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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION AERO

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 26 SEPTEMBER, 2019

AT 2.00PM

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.

THE COMMISSIONER: Mr Robertson.

MR ROBERTSON: Ms Wang, just before we go back to the email chain that you and I were discussing before lunchtime, I just want to be clear about one other thing, which is the point in the process at which a tax invoice is issued when someone makes a donation, at least as a matter of practice in 2015 and 2016. So you and I spent a bit of time going through the MYOB windows as to how one processes it in MYOB, but at what stage of the process, what stage of that process does an invoice get printed?---At what stage?

Yes.---Well, as soon as the invoice has been created there should be an invoice - - -

THE COMMISSIONER: Sorry, could you move closer to the microphone there and talk towards the microphone a bit if you can. Yes. I'm sorry, you start again. Sorry, do you remember the question?---Okay. So in the normal course of the processes, once the invoice has been produced in the system it should be print out. Either email, or not necessarily print out. If there is an email address of the donor in the, in the, in the records their copy of the invoice should be either print, posted to the donor or emailed from the system to the donor.

MR ROBERTSON: So just to understand it in the context of the MYOB windows that you and I discussed and which is now on the screen and was Exhibit 297.---Yeah.

So the invoice is put in the system as per the window in the top right-hand corner and then the payment is recorded as being received in the bottom left-hand corner. Correct?---Yeah.

And is it after that point that the invoice would ordinarily be printed or is after the next step that you and I discussed, namely the actual banking of the funds?---Well, this would be a question for Jenny, but I would think once the invoice has been generated in the system and if there is a declaration form on hand this invoice should be print out and attached to the declaration form and filed away.

But at what point in time is that done? Is that done after filling out the window in the bottom left-hand corner of the current screen or does it happen as a matter of practice after the banking window has been completed?---It would be the second step, the, the window on the right. So after the invoice has been recorded it should be print out.

Well, but except if you print it out immediately after the window in the top right-hand corner is done, that'll be an invoice that will say \$1,000 donation, but \$1,000 due, is that right?---No, like I said, if the payment being received at the same time when the invoice is being created, then the invoice has to be closed from the "receive payment" function on the left, top left. And then, yeah.

Bottom left, I think you mean, is that right?---Ah - - -

- 10 The invoice will be closed by filling out the "receive payments" window in the bottom left-hand corner of the screen, is that right?---Yes, I believe so, because when you receive the payment, the next step will be the left, bottom left window. Yeah. As should be the case, yeah.

Well, I just want to be clear about this.---Because I'm not using that system now, I'm trying to recall what would be the next step after I, if you click the "receive payments".

- 20 So I just want to be clear, at what stage in the process does an invoice get produced? By which I mean a physical invoice, either printed or perhaps turned into a PDF. Obviously enough it can't be before the first step, which is creating the invoice, or creating the sale in the top right-hand corner, correct?---Um - - -

Couldn't be before that time, because it wouldn't exist in the MYOB system, do you agree?---I do agree. What I'm saying is, it could be step 2 on the top right-hand, right-hand picture, after the invoice's been created and recorded. If the payment being received at the same time, then the bottom left. Yep.

- 30 Yes, so ordinarily at least, if the payment had been received, the invoice would be issued after you do the two steps, the sales window in the top right-hand corner, and the "receive payments" in the bottom left-hand corner, is that right?---Correct.

And then as a matter of practice in 2015 and 2016, was the invoice then printed for the purposes of being kept in a hard copy file?---Yeah, I believe so.

- 40 Well, is one of the steps in the process that one prints out an invoice and puts it in a folder that looks like something what I'm holding at the moment, with a spine label that says Tax Invoice from X to Y?---Yes.

So part of the process at least in 2015 and 2016 was after a donation or other contribution had been recorded as a sale using the window on the top right-hand corner, and a payment using the window on the bottom left-hand corner, an invoice would be printed, correct?---Yep.

Oh, you'll need to answer out aloud.

THE COMMISSIONER: Sorry, is that a yes or no?---Yes. Yes.

MR ROBERTSON: And that invoice would be attached to a disclosure form if there was one, correct?---Correct.

Usually by way of stapling the two together, correct?---Yes.

10 And then that would be hole-punched and put in a folder like the one that I'm presently holding up, is that right?---Yes.

Now, what about an invoice or receipt for the donor where it's a donation? When would they get a receipt or tax invoice for their donation?---As soon as the invoice has been created in the system.

And so at least as a matter of practice, that would happen promptly after it has been recorded in the system, is that right?---Yes.

20 So it may be the same day, it may be a couple of days after, but it would be in short order, is that right?---Yes.

And how would that invoice ordinarily be provided? Would it be posted, would it be emailed, or would it depend?---Would be, if there's a email, it should be emailed out. Otherwise it would be posted.

30 And was that an invariable practice, that within a short period of time, by which I mean either the day or a couple of days after, a copy of the invoice would be emailed or otherwise sent to the donor, within a day or two of the two steps we can see on the screen being completed, the creation of a sale and the recording of a received payments in respect of that invoice?---It should be as soon as possible. I wouldn't say one or two days. It depends on the workload of Jenny's.

So it would at least be within a week, is that right?---Like I said, as soon as possible, yes, generally.

40 And those invoices or receipts would always be sent directly to the donor I take it. One wouldn't give them, for example, to Mr Cheah to deliver them. Is that right?---Yeah, normally sent directly to the donor.

Normally or always?---I don't rule out the possibility of giving to Kenrick.

Well, why would a tax invoice and receipt or receipt be given to someone other than the donor?---I'm saying there could be possibility.

Like what?---I don't, I don't recall - - -

THE COMMISSIONER: Is that a theoretical possibility?---Yeah, theoretically.

Leaving theoretical possibilities out of it, was it uniform practice that invoices or tax invoices, sorry, receipts or tax invoices would be despatched to the donor as soon as possible?---Correct.

10 MR ROBERTSON: And did it follow from that that you have no recollection of any circumstance in which a tax invoice or receipt was not provided to the donor but was instead provided to someone else?---I don't think so, no.

It would be quite wrong, for example, to give to someone like Mr Cheah or someone else other than the donor, say a group of five receipts or 10 receipts, the correct practice and your practice and the practice that you insisted of of those under your supervision such as Ms Zhao was to send the tax invoices or receipts directly to the donor. Correct?---That's our normal practice. We would send the invoice or receipt directly to the donor from the system unless someone else ask for a copy of it afterwards.

20

Well, why would someone else want or need a copy of a particular donor's invoice or receipt?---Sometimes, you know, some donors they don't know us. If they claim they haven't received a receipt they would contact someone they know in the party office, for example, the organiser of the event and then pass it on to us and then we would give that person a copy and then pass it on.

30 But why wouldn't, in that circumstance why wouldn't you give it directly to the donor? Why would you do it through a middleman or woman?---Like I said, the donors – we do give it to the donor but if the donor afterwards at the end of the financial year when is the time to lodge their donor return they claim they haven't got a receipt they, they would contact whoever they know of in the party office. Sometimes not necessarily contact Finance Department directly. So in that case whoever comes to us for a copy of the receipt we will just give it to, to that staff and ask them to pass it on.

But that would only happen after you had already sent it to the donor. Is that right?---Yes.

40 And so to be quite clear about it, you're not suggesting that there was any occasion on which you sent tax invoices or receipts to someone other than the donors at least when they're first being issued after they're processed in MYOB. Is that right?---Yeah, it should be.

Well, you've qualified that by saying it should be. Are you saying you have no recollection of ever doing something along the lines of what I've said, in other words, in giving the first copy of the receipt not to the donor but to someone else?---In the normal course of the, the practice we send to the

owner, donor directly but like I said, if someone else ask us to produce a batch of receipts so they can deliver to the donor on behalf of Finance Department we, there is no reason that I wouldn't do that.

THE COMMISSIONER: Do you remember any such case ever occurring?
---No, I don't particularly remember.

10 MR ROBERTSON: So are you saying that whilst it would be inconsistent with normal practice to give a bundle of receipts to someone other than the donor, you wouldn't regard it as wrong to proceed in that fashion in a particular case. Is that what you're saying?---No. I wouldn't say that was a wrong practice. For the Finance Department sending a receipt out to the donor directly or indirectly is, to us it doesn't make any differences.

So you think it's quite fine as a matter of practice to give receipts not to the donor but to someone else. Is that right?---Not really. What I'm saying is we want the receipt to get to the donor so the donor can lodge their return and have the knowledge of being recorded in our financial system okay.

20 And the way to do that - - -?---So in a way to do that, to reach to that donor, the best practice, if the donor hasn't receive the receipt, at a later time they come to us, ask for a copy, we may to find the best way to do it. But the purpose - - -

I'm not talking about a later time. Listen quite carefully to my question, please. As I understand what you're saying - - -?---Ah hmm.

30 - - - within a short period of time of a particular donation being recorded in MYOB, an invoice is printed in relation to that donation. Have I got that right?---Yep.

And that invoice is sent to the donor within a short period of time, by which I mean days. Do you agree?---Yep.

At the moment, I'm not talking about replacement invoices at all, so put that out of your mind. What I'm asking you about is the first issue of the invoice.---Yeah, all - - -

40 Is it the case that those invoices are always sent to the donors by email or perhaps by post, or are you saying that from time to time, either you or people under your supervision would send them to someone else to send them to the donors?---No, we would not, in the first case, to send to someone else. We would always send to the donor directly.

So there was an invariable practice, under your tenure as financial controller, of at least on the first occasion that a tax invoice was issued, that it gets sent to the donor by way of email or by way of post, is that right?
---Yep.

And it would be wrong, at least on that first occasion, to give the invoice to someone else other than the donor, do you agree?---I would not see why, why you keep saying it, it was wrong to give it to someone else. Even that happens, I didn't say it, it was wrong.

10 So you disagree with the proposition that it would be wrong to send the tax invoice to someone other than the donor, is that right?---When that happens, there has to be a reason for that. I wouldn't classify as wrong, because the purpose of doing that, the, our intention is to get the copy of the invoice to the donor, whichever is the best way.

Well, let me put it this way. If in a particular circumstance, you have an address of the donor - - -?---Yeah.

- - - there would be no proper reason to send that initial tax invoice or receipt to anyone other than the donor, do you agree?---Yeah, I do.

20 Can we go back, please, to document 4, which was the email chain, and can we go, please, to page number 5. So again, Ms Wang, we're going to have to move up the page, and do you see - we're in 2016 - do you see an email from you to Mr Cheah of 2 June, 2016, do you see that there?---Yep.

And you would agree, wouldn't you, that in relation to this \$50,000 from the Chinese dinner in April of 2016, at least at that point in time - - -? ---Mmm. Yep.

30 - - - you were not in a position to report correctly to the Australian Electoral Commission, correct?---Well, that's not the reporting time to the Electoral Commission, I don't think.

Listen carefully to the question, please. Do you accept that as at 2 June, 2016 - - -?---Yeah.

- - - NSW Labor was not in a position to report correctly to the Australian Electoral Commission in relation to donors for the Chinese dinner in April of 2016?---At that point of time, yes.

40 And if you then have a look towards the top of the page, you see Mr Cheah responds to you, saying, "I will talk to him again today." That's a reference to Ernest Wong, do you agree?---(No Audible Reply)

If you have a look - - -?---Yeah.

- - - have a look back at your email, the last paragraph, the last substantive paragraph, "Could you follow it up with Ernest, please?" Do you see that there?---Yep.

And so you're asking Mr Cheah to follow-up the \$50,000 in donations from the 2016 dinner with Ernest, correct?---Ah hmm.

If we then go up a page, because we're going up through an email chain, up a page to page 4, please. And can you just have a look at your email of 2 June, 10.11am. You say to Mr Cheah, "It's just the year end is approaching and the auditors will be in next week and I'm certainly," which I think you mean "certain", "that they will query that." Do you see that there?---Yep. Yep.

10

So at least as at 2 June, 2016, the accounts are in an unacceptable form for auditors, do you agree with that?---It's not, it's acceptable but it's not ideal. Like I said, like I said, Mr Robertson, this amount of \$57 I would like to say how it was banked into our bank account. If by way of electronic - - -

No, I'm going to stop you there. I'm going to stop you there.---Yeah.

Listen carefully to my question, please. As at 2 June, 2016, at 10.11am, the accounts of NSW Labor were not in an acceptable form for the auditors, do you agree with that?---No, I don't.

20

And they're in an unacceptable form because you knew, and you told Mr Cheah, that the state of those accounts were in a form that the auditors would query, do you agree?---I do.

You do?---Yes, I do agree.

Now, you then see towards the top of the page Mr Cheah then says, "No worries. Of course we need that info." And he says, "Totally understand." If we then move to the next email, which means we'll need to turn, please, to page 7. And again we'll need to move up – back to page 7, sorry. Just bear with us for a moment. Page 7 of this document, please. Now, at the bottom here is an email that you weren't copied to for Mr Cheah to Ms Huang of 2 June, 2016. "Any luck?" And if we then move up a page, "Yes!" says Ms Huang with an exclamation mark. "Here are details of 50K donors," and then there's a series of \$5,000 entries. Can you see that on that email?---Ah hmm.

30

And whilst you weren't a party to that email, Mr Cheah then sends it to you and Ms Zhao on 6 June, 2016. Do you see that?---Yes.

40

And so do you agree that what appears to have happened in 2016 is that money appears to have been raised in connection with a thing described as the Chinese dinner in April of 2016, but the donors in relation to that money don't come to the notice of the Finance Department until 6 June, 2016. Do you agree with that?---Yeah, I do.

And you'd at least have to agree that that was wrong as a matter of proper accounting practice, do you agree with that?---No, I don't.

And as at immediately before 6 June, 2016, you would agree that the accounts were in a form in respect of which the auditors would have queries, do you agree with that?---Yeah, the auditor will have queries.

10 Would you also agree that as at that point in time immediately before receiving the 6 June, 2016 email that was forwarded to you by Mr Cheah, the data that you had was not sufficient to enable disclosures for the Australian Electoral Commission to be produced, do you agree?---Yes, I do.

If you then have a look further up the page, you see that now Ms Zhao is asking Mr Cheah, "Do we need to issue them receipts?" Do you see that there?---Yeah.

20 Now, if that was asked of you, I take it from what you said before the answer would be, "Of course," because what is to be done as a matter of practice is that receipts should be issued promptly upon the data being recorded, is that right?---Yep.

And not only should they be issued promptly, they should be issued directly to the donors, correct?---Yep.

Now, there's no reason to depart from that practice in this particular case, because as you'll see on this page, for each of the individuals, we've redacted them but there's an address, a mobile phone number and a contact email, correct?---Yep.

30 So what should have happened within a few days of 6 June, 2016, if not earlier, was the provision of receipts directly to each of these donors. Correct?---Yeah.

Is that what in fact happened?---I don't remember.

You don't remember a \$50,000 cash donation in 2016 that took about two months - - -?---Are you sure they were cash?

40 Yes.---Okay.

I'm suggesting to you that it's in cash.---Sorry.

Well, deal with it as an assumption. I want you to assume that the \$50,000 is cash. Based on that assumption are you seriously suggesting that you don't remember a \$50,000 cash series of donations in respect of which it took a couple of months before you even knew who the donors were? You've got no recollection of that at all. Is that what you're saying?---No.

No recollection at all?---Swear to God.

Let's go now, please, to the next email, and if we go to page 8, please. Page 8 of this bundle. And Mr Cheah responds and he says, "Well, I think we should issue these receipts but let's send them to Winnie in Ernest's office." Do you see that there?---Yeah.

10 So that approach would be wrong as a matter of proper practice, you would agree, sending them not to the donors which you said to us a moment ago was the correct approach.---Yeah.

But instead is providing it to Ernest's office, is that right, and you agree that that would be wrong as a matter of practice?---I didn't agree it was the wrong practice. I would say in the normal way we send to the donor unless someone ask to deliver that directly to the donor.

No, no. No, Ms Wang, I was very clear about this.---Did I say it was wrong?

20 Ms Wang, I was very clear about this and I asked you a number of times. ---Ah hmm.

As I understood your evidence you said that at least when tax invoices or receipts are first issued you issue them directly to the donor at least where you have an address or an email address. Correct?---Correct.

Is that still your evidence or not?---It is.

30 In this case you know that at least as at June you had the addresses and email addresses of the persons who are said to have been the donors in relation to this \$50,000. Correct?---Yes.

And so what should have happened you must agree is that the tax invoices or receipts should have been issued directly to the donors. Do you agree? --- (No Audible Reply)

Do you agree or not?---They should have emailed to the donor directly, yes.

40 And if that didn't happen that would be inconsistent with proper practice. Do you agree?---I do agree.

Now, can we then move to the next email. We might conveniently go to page 12 of this bundle. And so you will see here that at least Ms Zhao thinks that the \$50,000 in cash and sends it to Mr Cheah. Do you see that there?---Yeah.

And then if we move to the preceding page. You and Ms Zhao then have an exchange regarding the list of donors from the Chinese dinner in April 2016. Do you see that there?---Yeah.

And so you at least had some knowledge of the fact that there was donors of this kind in connection with the April 2016 dinner. Do you agree?---Yeah.

And you engaged in at least some communications with Ms Zhao in relation to that issue?---Ah hmm.

10

Did you ever say to Ms Zhao well, it's not appropriate for these invoices to be sent directly to Ernest's office, they need to go directly to the donors?---I, I don't remember but to us we are Finance Department. We provide services to the fundraising staff. We do whatever they ask us to do because in that way we believe at the time that was the best to reach out to the donors.

20

Even though you've accepted that that was wrong at least as a matter of practice to do it in that fashion. Is that right?---I never accepted it was wrong. I, I just want to make that clear.

Well, you're going to have to be clear.---It was, there wasn't right or wrong. There wasn't a right or wrong here the way delivering the tax invoice to the donors. We were saying what would be the most practical way to get the donors the receipts they deserve to have from us. As Finance Department, we perform our job to produce the tax invoice. If the fundraising director ask us to give them the batch of invoice to pass on, we would do that. I trust them to deliver that to the donors.

30

So does it follow from that that if the fundraising director asked you to do something which is inconsistent with proper accounting practice, you would follow those instructions?---The way to deliver tax invoice, there's no proper accounting practice for that (not transcribable)

40

Did you understand the question that I put to you? Let me repeat it. Is it your position that if the fundraising director gives you a direction to act inconsistent with proper accounting practice, you would follow that direction?---Yeah, I'm answering that question. I was answering that question. Let's make sure what is proper accounting - - -

No, I don't want an explanation. No, I'm going to stop you there again. ---Okay.

Let me put the question again because I want an answer. Is it your position that if the fundraising director gives you a direction to do something that is inconsistent with proper accounting practice, you would comply with that direction? Yes or no?---Okay, Mr Robertson, in your question there are some wrong determination there. We have to get that straight before I give

you yes or no answer, otherwise it's not fair for me to give you yes or no. It's misleading.

Do you agree – no, I'm going to stop you there.---So proper accounting practice, what is proper accounting practice?

10 THE COMMISSIONER: So you are taking issue with the practice of sending tax invoices or receipts to donors is not part of the accounting process or practice?---It is part of the accounting practice to send out receipt to donors, but how to send to the donors, there's no standard accounting standard for that, that's what I'm saying.

There may not be an accounting standard, but I think your evidence, as I understand it, is that what was regarded as the appropriate or proper procedure within the office in Sussex Street had been consistently that these receipts or tax invoices, in accordance with established procedure, would be issued and sent to the individual donors. That was - - -?---Yeah, most of the time, yes.

20 Well, that was, you'd regard that as the conventional practice followed at the Sussex Street office, is that right?---Yeah.

I think what's being put to you here is that you stick to that practice. ---Correct.

And that if the fundraising director rang you up and said, "Don't send them to the donors, send them to this other person," that would be firstly, if you agree, would be contrary to the convention or practice.---Correct.

30 Right.---Yeah.

And I think the question was put to you that you wouldn't depart from that practice just simply because the fundraising director told you to do it, is that right?---I think we trust that the fundraising director will deliver the receipts to the donors. That's why we do it.

40 So I'm not quite sure. Do you say that if the fundraiser rang you up and said, "Don't send those tax invoices to the five or 10 donors, send them to this other person" - - -?---Yeah, not this other person - - -

- - - would you or would you not act on that say-so by the campaign director?---We would trust the campaign director, I think.

Pardon?---We would trust the fundraising director.

So you would follow his direction?---I think so, yeah.

Well - - -?---But that's, that was happened, yeah. That's what happened, yeah.

MR ROBERTSON: And that's what happened in this particular case, is that right?---But that doesn't, yeah, that, that's right, but that doesn't rule out that we have sent a receipt, another copy receipt to the donors. That could happen, yeah.

10 THE COMMISSIONER: But surely you'd seek an explanation, wouldn't you, from the person who's saying, "Send it to that man, not to the donors." ---Yeah, we would.

You would say, "Well, what, wait a minute, I want to know why you're telling me to do that," wouldn't you?---We would. Yeah, I would.

MR ROBERTSON: If you just go back to page 8 on this screen, you're not suggesting that in this particular case they were sent to the donors directly, are you, in the particular case that you and I have been discussing?---In this case?

20

Yes.---See what - - -

See what Mr Cheah says?---Ah hmm.

"Instead of mailing them, send them to Ernest's office," do you see that there?---Ah hmm. Yeah.

30 So at least accept that on this occasion, that Mr Cheah is saying, "Don't send them directly to the donors, send them to Ernest's office," correct? ---Ah hmm. Yep.

And you're saying that that's an instruction of a kind that you as the financial controller would follow, correct?---Oh, I can't see that I was copied on the email. Did I copied on the email? But, yeah.

40 Well, let's be clear about this. Are you saying that if the fundraising director of a particular event said to you, "Do not send the tax invoices or receipts directly to the donor, send them to Ernest's office," would you comply with that direction without asking for an explanation - - -?---I, I, I think - mmm.

- - - or would you not comply with that direction, or would you do something else?---I would ask, but I would follow, I would send it. But in this case, I, I don't remember, and I wasn't copied on the email.

Now, at this particular point in time, Mr Cheah, I think, was working one day a week at ALP head office, is that right?---I don't recall.

If Mr Cheah was to give a direction of that kind to you, would you query that with anyone else, such as the general secretary or the assistant general secretary, or would you simply comply with that direction?---I would speak to Kenrick.

So you would – you’ve referred to the fundraising director on many occasions.---Yes.

10 You’re referring to Mr Cheah when we’re talking about Chinese Friends of Labor events, is that right?---Yep.

You’re not talking about Mr Wong, for example?---No, I would talk to Cheah.

20 But I just want to be clear about what you mean when you use the term “fundraising director”. When we’re talking about Chinese Friends of Labor events, is the fundraising director always Mr Cheah, or is it some other person, or could it be some other person?---Mr Cheah, at the time, 2015 and ’16.

And if Mr Cheah said to you, “Don’t send the invoices to the donor, send it to Ernest Wong,” that’s a direction that you would comply with, without seeking any other guidance from, for example, the general secretary to whom you report, is that right?---Well, we’re just making the assumption, right? I would talk to him, but I will trust him, so I would do it.

So the answer is, ultimately - - -?---Yeah.

30 - - - you would comply with Mr Cheah’s direction to send tax invoices and receipts to Ernest Wong’s office, rather than directly to the donors, is that right?---Yes.

Now, you’re aware that \$100,000 in cash was banked in NSW Labor and Country Labor’s bank accounts on 9 April, 2015, correct?---Yes.

40 When did you become aware of that matter?---I knew the donation, because as part of the financial year end, I would prepare the, the, the Electoral Commission’s report. So I would go through the donations, and from there - - -

Let me ask you this way, then.---Yeah.

When did you first become aware that \$100,000 in cash had been delivered to the Sussex Street office in connection with the 2015 Chinese Friends of Labor event?---I don’t recollect exactly when I first become aware of that donation. But it should be afterwards, when I came back from my holiday. Yeah, sometime. But I, I really, I, I’ve been thinking about that, but I don’t really remember exactly when.

You became - - -?---But - - -

Yep, I'm sorry.---Yep.

You in fact became aware of the \$100,000 in cash being delivered on 9 April, 2015, didn't you?---But that's the date the cash been deposit.

Correct.---Yeah.

10

And you became aware before it was deposited that \$100,000 in cash had been delivered to the Sussex Street office, do you agree?---No, I don't. I, I didn't know that.

Now, on 9 April, 2015, you had just arrived back from being on leave, correct?---I think I came back the following week.

20

Well, I want to suggest to you that you were back in Sydney on 9 April, 2015 and you were working on that day, do you agree?---I, I didn't come to the office to work.

I want to suggest to you that you were in Sydney on 9 April, 2015 and you were working on that day, do you agree?---I do agree. I came back to Sydney on that day but I wasn't in the office. I was working from home.

So is the answer to my question yes? Are you having some difficulty understanding my questions?---No.

30

So is the answer to my question yes?---Yes.

You were working on 9 April, 2015, correct?---Correct.

You were working from home on 9 April, 2015, correct?---Yes.

During the course of 9 April, 2015, Ms Zhao informed you by email that \$100,000 had been brought into the Sussex Street office, correct?---I don't remember.

40

Well, are you denying that she told you this or not?---No, I don't denying, but I'm saying I don't remember clearly she was telling me that amount of cash being banked.

Is that your serious evidence?---Yes.

It was an extraordinary thing, wasn't it, for \$100,000 in cash to be received at the Sussex Street office, correct?---Correct.

And you're seriously suggesting you don't remember when that occurred?
---I seriously don't remember seeing that amount of cash.

You're sitting at home.---Yeah.

It's your first day back. You're working from home. You work from home after being on a period of leave.---Yeah.

10 And you seriously don't remember whether you were told on that day that \$100,000 in cash was noted by Ms Zhao at head office? Is that your serious evidence, is it?---Yes, I seriously don't remember.

Now, in point of fact, Ms Zhao sent you an email and told you that Kenrick had brought in a donation of \$100,000 for Chinese Friends of Labor, of which he said that half was for the State Labor Party and half was for Country Labor. Do you agree?---What was your question?

20 During the course of 9 April, 2015, when you were working from home, Ms Zhao informed you that Kenrick had brought in a donation of \$100,000 for Chinese Friends of Labor. Do you agree?---I'd like to see what kind of communication between me and Jenny at the time 'cause - - -

On 9 April, 2015, Ms Zhao sent you an email whilst you were at home and said Kenrick brought in a donation of \$100,000 from Chinese Friends of Labor. Do you agree?---I don't remember receiving that email. That's my problem. You know, I don't remember.

30 So your answer to my question is you don't remember receiving an email of that kind, is that right?---I don't remember, yes.

Do you recall ever receiving an email from Ms Zhao saying that Kenrick had brought in a donation of \$100,000 from Chinese Friends of Labor?---I really don't remember. I'm so sorry. Because I would be thinking about it.

And you responded to that email, and you asked whether the whole of the \$100,000 was in cash. Do you agree?---Like I said, I don't remember receiving those emails.

40 And Ms Zhao responded to you and said, yes, it was all in cash. Do you agree?---I don't remember.

You don't remember any set of emails to that effect, is that right?---I don't remember.

Is it at least your recollection that you knew of the existence of the \$100,000 in cash before it was banked?---(No Audible Reply)

THE COMMISSIONER: Are you still considering the question?---Yes, I'm just trying to remember what happened. I just can't remember.

MR ROBERTSON: So are you saying you can't remember whether you found out about the existence of the \$100,000 in cash before it was banked?---Yeah, I can't remember if I have received the email how it happened, yeah.

10 No, I'm not asking about emails at the moment. What I'm asking you is, did you know before the \$100,000 in cash was banked on 9 April that \$100,000 had been received?---If there was an email sent to me, yes.

Well, are you saying that's something you recall or not?---No.

So sitting there now you don't know whether you knew about the \$100,000 in cash before it was banked. Is that your evidence?---That's right.

20 In point of fact Ms Zhao asked you for advice as to what to do about the \$100,000. Do you agree?---If she emailed me she would, like I would agree, yeah.

But you don't have any recollection of that sitting there now.---No.

Is that right?---Yeah.

You would at least agree though that it was a highly unusual event to receive \$100,000 in cash at the Sussex Street office. Do you agree with that?---Yes, I do.

30 But despite that unusualness you've got no recollection of whether you found out about it before or after it was banked. Is that right?---Not before. I thought I didn't know that before that date. Certainly I didn't remember that I got an email from Jenny.

Now, a little bit earlier today when I was asking you about 2016 and when I think you thought I was asking about 2015 - - -?---Correct.

- - - you said, "I wasn't around at the time."---Yeah.

40 Do you remember that answer?---Correct.

Is that you attempting to distance yourself from what happened in 2015 even though you were the financial controller at that point in time?---No, I wasn't purposely distant myself for anything and I wouldn't push my responsibility to anyone else. I was just telling the truth. I thought that was 2015 and while the Electoral Commission was investigating this case we had an interview and I did recall I was on leave. I wasn't around when that cash being banked because clearly - - -

Well, you now accept that to be wrong don't you? You were around and working - - -?---Yeah.

- - - not in the office but you were around and working from home on the very day that that cash was received. Do you agree?---Yeah.

10 Chief Commissioner, I apply for the direction that was made by Commissioner Rushton under section 112 of the Independent Commission Against Corruption Act on 9 July, 2019 be varied insofar as it would otherwise prevent the publication of the fact that Ms Wang gave evidence on 9 July, 2019 and insofar as it would otherwise prevent the publication of any question asked or answer given in this public inquiry.

THE COMMISSIONER: It was 9 July was it?

MR ROBERTSON: 9 July, 2019.

20 THE COMMISSIONER: 9 July this year. In respect of the order made under section 112 on 9 July, 2019 by Commissioner Rushton, I vary the order so as to remove the prohibition on questions directed to this witness, Ms Maggie Wang, having given evidence in a compulsory examination on that date, insofar as it would prohibit questions or answers sought to be dealt with today.

30 **VARIATION OF SUPPRESSION ORDER: IN RESPECT OF THE ORDER MADE UNDER SECTION 112 ON 9 JULY, 2019 BY COMMISSIONER RUSHTON, I VARY THE ORDER SO AS TO REMOVE THE PROHIBITION ON QUESTIONS DIRECTED TO THIS WITNESS, MS MAGGIE WANG, HAVING GIVEN EVIDENCE IN A COMPULSORY EXAMINATION ON THAT DATE, INsofar AS IT WOULD PROHIBIT QUESTIONS OR ANSWERS SOUGHT TO BE DEALT WITH TODAY.**

THE COMMISSIONER: Yes.

40 MR ROBERTSON: Ms Wang, you participated in a compulsory examination before this Commission on 9 July, 2019, correct?---Yes.

And during the course of that compulsory examination, you were asked questions about what occurred on 9 April, 2016, correct?---Yep.

And you told the Commission on that occasion that you were on leave at that time, correct?---Yes.

And that was wrong, wasn't it, because you were in fact working on that date, do you agree?---I, I think there was a misunderstanding, that I wasn't in the office working, I was working from home.

I suggest to you that it was more than a misunderstanding. You were making a deliberate attempt to distance yourself from what occurred on 9 April, 2016, do you agree?---No, I don't.

10 Can we go, please, to volume 2 of the public inquiry brief, and in particular to page 185. You'll see there an email that you send to Ms Zhao on the morning of 9 April, 2015, copied to Ms Murnain at 8.04am. Do you see that there?---Yes.

And is that consistent with your now recollection that you were in fact working from home on 9 April, 2015?---Correct.

20 If we turn the page, please. You'll see that Ms Wang welcomes you back and says that there's hundreds of invoices that need to be sorted. Do you see that there?---Yep.

And if we then turn to the next page, do you see there at 10.21am Ms Zhao informs you of a \$100,000 donation from Chinese Friends of Labor? Do you see that there?---Yep.

Having seen that email, do you now accept that in advance of the \$100,000 being banked, you were aware of its existence?---Yes.

Do you accept that now?---Yep.

30 And if we then turn the page, you then inquire of Ms Zhao whether it's all cash. Do you see that there?---Yep.

Now, why did it matter to you at that point in time whether it was all cash or not?---Because for, I think I was worried about the safety of the cash.

Is it right to say that in your capacity as financial controller, you're of the view that cash ought be banked as soon as possible?---Correct.

40 And \$100,000 is a lot of money, and therefore it should be banked at the earliest opportunity, is that right?---Yep.

And does it follow from that that at least from your perspective as financial controller, it would be undesirable for an employee of NSW Labor to, for example, take money home with them of the order of \$100,000?---Correct.

As at 2015, was there any practice or procedure of which you were aware as to whether it was permissible for employees of NSW Labor to take money home for safekeeping?---I don't think so, no.

At least from your perspective, it wouldn't be a good idea, correct?

---Correct.

But there was no particular policy or procedure that would prohibit taking such a course, is that right?---Correct.

And if we then turn the page, we then see that Ms Zhao responds to you and says that it was all cash. Do you see that there?---Yep.

10

And if we then turn a further page, page 190, do you see that Ms Zhao then reports to Mr Cheah but with a copy to you that the money's been deposited in the two accounts? Do you see that there?---Yeah.

And so I assume you accept that at least as at 4.54pm on 9 April, 2015, you were aware that \$100,000 in cash had been banked into the two accounts, being the state campaign account and the Country Labor account?---Correct.

20

Now, do we take it from that that the \$100,000 must have been processed in the MYOB file as at 4.54pm on 9 April, 2015?---I would think so.

It would at least be consistent with procedure and practice as at 2015 to record it in the MYOB file before banking it, is that right?---Yep.

And it would be recorded adopting the approach that you and I discussed this morning with the different windows in MYOB, is that right?---Correct.

30

And do we take it from that that invoices pertaining to the \$100,000 must also, at least according to practice, been issued on the 9th, or at least by 9 April, 2015?---Yep.

And so does that mean that as at 9 April, 2015, at least if Ms Zhao was acting in accordance with practice, and noting that you're the financial controller and she reports to you, that there would be \$50,000 worth of Australian Labor Party NSW Branch tax invoices sitting in a folder that looks something like the one that I've put in my hand, correct?---Yep.

40

And to those would be disclosure forms stapled pertaining to the same amount of money, is that right?---Yep.

And then similarly for Country Labor, on 9 April, 2015, we would have \$50,000 worth of invoices, correct?---Yep.

And stapled to those would be \$50,000 worth of disclosure forms, is that right?---Yep. Yep.

But is it right that it was Jenny who did the processing in relation to those amounts, rather than you?---Yes.

And that's unsurprising, at least in relation to 9 April, because whilst you're working, you're working from home, correct?---Yep.

Now, can I hand to you a folder, what I'm going to give you is the contents of the folder that I'm holding in your hand, that the Commission obtained in the execution of a search warrant. We've taken the contents out of that folder and put it in a separate folder, because the original folder's starting to fall apart. And for those following along, if we can have please, Operator,
10 Exhibit 152 on the screen? Just to make life easier, I'm going to put a little sticky note in the bottom right-hand corner. I'll just give the associate to give it to you. Just turn over to the next page on the electronic version please, Operator. Now, if you could just open that folder, please. The folder that you can now see, the documents in it are what you would expect to see in a folder of the kind that I'm now holding up, being the black and white sort of folder. Would you agree with that?---(No Audible Reply)

And would you agree that the first one is a Johnnie Lin one that matches the one that's on the screen?---Yes.
20

And then if you could just count for me the number of invoices and reservation forms you can see there that are Australian Labor Party NSW, and I'll just ask you to confirm that we can, that you can count 10 of those in the physical folder that you've just got in front of you, and as we do that, Operator, if we can just flick through, and if we stop at the end of those 10. Stop on page 22, Operator. To help you there, Ms Wang, the last one should be one to May Ho Yee, the last of the Australian Labor Party New South Wales ones.---Yep.

30 So you agree with me that in that folder we've got 10 Australian Labor Party New South Wales tax invoices and 10 reservation forms attached to those 10 invoices, is that right?---Yes.

And that's consistent with what you would expect to see in accordance with the practices in place as at 2015, correct?---Correct.

If you can then move to the next bundle, you'll see the next one is a Country Labor one. Do you see that there?---Yes.

40 And can I just ask you to turn through to those and stop at the one for Valentine Yee. And if, Operator, we can go to page 35.---Yeah.

So you're now at a tax invoice number 40924 for Mr Valentine Yee?
---Yeah.

Why is there a cross through that one?---I don't know. I don't know the reason for that.

Well, was there some practice of putting a cross through invoices when you were the financial controller?---I don't think so, unless some amendment of the invoice happened or cancellation. I'm not sure.

Well, focusing first on a cancellation, you agreed with me earlier today that if one wanted to cancel an invoice, wanted to write off an invoice, the way one does it is to put in an invoice for a negative amount, is that right?---Yes.

10 And so are you drawing attention to the possibility that this tax invoice was reversed or written off by a credit note or other tax invoice in the sum of minus \$5,000?---Yeah.

But if you then turn to the page that's attached to that page, we've actually got a reservation form there.---Yeah.

20 So can you proffer any reason as to why one would cancel an invoice when there's actually a reservation form attached to it?---It doesn't make sense to me, so I don't know the reason for doing that. But firstly we have to know if this invoice been cancelled or not.

We'll get to that.---Yeah.

But you're proffering one possibility is it was cancelled, but I think you agree the correct way to cancel an invoice is to do a credit note or negative invoice of the kind that you and I have discussed this morning, do you agree?---Yeah.

30 And just have a look at the tax invoice number for Valentine Yee.---Ah
hmm.

See it's 40924?---Yeah.

And can you then turn back to the preceding one, page 33, please. Just to the preceding one, 40924. Do you see it's the same invoice number?
---Yeah.

So in that folder obtained from NSW Labor, there's two invoices with the same invoice number, is that right?---Yep.

40 Now, you would at least accept that as a matter of proper accounting practice it would be quite wrong to simply issue another invoice with the same tax invoice number, as opposed to doing it in the way that you and I discussed as being the correct approach, namely issuing a credit note or a negative invoice to cancel the first invoice, do you agree?---It's not wrong but it's not the best practice, I would say, yeah, unless the second invoice was requested right after the first one being issued and there's a correction or something. I don't know. But it's not best practice.

But it couldn't possibly be a correction, could it?---Sorry?

It couldn't possibly be a mere correction to change an invoice from Valentine Yee to Steve Tong. You'd at least agree with that, wouldn't you?---Yeah.

And indeed, whilst attached to Valentine Yee's tax invoice is a reservation form ostensibly from Valentine Yee - - -?---Ah hmm.

10 - - - there's also a reservation form, wouldn't you agree, attached to the Steve Tong invoice - - -?---Yep.

- - - that's ostensibly by Steve Tong, correct?---Correct.

Just have a look at the top of Mr Tong's reservation form, please, and look at the handwriting at the very top of the page. You'll be able to see it both in hard copy and on the screen. See it says "replace 4-0-9-2-4 V Yee, CL," can you see that?---Yep.

20 What does that mean?---I would assume as a replacement of, yeah, the other one.

So, as you read it at least - - -?---Ah hmm.

- - - Valentine Yee's invoice is being replaced by Steve Tong's invoice, is that right?---Yep, from the look of it.

30 What possible reason would there be to swap an invoice over like that?---It has to be come from the fundraising director, I mean, Mr Cheah. There could be a request saying one was wrong, replaced by another one. That could be the only reason.

But how – it might be one thing to say, well, it wasn't really Teresa Tay, it was Teresa Tam, maybe we need to amend the invoice.---Ah hmm.

But this is changing Valentine Yee to Steve Tong. What possible acceptable reason could there be to change an invoice from Valentine Yee to Steve Tong?---I don't really know the reason.

40 THE COMMISSIONER: No, but there couldn't be, could there, any innocent explanation for doing that. There couldn't be an innocent explanation, could there, to do that, a swap, a reservation form, in the name of the identity, naming the identity of the alleged donor - - -?---Ah hmm. Yeah.

- - - and then later changing that using the same invoice for somebody with a different identity. That wouldn't be, that couldn't be justified on any basis, could it?---Yeah, it's, it's not the best practice. Yep.

Well, no, I think we're going much further than that. We're saying not only is it not best practice, it's contrary to all standards and practice. Would you not agree?---I mean, yeah, I mean, if the first invoice has been sent to the donor already, and this one would be confusing, I would say. But, you know, as, there's only one cash being received. So the party's financials won't be duplicated from accounting perspective. It's just the, you know, you know, the, the receipt sent out to the donor could be creating some problem.

10

Well, if these two forms came before you - - -?---Yeah.

- - - and you saw that the same numbered invoice, sorry, the same invoice for one had been substituted for another, you'd ask questions, wouldn't you? ---Yeah, we would. We would ask. But these two wouldn't come together. It has to be one comes first, and then someone else come, oh, there's a mistake there, we have to change the name of that donor to a different person, in that, that's I think the only reason given to Finance in order for us to change it.

20

MR ROBERTSON: But the two invoices - - -?---I think, I am, could happen, I'm saying.

But the two invoices are both dated 9 April, 2015, aren't they?---Yeah. I think it's because, you know, like, it's easier to just change the name on the existing invoice than, rather than, you know, like, yeah, it's just people taking a shortcut.

30

Well, you at least accept that that's not the right way of doing it, as a matter of proper accounting practice, do you agree?---Mmm. Yeah, I do agree.

And you said in answer to one of the Chief Commissioner's questions that it may cause confusion if the first tax invoice has been issued, correct? ---Yeah. Yeah.

But it's more than confusion, isn't it, because if that invoice has been sent, out there in the world is a tax invoice for \$5,000 which has then been as good as deleted, but without a credit note or negative tax invoice attached, correct?---Yep.

40

So it's quite possible then in that scenario that two different people, in respect of the same sum of money, might be doing things like making disclosures or claiming tax deductions, correct?---Correct.

And that underlines why this approach, using the same tax invoice number for two different invoices for two different people, is completely wrong as a matter of any sensible accounting practice. Do you agree with that?---For donation compliance there should be (not transcribable) but for financial

records, because, like I said, they're only one set of cash being received. So
- - -

But what I'm suggesting to you is as a matter of proper accounting practice, as I thought you accepted from me this morning, that to get rid of an invoice, one doesn't simply delete it, particularly if it's already been issued, one issues a credit note or a negative invoice, correct?---Yep.

10 And so at least from the perspective of an accountant – or in your case, a financial controller – you must accept that that's the wrong things to do. Do you agree?---Yep.

But is it also consistent with that you said before, that a replacement of an invoice of that kind is not something that you would take upon yourself to do, it's only something that you would do if you were directed to do so by someone outside of Finance. Was that the effect of your evidence before or not? Or is it - - -?---Sorry?

20 I understood you to say before, and I may have this wrong, that you, or perhaps for that matter, anyone in the Finance Department, wouldn't simply delete and replace an invoice, like we've seen with 40924, unless you were directed to do that by someone. Is that right or did I misunderstand that? ---Yeah. We shouldn't do that ourself unless there was a reason and there was a proper form given to us with a reason, then we, you know, can amend the financial record.

30 But I want to be a bit more precise than that. Are you saying that you would issue two invoices with the same invoice number but different names on your own accord or would you only do that if someone outside of the Finance Department directed you to do so?---Yeah.

THE COMMISSIONER: No, no, which is it.

MR ROBERTSON: I'm not sure – which one is it?---Someone else ask us to do it.

So who would you take direction from on an issue of that kind?---Would be Mr Cheah in this case.

40 It sounds like you're shifting a lot of the questions and the blame to Mr Cheah. Would you agree?---I don't think so.

THE COMMISSIONER: But Mr Cheah, at this time, how many days a week did he used to work there? The time that we're talking about, the date of these invoices?---Well, he was working there part-time and I don't really see him a lot in the office. I, I didn't see him a lot in the office at the time.

Well, sometimes he only worked one day a week, didn't he?---Yeah.

And he's the community relations officer?---Yeah.

Not a finance man?---No.

And not a management person?---Yeah.

10 Well, why would you act on his directions?---No. I would, I what I am saying is, I, I wasn't doing the accounting practice based on his request, but changing the invoice to a different person certainly didn't come from us. It would come from him. That's all what I am trying to say. So, changing the invoice to a different name rather than created a credit note, that would be a wrong accounting practice. I accept that. You know, we took a shortcut. Okay, we probably didn't think the consequences of doing that seriously at the time. Just trying to finish work in a busy, busy period. So am I answering your question clearly this time?

20 MR ROBERTSON: What would justify taking that shortcut approach in circumstances where I think you've accepted the correct approach is to issue a credit note or negative invoice?---The circumstances would be, you know, when the invoice being raised, the first one raised and the second change came, you know, very soon. That could be one possibility. Or when Jenny's too busy and she just, you know, just simply changed the name when she was asked to do so. So - - -

But you at least accept that this is not a mere change. It's a wholesale change to say instead of Valentine Yee donating the money, it is Steve Tong donating the money, do you agree?---Correct. Yes.

30 And you'd at least agree, wouldn't you, that taking this approach – namely simply issuing another tax invoice with the same number – is apt to conceal what has really happened here. In other words, the Valentine Yee invoice has been reversed, deleted or expunged and replaced in whole with an invoice of a completely different name.---Yep.

And is it right that it wasn't Mr Cheah's direction or idea to do it in that fashion?---Like I said, Cheah wouldn't ask, know what we do in the financial records. He would - - -

40 But Mr Cheah would have no idea about the difference between issuing a credit note or a negative invoice and deleting an invoice itself, correct? ---Deleting the content of one invoice, replaced with a different name. He wouldn't know that.

He wouldn't understand that distinction at all that you and I have been discussing during the course of the day, correct?---Correct, yeah.

And so you at least accept that the decision to do it in that way, rather than the correct way, was a Finance Department decision and not a Cheah decision, is that right?---Correct, yep.

But is it right to say that you're speculating that Mr Cheah must have given some direction or indication to the Finance Department to say that the records of the party should not show a Valentine Yee payment but should instead show a Steve Tong payment, is that right?---Yep.

- 10 Is it right to say that you personally have no recollection of a direction or suggestion of that kind from Mr Cheah or anyone else?---No, sorry, what was the question?

Did Mr Cheah say to you, "Please delete the Valentine Yee invoice and please issue a new invoice with the same number and the same date to Mr Tong"?---I don't remember if that was the case, but there has to be some communication from him saying this invoice, this donation should come from whoever the second invoice referred to, Steve Tong. Yeah.

- 20 But is it right to say that, at least sitting there now, you're not able to point to a particular communication from Mr Cheah or anyone else in relation to that matter, is that right?---Yes.

THE COMMISSIONER: The invoices issued for donations play an extremely important role, don't they?---Yeah.

They are part of essential record-keeping to ensure the integrity of the process for accounting or in accounting for donations, correct?---Correct.

- 30 And therefore they form part of the historical record in relation to particular donations.---Correct.

And it is part of your role and responsibility to ensure that the integrity of the process is maintained in every case.---Yes.

- 40 Well, how can you say that the integrity of the process was being maintained here in relation to the matter you're being asked questions about, namely the issue of two invoices, same invoice number on each of them, but the invoice is issued in the name of two different people? How can that in any way be justified as part of your role?---Okay, honestly, if Mr Cheah ask us to change one donor to another, when we receive the information, we would think – this is my assumption because I'm trying to recall, I can't remember clearly what happened, how this request being passed to Finance Department – but I would assume at the time when the request enter Finance Department, there could be a communication between Mr Cheah and the donors saying, oh, this is the, what happened, which is the correct donor, whatever. We would assume that happened, there is some communication before that information passed down to us. I think that – yeah.

But your responsibility wouldn't entitle you to make any assumptions like that, would it?---Yeah. Like, I admit - - -

Do you agree? Do you agree?---Yeah, I do agree.

You couldn't proceed on the basis of making an assumption. You have to know the facts, don't you?---Yeah, I do.

10 Well, it could be, for example, that if somebody asked you to issue another invoice but in a different name, it could be that person's cheating or trying to cheat the system, correct?---Yeah, it could be.

And that's why it's so important for you to be on the alert to ensure that that sort of thing doesn't and can't happen, at least so far as you can control it with the paperwork you're responsible for.---Yeah, exactly.

20 Well, we have here what seems to be a matter of significant seriousness, would you not agree, on the face of it? Two invoices with the same amount issued to two different people but containing the same invoice number on both.---Yeah.

Well, would you concede that this suggests that there may well have been some form of defrauding or cheating the system?---Yeah. Mmm, I accepted - - -

30 And you don't have any adequate explanation to suggest it was not or could not have been an act of someone to defraud the system. You can't think of any matter that would suggest that it wouldn't be that, can you?---Certainly, we, yeah, this was not the best, yeah.

On the face of it, these two invoices are, at the very least, suspicious. ---Well, I would say from our part the two invoice number sent out, even there were some good reasons, but still causing some serious consequence, we didn't think - - -

40 Just listen to my question, though. On the facts as they now present before us, as Counsel Assisting has been taking you through step by step, these two invoices look extremely suspicious, don't they?---Suspicious of what?

Suspicious of foul play or defrauding the system, would you not agree? Suspicious of that sort of conduct.---At the time when this email was issued, I think we should, Finance should think now to create a credit note rather than using the same invoice number. That's where it went wrong. We didn't think of anything else, rather, you know, like, suspicious or whatever.

No, you may not have. But on the facts here today that have been presented to you about these two invoices, they do look suspicious, don't they? In the absence of any other plausible explanation.---Yeah.

MR ROBERTSON: The two invoices that we've just discussed are both dated 9 April, 2015, correct?---Yeah.

10 And does it follow from that that if there was an instruction or request of the kind that you've identified from Mr Cheah or someone else, that must have been given on 9 April, 2015.---I'm not sure if that was given on 9 April, 2015.

But if it happened at some later date, wouldn't that also involve another problem, namely a backdated invoice.---Yeah, it could be.

You said a little while ago the two invoice problem wasn't a big deal because there was only one set of money. Do you recall giving an answer to that effect?---For a finance record of the parties, well, yes.

20 How did you know there was only one set of money?---Because there was only one money being received and closed the same invoice.

How do you know that?---Because that's how the system works, the accounting system works.

30 So you've looked at the accounting system in relation to the issue that we have just discussed. Is that right?---No, the, I know the system works like what you were going through at the very beginning. You create an invoice and you close that invoice. Even the name got changed, but closing that invoice can't be twice, can't be done twice.

How do you know that the invoice was changed as opposed to deleted?---By looking at the different names under, under the same invoice number.

Isn't it quite possible that the first invoice, or at least one of those two invoices, it seems the one to Mr Valentine Yee, was deleted?---I really don't know because, you will have to, we have to, I, I physically didn't do those invoices. So I'm just looking at the record as everyone else does.

40 In point of fact, the first invoice was deleted, wasn't it?---I am not sure. It could be just simply using the system, select a different name. That could happen too.

In point of fact, the first invoice to Mr Valentine Yee was deleted in the MYOB system, correct?---I don't know.

And you know it was deleted, don't you?---Really? I don't know.

Do you know what an audit trail is in MYOB?---Yeah.

And do you know that an audit trail can identify where things and transactions are deleted?---I believe so. Yes.

And just remember the invoice number you've got in front of you, 40920, and can we please go to Exhibit 151 at PDF page 24. What I want to suggest to you Ms Wang, is that on 22 April, 2015, not the 9th, 22 April, 2015, the invoice to Mr Valentine Yee, 40920, was deleted from the MYOB file. Do you agree with that?--- 4-0-9 - - -

40924 was deleted from MYOB. Do you know anything about that?---I don't remember.

Does that mean it may have happened, you just don't remember, or does it mean you're denying that it was deleted?---I am not denying. It could happen but I am not denying but the, even though it's been deleted, I think the purpose is in order to enter this new person in.

20 Yes. It was to replace the first invoice with the second invoice, correct? ---Yeah. I believe so.

But it was to do it in a way that was at least wrong as a matter of accounting practice. You at least accepted that, correct?---Yeah. Yeah, it is.

But also it was done in a way that would tend to conceal what is really happening, namely expunging one invoice and replacing it with another. Would you agree?---It's just if the donor is different so we'll have to issue the invoice to the correct donor that, I think the whole process was trying to get there.

It was done in such a way as would be apt to conceal what really happened, namely the expunging of one invoice and the replacement with another. Do you agree?---I wouldn't say conceal. For accounting record, it is like change one to the other. The only thing I could say we should have done is creating a credit note rather than just change the content in the invoice, using the same invoice number.

40 So are you rejecting the proposition that the way in which it was in fact done was apt to conceal what in fact was happening, namely deleting and expunging of one invoice and replacement with another? Are you rejecting that proposition?---I don't really understand. Can you rephrase what you're trying to - - -

Do you agree that the way in which invoice 40924 was dealt with – namely to delete it and replace it with a new one of that invoice number – created a risk of a wrong impression? In other words, that the invoice was issued to Mr Tong all along and was not replaced. Do you agree with that?---Well, if

you say “intention”, I wouldn’t think that was the intention to, to conceal anything.

I didn’t say “intention”.---It’s just to delete the first one and replace with a new donor.

But let me put it this way, then.---Yeah.

10 If you accept that the first invoice was deleted and replaced with a new invoice, with a new invoice number, immediately after that occurred, the MYOB file would simply show that invoice 40924 was an invoice issued to Mr Tong, correct?---Yeah.

The file would not show that any invoice 40924 was issued to Mr Valentine Yee, correct?---Correct.

20 And would you at least agree that that creates the risk that someone looking at the MYOB file would not appreciate that there was an invoice 40924 that was issued to Valentine Yee?---Correct. Yep.

Now, can we go to Exhibit 151, PDF page 24, please. Volume 4 of the public inquiry brief, page 333. I’m now showing you an audit trail document. You’ve seen one of these before, I take it, Ms Wang.---Yeah.

And this allows you to go in and see what changes have been made to records within an MYOB file, correct?---Yep.

30 And if you go down about seven-tenths of the way down the page, do you see there’s an ID 40924? Do you see that there? About seven-tenths of the way down the page?---Sorry? So - - -

About seven-tenths of the way down the page, 22 April, 2015. ID 40924. ---Yeah, yeah, okay.

And so do you agree that that shows that an invoice 40924 was deleted not on 9 April, 2015, but deleted on 22 April, 2015, correct?---Yeah.

40 Now, you said to us this morning that, at least as I understood your evidence, there weren’t generic user IDs but rather they’re individual IDs for each user. Did I get that right or did I misunderstand it?---Sorry. I, I got it wrong.

So you got it wrong this morning and there were at least some more generic user IDs such as Temp 1?---Yeah.

Do you recall whether it was you that set up Temp 1 or was it someone else who set up Temp 1?---It should be me.

And was Temp 1 an account that had restricted access or administrator access?---It would have, like, every other access except payroll.

So that would include access to delete transactions, is that right?---Yes.

Who was authorised to use Temp 1 in April of 2015?---It could be all the temporary staff back then. Then this makes sense, 'cause if me and Jenny did this, we wouldn't just simply use the same invoice number.

10 Well - - -?---Anyway, yeah.

Well, are you saying that it was not you that did the deletion of invoice 40924?---This deletion will not be me.

You at least had the credentials for Temp 1 as at April of 2015? In other words, you could use that if you wanted to?---But I wouldn't.

You could at least use it if you wanted to, as at April 2015, correct?---Yep.

20 And same with Ms Zhao. She could use it if she wanted to, correct?---Yes.

But at the very least, between you and Ms Zhao, whoever was using Temp 1 – be it you, be it Ms Zhao, be it a temporary staff – they would be doing it under your ultimate supervision, correct?---I wouldn't tell them what to do on a day-to-day basis.

But it would at least be subject to your ultimate supervision, correct?
---Well, I'm in charge of that department, yep.

30 So is the answer to my question, "Yes"?---Yes.

But you at least agree that what appears to have happened based on this audit trail is that on 26 April, 2015, invoice 4-0-9-2-4 and for that matter invoice 4-0-9-2-0 were deleted, correct?---Yeah.

Now, who would have authorisation within NSW Labor as at April of 2015 who would be permitted to delete an invoice, or instruct the deletion of an invoice from the MYOB file?---Well, no-one should have the, you know, the, the right to delete an invoice. But as I say, no-one probably have,
40 know, know to do this, you know, like, on a day-to-day basis, or in a busy period.

But you're not - - -?---People just don't follow the procedure probably.

But you're not suggesting that this is the kind of thing that a general temporary staff member would do, a couple of weeks after the invoice of 9 April, 2015, was first issued. You're not suggesting it's something that a

temporary staff member would do on their own accord, are you?---I wouldn't, I don't know, actually, what happened. Yeah.

It would be a pretty extraordinary thing to do, wouldn't it, to be a temporary staff member - - -?---Ah hmm.

10 - - - and go on the MYOB file and start deleting transactions, would you agree?---Yeah, they wouldn't intentionally doing that. I would think the only possibility for people to do it just to take the shortcut, and get the same thing, you know, like - - -

But what I'm suggesting is - - -?---Mmm.

20 - - - it's not something that you would expect to be done by a temporary staff member, except under the direct supervision or direction of either you or Ms Zhao, would you agree that with that?---In a normal course, yes. But temporary staff, if we have work for them to do, we wouldn't tell them exactly, one transaction, what to do, because we would assume they have the knowledge and do the data entry as what they were told.

But this is not data entry. This is data exit. This is someone going into the file, and as you know, it's not simply accidentally leaning on the Delete key. One needs to go into the Edit menu, and delete a transaction, and then confirm that that's what you want to do, correct?---The, yeah, that's still data entry to me, but - - -

But it's not something - - -?---Yep.

30 - - - that could be done by accident, for example, is it?---Yeah, correct.

It's something that would need to be done quite deliberately, would you at least agree with that?---Yeah.

And then to square the circle, as the Americans would say, can we go to the cash receipts document, please? Now, I take it you know what a session date is, as that applies to an MYOB file?---Session date, sorry?

A session date?---(No Audible Reply)

40 I'll help you, it's the date of the session in which one may do a particular entry, and on the screen now are the session dates for each of the \$5,000 contributions that add up to \$100,000.---Ah hmm.

And can I just help you by saying that the session date in the right-hand column, at least where they first appear, is American dates, although that says 04/09, that's a reference to 9 April, 2015.---Yeah. Ah hmm.

Can we just scan down a little bit, with a view to finding 4-0-9-2-4, oh, just scan down a little bit further. And I'll help you by noting that above the bank deposit that we can see of the 9 April, 2015, we have 18 entries, and not 20 entries. If we then go down and now across the page, across to the next page, please. And just scan down just a little bit more, please, Operator. Do you see now Steve Tong, 40924 towards the bottom of the page?---Ah hmm.

10 Do you see that there?---Yep.

And do you see the session date on the right-hand side of 22 April, 2015?
---Yeah.

So would you agree that what appears to have happened here, based on the audit trail and based on the document that's now on the screen, the cash receipts journal, is that someone using the account Temp 1 has deleted the invoice that was first issued to Mr Valentine Yee with an invoice number 40924 on 9 April, 2015, that was the date of that invoice?---Yep.

20 On 22 April, 2015, they appear to have deleted that invoice. Do you agree?
---Yep.

And on the same date, 22 April, 2015, a new invoice has been issued, this time to Mr Steve Tong, with the same invoice number 40924 and the same date, 9 April, 2015. Do you agree that that's what the documents I have shown you appear to indicate?---That's right. Yep.

30 Chief Commissioner, I tender the cash receipts journal document on the screen, being a cash receipts journal for 9 April, 2015, to 9 April, 2015, from the ALP NSW MYOB file.

THE COMMISSIONER: Yes. The cash receipts journal for the April dates, 2015, will be admitted and it will become Exhibit 299.

**#EXH-299 – ALP NSW BRANCH MYOB CASH RECEIPTS
JOURNAL FOR 9 APRIL 2015**

40 MR ROBERTSON: I'm just going to move to another topic very briefly before we finish today. You're aware, aren't you, Ms Wang, that the NSW Electoral Commission conducted an investigation in relation to the Chinese Friends of Labor event of 2015?---Yep.

When did you first become aware of that investigation?---I think later, maybe December 2016, there were letters received by the, by the party office and I was asked to find, locate some documents with that.

So are you now referring to the notices to produce information and documents that the NSW Electoral Commission sent to NSW Labor and Country Labor in December of 2016?---Yes.

And would it be right that those were drawn to your attention on the same day that they were received by NSW Labor and Country Labor?---Yep.

10 And is it also right that Ms Sibraa, who was the governance director at that time, came to speak to you about the documents and the information that was being requested. Is that right?---Yes, yeah.

And is it right that, in response to those queries, you arranged for Ms Sibraa to have copies of the invoices and receipts – I withdraw that – the invoices and the disclosure forms or reservation forms that you and I have been discussing during the course of the day and which form part of the folder that’s in the witness box at the moment?---Yes.

20 And so just to get the chronology, you first get an electronic copy by email of the notices to produce information and documents. Is that right? That’s the first time you heard about it?---I don’t remember I received an email copy of the notice.

Let me help you this way. Can we go please to document 2 of the documents that I examined Ms Sibraa on. Can we go to the second page of that document, because again we will need to read it upwards. So first of all, Ms Wang, you’ll see an email coming from a Xerox machine to Ms Leary. Do you see that there?---Yep.

30 Ms Leary, as at December of 2016, was the executive assistant to the two assistant general secretaries, correct?---Yep.

And if we then go to the preceding page, please, you’ll see that the executive assistant sends it to DMS. Do you see that there?---Ah hmm.

Do you know what DMS stands for?---I don’t know, sorry.

Is it document management system? Doesn’t ring a bell?---Sorry.

40 In any event, it’s also copied to Ms Harding, who’s the executive officer. Do you see that there?---Yeah.

And then Ms Harding sends it to Ms Sibraa, but then Ms Sibraa sends it to you on 8 December at 11.28am. Do you see that there?---Ah hmm.

And so do you agree, having had your memory refreshed with that, that you first got an electronic copy of the notices to produce information documents at about 11.30 on 8 December, 2016, correct?---Yep.

And then Ms Sibraa came to see you about those notices during the course of either 8 or 9 December, 2016, correct?---Yep.

And she drew to your attention that one of the things that the Electoral Commission wanted were the tax invoices or receipts that had been issued by the party, correct?---Correct.

When I say “the party” I mean both NSW Labor and Country Labor, correct?---Yeah.

10

Now, what happened then? What did you do in response to that request from Ms Sibraa?---I would have searched for the tax invoice, the folder attached with the hard copy of the reservation form.

And then what did you do after that?---I would have given it to her.

20

And do you recall whether you gave it to her in the folder, like the folder that I’m currently holding up, the black-and-white folder, or did you perhaps take it out of the folder or did you perhaps give her copies?---I think I would have, could be both, could be like a copy, could be the orange, you know, copy of the invoice attached with the, with the reservation form at the back. Could be the whole folder, yeah.

30

You would at least accept, though, wouldn’t you, that in the folder that’s in the witness box at the moment there are more than 10 Country Labor invoices in relation to the \$50,000. There’s at least 11 because we have the Valentine Yee 40924 and the Steve Tong 40924. Do you agree with that? ---At the time probably I didn’t even count. I would just give her whatever in the folder.

No, but having gone through the detail of it with me today - - -?---Yeah.

- - - you accept that at least for Country Labor there is more than \$50,000 of invoices in relation to the \$50,000 cash donations, correct?---But that one invoice number would represent one donation in the accounts record.

40

So you accept, don’t you, that at least in the hard copy documents there is at least \$55,000 worth of invoices – and, for that matter, reservation forms – for \$50,000 of real money, correct?---Yeah.

Now, in point of fact, and I haven’t taken you to this, in point of fact there’s an extra one in this category, invoice 40920, but you at least accept that there’s \$55,000 worth of invoices, \$60,000 worth of invoices - - -?---I would say was, yeah.

- - - for the \$50,000, correct?---Yeah, I would say hard copies, if you add the total of the hard copies of paperwork together.

Sorry, can you just say that again?---I would say the total of the hard copy of the tax invoice add up together is more than \$50,000 cash received.

Yes.---That's how I would put it.

Now, before you gave the invoices to Ms Sibraa, did you take out the Valentine Yee invoice that had the strikethrough? Or did you give her more than 10 invoices for the \$50,000 in cash for Country Labor?---I would have given her everything I've got.

10

Are you sure about that?---I wouldn't purposely not to give her anything not relating to that event or the question being asked by the Electoral Commission.

So your best recollection is that in response to Ms Sibraa's request for the tax invoices or receipts in relation to the Chinese Friends of Labor event and the \$100,000 that you and I have been talking about, you gave her not 20 invoices but at least 21, is that right?---Like I said, I would not count how many, but I would have given her everything that has to be, has to be given to her in order to answer that letter from the Electoral Commission. For example, if the Electoral Commission ask for a particular donor, the paperwork relating to that donor will have to be given to her from Finance Department.

20

But I'm now talking about the particular request, and I think you've accepted that Ms Sibraa's request, or at least one of them, was to have the tax invoices or receipts in relation to the \$100,000 in cash of which \$50,000 was banked in NSW Labor and \$50,000 in Country Labor Party, correct? ---Yeah.

30

And are you saying your best recollection is that you provided all of the invoices, whether current or deleted, that pertained to that \$100,000. Is that right?---I would have.

Well, do you have a specific recollection of that or are you simply saying that's the approach that you expected you would have taken at the time?---I would, that would be the approach I would take.

You don't have a specific recollection, but that's the approach that you would take to a question of that kind, correct?---Yeah, yeah.

40

Now, having gone through the detail of it with me, do you accept that it follows that what you're saying is that you would have, at least if you adopted the practice you would expect you to take, would have given more than 20 invoices to Ms Sibraa in response to her request? At least 21, including the Valentine Yee one with the cross and perhaps more than 21. Is that right?---I would think logically, by the end of the financial year, when we prepare the lodgement to the Electoral Commission, the second

invoice with Steve Tong would be the one that we lodged, because remember, the first one being deleted. The financial record at the end of the financial year would only show one donor. So that one donor has to be reported, and then after that the Electoral Commission will question about that donor particularly so I would logically - - -

10 I'm not asking you about what you've lodged. I'm sorry to interrupt but I'm not asking you about what you've lodged at the moment. What I'm asking is what you gave to Ms Sibraa in response to her request, and I think you've accepted from me that the request from Ms Sibraa was to, at least in part one of the things she wanted was the tax invoices or receipts that pertained to the \$100,000 in cash associated with the Chinese Friends of Labor event in 2015. Do you agree with that?---Correct, yes.

20 And are you accepting that, in light of that, what you would have provided to Ms Sibraa, if you did it in accordance with what you expect you would do, sitting there now in the witness box, is provide her not with 20 invoices but provide her with everything that's in the folder that's in the witness box that pertains to that \$100,000, which is more than 20 invoices. Is that right?---If more than 20 invoice, it would be more than \$100,000.

Correct.---Yeah.

That's what I'm drawing your attention to.---I would, that's right. So, I would provide everything pertaining to that \$100,000.

30 So for the \$100,000, if you acted consistently with the way you would expect you to have acted, you would have given Ms Sibraa at least \$105,000 worth of invoices, correct?---Why? That will not make sense to me.

The folder that's in the witness box contains the documents that was in this folder as at the time of the conduct of the search warrant at the Sussex Street office in advance of this public inquiry. I'll just ask you to take that as an assumption.---Yep.

40 You would agree that in that folder, there is at least \$105,000 worth of invoices that pertain to \$100,000 of real money. Do you agree?---No, I don't agree. That same invoice number, for me, the second one is the truth, the end result of that donation. The first one being deleted. In accounting record, it's not there and then in the paperwork, submitted to the Electoral Commission at the end of financial year would not, the first one would not appear. So how could I produce something that not being reported?

Well, let me try and put it this way. As part of the documents you gave to Ms Sibraa, did it include the Valentine Yee invoice, 40924, that had the cross to through it?---I would not think so.

I see. So your best recollection is that that one would have been taken out of the material you provided to Ms Sibraa, is that right?---Logically, yes.

And if there are any other doubled-up invoices of that kind, they would have been taken out of the folder before you gave documents to Ms Sibraa, is that right?---I would not taken particular thing out of the folder where it was filed initially. I probably would take the copy of that particular invoice relating to that, you know, the commission's letter to give it to Ms Sibraa. But also, like I said, it could be the whole folder, we looked through
10 everything together. You know, that was - - -

But it can't be both. It can't be both. You either gave Ms Sibraa 20 tax invoices or more than 20 tax invoices. You can't have done both.---Correct.

Which one did you do? Was it 20 invoices or was it more than 21 invoices?---It would be 20.

So it must follow from that, mustn't it, that at least if the folder, this folder that I'm handing up, was in the same form as what you now have in the
20 witness box, what you must have done is taken out 20 invoices, excluding the Valentine Yee one with the cross through it, and gave it, given those invoices, or at least copies of those invoices, to Ms Sibraa. Is that right?---I would just gave whatever being lodged. Being the 20 invoices.

No, no. The invoices themselves don't get lodged with the Electoral Commission, do they?---Yeah, correct. What I'm saying. My document has to match what's in the financial records.

So do we take it from that that with a view to responding to Ms Sibraa's
30 request, what you either recall doing, or at least think you would have done, is consulted either the MYOB file or perhaps the declarations that the party has made to the Electoral Commission to work out who were reported to be the 20 donors times \$5,000, and then found those invoices and only those invoices and gave them to Ms Sibraa. Is that what you're saying?---I would say, yeah.

And consistent with that, you give her 20 invoices, and those 20 invoices do not include the one from Valentine Yee with the cross through it. Is that
40 right?---Correct.

Is that a convenient time, Chief Commissioner?

THE COMMISSIONER: Yes. How much longer do you think you might be?

MR ROBERTSON: Probably about another hour or so. But I do expect to get through both Ms Wang and Ms Zhao during the course of tomorrow.

THE COMMISSIONER: Ms Wang, we'll need to have you return tomorrow morning. I understand it will take something in the order of one, another hour. Does that cause you any particular difficulties?---(not transcribable)

Well, I release you for today and we'll see you back here tomorrow at 10.00 and we should have you away sometime during the morning. Nothing else?

MR ROBERTSON: Nothing else on my part.

10

THE COMMISSIONER: I'll adjourn.

THE WITNESS STOOD DOWN [4.08pm]

AT 4.08PM THE MATTER WAS ADJOURNED ACCORDINGLY [4.08pm]