

AEROPUB01549  
25/09/2019

AERO  
pp 01549-01599

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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 WEDNESDAY 25 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, just to confirm the proposed program for the remainder of this week. In a moment I'll call Ms Sibraa. As I indicated yesterday afternoon, Ms Wang won't be able to be called until tomorrow, and I'll then call Ms Zhao, and that will mean that I won't be in a position to call Jonathan Yee until Friday. But that's the present plan as presently stated, and then a program for next week will be provided as soon as that can occur. I should indicate that I think on a few occasions I have mispronounced Ms Sibraa's name. I apologise to her for doing that. I may not have been the only one. I suspect a witness or two have done so likewise.

THE COMMISSIONER: Very good. Well, we're ready to proceed, then.

MR ROBERTSON: Can I deal with one other housekeeping matter. During the course of Ms Tam's examination I wrongly suggested that Ms Tam participated in a compulsory examination on 21 December, 2018. It was in fact 21 January, 2019. I sought a variation to the section 112 direction on that basis. In my respectful submission, there needs to be a variation of that variation to refer to 21 January, 2019, rather than 21 December, 2018. My misstep occurred at page 1501 of the transcript.

THE COMMISSIONER: So it did refer to - - -

MR ROBERTSON: I referred to 21 December, 2018 and I should have referred to 21 January, 2019.

THE COMMISSIONER: Thank you. In respect of the variation to the section 112 order in relation to the examination of Ms Tam, the reference at page 1501 to 21 December, 2018 in respect of that variation it's noted is incorrect and should have been a reference to the compulsory examination carried out on 21 January, 2018. Accordingly, the order I made yesterday by way of variation to the section 122 direction will be amended accordingly.

**AMENDMENT TO VARIATION OF SUPPRESSION ORDER: IN RESPECT OF THE VARIATION TO THE SECTION 112 ORDER IN RELATION TO THE EXAMINATION OF MS TAM, THE REFERENCE AT PAGE 1501 TO 21 DECEMBER, 2018 IN RESPECT OF THAT VARIATION IT'S NOTED IS INCORRECT AND SHOULD HAVE BEEN A REFERENCE TO THE COMPULSORY EXAMINATION CARRIED OUT ON 21 JANUARY, 2018. ACCORDINGLY, THE ORDER I MADE YESTERDAY BY WAY OF VARIATION TO THE SECTION 122 DIRECTION WILL BE AMENDED ACCORDINGLY.**

MR ROBERTSON: That's the only housekeeping matter from my perspective, other than to apologise for that error, which was entirely mine.

THE COMMISSIONER: That's all right.

MR ROBERTSON: I call Julie Louise Sibraa.

THE COMMISSIONER: Yes, thank you, Ms Sibraa. Now, Ms Sibraa, do you take an oath or an affirmation to give evidence?

10

MS SIBRAA: Affirmation, please.

THE COMMISSIONER: Thank you.

THE COMMISSIONER: Thank you. Just take a seat there. Mr Nash, you appear?

MR NASH: I do, Chief Commissioner.

THE COMMISSIONER: Yes, I grant leave to you to appear.

10

MR NASH: I seek a declaration under section 38, Chief Commissioner.

THE COMMISSIONER: Yes, very well. You have explained those provisions to Ms Sibraa?

MR NASH: I have.

THE COMMISSIONER: Yes, thank you. Ms Sibraa, would you just put your full name on the record, please.---Yes, Julie Louise Sibraa.

20

Thank you. I understand from what Mr Nash has said that you seek a declaration under section 38 of the Independent Commission Against Corruption Act and you understand what those provisions provide for? ---That's correct.

Very well. You understand that notwithstanding the making of such a declaration, you of course are required to answer all questions truthfully and produce any document or thing that you may be required to produce?---Yes.

30

The provisions of section 37 and 38 of the Act have the effect that, with the declaration made, the evidence you give today cannot be used in other proceedings in the future, such as criminal and civil or other proceedings. But there is one exception that the protection doesn't apply to and I'll just make that clear. The exception is that the protection under the section 38 declaration does not prevent your evidence from being used against you should there be a prosecution for an offence under the Independent Commission Against Corruption Act, including in particular an offence of giving false or misleading evidence, for which the penalty can be a term of imprisonment for up to five years. I see it as my obligation to just ensure that you are aware of the provisions of section 38 and, in particular, are also aware that there is one exception, the one I've just mentioned. You understand what I'm saying?---Yes.

40

Thank you. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by the witness, Ms Sibraa, and all documents and things that may be produced by her in the course of her evidence today at this public inquiry are to be regarded as having been given or produced on objection. Accordingly, there is no need for Ms

Sibraa 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, MS SIBRAA, AND ALL DOCUMENTS AND THINGS THAT MAY BE PRODUCED BY HER IN THE COURSE OF HER EVIDENCE TODAY AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION. ACCORDINGLY, THERE IS NO NEED FOR MS SIBRAA TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: Ms Sibraa, you were the Governance Director of NSW Labor between September of 2016 and May of 2018. Is that right?---Yes, that's correct.

And you also had a couple of additional stints where you assisted the party with disclosures and the like. Is that right?---That's correct.

At the time that you were Governance Director of NSW Labor, did you have any role with Country Labor?---Yes, yes.

And is it right that in your role as governance director you dealt both with NSW Labor matters and Country Labor matters?---Yes, that's correct.

Is it right to say that at least from a head office perspective, the pool of staff that deal with NSW Labor matters is the same pool of staff that deal with Country Labor matters?---Yes. Yes, that's correct.

And so thus as governance director you would deal with both NSW Labor matters and Country Labor matters. Is that right?---Yes. That's correct.

You're a member of the Australian Labor Party, correct?---Yes, I am.

You would regard yourself as a lifetime supporter of the Australian Labor Party?---About 32 years' worth, yes.

You were a candidate for the Legislative Council of this state at the most recent state election. Is that right?---Unsuccessful, yes.

I think you were number 8 on the ticket. Is that right?---Yes.

In general terms, what was your role as governance director when you had that role for NSW Labor?---It was a new position created. It started as, they needed an office manager role, which also encompassed HR, human resources, so looking after all the staff, compliance, handling grievances within the party and particularly within staff, and encompassed Young Labor as well, obviously our obligations to our regulatory authority, the NSW Electoral Commission and Australia Electoral Commission, the internal, some of the internal hearing panels, the review panels. It was a very broad encompassing role, yes.

10

And so is it right to say that although the title governance director seems to have the gist of things like compliance and some of the other categories that you identified, it was a somewhat broader role that even went so far as to be something in the nature of an office manager. Is that right?---Absolutely. Including organising to get the office painted, for example.

But at least a core part of your role as governance director was dealing with communications with the regulatory authorities, namely NSW Electoral Commission and the Australian Electoral Commission. Is that right?---Yes, that's correct.

20

THE COMMISSIONER: Ms Sibraa, before September 2016, were you employed by NSW Labor? That is before you took up the position as governance director.---No, no, no. No.

So that was your first employment with NSW Labor?---I think a long time ago, around '99, I worked as a, yeah, I mean one of the sort of campaign staff but - - -

30 And what had you done before joining NSW Labor in September?---I'd been working for a public affairs, strategic - - -

Sorry, September 20126, I was referring to. You were working for?  
---Strategic public affairs company.

Do you hold some formal qualifications?---In terms of tertiary education?

Tertiary, yes.---Yes. I have a Bachelor of Arts and a Bachelor of Social Work.

40

MR ROBERTSON: Is it right though that your first role at the Sussex Street head office was in September of 2016, is that right?---Yes.

You may have had roles that were more campaign focused. Is that right?  
---Correct.

And presumably you had volunteer roles throughout the 32 years in which you have been a member of the Labor Party?---Correct.

Everything no doubt from handing out how-to-vote cards to things more significant than that?---Yes, that's correct.

But in terms of an actual employed role at head office, the first employed role based at head office was in September 2016. Is that right?---That's correct.

10 Is it fair to say that at least a core function of your role as governance director was to coordinate responses to communications from the two Electoral Commissions, the NSW Electoral Commission and the Australian Electoral Commission?---That's correct.

And as part of that role did you spearhead the response to a notice to provide information and documents that was given to NSW Labor and another one to Country Labor in December of 2016?---Yes, I did.

20 Can we have on the screen, please, document 1. Chief Commissioner, during this examination I'll be referring to a bundle of documents by reference to document numbers. I probably won't tender them during the course of this examination but I'll tender them within short order - - -

THE COMMISSIONER: Yes, very well.

MR ROBERTSON: - - - with an index that uses the same document references.

THE COMMISSIONER: Yes. Thank you.

30 MR ROBERTSON: Ms Sibraa, do you see on the screen a letter from the Electoral Commission of 6 December, 2016?---Yes.

And you recall receiving this letter which contained a notice to produce information and a notice to produce documents?---Yes.

And if you look in the top right-hand corner you can see a stamp that says "Australian Labor Party, 8 December, 2016". Do you see that there?---Yes, I can.

40 And so do I take it that it was the practice at least as at December of 2016 that when mail was received by the Sussex Street office someone would put a stamp on it to say the date that it was received?---Yes, that's correct.

And was that done by a reception staff member do you know?---Yes.

And then what then happened in terms of mail, how did that then get to the appropriate person to deal with it?---The receptionist would distribute it as

she'd been directed or taught, or they had been directed or taught I should say because it could be - - -

And when you say distributed, distributed in hard copy or distributed by email?---Hard copy.

And is it right to say that on 8 December, 2016 not only did the Australian Labor Party receive a letter with notices to produce but so did the Country Labor Party?---Yes.

10

Can we go, please, to document number 2, and I'll just note in passing that document number 1A is the equivalent document to the Country Labor Party. Can you just put document 2 up on the screen, please, just so we can follow the route of how this document came to your attention. Now, if we just go to the second page of this document first. This is an email chain, so we're going to have to go from the bottom up. Do you see there there's an email that seems to be from a Xerox machine to Ms Leary, L-e-a-r-y?  
---Sorry. Yes, I do.

20

And Ms Leary was the executive assistant to the two assistant general secretaries at that time. Is that right?---Yes.

And if we then go up a page. The executive assistant email address then sends it, it seems, to DMS. Do you see that at the bottom of the screen?  
---Yes, I do.

And does that stand for document management system?---I'm actually not sure. I've never noticed that before.

30

But you'll at least see that it's copied to Ms Harding?---Yes.

And Ms Harding was an executive officer of NSW Labor at that time. Is that right?---Yes.

Who did Ms Harding report to at that time?---Well, she reported to a variety of people. I mean principally I think to the Assistant General Secretary Pat Garcia, but at times she, she was often told she should report to me but the reality was more often than not she reported to the assistant general secretary.

40

So at least as a practical matter she reported to Mr Garcia. Is that right?  
---Yes.

And is someone that did at least do some work with you at the time that you were there. Is that right?---Definitely, yes.



So not necessarily a formal reporting role but at least someone that you would work with. Is that right?---Yes, and help, assist her and she assists me, yes.

So where there's particular tasks that need to be done and she's available she might assist you with those tasks. Is that right?---Not so much of that but just I think I was more a mentor kind of role to her.

10 So are you saying you didn't really work together in the sense of supervising her work or anything of that kind, but you did at least have a relationship within the office in the nature of a mentor and mentee?---A little bit, and, but I did sometimes supervise some of her work, particularly when it came to the two tribunals that she had responsibility for.

Did she have any involvement in communications with either the NSW Electoral Commission or the Australian Electoral Commission?---No.

20 And if you then look a bit further up the page, you see that Ms Harding then seems to forward the communication from the Electoral Commission to you at 10.34am?---Yes.

And so do we take it from that that that's likely to be the first time that you at least received an electronic copy of the communications from the Electoral Commission of 6 December, 2016?---Yes, I think so.

You may have known of its existence before that point, but you got it by way of an electronic copy at about 10.34am on that day, is that right?---Yes.

30 And then if you look a little bit further up the email chain, you then send it to Ms Wang and Ms Murnain. Do you see that there? About halfway down the page.---Yes.

Why did you send it to Ms Wang?---Because as the financial controller she was my first port of call to find out where some of the documentation may be. She, her office would have held that information.

40 So do we take it from that that at some time prior to 11.28 on 8 December, 2016 you read the notices to produce with a view to identifying what those notices to produce were looking for?---Sorry, can you just repeat that.

Do we take from what you said a moment ago that at some time before 11.28am, when you forwarded the email to Ms Wang, you read the notices to produce and realised that some of the documentation that would be required was in the nature of financial documentation?---Yes, correct.

And so having read that you realised that some of the material the Electoral Commission wanted would be material maintained by the Finance Department, correct?---Yes.

And the Financial Controller of NSW Labor at that time was Ms Wang, correct?---Correct.

And that's why you were sending it to Ms Wang, really as a precursor to asking her to dig out some documents, is that right?---That's right.

You also copy it to Ms Murnain. She was the general secretary at that time, is that right?---That's correct.

10

Why were you copying it to Ms Murnain?---I reported to the general secretary. It was obviously something she should be, I felt at the time she should be aware of.

And why did you think it was something that she should be aware of?  
---Communications with the Electoral Commission of this nature was, you know, something I would have thought was significant enough for her to be aware of.

20 Well, you'd be aware, having read the notice, that there was a suspicion of some significance that the Electoral Commission had at that time, do you agree?---Yes.

In fact, the Electoral Commission said that it had suspected that there was what I'll call straw donors. In other words, people saying that they had donated money even though they had not donated money, correct?---Yes.

And that's obviously a significant matter, would you agree?---Yes.

30 And that's one of the reasons why you brought it to the fairly prompt attention of the general secretary, is that right?---Yes, correct.

And so would it be fair to say that when the notice came to the party's attention on 8 December, 2016, it was a matter of considerable concern to those who had read the document?---It was a matter of significant import, yes.

40 You regarded it as a very serious matter that was being considered and investigated by the commission?---Well, the, yes, the, the quantum and the, and the, and the suspicion that was in, contained in the documents, yes.

It's a matter that, if true and if became public, would be a matter that would have the risk of causing considerable damage to the party, correct?  
---Correct.

And you'd agree, then, it was a matter that required very close attention?  
---Yes.

Can we go, please, to volume 5 of the public inquiry brief, please. And can we go please to page 58 of volume 5. Just bear with us for a moment. Now, you're aware that this Commission executed a search warrant on the Sussex Street office, correct?---Yes.

And for your benefit, on the screen is a copy of the front of a folder that was recovered during the course of that search warrant. Do you recognise that particular folder?---Yes.

10 And what is that folder?---That would be my hard-copy retention of the hard-copy documents that I had gathered as part of that issue. So that's my handwriting.

And so while you were governance director, you kept a number of important hard-copy documents that were relevant to the Electoral Commission's inquiry concerning Chinese Friends of Labor. Is that right?---Yes.

And you put those documents in the folder that we can see on the screen. Is that right?---Yes.

20

And I think you said that's your handwriting that we can see on the top right-hand corner?---Yes.

And can we turn please to page 62 and I'm just now showing you one of the documents that was in that folder. Do we take it from what you said a moment ago that this would be your highlighting on this document?---I can't, I have no recollection of this but I assume it would have to be, yes.

30 But at very least you would agree that you closely read the notices from the Electoral Commission, correct?---Yes.

THE COMMISSIONER: Well, the two passages that have been highlighted are the passages that refer to the author's suspicion or reasons to suspect, and it would appear that whomsoever highlighted those identified that as being a key point of the inquiry.---Yes.

40 MR ROBERTSON: And you would, whether it's your highlighting or not, you would agree that what's been highlighted were the key matters from your perspective as governance director at the time that you looked at this notice. Is that right?---Correct.

And so when you looked at this notice on 8 December, 2016, you knew that what Mr Smithers was suspecting was that there was what I've described as straw donors. Correct?---Yes.

And if you just have a look in the first of the highlighted paragraphs, there's a reference at the end to section 96HB(1) of the EFED Act. Do you see that there?---Yes.

Now, did you know – at the first time you read this document, did you know what section 96HB(1) of the EFED Act was all about?---Well, I may not have exactly, no but - - -

And do you recall whether you promptly sought to find out what that section was all about?---I know that I, I did look it up at some point. Whether I did it exactly at that point or not, I don't know.

10 So is it right to say that at least within short order of receiving this notice on 8 December, 2016, you looked up section 96HB(1) of the Election Funding Expenditures and Disclosures Act, 1981?---I think so.

And you might have done it on the day or you may have done it within a couple of days of that happening? Is that right?---Probably.

But is it right to say, at least in the first instance, you looked that up yourself as opposed to seeking immediate legal advice to say what section 96HB was all about?---No. Yeah, I would have looked at it myself.

20 You got out your version of the Act, which no doubt you had as governance director, correct?---Yes, yes.

And you had a look at that section, correct?---Yes.

And having looked at that section, you knew that one of the things that the Electoral Commission was concerned about was whether there was scheme to circumvent the EFED Act. Is that right?---Yes.

30 So that was something that you knew, if not on 8 December, you knew within a few days of 8 December that not only was there a concern about straw donors, but there was a general concern that there may have been a scheme to circumvent the EFED Act, is that right?---Yes.

Now, having received these notices and read them, what steps did you then take to prepare responses to them?---So as I said, my first port of call was to the Finance Office, via the financial controller. I would have followed up sending her that email. I would have walked down to her office and said, "Do you have any of these documents that are being asked for?"

40 And so is it right to say that that probably happened during the course of 8 December, 2016, being the date that the notice was received?---I think so.

It may well have been the next day, but it was within a pretty short period of you receiving and reading the notice, is that right?---Yes, yes. And so I do recall that it didn't seem very long before Maggie Wang came to my offices and had all the documentation with her. So she had the copies of the disclosure documents and the invoices. So that was the first step, then I

went in to see the more junior Finance person to track down the deposit slip for when the money was actually banked, because that was also one of the documents we had to produce. I also checked the bank statement to see whether in fact that money was, just to confirm that money was banked in those accounts on that day.

Now you referred to the more junior staff member. Who was that a reference to?---It's Jenny Zhao.

10 Now, just so we can look at this tangibly, can we go back to document number 1, please, and can we go to page, start on page 1 of the document. Page 1, document 1. So, Ms Sibraa, this was the document I took you to before, but can we now please go to PDF page 7. PDF page 7 of document number 1. Now, you'll remember that there were two notices to produce for each of the two parties. One was a notice to produce information and one was a notice to produce documents. So I think so far you've been referring to the notice to produce documents, is that right?---Correct.

20 So we'll move to page 9, two pages down. And on page 9 is the categories of documents that were asked to be produced. Do you see that there?---Yes.

And is it fair to say that you focused on getting the documents responsive to this notice to produce first?---That's correct.

And if you look at item number 1 is a copy of the receipt issued by the ALP to persons who handed donations to the ALP on 9 April. Do you see that there?---Yes.

30 And so is that what you asked Ms Zhao for early in the exercise of preparing a response to these notices to produce?---No. I think I focused firstly on 3 because that seemed to be the first step in terms of establishing what we had about the donations.

40 So just to get this chronology right, 8 December you receive the notice. You read it. You forward it, as we've seen, to Ms Wang. You speak to her about it sometime soon after that, perhaps on the 8<sup>th</sup>, perhaps on the 9<sup>th</sup>. You then, what, ask her for the documents that would be responsive to paragraph 3 of this notice to produce, is that right? You might not have put it in those terms but - - -?---Yeah, I can't be specific about that, but my first thought was that, well, do we have any documentation about any of this? So that's what I was seeking in the first instance. Obviously the donors seem to be, would seem to be the most important part. That may have been a thought process rather than something I actually said.

And then I think you said to us that after that conversation but within relatively short order Ms Wang came back to you. Is that right?---It was either Ms Wang or, or Jenny the offsider but, yes, that's right.

And when they came back to you they came back to you with what?---They came back to me with the disclosure forms, the completed ones, and the invoices from the Labor Party that accompanied them.

Now, in what form was that? Were they giving you the Finance Department's copy to have a look at or have they copied it and then given it to you?---I'm, I'm pretty sure it was the Finance Department's copy.

10 So let me try and help you this way. I have in my hands a folder that appears to look like a black background with sort of white marbling with a sticker on the spine saying "Tax invoice from 4001 to 41000". Does that look like the folder that you may have been given with a series of documents in it?---Yes.

And for those following on who want to know what I've just referred to, it also appears in Exhibit 152, at least a copy of the spine is Exhibit 152, page 1. So that was then given to you to have a look at. What did you then do? ---That's a good question. Well, I think I then, I thought well, here's that part of it. I'll now go and look for the, the next part which was the deposit slip.  
20

Well, if we go back to the notice to produce itself, so that's page 9 of document 1, the same page we were on a moment ago. So the particular thing that they were looking for, if we just scroll just up the screen a little bit more. The particular thing that they were looking for was 10 times \$5,000 donations to the Labor Party. Do you see that there?---Yes.

And then there was another request for 10 times \$5,000 for Country Labor. Correct?---Yes.  
30

And so do we take it that after you were given a copy of the folder you at least went through it to see whether you could see 10 times \$5,000 for NSW Labor and 10 times \$5,000 for Country Labor?---Yes, yes.

Can we go, please, to Exhibit 152. Now, what I'm going to do is I'm going to hand you the material that was in the black-and-white folder that I referred to a moment ago. It's been taken out and put in a separate folder because that original folder is rapidly decomposing. But I'll hand that folder to you. I just want to ask you a few questions about it, and for those following along an electronic copy of what I've just handed to the witness is at Exhibit 152, page 1. So can we have Exhibit 152 on the screen, please, so those watching can follow what's going on. I'll just get you to open the folder up and have a look at the first page.---Yes.  
40

And I'll ask the operator to move to page 2, and do you see there an invoice from Johnnie Lin, invoice number 4-0-9-0-8?---Yes.

So you ticked that off as it were as one invoice that pertains to \$5,000 to the Australian Labor Party for Chinese Friends of Labor launch. Is that right?  
---Correct.

And then if you then turn to the next page which is stapled to the last one. We then have a thing described as a Reservation Form. Do you see that there?---Yes.

10 And at the time you would consider that to be a disclosure form where someone is signing to say amongst other things they're not a prohibited donor?---Exactly.

So essentially you were looking for 10 times \$5,000 for both an invoice and a disclosure form. Is that right?---Yes.

And so once we get to the page that you're presently on, which is page 3 of Exhibit 152, we've in effect ticked one of the \$5,000 that we're looking for. Is that right?---Correct.

20 And if you then just flick to the next one we've got another example of Harbour City Group, an invoice, another \$5,000.---Yeah.

And flick to the next one that is attached to it, Harbour City Group Pty Ltd, another \$5,000.---Yeah.

Is that effectively the exercise that you did in working out how to respond to the notice to produce?---Yeah.

30 Was it any part of your role to check whether these disclosure forms were from people on the electoral roll, for example?---I mean, as part of the role I had in it's current – I don't know how to put this. So it was part of my role in terms of what I was dealing with at the time. With this particular matter, I, I can't recall, I have a vague memory of trying to check some of the people on the roll but I can't say that I went through every one and said, "Are they on the roll?"

40 So just unpacking that. At the time that you were governance director, was it the procedure of NSW Labor to check whether each person who said that they were a donor was either on the electoral roll or had an Australian Business Number?---So are you talking about at this point or are you talking about when I was there?

I'm talking about when you were there at the moment, but perhaps in fairness to you I'll spilt up the question. You weren't the governance director at the time of the Chinese Friends of Labor launch in 2015, correct?---That's right.

By the time you had commenced as governance director, the invoices that we've just seen had already been at least recorded in the MYOB file for NSW Labor. Is that right?---Yes.

And so to the extent that any checking might have been a matter of procedure before it ended up in the MYOB file, that wouldn't be something that you would have done because it was before your time. Is that right? ---Yes.

- 10 Now, putting aside these particular ones at the moment, just talking about the procedure generally, in 2016, was it the procedure of NSW Labor to not record a donation or other contribution as having been received until that person had been checked as being on the electoral roll or having an ABN, or was that not the procedure, at least as at 2016?---I think as at 2016 it was not the procedure.

Did that later become the procedure?---It later became part of what we did, yes.

- 20 And do you recall roughly when that change in procedure took place? ---Well, so I started reviewing or working on a donations policy around January 2017, the following January. I worked on that over a period of, sort of, months in a way and obviously it evolved from there. We became a lot tighter with that sort of oversight. Separately to that, we were working on an IT system, a software system that the party had spent a lot of money on to try, which would in fact do all of that every time a donation was entered, would do all that automatically. So that was being established in parallel with a more manual kind of procedure that I was trying to introduce.

- 30 Is it fair to say that one of the reasons you were engaged as the first governance director at NSW Labor, was with a view to tightening up those kinds of procedures that you've just summarised?---There had been three reviews of the party before I arrived, looking at different aspects of the party's culture. There was a cultural review, there was an administration and finance review and there was more of an HR review. So it was one of the things I was - - -

But it's right to say that you didn't replace anyone in the role as governance director. Is that right?---No, no. That's right.

- 40 You were the first governance director?---Yes.

And is it right to say that one of the reasons a governance director was appointed for the first time was with a view to tightening up those kinds of procedures that you've just summarised?---Yeah. It's so, yes.

And in point of fact, you spent a lot of time endeavouring to tighten up procedures of that kind?---Yes.



Including in the ways that you've just summarised?---Yes.

In 2016, so let's take it from the first day that you started as a governance director in 2016, talking generally, not talking about a particular event, if someone was donating money, it was at least as a matter of procedure that money wouldn't be received or accepted without a disclosure form. Is that right?---No. I mean, can you give me a specific example, I can try and - - -

10 Well, what I'm asking is whether there was a policy or practice to say that money shouldn't be received without a disclosure form, but by the sounds of it the answer to that proposition is, no, there wasn't a practice, at least a general practice or procedure.---The disclosure forms had been in existence for quite a long time, so they were used a lot. Whether it was "We cannot accept anything without a disclosure form," the answer would be no because some people give very small amounts of money.

20 So at least at the start of your tenure as governance director, there was no cap on the amount of cash that the party would accept by way of a cash donation, is that right?---That's, that's right.

Now, that later changed in your tenure, I think, to a cap of \$1,000, is that right?---That's right.

And whilst disclosure forms were commonly asked for, there wasn't a general procedure or practice that said, in effect, "We won't accept money unless there is a disclosure form associated with it," is that right?---I would have to say that that's right.

30 But at least as a matter of practice it was expected that larger donations would have disclosure forms associated with them, is that fair?---I would, I would actually say for fundraisers, events, there was definitely an accepted practice that they all have disclosure forms. Like, they were put on the table for people to fill out if they were buying raffle tickets or – so there was, it was widely used, but what I'm saying is it was not absolutely always going to be there for every donation.

40 Would you agree, though, that it was at least common for money to be received at head office – either cash, credit card and credit card forms or perhaps cheques – where at least contemporaneously there wasn't a disclosure form?---Yes.

That's one of the matters that you sought to tighten up as governance director, is that right?---Yes, as much as possible.

And you sought to make it easy for everyone, including you, by putting as much of that online as possible, is that fair?---Well, yes, yes.

But there was certainly instances, weren't there, in your tenure, particularly early in your tenure, where there may be money received at head office – cash, cheques, perhaps even credit cards – which at least at the time of receipt of that money there wasn't a form, a disclosure form, associated with it, is that right?---It's bothering me a bit because I think there was actually, there was a system in place, but in terms of cheques arriving at head office, I think the party was more careful than that, I think. I believe the party was more careful than that. I don't think we just had cheques coming in that we'd just bank and I don't think that – that mischaracterises the, I think  
10 there was genuine, there were genuine efforts to ensure that people have filled in disclosure forms or were known donors, so, yeah, I just don't want to mischaracterise it as it was totally hopeless.

No. So there was at least an expectation that particularly in relation to events there would be forms, is that right?---Yes.

And as you said, those forms would be made available at the events themselves.---Yes.

20 But it would at least be common, wouldn't it, for some money to be received from an event, say some money received in cash - - -?---Yes.

- - - and at the time of the receiving of the cash there's not a precise number of forms that match the cash?---Yes, ah hmm.

So there'd be some forms, consistent with the practice of having forms on tables and things of that kind, correct?---Yes.

30 But it was at least common to have to chase up forms to match the cash. Would that be fair?---Yes, yes, definitely.

But was there a practice, at least at the start of your tenure, of not processing particular amounts of cash being received unless there was a form that was associated with that cash or unless the donor was otherwise known to those who were processing the cash?---It's, it's hard to answer that correctly because in the beginning I, I don't think I had a good understanding in the beginning of what was, how everything was done. It took quite a while to get across all those procedures within Finance. It was very much in that Finance area.  
40

Well, you would - - -?---Yes, they – sorry, I've lost the question a little bit, sorry.

Well, you would at least agree, wouldn't you, that there was room for improvement in terms of donations practices and procedures. Is that right? ---Absolutely, yes.

And part of your role was to attempt to improve those procedures as best you could. Is that right?---Yes, absolutely.

10 At least as at the start of your tenure was there a formal written-down policy in terms of the matters that we're talking about, such as the circumstances in which donations should be accepted or not accepted?---I don't recall one. I think, like, in the new member's kit, for example, that would be sent to anyone that joined the party, there was a, there was definitely a section on donations because I remember editing it later or improving it later. I know that training was done quite a lot with members and candidates and MPs, so there was a degree of that but not an actual "Here's our donations policy document," no.

And I think you ultimately prepared or at least assisted in preparing such a document during your tenure. Is that right?---Yes.

If we go back to the folder that's in front of you, Exhibit 152. I think we got to Harbour City Group on page 5.---Yeah.

20 I'll get you to flick to the next one, which is Patricia Siu on page 7, and again the attachment to that is Patricia Siu.---Yeah.

Again a \$5,000 figure.---Yeah.

And just go to the next one. There Teresa Tay. And again the next page another \$5,000 figure. But you at least note now, don't you, that the \$5,000 figure on each of these reservation forms seemed to all be black and all seemed to be in the same handwriting?---Yes.

30 Now, when did you first notice that?---I can't say when I, I may have noticed it at the time or it may have been later when I was looking through the documents again. I really can't say.

So is - - ?---Probably not in the first instance.

When you say in the first instance, is this something that you noticed before the response went to the Electoral Commission in response to the notices to produce that we've been asking or - - ?---Say that again.

40 I've been asking you some questions about the two notices to produce issued to each of the two parties in December of 2016.---Yes.

The consistency of the \$5,000 figures and handwriting, was that something that you noticed before the response to those notices went in or was it only afterwards?---I, I'm not sure. It may have been, it may have been afterwards. I, I think I was focusing more on the signatures.

When you say focusing on the signatures, focusing on ensuring that the signature actually existed. Is that right?---That they existed and that there wasn't, it didn't, that they weren't looking like the same person or something like that.

THE COMMISSIONER: Sorry, could you - - -

MR ROBERTSON: Did you also - - -

10 THE COMMISSIONER: I'm sorry. Could you just explain that last answer.---So I wanted, my first thought was to make sure that the actual signatures looked like they were different signatures, it wasn't just someone doing the same, you know, writing it. That it looked like these were actually signed by individuals.

Yes, thank you.

MR ROBERTSON: Did you also look to see whether the signatures were original signatures as distinct from copies of signatures?---I don't know that  
20 I did.

So if you just pass your finger underneath the page that we're presently on. It's page 10 of Exhibit 152. It's Teresa Tam's form. And you'll be able to feel the indentation of the signature on that particular page.---Oh, I see.

And so that page at least appears to be an original signature.---Yeah.

But can I then ask you to turn, it's another, the bundle you have isn't paginated but it's another 20 pages on. It's a little bit further through.  
30 You'll see another Teresa Tay invoice, and can the operator please go to page 30. So maybe just stick your finger in the first one I went to.---Yeah.

Which is page 10 of Exhibit 152.---Yes.

Now, you've just said yes. Is that because you've realised that the one we're now looking at seems to be a copy rather than the original?---Yes.

When did you first notice that?---I didn't.

40 So you just first noticed it now in the witness box when I've pointed it out to you?---Yes.

Can I just ask you to look both at the colour one that we started with, of Teresa Tam, which is page 10 – if you need a little sticky note, say the word, otherwise put your finger on it – as compared with the one that's presently on the screen, which is page 30.---Sorry, I've lost it. Okay, so I've got the first one.

Sorry, this bundle is not paginated because we want to keep it relatively pristine. So you now have the colour version of Teresa Tam?---Yep.

And we'll just put page 30 on the screen. Would you agree that those two pages seems to be copies of each other?---Yes.

You exhaled a little bit when I pointed that out to you. Is that because you were surprised to note what I've just put to you?---Yes.

10 And when was it – would you agree that the first colour Teresa Tam document appears to be an original and the second black-and-white one appears to be a copy of the colour one?---Yes.

When did you first notice that? Is that right now in the witness box?---Yes.

Or was it some earlier time?

20 THE COMMISSIONER: Had you noticed it at the time, would that have led you to raise a query or to pursue a particular line of enquiry?---Yeah, I think so. Yes. Because, but I'm trying to - - -

We're not being critical of you. I'm just wondering, had you noticed that, what sort of a line of enquiry would you have thought worthwhile pursuing, if any at all?---Possibly directly contacting that donor to try and ask the question.

The question being?---Being did you donate - - -

30 Two lots?---Yes.

Two lots of \$5,000?---Yes. I think when I got the, I think when I got the documents, they were in separate lots. So I had Country Labor and – I'm not sure, but they weren't necessarily together so that I didn't actually look at each like that.

MR ROBERTSON: Well, are you sure they were in separate lots?---No.

40 Isn't it more likely that they were in the folder that I'm now showing you, saying "Tax invoice from 40001 to 41000"?---Well, yes. Later on I know we had Country Labor separate, those separate. But so, anyway, the answer is I didn't pick it up at the time.

But you don't have a recollection of being given two separate lots back in 2016. Is that right?---Well, now I'm not sure so I don't - - -

In front of you in the folder, they are in two separate lots in the sense that the Labor Party ones come before the Country Labor ones. Do you agree? ---Yeah.

And so it's not like the two Teresa Tam ones were immediately after one another?---No. No.

But you'd have to agree, wouldn't you, that you don't have a recollection of getting two separate folders. Your best recollection would be you got a single folder and it was probably the one that I've just shown you. Would you agree?---I don't believe, my recollection is not the folder being brought in. My recollection is it being the actual forms being brought in. So I know  
10 they came from the folder but my recollection is the forms were brought in.

I see. So it's possible that one, someone from the Finance Department in fact took out the forms from the folder that I've shown you?---Yes. They didn't just dump the folder on my desk and say, "They're in here." I'm pretty sure the actual documents were brought to me, which I then copied.

And they may have put them in one pile on your desk or they may have put them in two piles on your desk. Is that right?---Exactly.

20 If you just go back to the black-and-white Teresa Tam, which is page 30 of Exhibit 152. If you just have a look at the invoice that's attached to it. So if we can go back one page, please, Operator. So you now have a Teresa Tay, T-a-y, invoice in front of you.---Yes.

And do you notice that in the top left-hand corner it says "Country Labor"?  
---Yes.

If you can then just turn back to the next page, the reservation form. Looking at this reservation form, what has it got to do with Country Labor  
30 as opposed to Australian Labor Party New South Wales Labor Branch?  
---Yeah, nothing.

I appreciate the copy's hard to read, but underneath where it says "Chinese Friends of Labor Present", it says "NSW Labor Chinese Launch". Do you see that there?---Yep. Yep.

So you would agree, wouldn't you, that at least on the face of this form it's got nothing to do with Country Labor at all?---On the face of that form, no.

40 And one of the things that the Electoral Commission was asking Country Labor to provide is tax invoices or receipts in relation to donations to the Country Labor Party, correct?---Yes.

And the fact that this invitation form or reservation form said nothing about Country Labor, was that something that you noticed at the time?---Probably not.

When you answered one of my questions a moment ago, you accepted that there was nothing on the face of the form to identify it had anything to do with Country Labor. Why did you make that qualification? Are you suggesting that there was something else separate from the form that matched this supposed donation to Country Labor as opposed to NSW Labor?---Because when I, when I started in the role there was a whole other issue going on about the separation of Country Labor, proper separation of Country Labor and NSW Labor, that in the past I don't think, I think the two were much more enmeshed, and it was only through dialogue with the NSW Electoral Commission before I arrived that we come, the party had come to an understanding that they needed to completely separate the parties and be much more scrupulous about the way money was allocated to each of them and between each of them. There was a whole legal issue around that. So that's why I say "on the face of it", but I don't think prior to that point, or prior to, a period prior to that point that necessarily it was identified. It, it could have been, but that's why I just qualify it a little bit. Sometimes it would.

Well, at least as at the start of your tenure there were separate bank accounts for NSW Labor and Country Labor, is that right?---Yeah, yes.

But I think you're drawing attention to the fact that after the end of the 2015 financial year the Electoral Commission insisted on a more precise financial separation between NSW Labor and Country Labor, is that right?---Correct.

And they insisted on the accounts of NSW Labor and Country Labor showing that financial separation, is that right?---Yes, and including, I don't, Country Labor had to give its own ABN and - - -

30 THE COMMISSIONER: And you understood, I trust, why the Electoral Commission were wanting a financial separation between Labor NSW and Country, or what you earlier referred to as a proper separation. And what did you understand the concern of the Electoral Commission to be in the situation where there had been no such proper separation? What do you understand their concern was?---So that, because it involved public funding for two, that there were two separate political parties which were both receiving public funding, but then money, like, the funds transferred from one to the other, it could easily be interpreted as a donation. So we needed to set up a strict set of arrangements to ensure that the, the sort of, the  
40 enmeshment of the two had a proper service agreement between it to show that there were costs attributed to Country Labor as well as costs attributed to NSW Labor and also revenue to each, so that they could see properly the money, how, the actual, where the money went in, where the money came out, and that it was properly accounted for. I don't know if that's an adequate explanation, but given, the most important thing is given there was public funding going into those two different parties, that that'd have to be properly accounted for and administered.

But did you understand also there was a concern – you correct me if this is not your understanding – that with the enmeshment, as you put it, of funds for NSW Labor and Country, it carried a risk that with them being enmeshed, there could be manipulation of particular donations given or attributed to one or the other, NSW or Country, which may not match up with the actual intention of the donors? That is to say that it could disguise or blur whether or not the donors in fact had the intention to donate to one or the other and that that gave rise to the risk of manipulation?---That wasn't raised with me as a specific issue. However, it was clear to me, pretty much from the start that people did, we had to identify very clearly to people who were, for example, writing cheques that it had to say whether it was NSW Labor or Country Labor.

Well, the difficulty with the form you were shown a moment ago, the invitation form that was on the screen, as Counsel Assisting pointed out, there's nothing on the document which would indicate that that donor intended to donate to Country Labor. Is that right?---Correct.

And yet it could end up, because of the enmeshment of the funds, being attributed to Country Labor when the donor many not have even known was Country Labor was. Is that right, that was a perceived risk?---Yes. Yes.

Well, as you saw the risk?---It's a risk, yes.

MR ROBERTSON: And of course in this case, not just could end up but you know that \$50,000 was in fact banked in the Country Labor bank account in April of 2015. Correct?---Correct.

That's one of the things that you found out when you were preparing responses to the Electoral Commission's inquiries. Is that right?---Yes.

One of the things you said a moment ago in response to the Chief Commissioner's questions was that one needed to appropriately account for money that went between NSW Labor and Country Labor and vice versa. Is that right?---Yes.

And so one of the things that the Electoral Commission insisted on was to record a loan from NSW Labor to Country Labor. Is that right?---Yes.

And that loan was recorded as a loan of \$1.68 million. Is that right?---Yes.

Can we have the form back on the screen, please. At least at the start of your tenure, if one received a form that looks like the one that's on the screen which, as you've agreed, says nothing about Country Labor, were there any procedures or practices in place as to any circumstances in which it was appropriate to bank money into Country Labor, as opposed to in the NSW Labor bank account? For example, was it the practice that if one in fact received two forms from Teresa Tam for \$5,000 each, that some contact



would be made with her to say, “Well, you’re not allowed to donate \$10,000 to NSW Labor but you might want to donate \$5,000 to NSW Labor and \$5,000 to Country Labor or perhaps \$5,000 to NSW Labor and \$5,000 to the federal account”?---I suppose what I can say to that is that if someone wanted to donate to the party and said, hypothetically, “I have \$10,000” they would be advised that they could donate 5,000 to the NSW Labor and 5,000 to Country Labor but they couldn’t donate more than \$5,000. So to either, to either, so people, that’s the advice people were always given in the time I was there. There was certainly a great deal of care given to making  
10 sure that no one breached a donation to one of the parties. So if someone had written, yeah, if someone had written a cheque for \$10,000 then, yes, there probably would have been a conversation with that person about the fact that it was not possible to donate that amount of money and would you like to do X.

But did you check that there had been a conversation of that kind in relation to, for example, Ms Tam where there seems to be a copy of a reservation form?---No.

20 Well, I’m just trying to understand, then, if this is a matter in respect of which some care is taken, and where on the face of this document it’s referring to NSW Labor and not Country Labor, and if you have a look at the very bottom of the screen in the bottom right-hand corner it refers specifically to ALP NSW Branch. How is it that it wasn’t picked up by you or by anyone else within the party that we now have a form here that says NSW Labor everywhere but it seems to be associated with an invoice issued by Country Labor?---So I know that in the time I was there we, as part of that process of providing proper separation, we fixed all those forms so that they specified which party. I, I probably didn’t notice some of the detail of  
30 this when I was putting together this response for the Commission and I was aware that at the time this was all happening that those sort of procedures and separation wasn’t there. So it probably, if I had noticed it I would have said well, that was the way it was back then.

But you must have at least noticed that there’s a series of forms here that are ostensibly disclosure forms for Country Labor but have nothing to do with Country Labor at least on their face?---As I said, whether I was aware or not, but I know that back at that time there just wouldn’t have been that sort of detail, that people weren’t as aware of the fact that they needed to be  
40 separate.

But this arises and your role arises in a particular context, in other words, where the Electoral Commission says it suspects that there was a scheme to circumvent electoral laws, and so surely you or someone on your direction or someone on your suggestion looked at these forms very carefully to see whether there was anything to Mr Smithers’ concern or suspicion that there was a scheme to circumvent electoral laws. Do you agree?---Yes, but I looked, I looked at all the forms. I have looked at all the invoices.

And nothing in looking at the forms or the invoices led you to have the same suspicion as Mr Smithers. Is that right?---Not at the time, no. I didn't, I didn't, we had the forms. We had the signatures. They'd been properly invoiced to people at real addresses. I provided that information to the commission.

10 So are you saying that one of the reasons why, for example, the Teresa Tam reservation form didn't stick out was that there was an invoice from Country Labor and so it seemed to fit. There was an invoice from Country Labor and there was a form for \$5,000. Is that right?---Yes, I think that summarises it.

20 You said a minute ago that you didn't have that suspicion at the time. Do we take it from that that you later had a suspicion that was similar to or perhaps overlapped with Mr Smithers' suspicion?---Not, not with regards to these forms, no. It was only by mere fact that the investigation continued for so long that obviously I wondered, but I think I actually had, I relied upon these forms to, as reassurance that actually nothing, nothing sinister had happened.

And not just the forms, on the invoices as well, is that fair?---And the invoices. And the fact that it was disclosed to the commission and - - -

30 So do we take it from that that at least as at the time that you responded, well, the party has responded to the notice to produce that we discussed, you didn't have the suspicion that Mr Smithers had, namely that there were what are called straw donors and/or that there was a scheme to circumvent electoral law?---No.

You looked through these documents and you were happy that they, at least in general terms, seemed to fit the proposition that there was a series of donors who collectively donated \$100,000 in cash, correct?---Yes.

And it looked to you at least like the paperwork fit the proposition that they were proper donations rather than fraudulent ones, is that right?---Yes, yes.

40 And in doing that exercise, you relied at least principally – not solely, but at least principally – on the invoices and the reservation forms that you and I have been discussing, is that right?---Yes.

THE COMMISSIONER: Do you see now, your attention having been drawn to a number of aspects, for example, the coloured version of the invitation, the photocopy of it, the signature being, I think it was Ms Tam's signature shown to you on both.---Yep.

Obviously because the original copy had been copied. The fact that there's no reference to Country Labor on the forms and so on. With the benefit of

now having focused on those features, had you or somebody else been alive to these features, you would have been able to more readily understand why the Electoral Commission officer was stating in plain terms that he held a suspicion there had been illegality associated with these donations. Is that a fair summation to be made?---Yes. Except I'm not clear whether his concern, well, whether he'd seen these before I sent them. So, so – sorry.

Well, he was obviously acting on some information.---Yes, yes.

10 And you wouldn't have expected an officer of the Electoral Commission would make lightly claims of a suspicion - - -?---No.

- - - of, in effect, illegality, unless they had cogent evidence to suggest that. Is that fair?---Yes.

The task of comparing signatures, for example, as you mentioned earlier on, you would accept, is not something that laypeople can or should do when there's an investigation by a statutory body. It really falls in the scope of a suitably qualified investigator, is that right?---Correct.

20

You being asked to undertake this task, in effect, it seems it's not spelt out to you that you were being asked to undertake some form of investigation, but you're not given any assistance as to what would be required to undertake a proper investigation so you're in a position to be able to respond to the Electoral Commission's questions. Is that right?---Correct.

In other words, without the benefit of either legal advice or advice of a trained investigator, you were left to do the best you could on what was truly an investigative function, at least in part.---I guess - - -

30

Don't let me put words in your mouth, but is that the way you now kind of see it?---Yes.

That's the reality?---Yeah.

Obviously there were parts which you were capable of following up, such as gathering financial records together that were relevant to the issue, and you did that. But it's plain, it seems, that the task went well beyond that, but that you'd need to be properly directed and instructed and assisted for a proper investigation to have been undertaken so that you could answer the response to the questions the Electoral Commission posed.---True.

40

Do you accept that?---Yes.

MR ROBERTSON: When you were going through the tax invoices and forms that we have discussed, were you simply looking for 10 times five times two? In other words 10 invoices times \$5,000 times two parties, or did you have some list where you were seeking to tick that off against, say,

records maintained by the Finance Department?---No. I had, there was no list, no. It was, “Here are all the forms, here’s the \$10,000, there’s the money that went to Country Labor, here’s the money that went to NSW, here are the invoices, here are the forms.” Looking, I just, I looked at names, I saw, you know, a restaurant. I thought, well, I know that restaurant, that’s a real restaurant. You know, I, I gave, you know, I looked at some of the names. So I couldn’t, you know, I thought, well, if they’re in there, it’s, they could afford a donation like that. So - - -

10 So are you saying you made some assessment as to whether you thought the individuals might be able to make the donation?---Well, I mean, partly – do they, the first thing was, because the, the issue is around that there were straw donors, as you call them. So Emperor’s Garden, would they be a straw, in my mind would they be a straw donor, really? I mean, so I, I saw that and that gave me some sort of reassurance. I was quite reassured by some of these forms.

Can I try and just help you this way. Can we go, please, to volume 1 of the public inquiry brief, Exhibit 149, page 12. What I’m about to show you is a  
20 printout that seems to have been printed from the MYOB file maintained by NSW Labor and which was ultimately provided to the Electoral Commission. Do you see there how it has a series of names?---Yes.

At least some of which you’d recognise, with \$5,000 next to them. Do you see that there?---Yep, yep.

Do you recall whether you had a document like this when you were performing the exercise of responding to the notices to produce?---No. I don’t remember.

30 So you didn’t, for example, have a document that looked something like this or some other list of names where you went, right, Johnnie Lin, tick, I’ve got an invoice and a reservation form for that individual. Harbour City Group and so one and so forth?---No. I don’t believe so. I had, my access to MYOB at that time was very, very limited and I didn’t really know how to use it. So - - -

I’m not suggesting you necessarily went into MYOB yourself but- - -?  
---Whether I was given that document?

40 Were you given either this document or a document that looked like it from, say, the Finance Department saying, “Here are the 10 people we think donated this \$50,000”?---I don’t believe so to the best of my memory.

Can we go back to Exhibit 152, please. Ms Sibraa, if you could just continue to flick through what you have in front of you in the white folder. So Mr Mo is the next one on page 31. That’s on a newer document but it’s on the Exhibit 152. And then to Mr Tong.---Yep.

So we're now at 34, Operator.---Yep.

Now, if we just pause on the next page for Valentine Yee on page 35. Do you see there's a cross through that tax invoice?---A line, yes.

10 A line going in a diagonal direction. Did you notice – I withdraw that. So far as you can recall, was that invoice with the cross on it in the bundle that you looked at that was given to you by the Finance Department?---I, I would have to assume it was but I don't remember.

So what do you take that cross to mean?---No idea.

Well, surely if you saw a document, a tax invoice with a cross on it and in circumstances where you've said that one of the things you took into account in ensuring that the donations appears to be legitimate was the invoices, that something may well be denoted by the fact that there's a cross through the invoice?---Yeah. I don't recall it, that's, that's the problem.

20 Do you have a recollection as to whether that particular one was in the bundle that you were given or not? I appreciate it was some time ago. ---Well, I can't say absolutely, but if it was one of the disclosures, then an invoice would have been with it. So I'd have to assume there was an invoice to this person with the disclosure form, but I don't remember exactly.

Well, can I help you this way. If you count this invoice as being one of the invoices, we don't have 10 invoices for Country Labor, we have more than 10.---Oh, okay. All right.

30 So if you make that assumption, does that lead you to be in a position to say anything about this particular invoice?---Yeah, I, I don't know. But - - -

Well, let me ask it this way. Is it clear in your mind that when you went through these documents you had 10 and only 10 NSW Labor invoices, and 10 and only 10 Country Labor invoices?---Yes.

40 And when I say 10 and only 10 Country Labor invoices, are you saying that it would be 10 invoices including any invoices that have a cross through it? ---I don't, what I had were 10 invoices and 10 disclosure forms that matched the donations. So - - -

And so you didn't, for example, have 10 clean invoices plus one with a cross through it?---And one that – no.

You are quite clear in your mind that the total that were presented to you was 10 and only 10?---Yes. Yes.

Whether one of them had a cross through it is something that's hard to recall this time in advance.---That's right.

But if, for example, you were given, say, 11 Country Labor invoices, 10 clean ones and one with a cross through it, you would have remembered that and you would have raised a question about it, would you agree?---I guess so.

10 THE COMMISSIONER: Can I just ask you this. This task you were working on to respond to the Electoral Commission, had you ever been involved in anything like that before this exercise?---I think it was the second one of these I had to prepare, but nothing to do with donations. It was another notice to produce from the commission that I think arrived maybe a week or two or three after I arrived, quite early, and it was in regards to a completely separate matter about some sort of ballot. And I had to put together a whole series of, try and find a whole series of documents, yeah, and answer questions.

20 This was the first matter, in effect, that you had been tasked with to respond to the Electoral Commission in relation to a matter concerning donations?  
---Yes.

And you certainly haven't been involved in any matter prior to then in which it had been alleged that there had been false donations or straw donors?---No.

No. And who did task you with this exercise?---I think I understood it to be part of my job that I would have to do this work.

30 So does that mean this was just done on email transmissions to you? Or was it that plus some discussion you had with somebody who asked you to do it?---No, with, with this particular one and the one I just referred to before, they were given to me, so I assume that I would have to start this process. I don't think anyone specifically said, "This is your job." I don't think I tried to suggest to anybody else that this wasn't my job. So it was something I accepted as part of my job. I - - -

40 So does that mean you don't recall having any discussions with anyone within ALP NSW about doing this task in terms of instructions, directions, anything of that kind?---My recollection of this particular one is that I, I got the, the notice to produce, as was outlined earlier, and I started working on getting the information.

So you're really using your own initiative rather than working under direct instructions or specific instructions or directions?---That's correct. I mean the point of my job was to take away that from other people.

And throughout, from start to finish, did you work alone on this exercise or did you have assistance from time to time or how did it go?---The only assistance I received was from people providing me the information I asked for.

And that's mainly if not entirely from the Finance Department. Is that right?---And obviously Kenrick Cheah who I had to speak to.

10 And what input did Kenrick Cheah have to the performance of this task that you undertook to answer the Electoral Commission questions?---So obviously when I'm gathering the information from the finance area there is the question of the, who brought the money in and the receipt. So that's the question I asked, who brought this money in?

This is a question you asked of?---To the finance officer.

And what about, sorry, and that again was who?---I'm pretty sure it was Jenny.

20 Jenny.---It may have been Maggie in the first instance and she may have said ask Maggie, ask Jenny, sorry. I'm not sure, but I remember it was Jenny that said that Kenrick had brought the money in.

And did you have a discussion with Mr Cheah on that question, who brought the money in?---To confirm that it was him.

30 What conversation do you recall having with him? I appreciate now it's some years ago, but doing the best you can, can you try and reconstruct the essence of the conversation you had with him if not the terms.---The essence would have been we've had this correspondence from the Electoral Commission about this matter, you know, and I have been told by the Finance Department that you're the person that brought this money in. Is that correct? And I also, obviously it says on this date and he said yes, it was him. And then I, we had a conversation about obviously the large amount of cash that was involved and the, and the fact that that cash was brought into the office in one amount and - - -

40 Well, what sort of a discussion did you have on that?---Well, it was, I mean what can I say? You know, \$100,000 in cash was transport, was at your house and transported to the office. You carried it on your person. You know, that is, that is not a good thing to do. What, you know, like, there was the kind of, what can I say, I was surprised and I expressed that to him and said that that's not a good idea, that there would be no more of that kind of (a) keeping cash at home and then (b) bringing it into the office in, in that amount in that way and then giving it to the Finance Department who then went and banked that same money.

But you recall the terms of the letter from the Electoral Commission investigating this question in effect of illegality involving, possibly involving straw donors.---Yes.

And the first question, and the letter repeats the same phraseology, as to who handed the donation or who handed the money to the ALP. Did that not signal to you that what the Electoral Commission was interested in was to know who from outside the ALP was the source of the funds. Is that how you understood it or not?---No.

10

You didn't.---I read it as who handed the money to the ALP on 9 April.

But you - - -?---That's how I remember it. I looked at those different, who handed the money and on that day. So that's how, that's the answer, that's how I answered the way I did.

20

But you knew the inquiry by the Electoral Commission was directed to if it wasn't genuine donors where did it come from, that is, who handed this money to the ALP. Did you not appreciate that that was what the Electoral Commission was all about in its inquiry?---I don't think I did. I think I answered the actual question as I, I thought was correct, the actual correct answer to the question.

30

Did you recall Kenrick Cheah saying anything about, "Well, I'll tell you where I got the money," or, "I'll tell you how the money came into the possession of the ALP," and then relate how he claimed it did arrive at the ALP?---Well, I obviously, when I asked him in relation to this, he said - I said where, like, "Where did all this money come from," and the understanding of the conversation I had was that it had come from pledges made at the dinner that was collected subsequently and was all that he, that he had collected and brought in. That was my understanding of the situation.

Now, do you know whether you or somebody else took a statement from Kenrick Cheah about the matter you've just related so that that could be provided to the Electoral Commission?---A statement?

A statement.---No, no.

40

You didn't take a statement from him?---No, I didn't.

And you don't know, do you believe anybody did or not?---Within the ALP?

Yes. Within the ALP.---Not that I know of.



One final matter on this segment. As you worked through your task about this matter to answer the Electoral Commission, did you take notes, in other words, working notes of the exercise you were undertaking, do you recall?  
---No. It wouldn't necessarily be my style, no.

You think you did not maintain handwritten notes or electronic notes or anything like that?---Anything, if, if I had done something electronically, it would have been on our system which is - - -

10 On the system. But you don't recall making such notes?---No, no. It's not, I would have, yeah, I would have just gone through the questions gathered, that's what I recall doing, and putting it all together.

MR ROBERTSON: Chief Commissioner, can I just ask a few questions that arise out of your questions?

THE COMMISSIONER: Yes. Certainly. We might take a - - -

MR ROBERTSON: I think that might be a convenient time after that.  
20

THE COMMISSIONER: Take a break after that, yes.

MR ROBERTSON: If that's convenient. You've just told the Chief Commissioner, as I understood it, that Mr Cheah told you that the money came from pledges made at the dinner. Is that right?---It was something like that, yes. Commitments, pledges.

So the idea being that at the dinner or in connection with the dinner, individuals said that they would be donating money. Is that right?---Yep.  
30

And the money that we're talking about is the \$100,000 that was banked on 9 April, 2015. Is that right?---Yes, yes.

And the dinner that we're talking about is obviously enough the Chinese Friends of Labor dinner on 12 March, 2015?---Yes.

And then I think you said that Mr Cheah told you that that money was collected subsequently. Is that right?---Yes. Yes.

40 So doing the best you can, what words did Mr Cheah say concerning that matter?---He, it was pretty much along those lines. I can't remember exactly. He, he, he was just, I can remember more his attitude than what he said and it was like, you know, this is just totally normal. We just, you know - - -

Did Mr Cheah make it clear to you that it was multiple donors rather than one or two donors?---That's what I took away from I it, yes.

But did he say anything to that effect that you can now recall?---No. I can't recall.

And in terms of subsequently collected, subsequently by who?---Again, my take-out was that it was him, but I do recall at some point in that conversation that he mentioned Ernest Wong. So I took it from that that it was also possible that Ernest Wong had collected some of the money.

10 And so you're now talking about the particular discussion when you were in the process of preparing the response to the request for information. Is that right?---Yes.

And you said to the Chief Commissioner that you understood that what the Electoral Commission was seeking was simply who had, what, physically taken the money in from off the premises to the premises on 9 April, 2015. Is that right?---Well, I think the exact question was who handed the money to the ALP on 9 April.

20 Can we go back to document 1 so we can get that exact wording up, please. And can we go, please, to page 7 of document 1. So if you have number 1, "Please provide the name/s of the persons who handed the donations to the ALP on 9 April, 2015." Do you see that there?---Yep.

Now, Mr Cheah, of course, was an employee of the ALP on 9 April, 2015. ---Yep.

But despite that, you took that to mean Mr Cheah, as an employee of the ALP, handing it to who within the ALP?---To the Finance Department.

30 So one person within the ALP handing it to another person within the ALP? Is that seriously how you read that question?---Actually, yes. I didn't, I didn't read anything other than the person who brought the money to the ALP on that day.

You knew the context in which the notice to produce was the Electoral Commission's concern that there had been fake donors, correct?---Yes.

40 And its concern that there was a scheme to circumvent electoral law, correct?---Yes.

So surely you must have appreciated that what Mr Smithers wanted to know and what the Electoral Commission wanted to know is what was the true source of these funds, do you agree?---I, I don't think I read that into it. I read the literal question.

Do you at least accept that with the benefit of hindsight?---Benefit of hindsight, yes.

But you accept that at least if you had your time again, you would have given further information in response to question 1 and perhaps question 3? ---Perhaps.

You might, for example, have told the Electoral Commission about the pledges or promises that you referred to and the collection of the money subsequently, would you agree?---I mean, perhaps, but the question remains that there's a specific date there as well.

10 Well, were you seeking to provide the most literal construction of question 1 that you could so as to minimise the information that was going to the Electoral Commission?---No. No. I read the answer, I, I read the question in the specifics, so I, who handed the donations to the ALP on 9 April. So I actually saw it as a relatively straightforward question. So I wasn't, so that's, that's what I was doing.

20 But you must accept, mustn't you, at least with the benefit of hindsight, that to fully cooperate with the Electoral Commission's investigation and to assist in ascertaining whether Mr Smithers's submissions were true, you would have not simply said Cheah in response to question 1, you would have given further information that was available to you at the time, would you agree?---I, yes, I suppose.

Is that a convenient time, Chief Commissioner?

THE COMMISSIONER: Yes, very well. We'll take a morning tea adjournment. We normally take about 15 minutes, Ms Sibraa. Yes, adjourn.

30

**SHORT ADJOURNMENT**

**[11.44am]**

THE COMMISSIONER: Yes, Mr Robertson.

40 MR ROBERTSON: So, Ms Sibraa, back to 8 December, 2016. I've shown you the emails where you forward the notices to produce to Maggie Wang. And I just want to be clear, is the discussion that you think you had with the Finance Department on 8 December, or perhaps the 9<sup>th</sup>, was that with Ms Wang?---Can you tell me what day of the week these - - -

8 December was a Thursday.---Okay.

Does the day of the week help you? For example - - -?---Oh, only if it was a Tuesday, the next day would have been Wednesday which is a day I don't work. So that's the only difference.

And at the time that you were at NSW Labor in December, was both Ms Wang and Ms Zhao working on a full-time basis every day of the week?  
---Yes.

And so, doing the best you can, was it Ms Wang or Ms Zhao you spoke to after forwarding the email to Ms Wang? Would it be fair to say it was likely Ms Wang - - -?---Yes.

10 She's the one you sent the email to?---Yes. And she was the more senior of the two.

And you were, in effect, asking her to give you the documents that you needed to respond to the notice to produce. Is that right?---Yes.

And do you remember whether it was Ms Wang or Ms Zhao who then gave you the invoices and reservation forms that you and I have discussed?---I don't recall exactly, but I would have said it would have been Ms Wang.

20 You said in answer to one of the Chief Commissioner's questions that part of your role as governance director was to take certain things away from others. Was that as a matter of administrative convenience or was that a matter of probity or was it a matter of both?---No. It was a matter of, the way I saw it, was allowing the elected officials of the party to do less administration so that they could do other more important things for the party and have the, the administration and so forth left to myself.

And so when you're talking about the elected officials, you're including the general secretary and assistant general secretaries. Is that right?---Yes, yes.

30 And so at least you saw your role, and one of the purposes of your role, was to take that administrative burden off of those elected officers so they could concentrate on other matters, such as winning elections?---Yes.

But it wasn't a question of probity that it would be wrong to allow those people to be involved in those matters, more they have lots of things on their plate and having an additional foot soldier to help with matters of governance generally, but in particular in dealing with the two Electoral Commissions, that would be a matter that would assist the overall benefit of the parties. Is that right?---Exactly.

40

So we've talked about the documents that you got from the Finance Department. Can we now go back to document 1, please, and we're on page 9, the last page of document 1. And so you said this morning that your, at least first port of call, was to focus on item 3 on this document. Is that right?---Yes. That's correct.

And what about items 1 and 2, how did you deal with those items?---So when I started asking about who had handed the money to the Finance

Department I, I asked obviously did Kenrick get a receipt and the answer was no.

Just pausing there, though. Why would you even ask that question? Why would Mr Cheah possibly get a receipt?---No, he, I naturally didn't expect the answer would be yes but I still had to ask. It's just for the sake of asking.

10 THE COMMISSIONER: No, but it was obvious, wasn't it, from question 3 that the focus of the question was on documentation provided to donors in effect in the nature of receipts or tax invoices. Is that right?---Sorry, Commissioner, can you - - -

So if you read question 3 again, which will come back on the screen in a moment.

MR ROBERTSON: Page 7 of document 1.

20 THE COMMISSIONER: See it says, "Please provide a copy of any and all documentation that was provided either to or by the persons who handed the donations to the ALP on 9 April, 2015." Did you understand that the documentation there referred to would include things like receipts or tax invoices?---Yes, yes.

That seems to be what it was directed towards, would you agree?---Yes.

30 Well, doesn't that question 3 bring home to you that the focus of the Electoral Commission was trying to identify on who actually handed the money to the ALP in the sense who donated the money to the ALP and who got the receipts or tax invoices. Is that right?---Yes.

Well, doesn't that feed into question 1 in terms of that again question 1 had the same focus and plus the covering letter that came which explained exactly what the Electoral Commission had suspected and were investigating?---Yes. I guess I was still stuck in the, the literal reading of the question.

40 Would you concede now if you take in the matters I've just raised that the proper interpretation was not the one you've put on it but rather that the Electoral Commission were interested in focusing upon who outside the ALP made these donations or donation and where's the documents about that donation?---Yes.

MR ROBERTSON: So just looking at item 3 in terms of documents to be produced, as I understood what you said before, as you understood it the person who handed the donation to the ALP on 9 April, 2015 was Kenrick Cheah. Is that right?---Yes.

Presumably Mr Cheah wasn't given any documentation in respect of the money. If you have a look at item 3, "All documentation that was provided either to or by the persons who handed the donations," so I assume that it's right, isn't it, that nothing was provided to Kenrick Cheah by way of documentation. Is that right?---By the party?

Well, if you have a look at item 3, "Please provide a copy of any and all documentation that was provided either to or by the persons who handed the donations to the ALP on 9 April." Do you see that there?---Yes.

10

And the person who handed the donations to the ALP, as you understood it, on 9 April was Mr Cheah. Is that right?---Yes.

Now, did your inquiries disclose that any documentation was provided to Mr Cheah on 9 April, 2015?---No.

And what about any documentation that was provided by Mr Cheah on 9 April, 2015?---Well, my understanding was that he had brought the forms and the money.

20

I see. So your investigations or at least the inquiries that you made were to the effect that Mr Cheah brought in both the cash and the receipts. Is that right?---The disclosure forms.

The disclosure forms.---Yes.

And then looking at item 1, "Provide a copy of the receipt issued by the ALP to the persons who handed the donations to the ALP on 9 April, 2015." You would agree that no receipts were issued to Mr Cheah. Is that right?

30

---Yes.

But you still provided in response to this notice the tax invoices that you and I have been discussing this morning, is that right?---Yes.

What I'm just trying to understand is, if you interpreted the reference to the person who handed the donation to the ALP on 9 April, 2015 as being a reference to Mr Cheah, why didn't you simply say, "Nothing to produce," in response to item 1?---I don't know. I mean, I think I said there was, I don't remember my answer, but I thought I said there was no receipt issued.

40

But you ultimately provided the Electoral Commission with the reservation forms that you and I have discussed and the invoices as well, is that right? ---Yes.

Why did you provide them with the invoices?---Because it was, to me - - -

Where, on your interpretation of this document, were they asking for the invoices?---Documentation. All documentation.

That was provided to or by Mr Cheah.---Right, okay. I, I include, I just include all the documentation.

Do you see the tension that arises on your interpretation of these documents?---Yes. Yes, I do.

10 So you at least accept that with the benefit of hindsight you may have responded to these notices in a different fashion, is that right?---I think so, yes.

But it's still your evidence that you read the reference to the person who handed the donations to the ALP on 9 April, 2015 being a reference to Mr Cheah as the person who physically brought in the cash, according to what you were told, on 9 April, 2015, is that right?---That's right.

What about, so item 3, your response to that was to provide the reservation forms and the invoices, is that right?---Yes.

20 And what about item 1 on this page?---I think my response was because he was an employee, no receipt was issued.

And then what about item 2?---I provided a copy of the, of the, the, the chit from the deposit book to show the donation, and I also think I provided the bank statement where, the page from the bank statement where, where the money was deposited.

30 And where did you get that from?---I would have got that from the online statements from the Commonwealth Bank.

Was that something that you were able to get directly or did you need the Finance Department's assistance for that?---I think at that point I could access that myself.

THE COMMISSIONER: On the information available to you as you were doing this exercise, did it become apparent that there were two rather strange or odd matters about this? One was that almost a month had elapsed between the fundraising dinner and the money being deposited.---Yes.

40 Which, of course, would be unusual, wouldn't it, after a fundraiser?---Yes. Yes.

So that with the Electoral Commission writing, saying they hold a suspicion of a circumvention of the legislation, the fact that the money had been raised, allegedly raised on 12 February at the fundraiser - - -

MR ROBERTSON: 12 March, Chief Commissioner.

THE COMMISSIONER: Sorry, thank you. 12 March, 2015 at the fundraiser. I think it's close to 28 days had gone by. Nobody had seen the money until it walks in, allegedly, about a month later. That was very strange and odd, wasn't it?---Yes.

And cried out for an explanation.---Yes.

Where had the money been all that time, in effect, would have been the question, is that right?---Yes.

10

And the other matter that was somewhat of a puzzle was that, as the forms indicated, donations normally would be made in one of at least three ways – pay cash, pay by cheque, pay by credit card. Is that right?---Yes.

And your knowledge is that, indeed, donations did come in or one or other of those forms normally.---Yes.

20

But in this case, so far as you understood, the donations that came in from the fundraiser on 12 March, 2015, no cheques, no credit card slips, all cash, right? You knew that had been the case when you were undertaking this task?---From undertaking this task, yes.

30

That too is a fact that cries out for explanation, doesn't it? Why this fundraiser is all in cash whereas, as the form indicates, and as in accordance with practice, it was never that way. You would either have a combination of one or other of the three ways to make the donations. True?---True, but as I said earlier, my understanding from speaking with Kenrick was that these were pledges made at the dinner that were subsequently collected. That was my understanding of the situation, that it was potentially separate from the rest of the dinner.

But were they pledges or not, they all end up coming in not by cheque, not by credit card, but in hard cash, correct?---Yes.

That's unusual?---Yes.

40

So wouldn't those facts, taken in combination with some of the other matters that Counsel Assisting has raised, have triggered a realisation that you can understand now why the Electoral Commission's got a suspicion about this matter. Is that right?---Yes.

And that would have been apparent, wouldn't it, on the facts as you now know them to be, as at 12 March?---It was the fact that we seemed to have accounted for all or the forms, that it had all been invoiced to people, that provided me with a degree of reassurance that sort of carried me through that, my enquiries. So I think I put a lot of faith in those forms being correct.



Well, you may, quite justifiably, put a degree or take a degree of reassurance from those receipts, for example, or tax invoices, but you'd have to take it not alone but in light of all the known facts at that time, to see whether there was to be significance attached to the invoice or whether there was a suspicion held that there's more to this story than perhaps met the eye. Is that right?---Well, I, I think my thinking at the time was that perhaps this was an example of the kind of poor governance that was the reason I had been appointed, that this was kind of obviously, as you say, irregular, unusual. I hadn't seen anything, in the short time I'd been there, I'd seen no other indication of anything like that. So I took it as read, that this is why I was there, to help improve all that sort of governance, that potentially this did happen. I didn't necessarily leap to the worst conclusion, having had the reassurance of the forms and the invoices. I didn't necessarily think that the worst of what this was. So I understood the commission had concerns, that a large, two large amounts of money had been deposited, but I didn't actually believe that that's what it, that it was what it appears to be now.

But you now appreciate, at least, that poor governance couldn't give rise to a reasonable excuse or justification for \$100,000 having gone missing for about a month, could it? That wouldn't be explained by mere poor governance. You would have to ask more questions to determine how that could be accounted for. Is that right?---Yes.

And the same with the fact that it was all in cash. That couldn't be explained by poor governance, could it? It would tend to suggest a deliberate method of collecting donations, wouldn't it?---It's hard to answer that because, I mean, some, some people, I mean, I do agree with you, but it's, it can't be ruled out that some people simply do prefer to deal with cash, and I can't necessarily make assumptions that therefore that is, there's something wrong with that innately. As I said, I had forms and invoices.

MR ROBERTSON: There's an additional factor here, though, isn't there, on top of those that the Chief Commissioner identified, namely that the dinner was a launch in connection with the state election of March of 2015, correct?---Yes, I believe so.

And so at least an additional puzzling factor about the receipt of \$100,000 in cash on 9 April, 2015 is the fact that money ostensibly pledged in connection with a launch for an election campaign is not received until after the election. Do you agree?---You mean that the money came in after the campaign finished?

The money was received on 9 April, 2015, correct?---Yes.

And the election was on, I think, 28 March, 2015.---Yes.

And so in addition to the puzzling factors that the Chief Commissioner has identified, such as the form of payment and things of that kind, there's also

another puzzling factor, which is the fact that the money was not received until after the election campaign. Do you agree?---Yeah, that's, that's puzzling.

But those factors weren't sufficient to lead you to have a suspicion of the kind that Mr Smithers had, is that fair?---Well, I thought that, I mean, you can donate to the party at any time, so the fact that the money came after the election itself doesn't necessarily mean it can't be used for the party.

- 10 Quite so in and of itself. But here, at least as you understood the position, they were pledges in connection with a dinner that was a launch for an election campaign, do you agree?---Yes.

And it would be at least strange, wouldn't it, for money to be pledged in connection with an election campaign but for the money to not be received until many weeks later and, indeed, a couple of weeks after the election itself, would you agree?---I guess so.

- 20 You mentioned in answer to one of the Chief Commissioner's questions that this may have been an example of poor governance within NSW Labor. Do you remember that answer?---Yes, yes.

What were you referring to when you're referring to poor governance?  
---Well, this very thing of having someone collecting money, keeping it at home, bringing it in, walking it into the office, no security, no, you know, accepting large amounts of cash for a start. All of those things together add up to what I'd call a pretty sloppy process.

- 30 But didn't that sloppiness at least raise a question in your mind as to whether Mr Smithers's suspicions may well be true?---Obviously it, you know, I gave it consideration, but the fact that I'd gotten the forms and invoices first, that on first look looked to be, account for all the money, where it came from, I then didn't follow a naturally more sinister line of thought. I tended to think that this was just sloppy, poor governance, terrible way of functioning. That was the way I sort of characterised it to myself. But also I was determined to provide the commission with all the information, knowing full well that they would interrogate it.

- 40 One of the matters you've just mentioned is cash. Do I take it from that that, at least from your perspective as a former governance officer, the cash can be a problem in terms of ensuring that disclosures of donations properly match the true donors?---Yes, because there's no way to trace the actual source.

And that was one of the reasons why in your tenure a ban at the party level of receiving cash donations of more than \$1,000 was implemented. Is that right?---Yes.

Can we go back to document 1, please, and to page 7. And so we've talked at some length about the documents to be produced. Can I now refer to the particular questions that were asked. We referred briefly to question number 1. Just to be clear, is it right that you first asked was it Ms Wang what the answer to question 1 was, "Please provide the names of the persons who handed the donations to the ALP on 9 April, 2015"?---Well, I, I can't say for certain that it was Maggie or Jenny.

10 So at least someone in the Finance Department was your first port of call  
-- -?---Absolutely.

-- - with a view to answering that question. Is that right?---Yes.

Now, doing the best you can and appreciating it was some time ago, what did that person from the Finance Department say to you when you posed question 1 to them?---That Kenrick had brought the money in.

20 Did they say anything else about question 1?---No, not really. Not that I recall.

Did they explain why it was Kenrick who brought the money in as opposed to the true donors or someone else?---No, because I'm pretty sure my question to them was when you banked this money on 9 April where did it come, where did you get it from, who brought it to you? And their answer was again based on my literal interpretation of the question and therefore their answer was, was Kenrick. So there wasn't really anything else.

30 So do we take it from that that at least what the Finance Department understood question 1 to mean was in effect who brought the money into the Finance Department within ALP. Is that right?---Well, probably based on my question, yes.

But what I'm trying to understand is whether as you understood it they were talking about the receipt of the money in the Finance Department office or are we talking about the money coming from street level into the Sussex Street office?---If I had to take a stab I'd say they felt, they meant when it came to them.

40 So it's possible that they understood the position to be that someone else had brought it into Sussex Street, had then given it to Mr Cheah and then Mr Cheah had brought it into the Finance Department. Is that right?---Can you repeat that, sorry.

I think what you're saying is that you understood the Finance Department people to understand that what was being asked of question 1 was who was the human who brought it into the Finance Department. Do I have that right?---I, I guess I can't really answer for them but based on my question I would say yes.

But was the intent of your question of them to say who brought it – I withdraw that. The Finance Department had at that time their own office or space within the overall Sussex Street office. Is that right?---Yes.

Generally speaking the office was an open plan office but particular people had their own offices. Correct?---Including finance, yes.

10 And one of those offices was the Finance Department. Is that right?---Yes. They had two in fact.

At that point in time Mr Cheah had a space in the open plan part of the office. Is that right?---Well, I wasn't there but I, I understand that's likely.

To your knowledge he didn't have a separate office?---No.

Is that right? But the general secretary has always had a separate office. Is that right?---Oh, yes.

20 At least in the time that you've had any knowledge of the Sussex Street office?---Oh, yes.

What I'm trying to understand is whether you interpreted question 1 – can we go back to that, please, page 7 PDF – as referring to the person who brought the cash in off the street, so Sussex Street, get in the lift, go to the office, or rather whether it was the person who took the money into the Finance Department office? Because as you'll appreciate, one possibility is that someone brought it in off the street and gave it to someone.---Yes.

30 Perhaps to Mr Cheah.---Yes.

Or to someone who then gave it to Mr Cheah?---Yes.

And then Mr Cheah gave it to the Finance Department. So I'm just trying to understand which of those interpretations you took in relation to question 1. Off the street to onto the Finance Department office?---Well, for me it was, my understanding was that Kenrick had brought the money into the office from the street on that day and handed it to the Finance Department. That is my understanding.

40 And so although I think you're accepting there's two possible interpretations - - -?---Yes, of course, yes.

- - - it didn't matter for you because both of those interpretations yielded the same answer, namely Mr Cheah?---That's what I understand it to be, yes.

Now, did you explain that matter, that interpretation of the question to the Finance Department or did you simply ask the question as that was identified?---I asked that question as it was identified.

And their response was to the effect that Kenrick had brought in the money. Is that right?---Yes.

10 And just to understand how you made these enquiries, are you making these enquiries and recording, they're answering it orally and you're writing it down or did you send them an email that they responded to or - - -?---It was, I literally walked into their office, I'm pretty sure. I didn't send them an email asking anything formally and I wouldn't have needed to write it down.

Well, there was obviously more than one question. So are you saying you just had an oral discussion, you remembered the answers and then recorded them later?---Yeah.

20 And do you remember whether you did all five questions in one session or was that the subject of some further to and fro?---I think, when I sat down to prepare the response, I did it in one lot.

But did you make the enquiries of the Finance Department in one lot or were there multiple lots?---No, there would have been separate trips into that office, yeah.

30 So trying to look at that tangibly in the context of the questions that are on the screen, are you saying you had a series of visits to the Finance office and asked various questions during those visits. Is that the effect of what you're saying?---Well, the names – oh, okay. No, I probably did, I probably did do that in one session.

And do you recall whether you took notes of those answers, or - - -?---I don't, I don't.

40 Can I try and help you this way. Can we go to volume to of the public inquiry brief, page 262, please. And while that's being brought up, did you request or obtain any legal advice in relation to the responses before you had prepared a draft? So in other words, if you received this material on 8 December, 2016, ultimately there was a draft which you prepared which I will show you in a moment. Before you prepared that draft, did you seek or obtain any legal advice or was it only after the draft was prepared?---So I, the only thing that may have happened, and I don't recall, is I may have mentioned it in a phone call to one of the lawyers, but I don't believe I did. I think I put it together first.

So can I just try and help you this way on that question, just in case it refreshes your memory. You remember I showed you an email of 8

December where the material was forwarded to Holding Redlich, both Mr Robertson and Ms Butler?---Yes, yes.

And Holding Redlich, before 9 December, the next day, Ms Butler billed the party for, "Reviewing and considering notice to produce," for half an hour. ---Right.

10 The draft that I will come to a little later was finalised, it seems on, 16 December, 2016. So does that assist in whether you recall whether there was any request for legal advice or receipt of legal advice between 8 December, when you received the notices and when a copy went to Holding Redlich?---Yep.

And 16 December, when a draft had been prepared by you.---So I don't recall seeking legal advice before putting it all together. I don't.

There may have been a discussion in passing, but there wasn't anything more meaty than that, if I can put it that way.---Not that I recall, no.

20 Can we have volume 2, page 262, on the screen, please. Now, the document that's now on the screen is a file from NSW Labor's computers which has, in this case for the CLP, a series of questions and responses. Do you see that on the screen?---Yep. Yep.

Now, it seems that the ultimate version that was sent in was not in this table form but was in more of a question-and-answer form.---Oh, okay.

30 But I just wanted to ask you about this particular document. Is that document one that you used to - - -?---Yes.

- - - to prepare the, at least the initial responses?---Yes. Yes. In the same form that I had done the previous one, yeah.

And so do I take it from that that you had the discussions with the Finance Department with a view to getting the answers to the questions. You didn't take any notes, but soon enough you went back and wrote out answers along the lines of this document we can see on the screen?---Yes.

40 Do you recall roughly when you had these discussions with the Finance Department? You received the notices to produce on 8 December. At least in terms of documents, by the sounds of it you asked for that on the 8<sup>th</sup> or maybe the 9<sup>th</sup>.---Yeah.

Was this all done in those first couple of days, the 8<sup>th</sup> or the 9<sup>th</sup>? Or is it possible that the questions that you were asking went into the following week?---Yeah, I, knowing my style of working, I would have done this the next week.

So maybe documents in week 1, as it were, and questions in week 2?  
---Yeah.

And so does this document on the screen, does that faithfully record the answers that you were given by the Finance Department in relation to the questions that you were asked? And I'm focusing particularly on questions 1 through to 5. I'm showing you the CLP one but, as you'll recall, the questions between the two are the same.---Yep.

10 And so at least your initial source for these responses is the Finance Department, is that right?---Yes, definitely.

But you also had a separate discussion with Mr Cheah before the responses went in, is that right?---Yes.

And you told, I think in response to some of the Chief Commissioner's questions, what Mr Cheah had said in relation to at least question 1.---Yes.

20 Other than what you've told the Chief Commissioner in answer to his questions, can you recall anything else that Mr Cheah said when you posed question 1 or any other questions regarding this matter to him?---Other than what I've said, no. I probably did ask him if he got a, if by any chance he got a receipt, so I probably did ask him that.

30 But why would Mr Cheah get a receipt, given that, as I understood it, Mr Cheah said to you that this was pledges from people other than Mr Cheah? ---Just because I, I kind of took from the questions and just general governance, I wondered whether that's something we should have done. So it wasn't that I expected it, but I was, I remember at the time wondering, "That's a good question. If someone does bring cash into the office, should the person, the very person that gets it, get a receipt?" So I was kind of thinking that over when I was going through this.

It's not so much a good question, it's actually a silly question based on your interpretation of question 1, isn't it? Because if you have a look at your response to question 3 that's on the screen - - -?---Yep.

40 - - - it seems that a mere "no", you thought that a mere "no" would not be a sensible response. You then explained why it was a "no".---Yes.

It was a "no" because Kenrick Cheah is an employee of the ALP.---That's right.

And isn't that because you appreciated that, at least on your interpretation of question 1, question 3 is a silly question that requires some explanation before one can simply answer "no"?---Well, I wouldn't call it a silly question, but I felt that, yes, it, that's the way I had to answer it.

Well, the reason I'm labelling it a silly question is I'm suggesting to you that that illustrates the difficulty with your construction of question 1 and why the answers that you've prepared are non-responsive to what the Electoral Commission is seeking to know. They're not seeking to know that an employee may have given it from his open plan office to the Finance Department or perhaps from the street to the Finance Department, they're seeking to understand the true source of the money. Would you agree that there's at least a tension in the way in which you responded to questions 1 and 3?---I'm not, I think I got lost there somewhere, I'm sorry.

10

What I'm suggesting to you is that you realised in responding to question 3 that a mere "no" would risk misleading the commission. Do you agree with that?---Risk misleading the commission.

And that's why you provided the additional explanation after the dash. You clarified what might otherwise be obvious, the reason that Mr Cheah didn't get a receipt is because he's an employee of the ALP?---That's right but from question 1 you wouldn't have known that he was an employee.

20

Quite so, but that tends to suggest, doesn't it, that what the commission was looking for in response to its question 1 is the true source of the money as distinct from identification of an employee who passed money to another employee, would you agree?---Yeah, well, I mean I can only say that the question of who handed, the word "handed" is, if the question had been phrased differently it might have, that's the problem, it's the problem I've had with this is it's the word "handed" rather than who donated or who, so, but anyway I, I accept - - -

30

You agree at least with the benefit of hindsight - - -?---Yeah, sure.

- - - one might have given a more fulsome answer to the questions the Electoral Commission were asking. Is that right?---I would have if, yes, if that, yes, if that's what I read into it that's what I would have done.

But more than that, at least with the benefit of hindsight and having regard to the matters that I've drawn your attention to this morning, you would have given a somewhat more fulsome response to the Electoral Commission. Do you agree?---Yes.

40

THE COMMISSIONER: But if we could just go back to the notice itself. If we could have the Electoral Commission's notice posing the questions. You see questions 1 to 5 don't stand alone. They're preceded by what is really an explanatory paragraph.---Mmm.

It says, my screen keeps flashing on and off. I don't know whether we can do something about that.



MR ROBERTSON: Not mid-session, I'm sorry, Chief Commissioner, but I'll endeavour to fix it.

THE COMMISSIONER: All right. It just says, "Financial records maintained by the commission indicate 50,000 consisting of 10 by 5,000 individual donations (the donations) were handed to the ALP" – there's that word "handed" – "on 9 April, 2015. The donations derived from the Chinese Friends of Labor NSW Chinese (functioning launch) on 12 March, 2015." So it's plain from that that the commission are investigating the source of the two lots of \$50,000 totalling 100,000. Is that right?---Yeah.

You understood that that's what they're investigating, inquiring into was where did this money come from in effect?---Sure.

Well, then, when you approach question 1 it was plain to you, wasn't it, that the role Mr Cheah played, he was not a donor, he was not suggested to be source of the money that came in. The only role he played is he was a carrier, like a courier. His role, so far as you knew, was just as a courier bringing the money. By the, being a member of the ALP, the question 1 was not directed towards the name of the person who couriered the donations or carried it into the ALP, but where did the money come from, how was it, who handed to the ALP, of which Mr Cheah, of course, was one employee of ALP at the time. But isn't it plain, though, from the terms of the notice, that they were not interested in who the courier was, whether it was an internal employee or not, they're looking at the external person who is responsible for this amount of money that was banked? That's what they were trying to track. It was pretty plain, wasn't it, they were tracking the source, the origin from which this money came? It being suggested that there were fake donors in between the real donor and the ALP and it was, that was plain, wasn't it, that that's what the Electoral Commission were doing, investigating that - - -?---That's plain to me now, but again, even this, the preamble, financial records indicate that the money, these individual donations, that we provide the detail of in the response, were handed to the ALP on this particular date, donations derived from, which is consistent with what I thought anyway, or what I believed to be the case. So I followed the line of questioning that they perhaps wanted to know. So at the time I didn't necessarily read it, Commissioner, the way you're putting it to me now because, again, I started from a point where I had all the forms and the invoices. So I actually didn't believe that there was an issue. So I was answering the questions – or didn't know that there was an issue. I was answering the questions logically, in my mind, particularly thrown by the, not thrown, but the fact that we're talking about 9 April. So - - -

That's the date money was actually banked?---That was handed and banked, as I understood. So I completely understand what, that I have obviously, in the beginning missed something, but I couldn't, it wasn't my intent to, in any way, not answer the question. I was answering it logically and precisely as was asked in the question. The question is very precise. So that was my

read on the situation, which obviously now, doesn't look, you know, great but - - -

MR ROBERTSON: Chief Commissioner, as I understand you have a difficulty in relation to another matter. I had hoped - - -

THE COMMISSIONER: I do. I have another commitment which I've got to speak to a Commission officer about and - - -

10 MR ROBERTSON: I hope to, I'd hoped to accommodate that by finishing with Ms Sibraa this morning. It's taken a little bit longer. Can I respectfully suggest that the Commission now adjourns until 10.00am tomorrow with Ms Sibraa, so that that then deals with the difficulty, and we'll continue with Ms Sibraa and then I'll otherwise need to change the program.

THE COMMISSIONER: So are you proposing Ms Sibraa stands down now, returns - - -

20 MR ROBERTSON: Yes. Stands down now and returns at 10.00am tomorrow, if it pleases the Commission.

THE COMMISSIONER: Now, can you meet that commitment?---Well, I have to take more time off work.

I'm sorry?---I have to take more time off work but - - -

How long do you anticipate that Mr Sibraa might be required tomorrow.

30 MR ROBERTSON: Another hour and a half would be my guess.

THE COMMISSIONER: All right. Well, Ms Sibraa, we try and meet the convenience of witnesses to the extent possible, given a lot of other competing forces, as you'd appreciate. Is it going to place you in some particular difficulty or particular problem that arises?---No, no. I will, I will, I'll be fine.

All right. I'd be prepared to sit earlier if it becomes any particular difficulty that you have but can you manage that?---It's fine. Yes.

40

Well, we'll ask you to return then tomorrow and we'll recommence your evidence at 10 o'clock.---Thank you.

MR ROBERTSON: Thanks, Commissioner.

THE COMMISSIONER: I'll adjourn.

**THE WITNESS STOOD DOWN**

**[12.55pm]**

**AT 12.55PM THE MATTER WAS ADJOURNED ACCORDINGLY**

**[12.55pm]**