

AEROPUB01524
24/09/2019

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pp 01524-01548

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION AERO

Reference: Operation E18/0093

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 24 SEPTEMBER, 2019

AT 2.20PM

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, can I deal with some timetabling issues first.

THE COMMISSIONER: Yes.

MR ROBERTSON: First I will recall Ms Tam during the course of next week for the purposes of any cross-examination by persons with leave to do so, and re-examination. That's likely to take place on Tuesday or Wednesday of next week but I'll ensure that Commission officers are in
10 contact with interested parties to deal with that matter, and in terms of this week there's some changes that need to be made to the published program to deal with convenience of counsel and other issues. Tomorrow I will call Ms Sibraa first, as has been announced, for the purposes of examination, but my learned friend, Mr McInerney has a difficulty and he seeks leave to cross-examine Ms Sibraa, so I will need to recall Ms Sibraa next week. Again, that's most likely to be either Tuesday or Wednesday of next week and most likely on the same day as Ms Tam. I won't be in a position to call Ms Maggie Wang as announced tomorrow afternoon. Ms Lindeman, who appears for her, has a difficulty tomorrow. I will instead call Ms Wang on
20 Thursday and then Ms Zhao, who was announced previously as a witness for Thursday. As presently advised, I intend to call her on Thursday afternoon, which then means I will get to Jonathan Yee on Friday rather than Thursday.

THE COMMISSIONER: Sorry, who is that?

MR ROBERTSON: Jonathan Yee, I expect to get to on Friday. Again, those matters are tentative and other issues may well arise that cause that to be readjusted. But at the moment it looks like tomorrow will be a short day
30 but the remaining days will be very full. Can I indicate that whilst I'll be doing everything in my power to finish the public inquiry by Friday of next week, there is a risk that it will spill over into the following week. So I will attempt to avoid that if I possibly can, but obviously enough, when one needs to recall witnesses for cross-examination and the like, that makes that difficult. So at the moment, I still intend to seek to end it within the published six weeks but I do indicate now that there's a risk that that won't be possible.

THE COMMISSIONER: Very good.
40

MR ROBERTSON: I call Wei Shi.

THE COMMISSIONER: Yes, Mr Shi. Does Mr Shi require an interpreter, Mr Overall?

MR OVERALL: Yes, he does require an interpreter, Commissioner.

MR ROBERTSON: I'm not sure where the interpreter is gone. If you just pardon me for a moment.

THE COMMISSIONER: Just take a seat there, thank you. We'll swear the interpreter in and – sorry, Mr Overall, we'll get to you in a moment.

<GARMAN (JOANNA) LUM, sworn

[2.27pm]

10

THE INTERPRETER: Garman Lum, G-a-r-m-a-n L-u-m, Cantonese interpreter.

THE COMMISSIONER: Does Mr Wei Shi take an oath or an affirmation?

MR SHI: Affirmation, please.

THE COMMISSIONER: Would you state your full name.

20 MR SHI: Wei Shi, W-e-i S-h-i.

THE COMMISSIONER: Thank you. Just keep your voice up too, if you would. Yes.

<WEI SHI, affirmed

[2.28pm]

THE COMMISSIONER: Thank you. Just take a seat. Mr Overall.

MR OVERALL: Commissioner, I seek a declaration pursuant to section 38 of the Act.

THE COMMISSIONER: The client understands what that is, does he?

10

MR OVERALL: Yes, he does. It's been explained to him on a number of occasions.

THE COMMISSIONER: Thank you. Mr Wei Shi, we shall shortly commence your evidence. You are aware, I trust, that you must answer all questions truthfully. Do you understand that?---*Understand.*

20

You are seeking a declaration under section 38 which I will deal with in a moment, but a section 38 declaration still requires you firstly to answer all questions truthfully. You understand?---*I understand.*

30

You'll have to tell him to speak up. Just move closer to the microphone. Thank you. Now, the declaration under section 38, which I'll shortly deal with, operates to protect you in the sense that the evidence you give today can't be used in proceedings in the future against you but there is one exception to that. The exception is that the protection under section 38 does not prevent your evidence from being used against you in a prosecution for an offence under the Independent Commission Against Corruption Act including an offence of giving false or misleading evidence for which the penalty can be imprisonment for up to five years. Do you understand what I'm saying?---*Understand.*

40

Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by the witness Mr Wei Shi and all documents and things that may be produced by him in the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection. There is accordingly no need for Mr Wei Shi to make objection in respect of any particular answer given or document or thing produced.

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THE WITNESS MR WEI SHI AND ALL DOCUMENTS AND THINGS THAT MAY BE PRODUCED BY HIM IN THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION. THERE IS ACCORDINGLY NO

NEED FOR MR WEI SHI TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: Mr Shi, did you donate \$5,000 to the Australian Labor Party in 2015?---*No.*

10

Did you donate \$5,000 to Country Labor in 2015?---*No.*

Did you buy a seat or table at the Chinese Friends of Labor event on 12 March, 2015?---*No.*

Did you attend the Chinese Friends of Labor event in 2015?---*No.*

Are you a member of the Australian Labor Party?---*No.*

20

Have you ever been a member of the Australian Labor Party?---*No.*

Do you know what Country Labor is?---*Do not know.*

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.*

Can we have on the screen, please, Exhibit 152 at page 20. Mr Shi, is this the document that you signed that you just referred to?---*Yes.*

30

And this is your signature towards the bottom of the screen. Is that right? ---*Yes.*

Is it your handwriting next to the signature that says 30/13/15?---*I'm not sure about this. I can't recall about this one.*

Do you think, though, that you signed this document on or about 30 March, 2015?---*I can't remember, but I did sign on it.*

40

But did you sign the document in around late of March of 2015?---*I can't recall. It has been too long, but this definitely was my hand, was my signature.*

Where it says "Wei Shi" next to the word "Name", is that your handwriting? ---*Yes.*

What about the \$5,000 figure that is above the name Wei Shi?---*No, not mine.*

Do you remember whether that \$5,000 was written on the form when you signed it?---*I, I don't think so. I only signed on it.*

What about the slash we can see on the screen? Was that a slash that you put through payment options, or was that something that someone else did?
---*Not me.*

Do you remember whether it was on the form at the time that you signed it?
---*That I'm not sure, I only signed on it, and I then returned it to them.*

10

When you say returned it to them, who do you mean?---*Jonathan Yee.*

So why was it that you signed the document that is on the screen?
---*Because Jonathan asked me to help him sign on it.*

Did Jonathan explain to you why he wanted you to sign the form?---*He said that it was in relation to a donation to the Labor Party, and he asked me to help sign on it.*

20

Did he explain to you why it would help for you to sign this document?
---*No, he just said, he, he told me just to sign on it and that's all.*

Did he ask you to make a donation to the Australian Labor Party?---*No.*

So are you saying he asked you to sign a form about donations, but did not ask you to make a donation, is that right?---*Yes.*

30

So is it right that at the time that you signed this document, you knew that it was a document saying that you had made a donation, even though you had not made a donation?---*I didn't know the document relates to, related to a donation. It was in English. But I trusted him and so I signed as requested.*

But Jonathan Yee told you that he wanted you to sign a form regarding donations before you signed it, is that right?---*Yep, he only said that it related to a donation.*

40

So you at least knew that this form had something to do with donations when you signed it, do you agree?---*Yes.*

Can you have a look in the bottom right-hand corner. There is some text that starts with, "I confirm that." Can you read English well enough to understand that paragraph of text?---*I didn't understand. I didn't understand then, I don't understand now either.*

Did Jonathan Yee explain to what that paragraph of text meant?---*No, he didn't.*

Did you sign one document that looks like the document on the screen or more than one?---*I don't understand what you meant by more than one.*

Did you sign just this document that is on the screen or did you sign two documents that look like the one on the screen?---*If you're talking about document that look like this, I think that it was only one.*

10 After you signed the document that is on the screen, did you receive a tax invoice or receipt with respect to a donation?---*Yeah, I did receive each of them.*

Was that received within a few weeks of signing the document or was it received at a later time?---*I think it was some time afterwards.*

And can we go please to page 19, the preceding page. Mr Shi, do you see a tax invoice that's dated 9 April, 2015, on the screen?---*Yes.*

20 Did you receive a document that looks like the one that's on the screen? ---*Yes, I did.*

But you didn't receive it within a few weeks of signing the form we saw on the previous screen, is that right?---*Correct.*

You received it sometime later. Is that right?---*Yes.*

Now, if you have a look at the top left-hand corner of this page, do you see how it says Australian Labor Party NSW? Can you see that there, Mr Shi? ---*Yep, I see that.*

30 And can we go please to page 41. I'm now going to show you a document that looks very similar, Mr Shi, but this time in the top left-hand corner it says Country Labor. Do you see that there?---*Yep.*

And have you received a document that looks like the one on the screen but with Country Labor in the top left corner?---*Yes, but I had not paid attention to what you said on the top left. I haven't paid enough attention to that.*

40 Was it right that you received two tax invoices and receipts, one from Australian Labor Party and one from Country Labor Party?---*Yes.*

So you recall receiving two tax invoices or receipts, not just one. Is that right?---*Correct.*

But you only signed one reservation form or disclosure form like the one that I showed you when we started, is that right?

THE INTERPRETER: Reservation form or disclosure form, did - - -

MR ROBERTSON: Or disclosure form.

THE INTERPRETER: Okay.

THE WITNESS: *Correct.*

MR ROBERTSON: Can we go now, please, to the Electoral Commission bundle, and can we go, please, to page 7. Mr Shi, I'm showing you a copy
10 of a letter from the Electoral Commission of 20 January, 2016. Do you remember receiving a copy of this letter?---*Okay.*

You do remember receiving this letter, is that right?---*I don't quite recall about this. I was actually overseas for most of the time, so I don't know what happened during that time.*

When you say you were overseas for most of the time, what time are you now talking about?---*Because I don't know English very well, I, usually when I received letters like this in English, I would pass and back to
20 Jonathan Yee.*

You said a moment ago that you were away for a substantial period of time. What period of time were you away, do you remember?---*I, I am normally away when I had my leave, and a few times when I was called I was actually overseas.*

But can you remember when that was?---*I do not recall.*

Is it right that you may have received the letter that is on the screen, but you
30 just can't remember, is that right?---*Correct.*

But if you did receive it, you would have brought it to Jonathan Yee's attention, is that right?---*Yes.*

Go to page 10, please, of this bundle. Now, Mr Shi, is this your handwriting that says "Wei Shi" on the document that's now on the screen?---Hai.

THE INTERPRETER: Sorry, I pointed him to the top where it says "Shi Wei". Do you mean the one below, "Wei Shi" or others?
40

MR ROBERTSON: I mean where, at, towards the top of the page, where it says, "Shi Wei," is that your handwriting?---*Yes.*

And a little bit further down or a bit further down where it says, "Wei Shi," that's also your handwriting, is that right?---*Yes.*

And can we move two pages down, please. What about on this page? Is that your handwriting or someone else's handwriting?---*I wrote it.*

And where did you get the information to write on this page?---*Jonathan Yee provided me with the answers, and asked me to copy them over to here.*

So whose idea was it to fill out this form? Was it Jonathan's idea, or was it your idea, but you asked for Jonathan's help?---*Jonathan's.*

10 And if we can turn to the next page, please. Again, is it your handwriting that appears on this page?---*Yes.*

And the information that you wrote down, did you get that from Jonathan as well?---*Yes.*

At the time that you filled you this information, did you have a tax invoice or receipt from the Australian Labor Party or Country Labor?---*I am not sure. I can't recall.*

20 Well, if you assume that this document was prepared in January or February of 2016, did you have a tax invoice or receipt from the Australian Labor Party or Country Labor in January or February 2016?---*I am not sure. I did receive the invoice but I just left it untouched and sent it to, you know, Jonathan right away, and therefore I had not paid attention to the timing of events.*

But I think you said to us before that you didn't get that invoice until sometime after you signed the first form that I showed you today. Is that right?---*Yes.*

30 And do you know whether you had it by February of 2016?---*I am not sure.*

If we go back please to page 10, one further page back. After you did the handwriting on this form, what did you do with the form?---*And the, and the remaining, I did pass it back to Jonathan Yee.*

So you did or you didn't?---*Yes.*

40 So you filled out the handwritten and then you left it with Jonathan Yee. Is that right?---*Yes.*

Can we go now, please, to page 17. Mr Shi, I'm now going to show you another copy of the form and if you look in the bottom left-hand corner of the page you can see a signature. Is that your signature?---*Yes.*

And you agree, do you, that you signed this document?---*Yes.*

And do you agree that it was, that you signed this document towards the start of 2016?---*Agree.*

And whose idea was it to sign this document? Was it your idea, Jonathan Yee's idea or someone else's idea?---*Jonathan Yee's.*

Did Jonathan Yee explain to you why he wanted you to complete this form? ---*No, he didn't provide any detailed explanation.*

10 But you at least knew this form had something to do with donations. Do you agree?---*Yes.*

And so you knew that by signing this form you were telling the Electoral Commission that you had made donations. Do you agree?---*Yes.*

And so you knew that what you were telling the Electoral Commission was a lie. Do you agree?---*Yes.*

20 Can we go, please, to page 4 of the bundle. Mr Shi, this is now another letter from the Electoral Commission of 25 August, 2016 with a warning. Do you remember receiving this letter?---*I can't recall.*

Now, Mr Shi, the Electoral Commission later asked you to produce documents. Do you agree?---*Yes.*

30 And if we can go to page 22 of the bundle, please. Do you remember receiving this letter of 14 September, 2016 requiring you to produce documents to the Electoral Commission?---*Yeah, it seems that I, there was, it was received.*

And when you received this letter what did you do about it?---*Because I didn't understand it I pass all these letters to Jonathan Yee to see what need to be done.*

And what did Jonathan Yee say you should do about this notice to produce?---*I, that I should provide what is requested to the extent I have them and the, anything else, in terms of anything else that's required he will provide them.*

40 And can you remember what it was that you had that you could provide to the Electoral Commission?---*I only gave him the statement.*

Are you referring to a bank statement?---*Yes.*

If we can go to page 36 of the bundle, please. Is this the bank statement that you were just referring to, Mr Shi?---*Yes.*

Do you remember whether you obtained any other documents to give to the Electoral Commission?---*No.*

With the bank statement did you send that to the Electoral Commission or did you give it to Jonathan to send to the Electoral Commission or did you do something else?---*I gave it to Jonathan Yee.*

10 Can we go, please, to page 30 of the bundle. Mr Shi, did you also give this document to Jonathan to give to the Electoral Commission?---*Yes.*

So is that a document that you had at home and you brought in to give to Jonathan. Is that right?---*Yes. Because I didn't understand what the letter required me to provide so he told me what they were and so I gave them what I had.*

So is it right that Jonathan identified for you the documents that you should try and find at home. Is that right?---*Yes.*

20 And one of those documents was the bank account statement that we've seen?---*Yes.*

And another one was the notice of assessment that is now on the screen, correct?---*Yes.*

And if we go to page 32, is this another of the documents that Mr Yee asked you to obtain, being a PAYG payment summary?---*Yes.*

30 So this is another document you gave to Jonathan Yee to send to the Electoral Commission, is that right?---*Yes.*

If we then turn the page, this is another PAYG payment summary but this time issued by Emperor's Garden Pty Ltd. Is that another document you gave to Jonathan to send to the Electoral Commission?---*Yes.*

And then after those documents were given to Jonathan, did you send them to the Electoral Commission or did you leave that to Jonathan to do?---*He handed them in.*

40 Did you have a cover letter that accompanied the documents?---*There might be one, yes.*

Can we go, please, to page 29 of the bundle. Is this the cover letter that you thought might exist, is that now on the screen?---*I can't remember now.*

Is this in your handwriting?---*No.*

Do you recognise whose handwriting it is?---*Possibly Jonathan's.*

What about the signature towards the bottom of the page. Is that your signature?---*Yes.*

So do you recall signing a letter that looks like this?---*Yes.*

THE COMMISSIONER: How did you come into possession of this letter?

THE INTERPRETER: Pardon me, Your Honour?

10 THE COMMISSIONER: How did you come into possession of this letter, which you then signed?---*Jonathan gave it to me.*

MR ROBERTSON: Where were you when Jonathan gave you this letter? ---*Emperor's Garden.*

And after you signed – I withdraw that. Did Jonathan explain to you what this letter was?---*Possibly but I don't recall what it was now.*

20 But you signed the draft letter that Jonathan prepared for you. Is that right? ---*Yes.*

And what did you do with the letter that you signed?---*I gave it back to him.*

Back to Jonathan Yee. Is that right?---*Jonathan Yee, yes.*

At the time that you signed this letter, did you have any tax invoices or receipts from the Australian Labor Party or Country Labor?---*Yes.*

30 And if you have a look in the third line of this letter, starting on the second line, "I had been overseas since 17 September." Do you see that?---*Yep.*

And so do we take it that you signed this letter sometime after 17 September?---*Yes.*

And that's the case even though the date on the top of the page says 6 September, 2016?---*Yes.*

40 Can you remember approximately when you got back from the trip that you started on 17 September, 2016?---*About two or three weeks after.*

So you signed this letter in maybe October or maybe early November, would that be right?---*Yes.*

After you signed this letter, the Electoral Commission asked you some questions, is that right?---*I, I think that had happened, but I didn't know how to answer them.*

Can we go, please, to page 42 of this bundle. And, Mr Shi, is it right that on about 29 March, 2017, you received a letter from the Electoral Commission asking you to answer some questions?---*Agree.*

And when you received this letter, what did you do about the letter?

---*Likewise, I passed it to Jonathan Yee.*

10 And what did Jonathan Yee do about the letter?---*I didn't know what was said in the letter, but I just provided what he required me, he or the commission required me to provide.*

So you were aware that the Electoral Commission were asking you some questions, do you agree?---*Yep, I think so.*

And do you agree that some answers were provided to those questions?

---*Yes.*

Who came up with those answers?---*Jonathan Yee.*

20 So if we go to page 50 of the bundle, Mr Shi, are these the answers that were provided to the Electoral Commission's questions?---*Yes.*

Did you type out these answers or did someone else type out these answers?

---*Not me.*

Do you know who typed out these answers?---*I do not know.*

But you left it to Jonathan Yee to answer the questions of the Electoral Commission for you, is that right?---*Yes.*

30

When is the first time you saw the document that is on the screen now?---*I can't remember now, but I think I've seen it once before.*

Who was the person who first showed you this document?---*Should have been Jonathan Yee, Jonathan Yee.*

And did you agree that Jonathan Yee could respond to the Electoral Commission's questions on your behalf?---*Yes.*

40 Chief Commissioner, can I deal with some formal tenders.

THE COMMISSIONER: Yes.

MR ROBERTSON: I neglected to tender the Electoral Commission bundle with respect to Ms Tam so I might do that first. I tender the bundle with respect to Ms Tam that I described as the Electoral Commission bundle being the annexures to Mr Baragry's statement pertaining to Ms Tam of 20 September, 2018.

THE COMMISSIONER: Yes, the Electoral Commission bundle in respect of Ms Tam 287.

#EXH-287 – NSW ELECTORAL COMMISSION BUNDLE FOR TERESA TAM - BEING ANNEXURES TT 1 TO TT 9 TO THE STATEMENT OF PETER BARAGRY DATED 20 SEPTEMBER 2018

10

MR ROBERTSON: And then I tender the Electoral Commission bundle in relation to Mr Shi which is constituted by annexures WS 1 to WS 10 with a statement of Mr Baragry of 20 September, 2018.

THE COMMISSIONER: Yes, the Electoral Commission bundle in respect of Mr Shi will become Exhibit 288.

20

#EXH-288 – NSW ELECTORAL COMMISSION BUNDLE FOR WEI SHI - BEING ANNEXURES WS 1 TO WS 10 TO THE STATEMENT OF PETER BARAGRY DATED 20 SEPTEMBER 2018

MR ROBERTSON: Chief Commissioner, I apply for the directions that were made under section 112 of the Independent Commission Against Corruption Act in relation to the compulsory examinations of Mr Shi on 20 December, 2018, 25 January, 2019, 22 February, 2019 and 8 March, 2019 be lifted insofar as it would otherwise prohibit the publication of the fact that Mr Shi gave evidence on those occasions and insofar as it would otherwise prohibit publication of any question asked or answer given in this public inquiry.

THE COMMISSIONER: In respect of the orders made under section 112 in respect of the compulsory examinations of Mr Wei Shi on 20 December, 2018, 25 January, '19, 22 February, 2019, 8 March, '19 is to be varied so as to remove the prohibition on disclosure of the fact that Mr Wei Shi gave evidence at any one of those compulsory examinations or all of them, and to remove the prohibition on any questions or answers that may be put in this public inquiry in relation to the compulsory examinations to which I've referred.

VARIATION OF SUPPRESSION ORDER: IN RESPECT OF THE ORDERS MADE UNDER SECTION 112 IN RESPECT OF THE COMPULSORY EXAMINATIONS OF MR WEI SHI ON 20 DECEMBER, 2018, 25 JANUARY, 2019, 22 FEBRUARY, 2019, 8 MARCH, 2019 IS TO BE VARIED SO AS TO REMOVE THE PROHIBITION ON DISCLOSURE OF THE FACT THAT MR WEI

SHI GAVE EVIDENCE AT ANY ONE OF THOSE COMPULSORY EXAMINATIONS OR ALL OF THEM, AND TO REMOVE THE PROHIBITION ON ANY QUESTIONS OR ANSWERS THAT MAY BE PUT IN THIS PUBLIC INQUIRY IN RELATION TO THE COMPULSORY EXAMINATIONS TO WHICH I'VE REFERRED.

MR ROBERTSON: Mr Shi, you participated in some private hearings before this Commission late last year and early this year. Is that right?
10 ---*Yes.*

You were served with a summons requiring you to attend in November of last year. Is that right?---*Yes.*

When you received that summons did you tell anyone about the summons?
---*Because I don't read English I, likewise I brought it back to Jonathan Yee's attention at the first possible moment.*

Did Jonathan Yee say anything to you about that summons?---*He told me
20 that it was a summons and that it was simply a continuation of what happened with the Electoral Commission last time.*

And did he tell you that the summons required you to attend a private hearing before this Commission?---*Yes.*

Did he give you any advice or direction as to what you should say in the private hearing?---*That I will have to explain with reference to what he has written up before.*

30 And when you say in reference to what he's written up before, what was that a reference to?---*That I have, that I claim to have donated the money while I actually haven't.*

And when you say the money, how much money was that a reference to?
---*10,000.*

Other than Jonathan Yee, did you speak to anyone else about the summons to attend the private hearing?---*No.*

40 During one of your private hearings before this Commission, you told the Commission that you had donated \$10,000 in 2015. Do you agree?
---*Yes.*

And you agree that that was a lie?---*Yes.*

You told the Commission in a private hearing that some of the \$10,000 from money received in red packets. Do you agree?---*Yes.*

Do you agree that that was a lie?---*Yes.*

Whose idea was it to say that some of the money that you gave by way of donations came from red packets?---*Jonathan Yee.*

So is it right that at some point in advance of the private hearing, Jonathan said to you that you should refer to red packets. Is that right?---*Yes.*

10 And do you recall when it was that Jonathan told you to say that?---*When I received the, what do you call, the document that ICAC sent me.*

Are you referring to the summons to attend the private hearing, is that right?---*Yes.*

So is it right that during the discussion that you had with Jonathan Yee as to what to do about the summons to attend the private hearing, one of the things that Jonathan said to you was that you should refer to red packets. Is that right?---*Yes.*

20 You also told the Commission in a private hearing that the donation was made in \$100 notes. Do you agree?---*I think I said 50 or 100, I can't recall now.*

Do you remember whether you had any discussion with Jonathan Yee or anyone else as to what you should say about the denominations of the notes? As in \$100 notes or \$50 notes.---*No.*

30 In July of this year, you were given a summons to attend the public inquiry before this Commission. Is that right?---*Yes.*

Have you spoken to anyone about that summons?---*Yes.*

Who have you spoken to about that summons?---*Jonathan Yee.*

And did Jonathan Yee say anything to you about that summons?---*That I, he said that it will be the same like last time.*

Did he say anything else?---*Just maintain what was said originally.*

40 When did this meeting happen or this discussion happen with Jonathan Yee?---*When I presented the summons to him.*

THE COMMISSIONER: When you had this conversation, and he said to, in effect, maintain the same story, what did he actually say, to the best of your recollection?---*Words to the effect that what you said to the ICAC before, you should continue with it.*

And again, what meeting or what occasion did he say those words to you? When did he say those words?---*He told me so at the Emperor's Garden when I showed him the summons.*

And did you agree to do what he asked?---*Yes.*

And why did you agree?---*Because I trusted him.*

10 MR ROBERTSON: The discussion that you are now referring to, was that within a few days of receiving the summons to attend the public inquiry?
---*Yes.*

THE COMMISSIONER: You said it was because you trusted him, but you realised that he was asking you to do something that was wrong, didn't you?
---*Yes.*

Well, why would you trust him and act on what he said?---*Because I was very scared, I was very stress, stressed.*

20 Why were you scared or stressed?---*Because I have told a lie before already, and there was no way to undo it, and I was very worried.*

MR ROBERTSON: You said that Jonathan told you to just maintain what was said in the private hearing, do I have that right?---*Yes.*

And do we take it from that that after your private hearings, you told Jonathan what you had said at the private hearings?---*Yes.*

30 So you had some discussions with Jonathan after your private hearings to tell Jonathan the nature of the questions that you were asked, and an indication of the answers that you gave, is that right?---*No, I only told him that I have told what he asked me to say.*

So you reported back to Jonathan after your private hearings before this Commission. Is that right?---*Yes.*

And you told him that you did what he asked you to, which was to tell a story containing lies. Is that right?---*Yes.*

40 Did you also give Jonathan a summary of the kinds of questions that were being asked of you?---*No.*

After the discussion with Jonathan that you've told us about after the summons for the public hearing, have you had any other discussions with Jonathan Yee regarding this public hearing?---*No.*

Do you know who Ernest Wong is?---*Do you mean Wong Kwok Chung, Ernest Wong?*

Ernest Wong. Do you know who Ernest Wong is?---*If, I know him, the Chinese name Wong Kwok Chung, that is the person I know as Ernest Wong.*

Have you ever met with Ernest Wong?---*He often comes to dine at Emperor's Garden and attend functions there.*

10 How often would you see Ernest Wong at the Emperor's Garden restaurant?---*At least once or twice each week usually.*

What is your role at Emperor's Garden restaurant?---*I am the manager.*

THE COMMISSIONER: How long have you been there?---*Over 10 years.*

MR ROBERTSON: And you're referring to the yum cha restaurant on the corner of Dixon Street and Hay Street, is that right?---*Yes.*

20 Have you ever had a private discussion with Ernest Wong?---*Yes.*

When was that?---*After the public inquiry, after I have received the fine notice. Do you call it fine notice?*

Are you referring to the summons that told you that you had to come to the public inquiry?---*Yes.*

30 So you're saying after you received the summons to attend the public inquiry, you had a private discussion with Mr Ernest Wong, is that right? ---*Yes, once.*

How did that private discussion come about?---*He was upstairs on level 2 and Jonathan told me to go up because Ernest Wong wanted to see me.*

And did you then go up to level 2 to see Ernest Wong?---*Yes.*

Whereabouts was Ernest Wong on level 2, where was he?---*Power room, near, near the power room, in the VIP room.*

40 So are you saying in a VIP room near the power room. Is that right? ---Yeah.

And you then went into that VIP room. Is that right?---*Yes.*

And was Mr Wong on his own or was he with other people?---*He was on his own.*

And did Mr Ernest Wong say anything to you when you went into the room?---*Yes.*

What did he say to you?---*He told me to insist on the original version, and the original, the, the, yes, original way of explaining.*

10 THE COMMISSIONER: What were his actual words? Try and recall them as he actually said them to you, and how you responded, if you did respond. ---*He told me to insist on what was said before, and that ICAC did not have enough evidence to prosecute me with, and that I shouldn't worry.*

But when you said they insisted, or he insisted that you, what do you mean by insisted?---*Well, that is what I have told the ICAC before.*

MR ROBERTSON: But what did you mean by insisted?---*The, to maintain what I had said at the private hearing, and then to continue the same at the public inquiry.*

20 THE COMMISSIONER: Well, was he asking you to do it, or was he telling you to do it?---*He, he was asking me.*

MR ROBERTSON: Did you tell Mr Wong what you had told this Commission in the private hearing?---*Yes.*

Did you tell him that during the meeting in the VIP room, is that right? ---*Yes.*

30 THE COMMISSIONER: What do you recall telling Mr Wong about your evidence in the private hearing?---*I said that although I have not donated, I claimed to have donated, and I explained about the source of the money.*

MR ROBERTSON: And is that the only time you have had a private conversation with Mr Wong?---*Yes.*

So you had seen him many times in the restaurant, is that right?---*Yes.*

40 But is it right that you've never had a conversation with Mr Wong other than to, other than the one you told us about, and other than doing things like taking orders in the restaurant?---*Correct.*

Do you know whether Mr Wong and Jonathan Yee are friends?---*Yes.*

How do you know that?---*They're always together.*

Do you know who Huang Xiangmo is?---*I know from the news.*

Is that the only way you know of him?---*Occasionally he would come to the Emperor's Garden to attend community functions.*

How many times can you remember seeing him at Emperor's Garden?
---*Not too many times.*

Do you know whether Huang Xiangmo and Jonathan Yee are friends?
---*Possibly not.*

Do you know whether Huang Xiangmo and Ernest Wong are friends?
---*Yes.*

10

How do you know that?---*Because whenever I see Huang Xiangmo in the Emperor's Garden, Ernest Wong would be there too.*

THE COMMISSIONER: How well do you know Mr Wong?

THE INTERPRETER: Do you mean Ernest Wong or Huang?

THE COMMISSIONER: Ernest Wong.---*I don't know much about either of them.*

20

You've never been to Ernest Wong's parliamentary office?---*No.*

MR ROBERTSON: Is it right that you've only ever had one private meeting with Mr Ernest Wong?---*Yes. After receiving the summons to the private, to the public inquiry, just once, yes, since.*

But did you have any private meetings with Ernest Wong prior to that time?---*Can you explain? I don't understand.*

30 Prior to the private meeting in the VIP room near the power have you had any private discussions with Ernest Wong?---*Yes.*

And did those private discussions concern the investigation by this Commission or by the Electoral Commission?---*Yes.*

And what brought about this other meeting we're now talking about, other discussion?---*One or two days after the private hearing, he came to speak to me. To us, to me.*

40 And where did that take place?---*At the Emperor's Garden.*

And what did Mr Ernest Wong say to you on that occasion?---*That same thing he told me afterwards, that I only had to maintain what I said before.*

Was this discussion in English or in another language?---*In Cantonese.*

And doing the best you can, what words did he use in Cantonese?---*Same as before, that I must maintain what I said before and that it was my own donation and nothing will happen.*

Do you remember anything else that Mr Ernest Wong said to you during that private discussion?---*No.*

10 So are they the only two private discussions you've ever had with Ernest Wong, the one near the private hearing, and the one near where you got the summons for the public inquiry?---*No, there are a few other times, because I attended the private hearing a few times, and after each time, about one day or two, he would come and speak to me about pretty much the same thing.*

So you've participated in four private hearings before this Commission, is that right?---*Yes.*

20 And are you saying you had a private discussion with Ernest Wong after each of those four private hearings?---*I think there were at least three times.*

So it may have been four times, it may have been three times, is that right? ---*Correct.*

And on each of those times, you discussed with Ernest Wong what happened at the private hearings, is that right?---*No, I only, I simply told him that I had complied with their request and answered accordingly.*

30 And other than what you've already told us, can you remember any other things that Ernest Wong told you on those occasions of the private discussions?---*That's all.*

So to be clear, there were three or four private discussions around the times of your private hearings, is that right?---*Yes.*

And there was the private discussion in the VIP room near the power room after you received the summons for the public inquiry, correct?---*Yes.*

40 Are they the only times that you have had private discussions with Ernest Wong?---*Yes.*

But you have spoken to him from time to time when he has been dining at the Emperor's Garden Restaurant, is that right?---*Mmm, just general conversation in relation to his order of food only.*

How does Ernest Wong usually pay for his bill when he dines at Emperor's Garden Restaurant?---*Sometimes he pays by card, sometimes he put the bill on the account.*

So he has an account at Emperor's Garden Restaurant, is that right?---*I don't know about the details, it would be the cashier that would be able to answer that. By, by that I mean sometimes they will pay for the meal only at a later date.*

Do you know how Ernest Wong pays for his account?---*To my knowledge, he usually pays by card or to put it on the account.*

10 And when he has to pay for the amounts that are on the account, how does he pay that account? Is that by credit card, cash, cheque or some other way?

MR HALE: I do object to this. I don't know that this witness can say that.

THE COMMISSIONER: Sorry, I can't hear you.

MR HALE: I'm sorry, I don't know that based upon the answers that this witness can in fact answer that question because I thought that was a matter not for him, but the cashier.

20

MR ROBERTSON: I'll withdraw the question and put it in a slightly different way. You've referred to Mr Ernest Wong's account, correct? ---*Yes.*

Do you know how Mr Wong pays that account?---*I do not know.*

When is the last time you spoke to Jonathan Yee?---*Yesterday.*

30 And when you spoke to him yesterday, did you speak to him about this Commission's investigation?---*No.*

When is the last time you spoke to Jonathan Yee about this Commission's investigation?---*After receiving the one for the public inquiry.*

And that's the discussion that you told us about a little earlier today. Is that right?---*Yes.*

40 Since that discussion, have you had any other discussions with Jonathan Yee regarding this Commission's investigation?---*No.*

Why was it that you lied in the private hearings before this Commission? ---*I was scared and also I have already previously lied to the Electoral Commission already.*

Why were you scared?---*Because I have lied already. I feel very scared because I feel like I am really stressed already.*

So you were scared that if you told the truth in the private hearing, the Commission would find out that you lied before. Is that right?---*Yes.*

And is that why you were scared?---*Yes.*

Have you been telling us the truth today?---*I have.*

10 Why have you decided to tell the truth today?---*I have been reading the news about this inquiry. I have been following what happened and I feel like I am too stressed, I felt overcome and I felt pain in my heart. I contacted my solicitor two Fridays ago and I decided I had to tell the truth.*

Now, two Fridays ago, you knew that Valentine Yee had given evidence before this Commission. Is that right?---*Yes.*

And you knew that Valentine Yee did not have a good day in the witness box where you're sitting, is that right?---*Yes.*

20 And so you knew that Valentine was probably going to tell the truth, whereas in the past he'd told lies. Do you agree?---*Agree.*

And so is that one of the reasons you'd decided to tell the truth today, namely that you thought that Valentine would be telling the truth to this Commission?---*Yes.*

In fact, is that the real reason you're telling us the truth now, that you knew you couldn't get away with lying anymore?---*Yes.*

30 That's the examination, Commissioner.

THE COMMISSIONER: Does anybody want to cross-examine? Mr Overall, just before I get to you, I might just hear from Mr Hale.

MR HALE: Again, I think I probably need to get instructions. I could cross-examine but I think - - -

THE COMMISSIONER: Well, yes. I see the time.

40 MR HALE: It would be better if I get instructions. Were this civil litigation, I probably would have sufficient to be able to cross-examine, but having regard to the circumstances, I really don't. I won't be terribly long whenever it resumes.

THE COMMISSIONER: All right. Well, Mr Hale, I think given the time anyway, it would be better to do it on the one occasion. So we'll have to try and reprogram things to accommodate your application. I'm prepared to entertain your application, of course, but you'll need to give consideration

as to give some idea to Counsel Assisting, at least, the areas you want to cross-examine this witness on.

MR HALE: And I'm very conscious of the rule of Browne v Dunn doesn't apply but nonetheless, if I, in the circumstances didn't cross-examine, it might be said that there was some form of acceptance of what has been put.

THE COMMISSIONER: Now, Mr Overall, do you want to defer any questions – have you any questions for your - - -

10

MR OVERALL: Yes, I do.

THE COMMISSIONER: Do you want to deal with those today or do you want to leave it until after Mr Hale's - - -

MR OVERALL: I think it would be better if I cross-examine on the same day as Mr Hale.

20

THE COMMISSIONER: Yes. I think so, it might be better to. Well, then we'll just have to reprogram. So shortly after I adjourn, Mr Robertson will speak to you and see if we, and Mr Hale, see if we can work out a program that suits everyone. All right. Nobody else. Very well.

MR ROBERTSON: Nothing else for my part.

THE COMMISSIONER: So we're going to adjourn shortly and you will be required, unfortunately, on another day, quite possibly next week but it won't be for, perhaps it'll only be for about an hour or so, maximum. That's relatively realistic, is it?

30

MR ROBERTSON: I think so. I'll speak to my learned friends and we'll see where that can fit in.

THE COMMISSIONER: Yes. All right, then. So, I'm going to release you today but you will be required to return on a day yet to be fixed and Mr Overall will speak to you about the likely date shortly.

40

THE WITNESS STOOD DOWN

[3.54pm]

THE COMMISSIONER: Is there anything else today?

MR ROBERTSON: Not for my part.

THE COMMISSIONER: Thank you. Well, I'll adjourn.

AT 3.54PM THE MATTER WAS ADJOURNED ACCORDINGLY
[3.54pm]