?---No, sir.

Did you buy a table at that dinner?---No, sir.

Did you make any donation to the Australian Labor Party or Country Labor Party in 2015?---No, sir.

20 Did you sign a document that said that you had contributed \$5,000 in connection with the Chinese Friends of Labor dinner in 2015?---Yes, sir.

Can we have on the screen, please, Exhibit 152, page 14? Is the document on the screen the document that you signed to say that you contributed \$5,000 in connection with the Chinese Friends of Labor dinner in 2015? ---Yes, sir.

Why did you sign that document?---I was helping Chinese Friends of Labor, being the president Jonathan Yee.

30 Your brother Jonathan?---That's correct.

Do we take it from that that your brother asked you to sign this document? ---Yes, sir.

Did he explain to you why he wanted you to sign this document?---Just to help the Labor Party. Besides that, I don't, he didn't, didn't say anything else.

40 Well, did he give you any indication as to why he wanted you to sign this document?---He just asked me to take, nominate as, as a donated, donating money.

Yes, but did he explain why he wanted that to happen?---More or less helping Ernest Wong.

So, is it clear in your mind that he, that Jonathan referred to Ernest Wong in connection with asking you to sign this particular document?---Not directly, but I'm just basically, well, based on this, Chinese Friends of Labor, this form is helping with the election for the NSW state election.

But is it right that you understood that you were being asked to sign this document in order to assist both your brother Jonathan and to assist Ernest Wong?---Yes, sir.

And do you recall whether your brother referred to Ernest Wong in connection with any discussions that you had about either signing this form or about donations in 2015?---I can't exactly recall. Sorry, sir.

10 Do you have any idea why Jonathan and maybe Ernest Wong wanted this form to be signed?---No mention of why, sorry, sir. I was just helping my brother, Jonathan.

Did Jonathan give you any indication as to why the true source of the \$5,000, which is said to have been donated by you by reference to this form?---No, sir. No.

Was there reference to any – so no indication at all?---No, sir.

20 Did Emperor's Garden Pty Ltd make any contribution in connection with the Chinese Friends of Labor event?---No, sir.

And you know that because you're the Chief Financial Officer of Emperor's Garden Pty Ltd and you'd be in a position to know whether anything had been donated?---That is correct, sir.

But are you aware as to whether anyone signed a form that looks like what you can see on the screen in relation to registration and the Chinese Friends of Labor dinner in 2015?---Yes, sir.

30 So you're aware that there was such a form?---Well, it was basically after I, I saw it.

Well, in terms of, you say afterwards, if you have a look on the form here, it says 30 March, 2015. Do you see that there?---Yes, sir.

Was that around about the time that you signed this form?---Yes, sir.

40 And if you have a look on the invitation form itself, it refers to a dinner of 12 March, 2015. Do you see that there? Just toward the left-hand side underneath Mr Shorten's photograph.---Yes, sir.

And you're quite clear in your mind that you signed this document after 12 March, 2015?---Yes, sir.

You certainly didn't sign it before 12 March, 2015?---No, sir.

And you certainly didn't sign it at a dinner of 12 March, 2015, is that right?
---No, sir.

Did your mother make any contributions in connection with the Chinese Friends of Labor event in 2015?---No, sir.

How do you know that?---Because she told me.

10 When did she tell you?---Well, around the same time of – end of March.

So do we take it from that that sometime toward the end of March or perhaps in early April, your mother told you that she was asked to sign a form like this, is that right?---Yes, sir.

And did she make it clear to you that she had not in fact donated even though she was asked to sign a form?---Excuse me.

Of course.---Can I get some water?

20 Some water, of course, of course.---Yes, sir.

So to be clear about that, she indicated to you towards the end of March or early April that she was asked to sign one or more forms like we can see on the screen but she wasn't in fact a donor, is that right?---That is correct, sir.

And I take it she also didn't make any contributions to the dinner for the purposes of buying a table, is that right?---Yes, sir.

30 What about your father? Did your father make any contribution in connection with Chinese Friends of Labor event in 2015?---As in donation-wise?

We'll start with donations. Any donations to your knowledge?---No, sir.

What about purchasing of a table?---No, sir.

40 So you told us on Thursday that you saw your father pass over some money at the Chinese Friends of Labor event. Was that false evidence, was it?
---Yes. Yes, sir.

And similarly when you said that you passed over some money on the night at the table to Jonathan, that was false evidence, is that right?---Yes, sir.

And I think you also said that your mother passed over some money on the night. That was also false evidence, correct?---Yes, sir.

In your compulsory examination before this Commission, you indicated that your father had paid \$1,200 for a table at the event. Do we take it that that was false evidence as well?---Yes, sir.

Have any of the staff of Emperor's Garden or anyone else said to you that they were asked to sign a disclosure form like the one we can see on the screen but did not in fact make a contribution in connection with the Chinese Friends of Labor event in 2015?---My understanding is that – I'm not sure about the signing of the forms but with the donations itself, if it's based on their income, they don't, didn't donate that money.

Well, let's go through a few individuals. Do you know who Patricia Siu is? ---Yes. She's a current employee.

And has she had any discussions with you where she's explained that she was not in fact a donor in connection with the Chinese Friends of Labor event in 2015?---Yes, sir.

THE COMMISSIONER: Was there an occasion when Ms Siu approached you and either from what she said or her demeanour conveyed to you that she was concerned about this matter?---Not her directly, no, nah.

In any event, did you have one or more conversations about the matter you've just been asked about, that is to say, her having signed the donation disclosure forms?---With the signed, sorry, with the signed disclosure form, we didn't have a, a, a conversation about it, it's just more of, she's concerned with this donation.

What was the effect of the conversation? What did she say to you?---She just got stressed about it, that she's not telling the truth about it, that's all.

Well, I appreciate you wouldn't be able to remember exactly the words she spoke to you, but what was the essence of what she said to you on the occasion you referred to?---In, in her case is more of worrying about Jonathan, and, and with, with Patricia, it's just helping Jonathan out.

What did she say about having helped Jonathan?---She was a little bit stressed. She was stressed in her ways.

I'm just trying to, however, capture what was the message she was conveying to you.---Her message is that, oh, more, more or less like a, between a hard rock, what do you, what do you call that word? Hard rock and a hard place.

Between a hard rock and a hard - - -?---Yeah. And - - -

Yes, go on. What did she indicate in that respect?---And she was really mulling over whether to tell the truth or not in regards to this matter.

MR ROBERTSON: But did she say to you that she had not told the truth in relation to this matter?---She did not directly tell me that she didn't tell the truth.

I'm just trying to understand what she said to you about the matter. I think you were saying she was concerned about the fact that she hadn't told the truth, is that right?---That's correct.

10 And so she said some words really to that effect, that she hadn't told the truth in relation to this matter, is that right?---Yes, sir.

Did she explain to you what the matter was that she hadn't told the truth about?---Donating this money of 5,000, oh, well, sorry, I retract that. She don't, she actually accepted donating money to the Labor Party.

So, just to be clear about that, she told you that she had lied about donating money to the Labor Party, is that right?---Yes.

20 And that was a matter that she was concerned about?---Yes.

And she was concerned both for herself and for your brother Jonathan, is that right?---Yes.

What about Teresa Tam? Have you had any discussions with Teresa Tam to similar effect to what you've just explained?---Yes, sir.

30 And doing the best you can, what did Ms Tam say to you regarding this matter?---More or less like she's also stressed about not telling the truth about this, this donation.

So to be clear, she's said to you that she hadn't told the truth in relation to a question of donations, is that right?---Yes.

And did she say that she had told someone that she'd donated money to the Labor Party, even though she hadn't?---With the "someone", can I, can I be a little bit more specific, sorry?

40 Please be - - -

THE COMMISSIONER: Well, what I'd prefer you to do would be to just relate as far as, as best you're able - - -?---Yeah.

- - - the conversation in this respect you had with Teresa Tam.---Yep.

Firstly, before you start, what was her position at the Emperor's Garden Restaurant?---She's a cashier.

A cashier?---Yes.

And had she, has she worked for Emperor's Garden for some years?
---Yes, yes, sir, as a casual.

As a casual?---Casual cashier, yep.

So you know her well?---Yes, sir.

10 Now, was there one or more than occasion when she spoke to you about the donations question?---One occasion.

And where did that conversation take place? Was it in your office or somewhere else?---Oh, it's just, in the, behind the office, it's in the, in the restaurant. Yep.

20 Doing the best you can, in relation to what she said, would you convey as closely you are able to do what she actually said to you?---She said to me that she was concerned about this private inquiry in regards to this donation to the Labor Party and she said she didn't donate the money.

Did she say anything else? Did she say she wanted you to do something or that she was going to do something? In other words, why was she telling you, did she indicate?---She was just stressed about this donation being, she had to admit that she had donated this money.

30 When she mentioned the word inquiry, did she say what inquiry?---She just basically said she (not transcribable) the deal with it, that's all right, the, yeah.

MR ROBERTSON: You said a moment ago that she had to admit that she donated the money. What did you mean by that, that she had to admit it?
---Well, basically its more or less, helping Jonathan out.

So did she says words to you to the effect that Jonathan had told her to admit that she had donated the money, is that what you're saying?---More or less that effect, sir.

40 Well, I know it's very difficult to remember because it's some time ago. Just doing the best you can, can you remember what words she uttered in relation to that matter?---Basically, like Patricia, she was, asked to, sorry, nominate herself to, to be actually a donor of this, of this money.

Do you recall roughly when you had this discussion with Ms Tam, Teresa Tam, was it recently or was it sometime ago or perhaps somewhere in between?---It would have been somewhere between. It wouldn't be too long ago.

So it wasn't within close order of the dinner in 2015? It was after the subject matter of the dinner was being investigated, is that right?

---Definitely after.

And it was during the pendency of the investigation by this Commission as opposed to the Electoral Commission, is that right?---Yes, sir.

10 And so she uttered words to you that led you to understand her to be concerned that she had to admit that she had donated the money, is that right?---Yes, sir.

THE COMMISSIONER: When you said she said that she was asked to nominate herself to be a donor of the money, did she say who had asked her?---Jonathan Yee.

She said that?---Yep.

MR ROBERTSON: Johnnie Lin, who is that?---Johnnie Lin, he's a casual at the restaurant.

20

Does he still work there?---Yes.

Have you had any discussions with Mr Lin regarding this matter?---In his case, no.

None at all?---No.

30 What about anyone else within Emperor's Garden or elsewhere? Have you had any other discussions with anyone other than those that we have discussed so far?---Those are the ones that I have spoke to or that I had conversation with.

THE COMMISSIONER: Are you aware, however, apart from Teresa Tam and Johnnie Lin, that other employees of Emperor's Garden had in some way been involved in, I might refer to it as, this donation to the NSW or Country Labor Party?---Yes, but I'm not a hundred per cent confident.

40 How are you aware that there are others who worked for Emperor's Garden who were involved in some way in this issue? How did you become aware?---Facially through this inquiry.

I dare say you have had a discussion or two, maybe more, with Jonathan Yee about this matter and the difficulties associated with it.---Yes, sir.

In particular, difficulties that have been posed for the employees or some employees of Emperor's Garden about this matter?---Yes, sir.

When I refer to difficulties, I mean difficulties that these employees may have been put in having been asked to and cooperated in any scheme to disguise donations.---Yep.

What discussion have you had with Jonathan about the other employees or employees generally who have been involved in this donation scheme?
---More or less, like, more or less, him, him helping Ernest Wong in this, in election I'm regards to the donations.

10 I take it, and you correct me if I'm wrong, that this question of employees having been asked to play the role of, I'll call, pretend donors, has caused you some anxiety as well, knowing that they had been asked to do this and then that having put them in a difficult position, is that right?---Yes, sir.

And is that something you made known to Jonathan?---Yes, sir. Yes, sir.

And has he indicated to you, not only did he ask employees of Emperor's Garden to falsely sign donation declarations, but also had spoken to them about the evidence they would give to this Commission?---Yes, sir.

20

MR ROBERTSON: Have you had any discussions with Jonathan or anyone else as to what you should say in response to inquiries by either the Electoral Commission or this Commission?---Yes, sir.

And doing the best you can, what was said in those discussions?---Just how I should be answering the Commissioner.

30 But what in particular? What in particular suggestions, if any, did he you give to you as to what answers you should give to inquiries either by this Commission or by the Electoral Commission?---Just that, oh, I can afford this donation, like, I can justify these donations.

So be clear about that, Jonathan has told you that you should say, in response to inquiries by this Commission, that you made the donations and that you could afford to, is that right?---Yes, sir.

Did he say anything to you about what you should say as to where you got the money from to make the donation?---The, the lucky money.

40 So it was Jonathan's idea, was it, to say that the source of the money was lucky money, is that right?---Yes. Also with, with my agreeance with it, of course.

By agreeance, you mean Jonathan suggested that to you and then you ultimately did make that suggestion, is that right?---Basically, yeah, I agreed with it, yes.

And when you say agreed with it, you had a conversation at some point with Jonathan, where Jonathan suggested that you should say the source of the money was lucky money and you agreed to say that, is that right?---Yes, sir.

Can you recall any other things that Jonathan said that you should say in response to inquiries from this Commission or the Electoral Commission?
---Besides that, I, I can't remember, Your Honour, sir.

10 What about things like when the donation was actually made? Has Jonathan suggested to you anything you should say about when the donation was actually made?---Okay, you mean besides the, the source of the money and all that?

Yes. So separate from the source of the money, the timing of when the donation should be said to have been made?---On the day of 12 March.

20 So Jonathan told you to say, in response to inquiries by this Commission and the Electoral Commission, that you donated the money and that you did it on the night of the event, 12 March, 2015, is that right?---Yes, sir.

Any other things that Jonathan told you to say in response to inquiries by this Commission or the Electoral Commission?---No. I can't recall, sir.

What about as to where you should say that the money was donated at the dinner? In other words, whether it's at a table, whether it's at a reception desk, whether it's as you come in, so and so forth?---If, if it's in, if it's in that detail, then, I guess, at the table handing over the money.

30 But what I'm trying to understand is whether that detail that you told us about on Thursday - - -?---Yes.

- - - in other words, paying the money over at the table, was that a detail that you came up with, or was that a detail that was suggested by Jonathan?
---Suggested by Jonathan.

Anything else of that kind that was suggested by Jonathan that you should say either to us, to this Commission, or to the Electoral Commission?---No, sir.

40 What about the form in which you were to say that you donated the money? In other words, whether it's in an envelope, a bag, what denominations of money, that kind of thing?---No, the denomination is, if, if, if it's, the, the \$100 notes, yes.

So to be clear, was it you that came up with the idea that you had donated in the \$100 notes, or was it Jonathan who suggested that to you?---Jonathan did.

Now, these discussions that we're talking about, when abouts did they take place, doing the best you can? So to give you your bearings, the dinner in 2015, then there was an Electoral Commission series of inquiries, Electoral Commission investigation, and then ultimately this Commission started investigating, do you recall when these discussions took place?---The Electoral Commission inquiry.

10 So is it right to say that when you were first asked to sign the form in March 2015, you were simply asked to sign the form and weren't given all of the details of what you should say, and it was later on that Jonathan said, these are things that you should say back to the Electoral Commission, is that right?---Yes, sir.

And so do I take it from that that around the time that you were completing Electoral Commission forms and responses to Electoral Commission enquiries of the kind that you and I discussed on Thursday - - -?---Yeah.

20 - - - you were also having discussions with Jonathan as to what you should put in response to those enquiries, is that right?---Yes, sir.

You told us on Thursday that you assisted your mother and Emperor's Garden Pty Ltd in responding to Electoral Commission enquiries, correct? ---Yes.

Did you assist anyone else, any of the Emperor's Garden employees or Jonathan or anyone else with their responses?---No. Just my mother.

30 So you did prepare some of the responses for your mother, correct?---Yes, sir.

But you didn't prepare any responses for anyone other than yourself, Emperor's Garden Pty Ltd, and your mother, is that right?---That is correct.

40 You referred a few times to Mr Ernest Wong. What did you understand the relationship between your brother Jonathan and Ernest Wong to be as at 2015?---My understanding between Ernest Wong and Jonathan Yee is, over the years, Ernest Wong being, working in the Chinese community, he's actually over the years become really good friends in regards to supporting each other through the Chinese community. And so, basically, Ernest Wong being a good friend of his and when Jonathan being a good friend of his, a lot of things in regards to business-wise, he would help him in regards to helping with the Chinese community, getting people together, and also in his election campaigns.

So when you say business-wise, what exactly do you mean by that?---Yeah, I guess, Chinese community in Chinatown or in, in Australia basically is, Jonathan being a director and a general manager at the restaurant will always be talking to other associations and restaurants and businesses. So

basically, networking in the Chinese community is very important. So Ernest Wong being, one, being a politician over the years, he will try to help get these networks together to help him with his, his political career. So basically networking in the Chinese community, get together, to, to actually know each other is quite important, so through all those networking, they know more people.

So at least as at 2015, it would be correct to describe your brother as quite ambitious politically, is that right?---At that time, yes, yeah.

10

I think by that point in time he had participated in a primary for the lord mayor's position on the Labor Party's ticket in 2012, does that ring a bell? ---Yes.

And in 2016, he stood for election for the City of Sydney, correct?---Yes.

I think he was number 2 on the Labor Party's ticket, but he wasn't ultimately elected, is that right?---That is correct.

20 And I think he may have been lower down on the Labor Party's ticket back in 2008 for the City of Sydney. Does that ring a bell?---No, I, I can't remember that, sorry.

One way or the other, at least as at 2015, your brother Jonathan was politically ambitious and sought election on behalf of the Australian Labor Party, correct?---Yes, sir.

And that was focussed, at least at that point in time, on the City of Sydney, is that right?---That is correct.

30

And at that point in time, you would regard him as being close friends with Ernest Wong, correct?---Close friends, yes.

They dined together regularly?---Yes.

You would see Ernest at Emperor's Garden on a fairly regular basis? ---Regular is still correct, yes.

40 But in 2015, let's talk about 2015/2016, Ernest would have been a regular at Emperor's Garden Restaurant, is that right?---Yes.

And often he would dine with other people?---Yes.

But your brother, if he was around, he would come around and say hello to Ernest?---Yes, sir.

So at least at that point in time, around 2015/2016, both Jonathan and Ernest worked together very closely, both as friends but also to assist each other in their various political roles and ambitions, is that right?---Yes, sir.

And that included some of the community matters that you referred to a moment ago, is that right?---Yes, sir.

But also Labor Party matter as well, is that right?---Yes, sir.

10 THE COMMISSIONER: Can I ask you this. It's apparent that a number of people were involved in relation to this donation scheme. Once the Electoral Commission commenced its inquiries and this Commission was undertaking an investigation, it became apparent, I take it, to you, that there was one of two choices to be made, either that the false donation scheme should be disclosed to the Electoral Commission and to this Commission or that it would not be disclosed but be covered up. It would seem that the choice made was to cover up in relation to both inquiries instituted by the Electoral Commission and this Commission. Is that a fair statement?---Yes, sir.

20

A number of people were involved then in the cover-up, for example, those likely to have been involved on it, on your evidence, would be your brother, Jonathan, perhaps people such as Ernest Wong, yourself, a number of employees of Emperor's Garden, to name just a few. How was it proposed by Jonathan and/or anyone else that there could be an effective coordinated cover up in respect of the false donation scheme? In other words, so that there would be a consistency of story, if you like, between all of the people involved.---Consistency of story?

30 How was that achieved? How was it to be achieved?---I guess, just Jonathan talking to each employee and myself and my mum.

I'm sorry?---Jonathan talking to me and my mum.

In terms of?---On the consistency of the story.

Consistency of the account to be given to the Electoral Commission and this Commission, is that right?---Yes, sir.

40 And what about the others who may have been involved in it?---They would have had, their story with Jonathan as well, well Jonathan would have asked them to do.

Now, apart from Jonathan, if he was involved in orchestrating this scheme, and in particular, what I'll refer to as the cover up in relation to the Electoral Commission and this Commissioner. Who else was acting with Jonathan in that regard?---Besides Ernest Wong and - - -

I was going to ask you then was Ernest Wong working with your brother Jonathan to achieve these consistency of account, false account to the Electoral Commission and this Commission, so far as you know?---Yep, I think it's more of helping Ernest Wong.

And how do you know Ernest Wong was involved?---Um - - -

10 In the cover-up, as I've described it.---Well, basically, because all the, all the, all this, based on all those donation forms and all that, the 12 March, 2015, fundraising is for supporting the NSW Labor Party through the Chinese Friends of Labor, doing the fundraising, so the donations, so basically, because when we signed those forms then helping Jonathan, and basically based on that form there, it's helping the Labor Party and Ernest Wong in his, his election, then that's, that would be the case with him, him getting involved.

So, that in itself is a conclusion based, it seems, on an inference that you've drawn from the facts you've just mentioned.---Mmm.

20 But has Jonathan indicated in anything he's said to you that Ernest Wong was working with him to achieve this effect of cover-up, coordinated cover-up?---Yes, as an indication, yes.

In what, what has he indicated to you in that respect?---Basically, these donations were, like, legitimate donations through the, the, the, that's gone through the Labor Party.

30 Well, did he say what role Ernest Wong played in that?---Not, not, not specifically. But it's just helping him out, Jonathan said.

And helping him out both in relation to the donation scheme itself, or helping him out in achieving the cover-up, or both?---More of the former.

All right.

MR ROBERTSON: Did Jonathan give you any indication as to why he wanted the forms signed?---Just helping him out, and also Ernest Wong that these donations.

40 When you say helping him out, are you referring to Ernest Wong?---Yep.

Why would it help out Ernest Wong for people to sign forms saying that they had donated money even though they hadn't donated money?---More or less, it's this cover-up that we're talking about.

But why would it help Ernest Wong for people to sign forms to say that people had donated money even though they hadn't? Did you take it from what Jonathan was saying that there was a true donor, there was real money

being donated, and there were other people who should sign documents to cover up who the true donor was? Is that the, is that what Jonathan was requesting, as you understood it?---No. No.

Well, I'm just trying to understand why it was that Jonathan said that you and others should sign forms in order to help Ernest Wong.---Okay.

Signing the forms doesn't do very much unless it's trying to cover something else up.---Yep.

10

Perhaps someone else making a donation.---I'll retract then what I just said. Basically, there are other donors, but I don't know the name of the donors.

So Jonathan made it clear that there are other people who were the true donors, is that right?---In that effect, yes.

Well, when you say that, doing the best you can, what did Jonathan say to you about that matter, appreciating that it was some time ago?---Yes, just to say there are other donors, but he didn't mention a name.

20

Chief Commissioner, I apply for the direction that was made on the section 112 of the Independent Commission Against Corruption Act in relation to the private session of the public inquiry that took place on Thursday of last week, being 12 September, 2019, to be lifted insofar as it would otherwise prohibit the publication of the fact that Mr Valentine Yee gave evidence on that occasion and insofar as it would otherwise prohibit the publication of any question asked or answer given in this public session of this public inquiry.

30 THE COMMISSIONER: You're, in essence, referring to pages 2019 to 2020?

MR ROBERTSON: That's so.

THE COMMISSIONER: Yes. Yes, very well. In respect of the compulsory examination of the witness - - -

MR ROBERTSON: I'm sorry, Chief Commissioner, the private session of the public inquiry, not the compulsory examination.

40

THE COMMISSIONER: I'm sorry. Yes, you're quite right. Thank you. In respect of – the transcript will be corrected in that respect, compulsory examination will read private hearing. In respect of the private hearing conducted on Thursday, 12 September, 2019, with the witness, Mr Valentine Yee, on that occasion I made an order pursuant to section 112(2) of the Independent Commission Against Corruption Act prohibiting publication of the evidence of transcript of proceedings in private hearing. The application is now made to vary the section 112 order so as to permit

usage by Counsel Assisting of the evidence given by the witness at pages 2019 to 2020 of the proceedings on 12 September, 2019. I consider it is desirable and necessary in the public interest to make the variation sought. Accordingly, the order made under section 112 to which I have referred is varied so as to permit publication and use of the evidence on those pages, 2019-2020.

10 **VARIATION OF SUPPRESSION ORDER: COMMISSIONER’S**
20 **DIRECTION OF 12 SEPTEMBER, 2019, MADE PURSUANT TO**
 SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST
 CORRUPTION ACT, IS VARIED IN RESPECT OF THE EVIDENCE
 GIVEN BY VALENTINE YEE ON PAGES 2019-2020 OF THE
 TRANSCRIPT OF THE PRIVATE HEARING

THE COMMISSIONER: Does that cover it?

20 MR ROBERTSON: Please the Commission. Mr Yee, on Thursday of last week, you gave evidence in this public inquiry, correct?---Yes, sir.

And towards the end of the day, around about 3.30, the Commission adjourned to give you an opportunity to reflect on whether you had given honest evidence during the course of that day, correct?---Yes, sir.

And during that course of that adjournment, you advised through your counsel that you wanted to give some further evidence in relation to the matters that I had asked you about on Thursday, correct?---Yes, sir.

30 And then late on that day, the Commission convened by way of a private hearing, correct?---Yes, sir.

And you gave evidence in a private hearing, correct?---Yes, sir.

At the start of that hearing, I asked you this question, “Having considered your evidence, is there anything you wish to say about the evidence that you have given during the course of the day?” And you answered, “I would like to speak the truth,” correct?---Yes, sir.

40 And you then gave some evidence that was inconsistent with the evidence that you gave earlier in the day, correct?---Yes, sir.

I also asked you whether Jonathan told you what the true source of the money was that he wanted you to pass off as yours. Do you remember me asking that question?---Yes, sir.

And do you remember that you answered it by saying, “It was a guy called Mr Huang”, correct?---Yes, sir.

And I didn't prompt you with Mr Huang's name, you volunteered that name, correct?---Yes, sir.

And then I asked you to clarify that you were referring to Mr Huang Xiangmo, correct?---Yes, sir.

And you confirmed that you were referring to Mr Huang Xiangmo?---Yes, sir.

10

Now, having been reminded of that evidence that you gave on Thursday afternoon, is it still your recollection that Jonathan told you that the source of the money that he wanted you to pass off as yours was Mr Huang Xiangmo?---It's more of an indirect speculation with that.

THE COMMISSIONER: Sorry, I can't hear you. What did you say?---It's, it's more of an indirect speculating with that because that matter was going on at that time.

20

MR ROBERTSON: Well, doing the best you can, has your brother ever uttered the words Mr Huang or Huang Xiangmo or Xiangmo Huang or words of similar effect in relation to the issue of donations in 2015?---The other donor's name, yes, sir. I will retract what I said. It is, he said that to me.

Well, I don't think it's a matter of retracting because you volunteered the reference to Mr Huang during the private session of the public inquiry. ---Yep.

30

And then you and I had a further discussion about it. But just to be clear, you do have a recollection of your brother uttering words to the effect of Mr Huang and Huang Xiangmo or Xiangmo Huang in connection with the question of donations, is that right?---Yes, sir.

And do we take it that from those utterances, you understood that either the true source of the money or at least a true source of the money that you had signed off as being yours was Mr Huang Xiangmo?---Yes, sir.

40

Do you know who Mr Huang Xiangmo is?---Personally or publically?

Well, would you recognise if you saw him on the street?---Yes but - - -

THE COMMISSIONER: Have you met him?---I met him once or at most twice.

When?---Potentially at Emperor's Garden or outside, like, as an introduction through either Jonathan or Ernest Wong.

It was either Jonathan or Ernest Wong who introduced you to Mr Huang Xiangmo, is that what you're saying?---Yes.

Can you remember which of those two? Or were they both together when the introduction was being made?---I think it, it would be more Jonathan, it would be more Jonathan, yeah, yes.

And what was the occasion?---Oh, it was just basically an introduction of introducing me as his brother to Mr Huang. Me as his brother.

10

Had you known of him before that introduction either through your brother or otherwise?---Not personally but publically, yes.

You had, yes.---Through media, yes.

So when was this introduction?---It would have been – probably it would be after 12 March, the function, yes.

After 12 March, 2015?---Yeah.

20

How long after?---It wouldn't be too much longer, I don't think.

Well, are we talking about days or weeks or what?---Would have been days, I think. Yeah.

So do I understand, you first met him on this occasion you're talking about now in the company of your brother, that's how it came about that you were actually introduced to him for the very first time, is that right?---Oh, not, not – sorry. Can - - -

30

I'm asking whether the first occasions you met Mr Huang Xiangmo was the occasion that you say you think was your brother who introduced you to him?---Yeah.

And that was shortly after 12 March?---Yes, sir.

Do you know how long after 12 March?---It would have been within, March, sort of a few days. It wouldn't be too long. I can't recall, sir.

40

And do you know anything about the occasions in which this introduction took place? I think you've already given some evidence about it but I'm just trying to – was it out on the footpath or was it inside the restaurant or where was it?---If it wasn't, if it wasn't in there restaurant, it would have been at another restaurant somewhere. I can't remember which restaurant, if it wasn't in our restaurant.

And did Jonathan say anything to you about Mr Huang when he introduced you to him?---No, he just said, “Oh, this is Mr Huang of,” which company, that’s it. Yeah.

Is that the only occasion you met him, or was there a second occasion?---I, I, I haven’t actually met him afterwards. Like formally talking to him, no.

MR ROBERTSON: But have you seen him at the Emperor’s Garden Restaurant before?---Prior to that?

10

Either prior to that or after that.---Could have - - -

You might not have spoken to him, but you may well have seen him at the restaurant.---Yes. Yes.

Do you - - -

THE COMMISSIONER: On the occasion – sorry.

20 MR ROBERTSON: Sorry.

THE COMMISSIONER: On the occasion when you were introduced to him, did Jonathan say that Mr Huang Xiangmo has been generous in donating to the Friends of Chinese Labor function that had taken place shortly before?---No.

Has he ever?---Not on that particular occasion.

30 No, but after that occasion, has Jonathan indicated to you that Mr Huang Xiangmo has been a generous donor to the - - -?---No, they weren’t, he didn’t say that.

He did not?---No.

All right.---Nah.

MR ROBERTSON: I think you said a moment ago you have a recollection of Mr Huang Xiangmo dining at Emperor’s Garden Restaurant, is that right? ---Yes, but not – I can’t, I can’t remember when it was.

40

Well, did that happen on one occasion or more than one occasion?---Would be more than one occasion, because I’m, because me being, working at the, the, the account, the – because I look after the accounting side of the business. Sometimes I go to the restaurant, sometimes I don’t, so - - -

But you spend most of your time back of house rather than front of house, is that right?---That’s correct.

But you do have a recollection of seeing Mr Huang Xiangmo on at least one occasion in the Emperor's Garden Restaurant, is that right?---Yes. Yes.

And that might be the occasion that you were introduced to him, or it may have been some other occasion you were introduced to him.---Yeah, well, more than likely during that occasion.

10 THE COMMISSIONER: Do you remember who he was dining with that time?---Well, he was coming down the stairs, so I, I, it was more of on a leaving basis, rather than actually dining. So it wasn't -- because I usually whenever I go to the restaurant, I'm, I'm always down the stairs on the ground floor. So, yeah.

Do you recall in whose company he was on that other occasion when you saw him at the restaurant?---Oh, when, when leaving, sir?

Mmm.---No, I, I can't remember that one now. Sorry. Yeah.

20 MR ROBERTSON: Do you know what relationship if any your brother Jonathan and Mr Huang Xiangmo have?---(No Audible Reply)

Are they friends? Do they know each other? Things of that kind.---I think are more, are more friends. Friends.

And how do you know that they're friends?---They seem, when they talk they seem to be quite cheery in talking to each other.

30 When they're talking to each other, what language are they using?---Oh, Chinese.

THE COMMISSIONER: Do you know if your brother Jonathan has been the guest of Mr Huang Xiangmo either at his home, that's Mr Huang Xiangmo's home, or entertained elsewhere?---No. I don't know where.

You don't know?---No. Yeah.

40 MR ROBERTSON: What about Mr Ernest Wong and Mr Huang Xiangmo? Do you know anything about their relationship, if any, whether they're friends or anything of that kind?---They seem to be quite close.

And why do you say that?---Because, well, basically at, at that 12 March party, I think even with the media, he, they've taken photos together.

So you observed them at 12 March, 2015, function, is that right?---Yes.

Is there any other reason why you say that they appear to be quite close friends?---Besides supporting the Labor Party in that sense, I don't have any other confident reason (not transcribable)

THE COMMISSIONER: Why was Huang Xiangmo on the head table at the function on 12 March?---I guess he's just, potentially the, like, he potentially may have bought a table to support the Labor Party in this election.

Well, do you know from what Jonathan has said to you, why he was being put on the head table with the IPs?---No, no, no.

10 MR ROBERTSON: Do you know who Mr Kenrick Cheah is?---Kenrick Cheah, yes.

And who is he?---I believe he works for the Labor Party.

And how do you know him?---Introduction through Ernest Wong and Jonathan Yee.

And do you recall where that introduction was made?---Various occasions.

20 Does that include occasions at the Emperor's Garden restaurant or is it only at other places?---It would, it would have, first introduction would be outside of Emperor's Garden.

And what you say other places, what do you mean by that? Do you mean dinners and things of that kind?---Yes.

Is that Labor Party dinners or is it possibly community dinners or is it possibly both?---More likely Labor Party dinners.

30 Is Mr Cheah someone who you've seen at Emperor's Garden restaurant from time to time?---Yes, sir.

And when he's been there dining, who has he been dining with?---I've seen him once or twice that he's actually come in for yum cha and even on one occasion he had a dog with him and he asked me whether it's okay to come in with a dog and I said, "No, he can sit outside," and have lunch and those sort of things.

40 Focussing on humans. What humans has he dined with, to your recollection, at Emperor's Garden?---(not transcribable) with humans, besides the dog, I think with friends.

But not people that you know or recognise?---Yeah, Labor Party people, yeah.

Well, let me ask it this way. Do you know anything of the relationship between your brother, Jonathan, and Mr Cheah? Are they friends as far as you understand?---Yes.

And how do you know that?---Well, they simply talk or I guess because there interest in the Labor Party.

So you've seen those two individuals being involved in Labor Party matters, is that right?---Yes.

10 What about Ms Kaila Murnain, have you see her as a person who's attended Emperor's Garden restaurant, for example?---Not at Emperor's Garden, no.

But you've met her before?---Yes.

And where have you met her before?---The 12 March, the function.

Is that the only time you can now recall?---That is the – yes.

And you're sure it was that year's function or is it possible that it was a different year's Chinese Friends of Labor function?---That's what I recall.

20 You recall that it was in 2015, is that right?---Yeah.

What about Jamie Clements, do you know who he is?---No.

Mr Sam Dastyari, do you know who he is?---Yes.

How do you know who he is?---I've met him at some Labor Party functions.

And is that the extent of your knowledge of Mr Dastyari?---Yes.

30 And what about Mr Eric Roozendaal?---Never met him.

Can I ask you a few more questions about your staff at the Emperor's Garden restaurant? So we spoke a moment ago about Teresa Tam. She is a cashier at Emperor's Garden, is that right?---Yes.

And is she employed on a full-time basis or a casual basis or part-time basis?---Casual basis.

40 Patricia Siu, what's her role?---She's a cashier and waitress in the restaurant.

And again, what basis is she employed on?---She's a full-time staff.

I take it that one of your roles as chief financial officer is to pay the staff? ---Yes.

And so I take it you're aware of how much money is being paid to the staff on a weekly or fortnightly or perhaps monthly basis?---That's correct.

What about Lei Mo, do you know who Lei Mo is?---He's a former employer, former employee.

And what was his role when he was an employee of Emperor's Garden?
---He was a restaurant manager.

And was that on a full-time, part-time, or casual basis?---Full-time.

10 Wei Shi?---Restaurant manager.

And again, full-time, part-time, or casual basis?---Full-time.

Johnnie Lin?---Casual.

And still working in the business, or no longer working in the business?
---He is work in the business. He's actually doing on a casual basis when we need him.

20 Having regard to your knowledge of those individuals, and how much money you pay them - - -?---Yeah. Yeah.

- - - and any knowledge that you have of other money they might receive, such as tips or perhaps even red packets - - -?---Yep.

- - - do you have any comments on whether it's likely that they would be in a position to donate 5,000 or \$10,000 to the Labor Party or Country Labor?

---If it's based on the salary that I pay them, my, my opinion, okay, they won't be able to make this donation. But I don't know what other income --
30 like, for example, if you're a casual person, what other income they earn, or whatever assets they earn, I can't speak out on regards to that. But if it's based on the salary, nah.

Going back to talking about our favourite topic, lucky packets, is it right to say that it would be unusual for a customer of Emperor's Garden to give an employee a red packet that had more than, say, 20 or perhaps at most \$50 in it?---More, more than what you mentioned just then?

40 THE COMMISSIONER: That it would be unusual to exceed that.---That is correct.

MR ROBERTSON: So is it right to say that from time to time, customers, perhaps good customers, would give red packets to employees of your restaurant?---Yes.

And the time of the year that that would likely occur would usually be Chinese New Year, correct?---That is correct.

It's possible that it might happen on other occasions, perhaps when someone is coming in for a major milestone birthday?---(No Audible Reply)

Say, to celebrate a 50th or a 60th, something like that?---Yes.

But that would still be fairly unusual, correct?---Yes.

And the amount of money that you might find in such a red packet is likely to only be five or \$10, maybe \$20, is that fair?---Yes.

10

Anything more than that would be quite unusual, correct?---Yep. Yes.

And it would be right to say, wouldn't it, that for a particular year, the suggestion that some employee might receive thousands of dollars in red packet money from customers, that would be an absurd proposition, wouldn't it?---Yes, sir.

20

And you and I discussed the lucky packets that you give to your employees. I think you told us it would usually be about five or \$10, something like that.---That's correct.

Because usually at least outside of the family, the amount of money that will be in a lucky packet will really be a token amount by way of giving of luck, rather than attempt to pay large amounts of money to a particular individual, is that right?---Yes. That's correct.

30

THE COMMISSIONER: Just ask you one matter, going back to those employees of Emperor's Garden who indicated to you that they were uncomfortable about having been involved in this scheme, you've spoken about Patricia Siu and Teresa Tam. With Johnnie Lin, you said he was a casual employee, you've had no discussion with him. Just want to clarify one thing about Johnnie Lin, however. Is it the case that, although he may not have said anything to you about having made a false donation, he has indicated in something he said to you that he felt uncomfortable about, either uncomfortable about having signed a form, or just uncomfortable generally about anything to do with the donations at this function on 12 March, 2015, do you recall anything that he said to you to indicate a sort of discomfort or concern?---Not, not Johnnie.

40

No?---Just Patricia and, and Teresa.

MR ROBERTSON: Not even a general indication that he was concerned about this matter, even if he didn't give the details of that to you?---No.

In light of what you've told us this morning, you obviously accept that much of what you told this Commission on Thursday was a lie, correct? ---Yes, sir.

Much of what you told this Commission in your compulsory examination was a lie, correct?---Yes.

Why was it that you lied, both at the compulsory examination and at the public hearing on Thursday?---It's just more helping Jonathan out through, in regards to this matter, that's all.

So is it fair to say you were concerned about what the truth might mean for Jonathan?---Yes.

10

Why is it that you're now telling the truth, then?---Because I'm more concerned about also that, well, the truth will come out now, and also I'm concerned for the other staff members and my mother, and basically I saw my mother really stressed and she couldn't sleep and, and she did mention to me that she wanted to cause suicide over this matter, so, yes, and I just thought, oh, it's better to tell the truth.

20

Have you had any communications with Jonathan since you gave your evidence on Thursday?---Basically I, I, I just said, we, we, I'll be honest with you, we, we had a family meeting and I thought this thing is not going to, like, I think it's best for everybody to tell the truth.

So when you say a family meeting, was that in person, was it?---Well, I, I basically, sorry, by my – what's that?

Where did that family meeting happen?---The family meeting happened on Sunday.

30

And where did that take place?---It took place in the restaurant in a private room.

And you called that meeting?---Yes.

Who was present at that meeting?---My father, my mother, my brother, yeah.

40

Doing the best you can, what did you say to your family members regarding this matter at that family meeting?---I just said basically after the, after the adjournment of the public hearing I said, look, I think that we should be telling the truth about this matter.

What, if anything, did Jonathan say in response to that suggestion?---He said he's also considered that the welfare of my mother and the other staff members and my father, it's best we tell the truth.

Was there anything else that you said or your brother said or your parents said during the course of that family meeting regarding this matter of donations and this Commission's inquiry?---Yeah, I think the thing, my

father was more relieved that we decided to go down this track and, and, and coming out and tell the truth.

Do we take it from that that your father had some knowledge of this question of donations?---Yes.

10 And to the best of your knowledge, what did your father know about this issue of donations that we've been discussing?---Basically that we've actually accepted that, in regards to this donation itself, these donations, myself, the company and my mother.

But did your father have any involvement in this question of donations? Or was he just told things about it by other members of your family?---He was told, he was told things about it.

He was told by who?---He was told by myself and my brother and my mother. Yeah.

20 Well, presumably his wife had some discussions with him regarding the matter, is that right?---Yes.

And you know her to be quite concerned about this matter.---That's right.

She's been under a lot of stress in relation to the matter, is that fair to say? ---Yes.

30 Anything else happen in that family meeting, any other things that were uttered that you can now recall?---It's just making sure that, that everybody tells the truth about this matter.

And do we take it from what you've just said that the members of that family meeting have agreed to now tell the truth in relation to the matter? ---Yes, sir.

Does that include Jonathan?---Yes, sir.

40 Can we have, please, the WeChat message screen. Now, Mr Yee, you provided the Commission overnight with some documents that you found on your mobile telephone and computer, is that right?---Yes, sir.

And one of them is the document that we can see on the screen.---Yep.

And is this a series of WeChat messages from your brother Jonathan? ---That's correct.

And so where we see black text on a white background, that's Jonathan sending a message to you, is that right?---Yes.

And do you recall when you took this screenshot? Was that yesterday or was that some other time?---It was yesterday.

And so do we take it from that that if you look towards the bottom, that message of 10.43, is that a message that you received yesterday?---Yes.

And was it a message that you received yesterday morning at 10.43am?
---Yes.

10 And was that received before or after the family meeting that you referred to a moment ago?---It was before.

Commissioner, I tender the WeChat screenshot that appears on the screen with communications between Jonathan Yee and Valentine Yee.

THE COMMISSIONER: Yes, the WeChat communication shown in the screenshot between Jonathan Yee and his brother Valentine, said to have been created yesterday, will be admitted and become Exhibit 241.

20

**#EXH-241 – SCREENSHOT OF WECHAT CONVERSATION
BETWEEN VALENTINE YEE AND JONATHAN YEE TAKEN ON
15 SEPTEMBER 2019**

MR ROBERTSON: May it please the Commission. Chief Commissioner, is that a convenient time?

THE COMMISSIONER: Yes.

30

MR ROBERTSON: I need to go back over some matters that we dealt with on Thursday in some detail, and that will take a little bit of time. Now might be a convenient break.

THE COMMISSIONER: Yes. Mr Yee, we'll take a morning tea adjournment, probably about 20 minutes.---Yep.

We'll resume, therefore about 11.35, if you'd be back here then.---Yeah.

40 MR ROBERTSON: Please the Commission.

THE COMMISSIONER: Adjourned.

SHORT ADJOURNMENT

[11.17am]

MR ROBERTSON: Can I have Exhibit 152 on the screen, please, and page 14. Mr Yee, back to this form. What I'm going to do in this next segment is I'll be asking you a number of the questions that I asked you on Thursday and I anticipate that I'll get some different answers, but I just want to be clear as to exactly what your evidence is having reflected on the matter that you reflected on, both on Thursday evening and between Thursday evening and today. So the form that we can see on the screen, page 14 of Exhibit 252, you signed this form is that right?---Yes, sir.

10 You signed it on about 30 March, 2015, Correct?---Yes, sir.

The handwriting of the \$5,000 that we can see is Jonathan Yee's handwriting, correct?---Yes, sir.

And it's Jonathan's handwriting for the word, "Valentine Yee," correct? ---Yes, sir.

20 The cross that we can see over the payment options was not a cross that you put on this form, correct?---No.

And it was on the form at the time that Jonathan Yee gave it to you to sign, correct?---Correct.

And are you clear in your mind though that you only signed one form that looks like the form on the screen and not two?---That's correct, sir.

30 So can we just go to page 36 of the same document, please. And I'll take you to the black-and-white version of what appears to be the same document as it was recovered from NSW Labor offices in Sussex Street pursuant to a search warrant? Page 36 of the same exhibit, Exhibit 152. So I'm not showing you what appears to be a copy of the colour version that I showed you a moment ago, but I understand it to be your evidence that you didn't sign two forms that looked like this, you only signed one form, is that right?---That is correct, sir.

Do you have any idea as to why there were two copies of a form with your signature found in the NSW Labor records?---No, sir.

40 In March, in or around March of 2015, having signed one of these forms, did you express to Jonathan your concern or any concerns about having signed the form?---Oh, you mean the, the original form?

The original form. I'm talking about the moment around March or April of 2015.---Yes.

And doing the best you can recall, what did you say to Jonathan about that matter?---I asked him, "What is this for?"

And what did Jonathan say?---He said, "Donations."

Did Jonathan ask you to say that you'd made a donation of \$10,000 or only a donation of \$5,000?---Personally?

Yes.---Five.

10 Because you know, don't you, that there were forms that were signed on behalf of Emperor's Garden Pty Ltd, 5,000, which was treated as relating to NSW Labor, and another 5,000 that was treated as being Country Labor. You know that now, don't you?---Yes, sir.

20 And what I'm just trying to understand is how did it come to be that you were only asked to sign a single form for \$5,000 for NSW Labor, whereas other people like Emperor's Garden Pty Ltd were said to have donated \$5,000 to NSW Labor and \$5,000 to Country Labor? Are you able to assist us as to why that might have happened?---More or less the same thing with this. I wasn't told about that form. those, the 5,000 to Country Labor and the 5,000 for NSW Labor, until later when I had to fill in the disclosure form.

But what I'm just trying to understand, you might not be able to help us with this, but what I want to try and understand is why it was that NSW Labor and Country Labor records disclosed you as only making one donation of \$5,000 whereas the record said \$10,000 in total for Emperor's Garden's Pty Ltd and for your mother May Ho Yee. Are you able to assist us with that?---No, sorry, no.

30 Did you make it clear, though, to Jonathan, around the time that he asked you to sign the form in March of 2015, that you were willing to help him to some degree but you weren't comfortable with doing what he asked you to do? Did you say anything like that to him?---Willing to help him but, yeah, with some discomfort.

So are you saying you made it pretty clear to Jonathan that you were prepared to help but you weren't a particularly willing participant, is that a fair statement?---I think willing to help is more, more, more truthful but, yeah.

40 But did you make it clear to Jonathan that you were fairly uncomfortable with what you were being asked to do.---Yes.

And you made that clear - - -?---Yeah.

- - - in about March or April of 2015, is that right?---Yep.

In terms of the dinner itself, you do have a recollection of going to the dinner on 12 March, 2015, is that right?---Yes.

But you didn't sit on any of the tables that you suggested you might have sat at during the course of the public inquiry on Thursday or the compulsory examination prior to that time, is that right?---Yeah, I can't recall sitting on those tables because I was there but I can't remember which table it was.

Can we go, please, to Exhibit 186. Can we have that on the screen, please. This is the seating plan that you and I discussed a moment ago. Sorry, not a moment ago, on Thursday.---Yep.

10

At least my screen is flashing a bit. Is your screen flashing as well?---Yeah, it's flashing.

Just take that off and put it back on again and see if that makes life easier. Okay, we'll do it the old-fashioned way.

THE COMMISSIONER: Is it some screens are flashing and others are not?

MR ROBERTSON: I'll hand to you a hard copy of the document that's on the screen.---Yep.

20

Now, you said to us on Thursday that you sat on table 27, near the stage, do you see that there?---Yep.

And during the compulsory examination – so withdraw that. On another occasion, you were suggesting tables like 29, 32, and 37, correct?---Yes, sir.

You didn't sit on any of those tables, did you?---Not that I recall now.

30 You say on a table further towards the back, is that right?---That, that would be the likely case.

Do you at least recall what colour tablecloth was on the table that you sat at?---White tablecloth.

You are quite clear in your mind that it was a white tablecloth and not a red tablecloth, correct?---Yeah. Yes.

40 And does it follow from – I withdraw that. Would it be right to say that the table that you sat at was probably towards the bottom left of what you can see on the seating plan that you've got in front of you?---Bottom left as in - - -

As in a table maybe like 60, 61, 66, something like that.---It wouldn't be that far. I don't – yeah.

But at least you're clear that it wasn't close to the head table, is that right? ---Yeah. That's correct.

And so the head table was table 28?---Mmm.

Which is near the stage, towards the middle, do you see that there?---Yes.

Can you see table 28?---So the middle would be 28, yes, I see that.

But you were some distance away from 28 - - -?---Yeah.

10 - - - you weren't a table or two in the vicinity of table 28, you were further away, is that right?---Yes. I believe so.

And then on Thursday, you gave us a list of people you sat with. Was that list accurate or inaccurate?---Inaccurate.

So who did you in fact sit with?---I, because the, the tables with people in it, they were very scattered with people on it. Different people from different business organisations, like Chinese business organisations. And I can't exactly, like, basically it wasn't the VIPs that we were talk about that day.

20

So you were, you certainly didn't sit at a VIP table, is that right?---That's what I recall, yeah.

You sat on a table, but with who, with family members or people you knew, or with people you didn't know?---People I know, but I, I can't exactly remember who, who was on there that day.

Well, was your mother on the table that you sat at?---No, I don't, no. I couldn't remember her sitting with me, I'll be honest with you.

30

So you don't recall your mother sitting at the same table that you were sitting at, correct?---Yes. Yes.

What about your father?---No, he was sitting somewhere else.

What about your brother?---Nah, he wasn't with me.

What about any of the other family members that you referred to on Thursday? Do you recall any of them sitting with you?---No, I, my family members didn't go to that one. Yeah.

40

So your mother and father didn't go to the 2015 event, is that right?---Oh, my father went. My father went.

So your father did, but your mother didn't, is that right?---Yeah. That - I do remember my father going, but I can't remember my mother. That's all I can - - -

And your brother did attend, but didn't sit at your table, is that right?---That is correct, yeah.

And what you told us on Thursday about handing over money to your brother, that didn't happen, correct?---That is correct.

Did you see any other money being handed over at the event, any other cash being handed over to anyone?---No.

10 So for example, was there an envelope on the tables where people were putting money in to be collected by people?---I, I didn't see it myself, no.

And you didn't see I take it then that large amounts of cash, perhaps tens of thousands of dollars, were being handed between people during the course of the event?---No.

You've been to quite a number of these types of events, is that right?---Yes.

20 You've been to a Chinese Friends of Labor dinner before, is that right?
---Yes.

To your recollection of any of those dinners, have you ever seen large amounts of cash being given from person to person in connection with the dinner?---Large amounts, no.

There might be some money for raffle tickets, for example.---That, that, that is, that is true.

30 But that's going to be, say, \$10 or \$20 for some tickets. It's not going to be, for example, thousands of dollars?---That is correct.

And so is it right to say, then, that the table you were sitting at, you were probably sitting at a spare seat of some organisation table, does that follow from you've said before? In other words, you weren't sitting on a table that had been organised for your family or something like that, you were probably just sitting on a spare seat on some organisation's table, is that right?---Yep.

40 You don't happen to recall which organisation that was?---No.

Do you recall how you knew where to sit? Did someone tell you where to sit?---I think it, like, no exactly but I think at that night I was put at a table that I, I don't think it was designated for myself. If there is designated then I can't remember that I was designated.

Do you recall who told you to sit at that table? Was that your brother or was it potentially someone else?---Someone else, it was workers the, at the party who were organisers.

On Thursday you told us, you referred to the giving out of a handwritten receipt. Now, I take it you didn't get any receipt because you didn't hand over any money, correct?---That is correct.

Did you see any other handwritten receipts being given out during the course of the event?---No.

10 The idea of telling us that there was a handwritten receipt, is that something that you invented or was it something your brother suggested that you should invent, or someone else for that matter?---Someone else.

Who is that someone else?---Actually, wait. Let me, yeah, look it's my brother, yep. You're correct, it's my brother.

So your brother suggested to you that you should tell this Commission that you received a handwritten receipt on the night of the event, is that right? ---That's correct.

20 And do we take it was also your brother's idea to tell this Commission that you had handed over \$5,000 in cash for your donation on the night of the event?---Yes.

And was it his idea to tell this Commission that that money was handed to him on the night?---Yes.

30 Can we go, please, to volume 3A, page 23 if that's possible. I'm just going to show you a photograph, Mr Yee, and I think it should appear on the screen. Are you able to assist us as to who these individuals are on the table, perhaps start from either end, the ones that you recognise?---The guy in the red tie?

On the left-hand side or the right-hand side? There's plenty of red ties at this particular table.---Oh, sorry. Yeah. Starting from the left. I understand that he used to be, he used to dine at our restaurant but I don't know him personally.

So do you know his name?---No.

40 So it's someone you recognise as a regular diner at your restaurant but not a name that you recognise, is that right?---That's correct.

And then the next person?---Mr Ernest Wong.

And no prizes for guessing the next gentleman.---Mr Bill Shorten.

And the next person?---Don't know that lady.

You don't know the lady?---No.

And the next person?---Mr Huang.

Mr Huang Xiangmo?---Yeah.

And so you would have recognised Mr Huang Xiangmo by sight as at the dinner of 2015, is that right?---Yes.

10 And do we take it then that you had been introduced to Mr Huang by the time of the event of 12 March, 2015?---Yes. And Mr Luke Foley.

Were you introduced to him on the night of 12 March, 2015?---No. No, no, no.

No. And then the next one on the right is Mr Foley, I think?---Yes.

20 Can we go now please to Exhibit 152 at page 13. And on Thursday you told us that you didn't receive a receipt in your own name around April of 2015, was that truthful evidence?---April?

You didn't receive it around April of 2015 but you did receive it towards the end of 2015?---That's right.

That's what you told us on Thursday.---Yes.

That was truthful evidence?---Yes.

30 And I just want to bring those receipts up on the screen. These are at 152, page 13, please. And so just to be clear, the receipt that we can see, page 13, Exhibit 152, you didn't receive around the 9th of April, 2015, is that right?---That's correct.

And similarly, you didn't receive a similar receipt that was issued by the Country Labor Party around April of 2015, correct?---That's correct.

40 If we can go now to the Electoral Commission bundle. And while that's coming up I might formally tender that. I tender annexures, what I've been describing as the NSW Electoral Commission bundle for Mr Valentine Yee, being annexures VY 1 to VY 10 to the statement of Peter Baragry, dated 20 September, 2018. Chief Commissioner, is it convenient to mark that tender, annexures VY 1 to VY 10 to the statement of Peter Baragry, dated 20 September, 2018.

THE COMMISSIONER: Marked for identification? Yes.

MR ROBERTSON: No, as an exhibit. May it please the Commission .

THE COMMISSIONER: It will become Exhibit 242. 242, the statement of Peter Baragry.

**#EXH-242 – NSW ELECTORAL COMMISSION BUNDLE FOR
VALENTINE YEE – BEING ANNEXURES VY 1 TO VY 10 TO THE
STATEMENT OF PETER BARAGRY DATED 20 SEPTEMBER 2018**

10 MR ROBERTSON: So, Mr Yee, here is one of the disclosure forms that we discussed on Thursday. So was it truthful evidence to say that the thing that precipitated you issuing this document was the fact that the Labor Party sent you a reminder that said that you needed to fill in a form of this kind, is that right?---Yes, sir.

And you then filled in a form to the effect that we can see on the screen, correct?---Yes.

20 And it was truthful evidence when you identified that the handwriting on this document, including the signature, is your handwriting, correct?---That is correct.

But of course you knew at this point in time that you hadn't made any donation to the Australian Labor Party in 2015, correct?---Yes, sir.

If we can then just turn the page. Again, I take it this is all your handwriting as well?---Yes.

30 And turning the page again. Again your handwriting on part B of the form, correct?---Yes.

If we just turn one further page, you see there a letter of 6 September, 2015? Do you see that there, Mr Yee?---Yes.

That was the letter from NSW Labor that precipitated you sending in the form, is that right?---That's correct.

40 And you told us on Thursday that in order to fill out the form that was marked October of 2015, you obtained a copy of a taxi invoice from the Labor Party?---Yes.

Now, was that truthful evidence or did you just get the receipt number from the document that you can see on the screen? I'll just ask that in stages to help you. If we go back to the preceding page, page 15. You see that on this form there's a receipt number of 40914?---Yep.

And if you then, if we then turn back the page, the letter that precipitated you sending in the form identified a receipt number of 40914. Do you see that there?---Yes.

So what I'm asking you is whether you simply put in that receipt number in the form of October 2015 or whether you got the receipt number from a receipt that had actually been issued by the Labor Party?---I used this disclosure letter.

10 So are you therefore saying that your best recollection now is that when you filled out the disclosure form in October, you still didn't have a tax invoice or receipt at that point in time, is that what you're saying?---That's my recollection, yeah.

That's your best recollection sitting there now?---Yeah.

20 And does that mean, then, that after getting this letter from the Labor Party in September of 2015, you didn't then request a copy of the receipt through Jonathan like you told us on Thursday, but rather you probably just picked up the receipt number and put it into the October form?---That's likely the case.

That's your best recollection sitting there now?---Yes.

Did you have a different recollection when you answered these same questions on Thursday or was what you were telling us on Thursday knowingly false?---Knowingly false.

30 So when you answered these questions on Thursday, you knew that you hadn't requested the receipt but you told us that you had requested the receipt at that time, is that right?---Yes.

Can we go, then, to the amended disclosure document in the same bundle at page 25, what's now Exhibit 242. Now, on Thursday you told us that you typed in the text we can see like, "Valentine Yee," for example. Was that truthful?---Yes.

And again this is your signature on this page, is that right?---Yes.

40 And if we turn the page, please, to page 26, I think on Thursday I unfairly suggested to you that there was an error on this page where it says 9 April, 2015. But can I just draw your attention to the legend on the right-hand side. See that it says, "O for omit an item"?---Yes, yep.

And so this was you telling the Electoral Commission that you wanted to omit what was said at part A because in the previous version of the form, you'd disclose it twice, once in part A and once in part B, is that right? ---That's correct.

But again, we've got the receipt number here. For the purpose of filling out this amended disclosure form, did you request a copy of the receipt or again did you just use the receipt number from the ALP letter that we saw a little while ago?---I used that, that form, the original form.

So again, as at the date of this amendment document, which is dated 28 January, 2016, at that point, you didn't have a tax invoice or receipt, is that right?---Yes.

10

Correct?---Correct.

But you used the receipt number that NSW Labor had given you in the September 2015 letter that you and I discussed a little while ago, is that right?---Yes.

On that form on page 25, it's redacted on the version that is about to be on the screen. If we just go back a page. There's an email address @emperorsgarden.com.au. Do you see that there?---Yep.

20

Now, in terms of that email address, is that an email address that has – I withdraw that. In terms of emails that are received or sent from that email address, are those emails stored on the hard drive of your computer or do you just use emails, what's sometimes referred to as being in the cloud? ---The cloud. It's more convenient that way.

So do you use an application like Gmail or something like that in order to access your emperorsgarden.com.au email?---That's correct.

30

You don't use an application like Microsoft Outlook or something like that to access your Emperor's Garden emails, is that right?---Tried, tried it in the past but it just caused too much problems in regards to the software sometimes doubling up on the emails. So I, I, it was easier just to use the cloud.

So at least in more recent times, if you wished to access your emperorsgarden.com.au email, you used Gmail through a web browser rather than using something like Microsoft Outlook, is that right?---That's correct.

40

Can we then go to page 29 of the same bundle. Now, here is the cover letter to the notice to produce that you and I discussed on Thursday and if we can go to the notice to produce itself, page 33 of the same bundle. And then to the next page, page 34. Now, number 2 says, "Please provide copies of the receipts given to you by the persons or organisations who received your donations on 12 March, 2015." Do we take it that it was only at this point in time, when you got the notice to produce, on 22 February, 2017, that you

sought a copy of a tax invoice or a receipt from NSW Labor?---That's correct.

And can you explain to us how you acquired that receipt?---Well, acquired it through Jonathan.

So you asked, after receiving this correspondence of 22 February, 2017, you asked Jonathan to procure a receipt saying that you'd donated \$5,000 to the Australian Labor Party, correct?---That is correct.

10

And having made that request, do you know what Jonathan then did?---(No Audible Reply)

Did he then make contact with the Labor Party, to your knowledge?---Based on the evidence, the emails I've got, he's, he's contacted the Labor Party.

So you've looked through your historical emails and you've found that Mr Jonathan Yee did in fact make contact with ALP head office and ask for tax invoices or receipts, is that right?---Yes.

20

And then what ultimately happened? Did you receive the tax invoice or/and receipts directly from the Labor Party, or did they go to Jonathan first, and then Jonathan gave them to you?---You talk about some of the receipts, some of, directly from the Labor Party?

Just focusing on the receipts in your name, do you - - -?---Yeah, in my name, this one?

Yes.---It was from Jonathan. Yeah.

30

So, but are you saying that some of the other receipts, like Emperor's Garden Pty Ltd, may have come directly from the Labor Party?---Yes.

And do I take it - - -

THE COMMISSIONER: Do you know who – sorry. Do you know who Jonathan's contact point was in the ALP for the purpose of getting invoices and the like?---Based on the emails that I've, I, I have, there's a person called either Jenny Zhao, or - - -

40

MR ROBERTSON: Jenny Zhao, perhaps. Z-h-a-o.---Or whatever, yeah. Yeah. The Chinese way of pronouncing it is Zhao, so – and also Loretta Wang. So those are the names that I've seen, that's - - -

Could it be Maggie Wang?---Oh, sorry, yeah, no, it's Loretta something else, and then Maggie Wang. Sorry, I, I, I, I correct myself.

So there were a few different people within ALP head office that you can see on the emails that you've had a look at, is that right?---Yes.

Can we then go, please, to the – so, if we can to page 36 of the same bundle. So I take it that page 36 is the document that you obtained from Mr Jonathan Yee?---Yes.

10 And I asked you on Thursday whether you knew any reason why this referred to the 2016-2017 year, and you said no. Is that still your, is that your honest evidence?---Yes.

And is it right to say that you were receiving and then sending these tax receipts by email, oh, there wasn't any hard copies that were dealt with in this area?---That's correct.

20 Can we then in the same bundle go to page 60? So here's the cover letter to the notice to answer questions that you and I discussed on Thursday. If we can then turn to page 66, where we see the questions – again, that you and I discussed on Thursday.---Yes.

Now, how did you deal with responding to these questions? Did you take them, take it only upon yourself, or did you have discussions with Jonathan or someone else regarding it?---I had discussion with Jonathan.

So you receive this notice to answer questions around about 24 May, 2017, which is the date of the notice, correct?---Correct.

And do you then draw it to Jonathan's attention?---Yes.

30 And you then have a discussion with him, do you, as to how you should respond to the questions that appear on the screen?---Yes.

Who came up with the responses to the questions on the screen? Was that Jonathan, was it you, or was it someone else, or was it some combination of those?---Oh, a combination.

40 So let's look at that tangibly in the context of the answers themselves that you gave. Let's go to page 71. So if you just have a look at the first question first, where you were asked amongst other things, was the donation of \$5,000 your money, if not, who else contributed the sum of \$5,000, and how much, do you see that there?---Yep.

You answered that, "Yes"?---Yes.

That was a false response, correct?---Sir.

The truthful answer to that question is no, correct?---Yes.

Who suggested that you should answer yes to that question rather than the truthful answer that's no?---Jonathan.

Looking at the second question, "How did you pay the donation? E.g. cash, cheque, money transfer, et cetera." You answered, "Cash." Do you see that there?---Yep.

Correct answer would be "not applicable", correct?---Yes.

- 10 Who suggested that you should answer that question "cash" as opposed to "not applicable" or "cheque" or something else?---Jonathan.

Next one, "If you paid cash, what was the denomination?" et cetera. Again, the truthful answer to that would be "not applicable", correct?---Sir.

The answer you gave was "\$100 bills", correct?---Yes.

That was false, correct?---Yes.

- 20 And who suggested that you should answer that question "\$100 bills"?
---Jonathan.

Next "Where did the payment come from?" You then give an answer in respect of "lucky money", correct?---Yes.

And who suggested that you should answer in those terms?---Jonathan.

- 30 And just to be clear about that particular cell, did Jonathan provide you the text to go into that cell? Or did he just provide you with the concept, which you then wrote out in that cell?---He provided the concept.

So it's your language, but it's language based on what Jonathan told you to say, is that right?---Yes.

Similarly, next question, "If the cash was saved, et cetera, where did the money come from?" Whose idea was it to say that "It took approximately one month"?---Jonathan.

- 40 And whose idea was it to again repeat that the money came from lucky money from Chinese New Year?---Jonathan.

Again, the text, did the text come from Jonathan or did Jonathan give you the concept and you then put it in the text that we can see on the screen?
---It's his concept.

It's his concept but your text, is that right?---Yeah.

Have I got that right?---Yes, that's correct.

And then the next one, is it again Jonathan giving you the answer that should be given?---Yep.

The next question-and-answer, that's an honest answer, is that right?---Yes.

That you did attend the event, correct?---Yes.

10 What about the next question-and-answer? Is that an honest answer that you have previously donated to a political party less than \$1,000?---Prior to that date?

Prior to that date.---Yeah, so, no, it's incorrect. It's no.

So that's false as well?---Yep.

That you had previously donated to a political party of amounts less than \$1,000, is that right?---Yep. Yes.

20 So who suggested that you should say yes but the amounts are less than \$1,000?---Jonathan.

And again the next question, "Why did you donate on this occasion?" Who came up with that response?---Jonathan.

You hesitated a little bit.---Jonathan.

30 Are you quite sure that it was Jonathan that suggested the, at least the concept of what is recorded, the answer to the question, "Why did you donate on this occasion?"---Well, the, it's to support Jonathan with Jonathan supporting Ernest Wong in his election.

But was it Jonathan who suggested the concept of what's then recorded as the answer to the question, "Why did you donate on this occasion?"---Well, Jonathan did this concept, yeah.

40 But is that a concept that he's telling you about after you receive the notice to answer questions? Or was the concept something that you already know, already knew, and you simply recorded it on this document?---No, I, it's after I received the documents, yeah.

But before you received this notice – withdraw that. Before you received this notice to answer questions, you knew that the reason that you had been asked to sign a form to say that you had donated was to help Jonathan Yee and Ernest Wong, correct?---Yep. Yes.

But the particular answer, at least the concept of the particular answer to this question, Jonathan confirmed that that's how you should answer the question, is that right?---Yes.

And he made that confirmation after you got the notice to answer questions from the Electoral Commission, correct?---Yes.

10 But again, is the particular choice of words for this answer your choice of words? Or did Jonathan proffer that form of words for you to put in this document?---Well, basically, he had the concept and I guess my, my, my concept to it is that, oh, because he's helping the Labor Party raise funds for that, for that election, so - - -

But is it right that Jonathan didn't write out to you or speak to you the particularly words that we see here?---No, no, no. No, no.

You came up with those words?---Yeah, yeah, yeah. Yep.

20 But Jonathan made clear what concept should be communicated in answer to that question, is that right?---Yes.

And then the next one on the screen, is it the same answer for that, that Jonathan gave you that concept?---You mean the last one?

Yes, the last one. "Were you asked to donate on this occasion?"---Yes.

So Jonathan told you to say that both Jonathan Yee and Ernest Wong had asked you to donate to the Australian Labor Party, is that right?---Yes.

30 And you recorded that in this document?---Yes.

Did Ernest Wong actually ask you to sign the original form or any other form or was it always done through Jonathan?---I was done through Jonathan.

But at the time that you were signing the various forms and taking other steps, you knew that it was to help Jonathan to help Ernest, is that right? ---That's correct.

40 And if we turn the page, please. Is it right that those two answers that you give are honest answers, namely that you are not a member of the Australian Labor Party or Country Labor and that you lodged your disclosure in October of 2015?---That is correct.

THE COMMISSIONER: I'll just ask you, going back again. You gave some evidence before the morning tea adjournment as to you having met Mr Huang Xiangmo, introduced I think you said before, probably by either your brother or Ernest Wong, I think you said?---That's correct, yes.

At the time you were introduced to him, did you come to know him to be a property developer in China and/or in Australia?---Only through various sources but I didn't know - - -

Sorry, I can't hear.---Through various sources I know, as in public information, but not, not directly from, from Jonathan or Ernest Wong.

10 Well, was one of your sources as to what line of business Mr Huang Xiangmo was in, was your brother, was he one of the sources, he told you he's a major property developer?---Yes, yes. Yes, sir.

And would you have known that as at the date of the function of 12 March fundraising dinner?---Sorry?

Did you know, as at 12 March, 2015, that he was a major property developer in China and/or Australia?---Properly developer, yes, but the extent of how major, I wasn't. Yes.

20 And you became aware that, so far as donations are concerned, in New South Wales at least, prohibited donors included property developers? ---Yes, sir.

And did you understand, either through discussion with your brother or otherwise, that the reason this, what I'll call, false scheme was put in place, was to disguise the fact that a large amount of the donations, at least raised on the function on 12 March, 2015, was coming from a property developer, in other words it was a cover if you like or to disguise the fact that that's where the money was coming from?---You mean at the function itself, sir?

30 No.---Sorry.

I'll just make myself clear. I think we have established there was a false donation scheme around this Chinese Friends of Labor dinner on 12 March, 2015. I'm talking about the rationale for the corrupt scheme or the false scheme. Did you understand the rationale was because the donations raised at this function, or at least a portion of the funds, were coming from the property developer, namely Mr Huang?---Yep.

40 That in effect explained why this false scheme was put in place, that was your understanding?---Yep.

MR ROBERTSON: And could we go, please, to the Emperor's Garden Electoral Commission bundle, and at page 16, please. Now, Mr Yee, you also assisted in disclosures for Emperor's Garden Pty Ltd, correct?---Yes.

And I've just put on the screen, again, difficult to read, but the disclosure of political donations from major political donor?---Yes.

Is that on your screen?---Oh, it's not on my screen.

Just bear with us for a moment, Mr Yee.---Yep.

Just while that's being fixed, so it's right that you at least signed some disclosure forms in relation to Emperor's Garden Pty Ltd, correct?---Yes.

10 And that was at a time that you knew that Emperor's Garden had not donated any money in connection with the Chinese Friends of Labor event, is that right?---Yes.

And was that the extent of your involvement in responses to any request of the Electoral Commission of Emperor's Garden Pty Ltd, in other words, signing some of the disclosure forms?---Yes.

20 Chief Commissioner, there's a few other documents I need to put to the witness. We'll need some technical assistance. It's coming up on the large screens, but not the smaller screens, that's the difficulty. I'll just try one more time. What we might do is go to the May Ho Yee Electoral Commission bundle, and while that's happening, I formally tender the Electoral Commission bundle for Emperor's Garden Pty Ltd, being annexures EG 1 to EG 7, to the statement of Peter Baragry dated 20 September, 2018.

THE COMMISSIONER: Yes, that will become, from the Electoral Commission bundle, a statement of Peter Baragry, 20 September, 2018, Exhibit 243.

30

#EXH-243 – NSW ELECTORAL COMMISSION BUNDLE FOR EMPEROR'S GARDEN PTY LTD – BEING ANNEXURES EG1 TO EG7 TO THE STATEMENT OF PETER BARAGRY DATED 20 SEPTEMBER 2018

40 MR ROBERTSON: Now in relation to your mother, May Ho Yee, do I take it that you assisted her with each stage of the steps that needed to be taken in relation to the Electoral Commission concerning disclosures of donations and answers to questions and production of documents and the like, is that right?---That's correct.

So on each occasion that your mother received any communications from the Electoral Commission, she brought it to your attention, correct?---Yes.

And then you assisted her in what should then be done, is that right?
---That's correct.

And so where there was some document that needed to go back to the Electoral Commission, you would prepare that document in draft, is that right?---In draft?

Well, you would prepare that document, and you would – I withdraw that. You would prepare a proposed document - - -?---Yes.

- - - and give it to your mother to sign where it needed to be signed, is that right?---Yes.

10

And then, is it right to say you would then take responsibility for sending it off to the Electoral Commission?---Yes.

So we'll try and get this bundle on the screen, and we'll start at page 41, please. So just while that's happening, is it right that the position in terms of receipts from your mother is the same as yours? In other words, you didn't have them when the initial disclosures from the Electoral Commission were sent in, you only obtained them from Jonathan at the time that a notice to produce had been served by the Electoral Commission, is that right?---That's correct.

20

And so though we saw on Thursday some disclosure forms that disclosed the payments of, disclosed donations and identified a receipt number, again you got that receipt number from the Labor Party, not directly off a tax invoice or receipt, is that right?---That's correct.

And it was only when a notice to produce came to your mother that said, "Please give us the tax invoice or receipt for your donation," that you then, through Jonathan, requested a copy of the receipt, is that right?---That's correct.

30

And then one of the things that the Electoral Commission asked of your mother was to answer a series of questions that you and I discussed on Thursday, correct?---That's correct.

And you now recall that she was asked 13 questions, whereas you were asked 12, correct?---That is correct.

Now, you then gave an explanation to the Commission on Thursday in relation to how you dealt with those questions. Remember that?---Yep. Yes.

40

And that explanation was false, correct?---Yes.

And so can you just explain what you in fact did? So I take it that when your mother received the questions to be answered, she drew that to your attention, is that right?---Yes.

And then did you then just take responsibility for providing the responses or did you discuss that with your mother?---I discussed it with my mother, but the thing is mostly the answers, if you look at it, it's, it's virtually identical, and she - - -

So I'll just deal with that in stages. On Thursday you told us that you went through it question by question and you faithfully interpreted the questions and you recorded her answers. Now, that was false evidence that you gave on Thursday, correct?---Yes.

10

And is it right that essentially what you did in response to those questions was simply copy out the responses that you'd already prepared on your own behalf, is that right?---Yes.

And so I think the only change that you made was to change the first question, because the first question that you were asked was a little different to the first question that your mother was asked, correct?---Correct.

20

But you otherwise simply adopted the responses that you had prepared on your own behalf, is that right?---Right.

You didn't, as you told us on Thursday, you didn't simply ask the questions of your mother, translate them and then faithfully record the responses, correct?---I guess I went – yes.

30

You may have discussed the questions in general terms with your mother, but the answers that you gave were the answers that you had already prepared on your own behalf rather than a faithful indication of your mother's answers, is that right?---Yes.

And then ultimately you got your, which then ultimately you sent those responses off to the Electoral Commission, correct?---Yes.

Now, we've talked about your communications with the Electoral Commission. We've talked about the ones on behalf of Emperor's Garden, on the ones on behalf of your mother. Did you assist anyone else in communications with the Electoral Commission?---No.

40

So not any of the employees that we've discussed, for example?---No.

Now, following the Electoral Commission's investigations, when this Commission became involved did you provide any assistance to your mother or to anyone else as to what should be said to this Commission? ---No.

So you're aware that your mother – we discussed this on Thursday – you're aware that your mother participated in a compulsory examination before this Commission, correct?---Sorry, come again, that question, sorry.

You're aware that your mother participated in a compulsory examination before this Commission?---Yes.

Did you discuss with her what she should say at that compulsory examination?---At, at this particular one before, before I came on or, or after I came - - -

10 I'll do it in stages. You're aware that your mother came to this Commission?---Yep.

And she gave evidence in a private hearing, correct?---Yep.

I think you told us on Thursday that you might have dropped her off and maybe picked her up?---Yes, yes, that's right, yes.

20 In advance of that happening, did you have any discussions with your mother as to what she should say in response to questions asked in this Commission?---No.

THE COMMISSIONER: Do you know whether Jonathan had spoken to her to, in effect, help prepare her to give evidence in the private hearing? ---More than likely, yeah. Yes.

Well, do you know?---I, I don't know that conversation with them, I, I'll be honest with you.

30 MR ROBERTSON: Well, are you quite clear in your mind that you didn't have any discussions with your mother to say these are the kinds of things that you might say in response to questions such as, for example, reference to red packets?---Well that, that particular thing in regards to that document, that's what, what I told my mother about but in regards to afterwards in, you're talking about the private inquiry, no.

But it's the case, isn't it, that fairly early on, you had discussions with Jonathan where Jonathan told you certain things to say, for example, the red packets, the \$100 denominations and things of that kind, correct?---Yes.

40 And so it was clear you, at least at that point in time, some key things that Jonathan wanted you to say to the Electoral Commission and to this Commission, correct?---Yes.

Did you communicate any of those things to your mother or was that a matter that you left to Jonathan to communicate if he wanted to communicate?---That would be left with Jonathan.

In terms of those communications with your brother about red packets, \$100 denominations and things of that kind, doing the best you can, when did that

discussion happen? Did it happen around the time that you were asked to sign the form in March of 2015 or did it happen a little bit later when the Electoral Commission was starting to ask questions?---Electoral Commission.

Electoral Commission?---Yeah.

10 And so, doing the best you can, the time at which the ideas of red packets, \$100 notes, things of that kind, was when the Electoral Commission were asking questions of you, your mother and others, is that right?---Yes.

After that point in time, did you have any discussions with your brother as to what to say to this Commission?---No.

So you participated in the compulsory examination before this Commission, correct?---Yes.

You and I discussed some aspects of that on Thursday, correct?---Yes.

20 In advance of that happening, did you have a discussion with Jonathan as to what you should say before this Commission in the private hearing?---No, no.

And does the same answer apply to your evidence in the public inquiry on Thursday? Did you have a separate discussion with Jonathan in advance of your appearance on Thursday?---No.

30 But you did at least know that you had been called to give evidence, correct?---Yes.

And I think on the WeChat messages that you and I discussed before, he actually made contact with you on the first day of this public inquiry because he was here and he was asking you where you were, is that right? ---You mean 26 August?

On 26 August, that's right.---That's right, yes.

40 Did you respond to those messages or did you just receive them and - - -? ---Didn't do anything with - no, I didn't respond to them.

But you must have at least mentioned it to him perhaps at the restaurant after he sent the messages, is that right?---Oh, no, no, no.

No. So is it your evidence that in the lead-up to giving your evidence on Thursday, you didn't have any discussions with Jonathan as to what to say, is that right?---No, that's correct.

And what about in the time between Thursday and today? You had the family meeting that you referred to this morning?---Yes.

But was that the extent of the communications you've had with Jonathan or anyone else as to what you might say this morning?---Sorry, can you (not transcribable)

10 Between Thursday evening when you left here and this morning, you told us about having the family meeting with you, your brother, your mother and your father, correct?---Yes.

And during the course of that meeting, you made your clear your view that it was now time to tell the truth, correct?---Yes.

And the family agreed that it was time to tell the truth, correct?---Yes.

Other than that discussion, have you had any discussions with your family members or anyone else as to what evidence you might give today?---I - - -

20 And I should be clear, I'm not asking you to tell me about any communications you've had with lawyers. You can put that to one side. I'm talking about people within your family or anyone else, but excluding for the time being any discussions you've had with lawyers.---Yeah. Besides, besides the meeting on yesterday afternoon, because I saw, I saw my mum, she was really stressed. And basically she basically felt like she wanted suicide. So I said, "Look, we've come to the stage after I have given public on Thursday," I said, "Maybe it's time to tell the truth."

30 Now, other than the matters that you and I have discussed today, are there any other, is there any other information of which you're aware that may be relevant to this Commission's investigation?---No.

THE COMMISSIONER: So can I just ask you this, once the Electoral Commission started investigating this matter, the thought of doing something that would actually mislead a government body like the Electoral Commission is pretty serious stuff, isn't it?---Yes.

40 And also of course when you came to learn that this Commission was investigating the donations question, that too brought a serious dimension to things.---Yeah.

So I'm going back to discussions you had with your brother Jonathan, and I take it that you initially at least were not a willing participant in tagging along with something as serious as actively, intentionally misleading the Electoral Commission, or this Commission, is that right?---That is correct, sir.

So it would have taken a bit of persuasion to get you across the line, as it were, to actually engage in misleading the Electoral Commission and misleading this Commission, is that right?---Yes, sir. Yes, sir.

Well, what was it that Jonathan said to you was so important as to embark upon an exercise which was really an exercise of dishonesty, deception, both with the Electoral Commission and this Commission, what was it that he was pressing you was so important, to get you to overcome your reluctance in participating?---It's, it's more of a family thing, supporting family. I, I understand – look, I've, I've broken the law here. I completely understand that. But I guess from more, like, him being a family member of ours in the Yee family, that's actually a, like, family in traditional Chinese is quite important.

I can understand that.---Yeah.

But really what I'm getting to is what was going through Jonathan's mind at the time that you were able to detect from what he told you? That is, what was driving him to be so important to affect this cover-up involving a number of people? Why did he try and convince you to do this?---I, I think it's more of the, the, the, the friendship between him and, and Ernest Wong, and also that political career that could be there.

That friendship alone wouldn't explain why he was taking this extraordinary course of action.---Mmm.

So, what else was there that made it so important to him that there be a cover-up?---To be honest, besides what I've just said, like, the political career and the friendship, that, that's all I really know, Your Honour.

Well, did it have anything to do with trying to protect the person who was donating the money, from what Jonathan said to you?---That, that is most probable.

Well, it may be seen to be probable, but surely he must have said something to you to indicate that it's absolutely important that the truth doesn't come out as to where the money was coming from. Was that part and parcel of, if not in one single conversation, or over a number of conversations that you had with him about this matter, was that a factor?---I'll be honest with you, Commissioner, I, I can't recall that, but I think that would be through (not transcribable) various conversations. But if you ask me (not transcribable) time when it was, I, I can't exactly recall. I'm sorry.

Thank you.

MR ROBERTSON: You said in answer to one of the Chief Commissioner's questions that for Jonathan to assist in this matter of donations may be good for his political career. Could you just explain what

you mean by that, why would it be good for his career to be involved in this matter?---Well, he's, because he's supporting Ernest Wong in his political aspirations and I can't think of anybody who he would know in the Labor Party could help him with this matter and that's why I say that they're trying to help him in his aspirations to become a councillor at the 2016 election and that's all I know.

So in 2015 you knew Mr Ernest Wong was a member of parliament.
Correct?---That is correct.

10

And he was quite prominent within the Chinese community in particular.
Correct?---That is correct.

And your brother, you accepted a moment ago, was politically ambitious, wat least at that point in time. Correct?---At that time, yes.

And is it right to say then that you understood that your brother was seeking to support Ernest Wong because that may assist Jonathan in his political ambitions?---That is correct.

20

In the sense that in politics, as in life, when one assists another they might find that that person assists them as well. Is that right?---Yes.

On Thursday I asked you whether there was a photocopier somewhere within Emperor's Garden and you said, "I think there is but it may have gone missing." Do you remember that answer?---That is correct.

What did you mean by going missing, what are the circumstances in which it may have gone missing?---You mean the receipt?

30

The photocopier. So I asked you whether there was a photocopier within Emperor's Garden and you said, "I think I do, it may have gotten, gone missing." I'm just trying to understand what you mean by that.---That is incorrect evidence. That's false. In regards to that document the - - -

Well, I asked you on Thursday whether to your knowledge Jonathan photocopied any of the coloured forms and you said you're not aware to your knowledge.---Yes.

40

Was that truthful evidence?---Yeah, it is truthful.

But I did ask whether there was a photocopier within Emperor's Garden and you said it might have gone missing.---No, no, the, sorry, you mean a photocopier. Is that right?

Yes.---There isn't a photocopier there, sorry.

And there's no photocopier that might have gone missing, is that right?
---Oh, no, no. That, that, sorry, I, I missed, I misunderstood your question.
There is a photocopier there, sorry.

What were you referring to when you said that something might have gone missing?---I thought you were talking maybe photocopying the document itself, so I'm not - - -

10 I see. So you're referring to a document, rather than a photocopier itself, is that right?---Yeah, yes, yes.

It probably follows from what you've already told us, but is it right to say that you didn't, at the function on 12 March, 2015, you didn't see your brother carrying around a bag of cash?---I didn't see him carrying a bag of cash.

You didn't see anyone else carrying around a bag of cash?---No.

20 Did you see Mr Huang Xiangmo carrying around a bag of cash?---No.

Did you see Mr Wong carrying around a bag of cash?---No.

Did you see Mr Wong carrying around a bag of forms?---Personally I didn't see him, no.

Did you see anyone carrying around a bag of cash at the event of 12 March, 2015?---Significant amounts?

30 Significant amounts.---No.

And whilst you might have seen relatively small amounts of money in terms of raffle moneys and the like, you didn't see anyone handing over to anyone else thousands or tens of thousands of dollars in cash?---No. That is correct, yeah.

That's the examination, Chief Commissioner.

40 THE COMMISSIONER: Yes. Is there anyone who wants to apply for cross-examination of Mr Yee? Mr Glissan?

MR GLISSAN: I don't have any questions for him, thank you, Commissioner.

THE COMMISSIONER: Mr Yee, that completes your evidence today, and it's unlikely that you'll be required further. There is a summons, however, that remains outstanding but the Commission officers will notify you should there be a requirement for you to return. That's not likely at the moment as things stand, but you'll be notified. If we don't need you, then we'll let you

know that the summons has been set aside. Thank you for your attendance.
---Thanks.

You may step down.

THE WITNESS WITHDREW

[12.55pm]

10 MR ROBERTSON: That's the evidence for today, Chief Commissioner.
May I suggest the Commission adjourns until 10.00am tomorrow.

THE COMMISSIONER: Yes, very well. In accordance with earlier indications, that does complete the evidence today. I'll adjourn until 10 o'clock tomorrow.

AT 12.55PM THE MATTER WAS ADJOURNED ACCORDINGLY

[12.55pm]

20