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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 27 AUGUST, 2019

AT 10.00AM

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

THE COMMISSIONER: Mr Robertson.

MR ROBERTSON: Chief Commissioner, can I deal with some housekeeping matters first. As I foreshadowed yesterday, today is expected to be a shorter day. I'll be relatively brief in finalising the examination of Mr Cheah, I then apprehend that there will be some applications for leave to cross-examine Mr Cheah and they can proceed in accordance with the standard directions, but as I say, I apprehend that we won't be going for the full day.

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The next witness is Mr Steve Tong. I'm not in a position to call him earlier than tomorrow morning because he requires an interpreter and the interpretation arrangement has been arranged for tomorrow morning. I'll then call Ms Murnain. I expect that to happen not before the morning tea adjournment tomorrow, although it may be a little bit after, it may for example start immediately after lunch. If there's time tomorrow I'll then call Mr Dastyari. As I indicated yesterday, with respect to Mr Tong and Ms Murnain, I'll conduct the examinations of those two witnesses in part, but will call them again during the course of next week for the purposes of being cross-examined by anyone who applies for an obtains leave to cross-examine. After we finish with Mr Dastyari, then I'll call Mr Wong, that's likely, Mr Ernest Wong, that's likely to happen on Thursday, and when that examination is complete he will be available for cross-examination. Just for your assistance, Chief Commissioner, and for that of those behind me. Next I understand there's a few additional applications for authorisation to appear, for example my learned friend, Mr McInerney. I might let him make that application now.

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THE COMMISSIONER: Yes. Mr McInerney, do you seek leave to appear?

MR McINERNEY: Yes, I do, Chief Commissioner.

THE COMMISSIONER: I have signed a variation order to enable you to be, to have available certain information set out in a variation order.

MR McINERNEY: I'm grateful.

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THE COMMISSIONER: Thank you, Mr McInerney.

MR McINERNEY: May it please the Commissioner.

THE COMMISSIONER: Yes, Mr Dixon.

MR DIXON: Yes. I seek leave for my learned friend, Mr Taylor, my instructing solicitor, to appear.

THE COMMISSIONER: Yes, I grant leave. Thank you.

MR ROBERTSON: Next, Exhibit 160, which was a copy of Mr Cheah's statement that was provided yesterday. Mr Lawrence, who appears for Mr Clements, asked to reserve his position with respect to that statement. In my submission that question should be resolved before further examination of Mr Cheah. In my submission you should receive that statement not subject to any particular conditions. That's Exhibit 160, a statement of Mr Cheah, signed yesterday. But Mr Lawrence may or may not wish to be heard with respect to that.

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THE COMMISSIONER: Yes, Mr Lawrence.

MR LAWRENCE: Yes. I can indicate there is no objection or particular submission. I was more taking a precautionary approach, Commissioner.

THE COMMISSIONER: Yes, thank you, Mr Lawrence.

MR ROBERTSON: The other housekeeping matter, yesterday I referred to an email from Ms Jenny Zhao to Mr Cheah of 9 April, 2015 at 16.54 hours. I neglected to tender it. It's at volume 2, page 190 of the public inquiry brief. I tender that email.

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THE COMMISSIONER: It's an email, is it? In the - - -

MR ROBERTSON: Yes, it is an email of 9 April, 2015, sent at 16.54 hours to Ms Zhao to Mr Cheah.

THE COMMISSIONER: Yes, the email from Jenny Zhao to Mr Cheah that's sent on 9 April, 2015, will be admitted. It'll be become Exhibit 165.

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#EXH-165 – EMAIL FROM JENNY ZHAO TO KENRICK CHEAH AND MAGGIE WANG TITLED 'RE: CHINESE FRIEND OF LABOR' DATED 9 APRIL 2015

MR ROBERTSON: Please the Commission. Finally, one of the exhibits that I tendered yesterday, Exhibit 154, includes a statement of a Mr McTaggart, who is a constable associated with investigating the circumstances surrounding Mr Liao's death. In my respectful submission, in addition to the general suppression order that you made, Chief Commissioner, yesterday, a further suppression order should be made under section 112 in relation to the names of the family members of Mr Liao, in circumstances where the identity of the particular family members is not relevant to the investigation, and where the publication of that material risks causing harm to those individuals, in circumstances where there's plainly been public interest in the circumstances behind Mr Liao's death. In my respectful submission, it's appropriate in the public interest for a

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suppression order of that kind, dealing with the names of the family members of the deceased, as well as the name of the relevant doctor that's referred to in Mr McTaggart's statement.

THE COMMISSIONER: Yes, thank you. In relation to material concerning the late Dr Zhao - - -

MR ROBERTSON: Sorry, Liao, Chief, Commissioner.

- 10 THE COMMISSIONER: Liao, thank you, Liao. I have acted on the basis that any material that's of a personal nature as distinct from any material that bears on any issue in this investigation should be suppressed, and accordingly, any reference to the names of family members or other personal information concerning family members are suppressed, and I make an order pursuant to section 112 of the Independent Commission Against Corruption Act prohibiting publication or communication of any such material. As I've stated before, such orders are subject to variation or may be lifted by the Commission without notification. However, I do not envisage that it is likely at all that the order I've just made will be varied or
20 lifted.

SUPPRESSION ORDER: PURSUANT TO SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, ANY REFERENCES TO THE NAMES OF FAMILY MEMBERS OR OTHER PERSONAL INFORMATION CONCERNING FAMILY MEMBERS ARE SUPPRESSED

- 30 MR ROBERTSON: May it please the Commission.

THE COMMISSIONER: Yes.

MR ROBERTSON: Well, that completes the housekeeping matters from my perspective, at least.

THE COMMISSIONER: Yes, thank you. Mr Cheah there? Thank you, Mr Cheah. Just come forward again. I'll have you take the affirmation again for today's evidence.

THE COMMISSIONER: Thank you. Just take a seat, Mr Cheah.

MR ROBERTSON: Can we have Exhibit 160 on the screen, please? Mr Cheah, I just want to ask you a few clarifying questions in relation to the statement that was provided yesterday. Can we go, please, to page 4 of that statement? And can you refresh your memory, please, with paragraph 22.

10 ---Yes, sir.

There you say that you don't have a personal relationship with Mr Xiangmo Huang. "I presume he knows who I am." Why do you presume that Mr Huang Xiangmo knows who you are?---Because we've seen each other at community events, and nodded our heads at each other, that kind of thing. Same place, same time.

20 So is it the case that you've seen him on a number of occasions, and so he probably recognises you, is that what you mean by that paragraph?---Yes. Yes. I think if you said my name to him, I think he'd draw a blank. But maybe if you showed a picture of my face then he would recognise me.

So he might know you by recollection, but you haven't had any particular relationship or discussions with him over time, is that fair?---I'd never really spoken to him. He doesn't speak much English, I don't speak much Mandarin.

30 If you have a look at paragraph 26 on the same page. You will recall towards the end of yesterday I asked you to give some further consideration and reflection on who the other staff might be that you refer to in, for example, paragraph 26. Now, having done that, are you in a position to give us a better indication as to who those other staff might be that you refer to in paragraph 26?---As I said yesterday, I think the person sitting next to me was another staffer called Blake Mooney at the time.

40 But other than that individual, when you say "in full view of other staff", who are the other staff that are being referred to?---When I say other staff I mean people milling around, back and forth because the offices behind me, they have to walk past me to get to those offices.

But it's fair to say, isn't it, that at least a number of people must have seen you counting the \$100,000 in cash. Correct?---Probably, yeah.

So it wasn't some kind of secret where you were hiding that exercise. Correct?---No. No secret, no.

And so you're aware that at least multiple people must have seen you counting. Is that right?---They probably saw me counting money.

But are you saying that the only person you can identify as a person who saw you counting money is the individual you told us yesterday and no other individuals?---In terms of counting?

Yes.---At the counting stage, yeah. From memory Blake Mooney because he sits next to me and we have partitions up.

10 Sorry?---We have partitions up around the, each desk so it's not like it's, it's a flat desk. So does that make sense? I'm trying to be specific.

It does, but perhaps if we go to the final page of the statement, to page 9 of the statement just to make this clear. So this is the diagram that you've drawn of ALP offices in Sussex Street. Correct?---Correct.

And when you're referring to partitions, do I take it you're referring to the lines around the rectangles that we can see near - - -?---Correct.

20 - - - the area marked "Kenrick desk"?---Correct.

Now, those I take it are dividers that go up to some height but not all the way to the roof?---That's right. Not, not that high.

And so anyone walking in the general vicinity of your desk may have seen you counting money. Is that right?---Yes.

But to see the details of what you were doing they may have needed to be a little bit closer. Is that right?---Correct.

30 And is it clear that despite reflecting on it overnight the only person you can think of who would have seen you counting the money is the individual you identified yesterday?---During the counting stage, yes.

What about at some later stage? You're qualifying that by the counting stage. Is there some later or other stage at which one would be aware of you either counting the money or having the money?---As your line of questioning yesterday was about when I left the office, correct? So at that stage, I qualify that with that stage of the day.

40 Well, let's do it this way. If we go to page 5 of the statement, please. Paragraph 28. Is that what you're talking about now?---Yes.

Namely, people saying be careful when you're bringing home the bag of \$100,000?---Yes.

And doing the best you can, who was the person or were the people who said to you be careful that you refer to in paragraph 28?---I'm pretty sure

Kaila was the one who said be careful just in terms of safety, personal safety.

So to be clear about that, then, Ms Murnain at the time that you had the money knew that you had a substantial amount of money and was taking it home. Is that right?---I think so.

Well, how sure are you? Do you have a specific recollection of that or are you not sure?---Well, I'm, yeah, I'm pretty sure.

10

So to be clear - - -?---That's why she would have said be careful.

So to be clear about that, at a period of time in which you had possession of the \$100,000 in cash, Ms Murnain knew that you were in possession of that cash. Is that right?---I don't know if she knew how much was there but she knew that there was a sizeable amount of money that I was taking home to keep safe to bring back the next day.

20

How did she know that you had a sizeable amount of cash?---Probably by the fact that there was a large ALDI bag on my desk and I picked it up to go home and probably in conversation. Something like what's that, and I probably told her.

Do you have a specific recollection of that or are you now - - -?---No specific - - -

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- - - speculating as to what might have happened?---I'm speculating. I don't have a specific recollection of the exact conversation but I'm giving you the best, the best recollection or most likely occurrence of what happened.

But are you fairly sure then that you had some exchange with Ms Murnain at the time that you were in possession of the cash that led Ms Murnain to know that at least you had a substantial amount of cash?---Some exchange, but a short exchange.

40

And do we take it from what you've said that Ms Murnain didn't necessarily know that you had \$100,000 in cash, but at least knew that you had a substantial amount of money in cash?---Yeah. I'm not sure if I told her that it was \$100,000 in there, but I definitely would have said something along the lines of, oh, yeah, there's a lot of money in here, or something like that.

But she was at least aware that there was, to use your terms, a lot of money, and that you were taking that money home. Is that right?---Yes.

Did she authorise you to take that money home or is that something that you had decided to do off your own bat?---Yeah, that was something I decided to do off my own bat because I am unaware or I was unaware of any safe

place to keep it in the office. Safes, like you mentioned yesterday, I don't have access to any safes in the office.

But you didn't ask any particular person for permission. You thought it was appropriate on the grounds that it would be better safekeeping at your house rather than in an office that didn't have a secure facility. Is that right?
---That's correct.

10 And is it right that the particular reason why it was taken home rather than banked at that period of time was that the banks had been closed on that day?---I believe also the Finance staff had left for the day before I had finished my day, but also, yes, the banks would have been closed by then as well.

And are you sure that you had custody of the money for only one night rather than two nights perhaps?---Not 100 per cent sure. I, I definitely remember taking it home one night.

20 But does that mean it's possible that you actually had it at home for two nights?---It could be possible.

At least as a matter of procedure it would have been the case that you'd want to bank the money as soon as possible. Correct?---Correct.

Just to understand why it wasn't banked, one reason was the unavailability of accounts staff. Correct?---Correct.

30 Another reason was banks being closed after say 4.00pm. Correct?
---Correct.

Were there any other reasons why there was a delay in banking the money, as you understand it?---The only other delay would be on my part in terms of checking the forms, having difficulty checking the names off the forms, addresses and so forth.

40 When you say having difficulty checking the names off the forms, what do you mean by that?---So sometimes people's names don't, especially with ethnic events, they don't correspond. So someone may put a name on the form that doesn't correspond with the name that they have on the electoral roll, so sometimes it takes a bit of tracking down, or the correct address that they're enrolled in on the electoral roll.

So you're talking about the specific exercise of checking forms against the electoral roll. Is that right?---Yes, it takes a bit of time is what I'm saying.

And I think you told us yesterday that one of the roles that you perform when you've got money and forms is to make sure that the names on the forms are on the electoral roll. Correct?---Yes.

And so you're saying one of the reasons that might explain a delay in banking the money is that it may have taken you a bit of time to match the names on the forms against names on the electoral roll. Is that right?
---Possibly, because that happens when we have other events with other Labor Action Committees, it takes some time to I guess balance the forms correctly with the money.

10 And is it right to say that you don't have a specific recollection of that delay arising for this particular sum of money, the \$100,000, but it's possible that that was a reason for delay in this particular case? Is that how we understand your evidence?---That's correct, yeah.

Were there any other reasons for the delay between you obtaining the money from Mr Clements and it being banked that you recall?---I can't, I can't recall or think of any other reason why it would be delayed, apart from the fact that, yeah, it would be difficult sometimes to, I don't know what the right words is, to, to balance the forms I guess.

20 To reconcile the forms with the cash and to check it against the electoral roll. Is that what you mean?---That's right, yeah, that's what I'm trying to say.

In terms of that exercise of checking the money against the forms against the electoral roll, is that always your role or is that a role that's sometimes performed by others?---In terms of events by Labor Action Committees I'd say, to the best of my memory, it's just me, to the best of my memory.

30 And for this particular sum of money, the \$100,000 that we're talking about, that was your role and only – sorry, I withdraw that. With respect to the \$100,000 that we're talking about, it was you who did the electoral roll checking, and not anyone else, is that right?---I think so.

Well, you don't have any recollection of anyone else performing that role?
---I have no recollection of anyone else doing that. Usually, as I said, usually it's my job to do that.

40 Now, I just want to be clear that we've covered all of your involvement in the \$100,000 in cash that you say was brought in by Mr Huang, Mr Huang gives it to Mr Clements, Mr Clements gives it to you, and you give it to the Accounts Department. First, you receive physical delivery of the \$100,000 from Mr Clements in an ALDI bag, correct?---Yes.

You counted that \$100,000 yourself, correct?---Yes.

You reconciled that \$100,000 against the forms given to you by Mr Clements, correct?---Yes.

The forms that we're speaking about were in the ALDI bag at the time that Mr Clements gave them to you, gave the bag to you, is that right?---Not a hundred per cent sure on whether the forms were in the bag or just given to me with the bag.

But you're at least clear that you got the money and the forms at the same time, correct?---Yes.

10 You then checked the forms and the money and did the electoral roll checking that we've discussed this morning, correct?---Yes.

You then provided that money in the forms to the Finance Department, correct?---Yes.

And then I think you told us yesterday that you probably told the Finance Department that half of that money should be banked in NSW Labor and half in Country Labor, is that right?---I think so.

20 Well, do you have a specific recollection of that, or - - -?---I don't remember a specific conversation of that nature, but more than likely, that's what I would have said.

You recall yesterday I showed you an email from the Finance Department to you that said, "As advised, we've banked \$50,000" - - -?---Yes, I do recall.

- - - "into NSW Labor and \$50,000 into Country Labor," correct?---Yes.

30 And having read that, is it your evidence that you probably gave that advice to the Finance Department?---Probably it was me. Like, more than likely it was me.

You don't have a specific recollection, but it's - - -?---I don't have a specific recollection of that event or conversation or sentence.

But that's consistent with your ordinary practice in relation to matters of that kind, is that right?---That's correct, yes, yes.

40 You then told us yesterday that you answered some questions from Ms Sibraa that arose from the NSW Electoral Commission investigations?---At a, at a later date from - - -

At a later date.---Yes, yes.

Not on the same date, after the Electoral Commission was interested?---That's correct, yes, sir.

You've obviously given some evidence to the Electoral Commission and to this Commission?---Yes.

In terms of the forms that were either in the bag that Mr Clements gave to you or were given to you at the same time as the bag, did you have any involvement in acquiring those forms?---(No Audible Reply)

In other words, did you ring anyone up and say, "Well, we need some forms that need to be associated with some money that's coming in"?---I don't recall, but that is part of my job if sometimes there are less forms than money been donated.

10

Well, let me ask you this way. You knew that Mr Huang was coming into the office to deliver money, correct?---Yes, I think, yes.

And you knew that if money is coming in that is to be banked, you want disclosure forms associated with them, correct?---Correct.

Did you take any steps specifically to ensure that there would be forms associated with the 100, with the money being brought in by Mr Huang?
---No, not to my knowledge or best recollection.

20

So you have no recollection, sitting there today, that you had any involvement in acquiring the forms that were to be associated with the money being brought in by Mr Huang, is that right?---I'm pretty sure the forms came with the bag of money.

But what I'm asking you is whether, in advance of those forms coming to you - - -?---Yes.

30

- - - you took any steps to acquire those forms, for example, contacting Mr Jonathan Yee to say, "Please make sure there's some forms that come in with the money that Mr Huang is bringing in for you."---I don't, I don't recall anything like that.

So to be clear about that, you don't have any recollection of doing anything with respect to the forms that ultimately came to you from Mr Clements, is that right?---Correct. Correct. It's not outside the realm of possibility that if someone is, is donating money, I would say something like, "Make sure the forms are filled out correctly," or something like that.

40

So it's - but other than a general admonishment of that kind - - -?---Yeah.

- - - you weren't specifically involved in ensuring that there would be forms associated with the money that Mr Huang was bringing in, is that right?---I don't think so, no.

You've got no recollection of anything of that kind. Is that right?---Quite sure, no.

Other than providing some assistance to Ms Sibraa and answering Ms Sibraa's questions about the Electoral Commission inquiries, have you been asked any questions or provided any answers to anyone else within the Australian Labor Party regarding the Electoral Commission inquiries?
---I don't think so.

So for example you weren't asked by for example Mr Ernest Wong or Ms Murnain or Mr Clements or anyone within the Australian Labor Party about what happened in relation to the \$100,000 you've talked to us about?
10 ---Not formalised, not in a formalised manner, like the way I was helping Julie Sibraa with the responses to the Electoral Commission. It may have come up in conversation.

So what about in an informal manner? Have you, other than telling Ms Sibraa things in response to her inquiries of you, have you discussed the matter of the \$100,000 given to you by Mr Clements from Mr Huang with anyone else in the Australian Labor Party?---I would have had discussions with Ernest about it, just because it's a stressful kind of thing to go through.

20 And what was the nature of those discussions?---I would have told him what happened.

Doing the best you can, when would you have told Mr Wong, Mr Ernest Wong, about, as you put it, what happened?---Maybe, maybe in the weeks, sometime in the weeks following the initial interview with the Electoral Commission.

Not before then?---Possible.

30 So just to be clear about that, you became aware that the Electoral Commission was conducting an investigation into the Chinese Friends of Labor function in March of 2015.---Yes.

And following, and I think you told us yesterday that you first became aware of that when the Electoral Commission first made contact with you seeking some information from you. Is that right?---I think that was the first, yeah, time I found out about it.

40 And are you saying that after that point in time you've had discussions with Mr Wong regarding that matter?---Yeah, I definitely had some discussions.

And are you saying that during those discussions you told Mr Wong what happened in the date that we've been discussing, in other words, that Mr Huang brought in money, gave it to Mr Clements who gave it to you?
---More like the line of questioning that was directed at the, at the interview and - - -

When you say the interview, you mean the interview with the Electoral Commission?---Yes, yes.

So just to be clear about that, are you saying that after you had the interview with the Electoral Commission you had a discussion with Mr Wong where you explained to Mr Wong really the substance of your answers to the Electoral Commission?---More like what the Electoral Commission were asking me rather than my, the substance of my answers. Does that make sense?

10

So to be clear about that, after you had the interview with the Electoral Commission, you had a discussion with Mr Wong during the course of which you identified to Mr Ernest Wong what the lines of questioning were by the Electoral Commission. Is that right?---Yes.

Now, doing the best you can, what was Mr Wong's response to that information?---There wasn't much response, just, just okay.

20 Well, was Mr Wong surprised to hear about the lines of questioning that you've just identified?---I think there was initial surprise at the, at being, at my being interviewed in the first place.

But what about the information in the sense of what about the lines of questions that the Electoral Commission was asking, did that cause surprise in Mr Wong's mind?---Not, not, not a general, not a general difference of reaction than the entire conversation.

30 I think you told us before that you told Mr Wong about you obtaining possession of the \$100,000 from Mr Clements who got it from Mr Huang. Did I get that right?---I don't know if I said that to Mr Wong, no.

Well, to your understanding is that something that Mr Wong already knew, in other words, did Mr Wong, to your understanding, without you telling him know that Mr Huang was intending to bring in money to Sussex Street?

MR HALE: Could I perhaps object to that question. That's for - - -

THE COMMISSIONER: Yes, Mr Hale.

40 MR HALE: Presumably something was said which might give rise to a particular conclusion but - - -

THE COMMISSIONER: Sorry, I'm having trouble. Could you please speak into the microphones. It doesn't carry otherwise.

MR HALE: There seems to be an invitation to speculate about what was in Mr Wong's mind as distinct from focusing on what has been said.

MR ROBERTSON: I'll withdraw the question and phrase it differently. Did Mr Wong ever tell you, Mr Cheah, that he knew that Mr Huang was intending to bring in money to the Sussex Street offices?---I don't think so.

It's possible that he did but you have no recollection. Is that how we take your evidence?---To the best of my recollection it's no to that answer. To the best of my recollection.

10 But I think you told us this morning, and I may have misunderstood this, that you actually told Mr Wong about what happened when, on the day that we've been discussing, in other words, your taking possession of the \$100,000 from Mr Clements.---No, no, no. What I meant was when I spoke to Mr Wong I spoke to him about the line of questioning from the Electoral Commission where they asked things about people that we both knew, like Jonathan Yee, about why employees at the restaurant would want to donate to the Labor Party, et cetera. Things like that.

20 Why was it that you told him that?---Because these are common people that we both know, as in Jonathan is a common friend of ours so obviously that would be a concern from a friendship point of view.

So to understand that, from a friendship point of view you wanted Mr Wong to know the areas in which the Electoral Commission was interested. Is that your evidence?---Say that again.

30 Do we understand your evidence to be that you told Mr Wong about the lines of questioning from the Electoral Commission because as a friend you wanted to know, you wanted Mr Wong to know the areas that were being investigated. Is that how we understand your evidence?---I think that's, that's a bit more like he's a friend, Jonathan Yee is a friend of both of us and the line of questioning affects him because he was mentioned in the, in the questions. I'm not trying to be, I'm not trying to be vacuous or anything. I'm just trying to not throw you down the wrong path.

THE COMMISSIONER: Is this the position, in 2016 the Electoral Commission were quite active in investigating the fundraiser. Is that right? ---Correct.

40 And it would be true to say, would it not, that the fact that the Electoral Commission were carrying out investigations was a matter of concern amongst some people at least who were involved in the fundraising, including yourself and from what Mr Wong said to you - - -?---Yes.

- - - that he also is understandably concerned?---Yes.

Is that right?---I think everyone, I think everyone involved would be concerned.

When you say everyone, was there to your knowledge concern expressed within ALP head office as to the fact that the Electoral Commission was carrying out extensive investigations into this matter?---I'd say yes but that doesn't – can I qualify that by saying that if someone gets accused of something, even if they didn't do it, there's still a, a level of concern there?

Yes.--- Yeah.

10 And with whom do you recall discussing the Electoral Commission investigations?---I recall discussing it with Ernest.

And is this on one occasion or on a number of separate occasions?---Once or twice maybe.

Do you recall when those occasions occurred?---I recall one of the occasions.

20 When and where do you recall that conversation taking place?---That was when a few people, a few friends of his had gathered at his house for a barbecue and we had a short conversation about whether - - -

Well, doing the best you can, as you're required to do, could you just reconstruct the conversation that took place on that occasion?---Something like maybe have you heard anything from the Electoral Commission, something like that, and the answer would have been no because I haven't got interviewed once and - - -

30 Is that all that was said on that occasion?---Pretty much. I might have said like how's, how's Jonathan doing in terms of, in terms of the stress because I knew - - -

Well, you knew – sorry, go ahead.---I think, I think Jonathan was being interviewed as well.

That was your understanding that - - -?---Yeah.

40 Yes. And as you say, Jonathan Yee was right at the centre of the arrangements and making the arrangements for the fundraiser. Is that right?---He's one of the main people involved, yes, for the fundraiser, yes.

Just about Jonathan Lee, Yee, I should say, would it be true to say you'd regard him as being one of the main people associated with Chinese Friends of Labor?---Yes.

And he was actively involved in the fundraising activities associated with the 2015 event?---The dinner, yes.

He arranged for a number of his employees to become donors or alleged donors. Is that right?---That's what I understand from after, yeah, forms et cetera and all this investigation.

As well as family members of his?---Yeah, yeah.

And did he to your knowledge have political ambitions as at about March 2015?---Yes.

10 They were strong ambitions that he held?---Oh, I wouldn't, yeah, they were strong at one stage earlier, like years before, but I think at that stage they were quite like if, if it happens, it happens.

And was he involved in chasing up donations from the event I've just referred to?---I'm unaware.

20 You're unaware. Okay. And you said there's a second occasion on which you spoke to Mr Wong about these matters. When was that?---Like I said, I don't recall the specific occasion of when I – I think the time, the time I described I think was the second time.

How did the conversation come about?---I probably saw him somewhere.

I'm not asking what you probably did, I'm asking what happened.---Okay. To the best of my recollection we would have seen each other maybe at parliament, I also worked there at the time I think, so I probably would have mentioned it there perhaps, or perhaps at a community event.

30 Mr Cheah, I didn't ask you what probably was said. You said you had a conversation on two occasions. I'm asking about the second occasion. You've now identified that as having taken place, as I understand it, at Parliament House. Is that right?---I'm not sure. I'm trying to give you, I'm trying to be as helpful as possible but I don't recall where.

All right. Had you been to Parliament House to see Mr Wong from time to time?---I worked, I worked there as well.

40 I see. Well, give us the conversation that you had with him on the second of the two occasions you've mentioned.---So the second occasion was the one that we already went through, okay, chronologically, the one where I mentioned a barbecue et cetera, that was the second occasion.

What was the first?---So the first would be the one that I'm having trouble recalling where and when it took place, but there would have been a conversation along the lines of I had to go see, go get interviewed by the Electoral Commission, they asked questions along these lines of Jonathan and, and people that we know and, and they asked things like what's the cultural significance of a red packet and things like that.

You yourself were interviewed by the Electoral Commission investigators, were you not?---I was?

You were, weren't you?---Yes, I was, sir.

Could I just ask you, you've given evidence yesterday about the donations that added up to something like 19,000 or the correct amount might be I think \$19,620.---Okay.

10

And you've been asked questions about those donations and how they came about and were collected.---Yes.

And is it true to say that as to that parcel of money, \$19,000-odd which represented some of the donations collected, that there was an assortment of payment methods in relation to that \$19,000? By that I mean credit card, cheque, cash. Is that right?---Yes.

20

And would it be fair to say that about half of that amount was in cash and the rest was by other means, cheque, credit card, something of that order? ---Something like that. I can't tell you categorically.

Now, as to the parcel of money that was delivered to ALP head office, being the amount of \$100,000, just to be clear about it, do I understand that there was no mixture of payment methods there, that they all, that is the \$100,000, were paid in cash?---Yes.

30

How do you explain the difference between the composition of the 19,000 and the \$100,000?---It's not, not something that I can explain.

Well, I think that you – is this in accordance with your experience that it was common that with donations raised at fundraisers and the like, there was usually always a mix of methods along the lines I've just outlined? ---Yes, yes.

The mix of methods being cash - - -?---Yes.

- - - credit cards, and cheques.---Yes.

40

Is that right?---Yes, yes.

Well, what explains the difference in this case between the two parcels of money that I've referred to arising out of the March, 2015, donations, fundraiser?---If you mean why was one lot all cash and not a mix? Is, is that what you mean?

Mmm.---I, I can't answer that, I don't know - - -

It's a bit strange, isn't it?---I, I guess, yes.

Well, if you accept on one hand that it was normal for there to be a mixed method of payment, but on this occasion, so far as the \$100,000, it was all cash. That would be unusual, wouldn't it?---I suppose, yes. I mean, it's - - -

Well, you wouldn't say suppose, you - - -?---It's hard for me to say, because it's not my, it's not me making the payment, who - - -

10 No, I'm not - - -?---I prefer using a credit card. I'm not trying to be difficult again, I just – yes, it, it does seem unusual.

Well, there's no need to qualify it. It was unusual, on the basis of the strength of your evidence that it was normal to have a mixed method of payment. Is that not true?---Yeah. Okay. Yes.

Did you ever make an enquiry as to why on this occasion it was all in cash? ---No.

20 Why did you not?---Probably because I was a bit rushed doing other things, and probably wanting to count and get this done as soon as possible.

But as somebody who had past experience with processing donations and all the line you've indicated - - -?---Ah hmm, ah hmm.

- - - and then you pass it onto Finance, it would have aroused your curiosity, wouldn't it?---Well, my honest assumption - - -

30 To say, well, why is this parcel of money, a very large parcel of money, all in cash.---My honest assumption would have been it all got collected at one place, so maybe they all decided to pay by cash.

But I'm asking you whether or not it would have crossed your mind, this is highly unusual, I'll ask somebody about it.---No. As in, yes, unusual. Ask somebody about it, no.

MR ROBERTSON: Mr Cheah, in answer to one of the Chief Commissioner's questions, I think you said – but tell me if I've got this wrong – that you weren't aware of Mr Jonathan Yee chasing up donations,
40 is that right?---I don't think, I don't think so.

What about chasing up forms, as in disclosure forms?---Same answer, I don't think so, to the best of my recollection.

Well, let me put it more precisely. Did you ever have any contact with Mr Yee, Mr Jonathan Yee, to say words to the effect of, "We need to make sure you get in the disclosure forms for the Chinese Friends of Labor event"?---I

don't recall saying that, but that's not to say – I have those conversations quite often with people about disclosures and donations.

So again, you have no specific recollection, but you may well have had a conversation of that kind, is that right?---That is correct, yeah. That's a fair thing to say.

10 Just in relation to your communications with Mr Ernest Wong, do I understand it correctly to be that you discussed with Mr Wong the lines of enquiry by the Electoral Commission, is that right?---Some of them, I don't remember if I went down every line of enquiry, but yes.

But is it your evidence that you didn't tell Mr Wong what answers you gave, or the nature of the answers that you gave to the Electoral Commission?---I might have given some of the answers that I gave.

20 So you might have told Mr Wong about what happened, in other words, you receiving the \$100,000 in cash from Mr Clements?---I might have. It's possible.

Did Mr Wong, Mr Ernest Wong, ever say to you that the true donor for the \$100,000, or for some part of that \$100,000, was actually Mr Huang Xiangmo?---I have no recollection of ever having any conversation like that.

Well, if he said something of that kind, you would have remembered it, wouldn't you?---I would think so.

30 And so to be clear, you have no recollection at all of Mr Ernest Wong giving you an indication to that effect?---Honestly, I don't have any recollection of, of that being said to me ever.

40 This morning I've asked you a number of questions about your involvement in relation to the \$100,000 in cash, and we've talked about forms and electoral roll checking, your discussions or answering questions of Ms Sibraa, discussions with Mr Wong, and some other things. Have we now exhausted the extent of your involvement in that \$100,000 payment? Was there anyone else you spoke to about it, for example, or any other involvement that you had, other than the ones that we've discussed this morning?---I think that's it. I don't have any recollection of anything else.

Well, what about in relation to inquiries that the Electoral Commission undertook? Other than assisting Ms Sibraa in relation to the questions that were being asked of NSW Labor and Country Labor, did you assist anyone else in relation to responses to the Electoral Commission?---I don't recall any specific conversations.

Well, did you, separate from conversations, did you perform any acts, did you do anything in relation to the Electoral Commission's inquiry other than

participating in an interview with them and having a discussion with Mr Wong of the kind that you explained to the Chief Commissioner?---I don't think so.

Are you aware whether the Electoral Commission asked questions of people other than NSW Labor or Country Labor?---Do you mean staff? Like when you say people from NSW Labor, do you mean staff or - - -

10 Well, are you aware, for example, whether any inquiries were made by the Electoral Commission of Mr Jonathan Yee?---Yeah, they told me that they had interviewed him or, no, I think they said they were interviewing him in a week's time.

Is that your only source of knowledge of that matter?---Of his interview?

Of the fact that Electoral Commission was interested in asking questions of Mr Jonathan Yee?---Yeah. They asked me questions of him during the interview too.

20 What I'm just trying to be clear on is other than the fact that the Electoral Commission gave you an indication that it was interested in speaking to Mr Yee, or perhaps it had spoken to Mr Yee, did you have any other source of knowledge as to inquiries made of Mr Jonathan Yee, or perhaps May Ho Yee or other individuals, apart from the Electoral Commission?---Apart from the Electoral Commission inspectors?

Yes.---No.

30 So does that mean you're saying that Mr Jonathan Yee, for example, didn't have any contact or conversation with you to say, "Well, the Electoral Commission has asked me some questions and I need your help"?---We might have had, oh, we might have had, like, a conversation when we were having a cigarette maybe six or, oh not six months, but a few months later just, like, shooting conversation.

Well, let me ask it to you this way. Did you provide any assistance to Jonathan Yee, May Ho Yee, Valentine Yee or Emperor's Garden in relation to their responses to any inquiries of the Electoral Commission?---No.

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

Can we have please on the screen volume 2, page 319. Do you see there an email that appears to have been sent from you to Maggie Wang?---Ah hmm.

And you see it's copied to Jonathan Yee?---Yep.

And Maggie Wang is the Finance Director, or at that time was the Finance Director of NSW Labor, correct?---Yes, yes, yes.

And can you see there, you were asking for some urgent assistance in providing receipts to j.yee@emperorsgarden.com.au in relation to a series of individuals. Do you see that there?---Yes, yes, yes.

10 Why was it that you were seeking Ms Wang's urgent assistance in relation to that matter?---I don't know why. It could be something to do with a request might have come in regarding people had lost their receipts they wanted to have for tax purposes or, or that kind of thing. That, that can happen from time to time. I don't specifically remember why I would have asked for these receipts.

So is it right to say that sitting there now, you have no recollection as to why you wanted those receipts urgently?---No.

20 It wasn't because you were told by Mr Yee that the Electoral Commission was making inquiries of him and of the other individuals identified in your email?---Not to my recollection and I don't see how the receipts would assist in that matter anyway.

So are you saying even in the face of this email, you have no recollection of Mr Yee drawing to attention the fact that the Electoral Commission might want some documents from him, is that right?---This email doesn't mention anything about the Electoral Commission so it's, the receipts could be for anything. Like, we often get, I often get calls from people asking for their receipts for various events from years past or months past or, "How much did I donate in this financial year, I need it for a return," or something of that nature.

30 Do you know what Harbourside Duty Free is, which is the last of the entities identified there?---I think it's a, I assume it's a shop in Chinatown.

Do you know which - - -?---Or was a shop.

Do you know which shop that is?---If I had to take a guess maybe the one, I don't know the exact address but it's at the top of Dixon Mall, if I had to take a guess.

40 But that's not a shop that is owned by anyone within the Yee family to your knowledge. Is that right?---Not to my knowledge.

And so you have a series of five sets of entities wanting a receipt and is it your honest evidence that you have no recollection as to why you wanted those receipts and why you wanted them urgently?---I don't recall this email at all. Obviously I wrote it since it's obviously there but I have no recollection of what the receipts would have been for.

And so are you quite clear that you have no recollection of Mr Yee or any of the other individuals who are identified on your email saying words to the effect of, "There are inquiries being undertaken by the Electoral Commission and I urgently need receipts"? Is that your evidence?---I would say that he would have asked me for the receipts and hence that's why I would have sent this email.

But do you have a - - -?---Without a, without a specific recollection of what happened or of any conversation of that type.

10

So to be clear about that, you don't have a specific recollection of why you urgently were seeking receipts on 1 March, 2017. Is that right?---No specific recollection, no.

Other than the discussions that you've identified with respect to Mr Wong and ignoring any discussions you may have had with any lawyers, have you spoken to anyone else other than Mr Wong regarding the Electoral Commission's investigation or this Commission's investigation?---This Commission's as in this time around or - - -

20

As in the investigation that was conducted by the Electoral Commission into events associated with the Chinese Friends of Labor event in 2015 and this Commission, the Independent Commission Against Corruption's investigation in relation to that same matter?---I probably had conversations with other people on the staff, probably Kaila.

THE COMMISSIONER: What about Jonathan Yee?---Yeah, we would have had, like, short conversations like I said.

30 Short or long?---Short.

They have included Jonathan Yee. Is that right?---Sorry, sir?

You have had conversations with Jonathan Yee - - -?---I'm pretty sure - - -

- - - about the investigations that have been identified in the question?---I'm pretty sure I would have had a conversation with him, like, when we were having a cigarette outside his restaurant.

40 Do you know whether he was assisting either members of his family and/or employees to deal with questions from the Electoral Commission?---I'm not aware.

Did he ever tell you that?---No, sir. Not that I, not that I can remember.

MR ROBERTSON: You mentioned a moment ago about discussions with Ms Murnain. Can you tell us what those discussions were?---That would

have been just me reporting, my job is to report to the assistant general secretary and just be reporting an aspect of my job that's worth highlighting.

Well, can you be a bit more specific about that. What were the nature, or in general terms at least what was the content of those discussions regarding the Electoral Commission's investigation or this Commission's investigation?---It would, paraphrasing I'm being, or I was interviewed by the Electoral Commission or by ICAC. It was about such and such matter.

10 And have you told her the substance of what you've told us over the last two days, namely the receipt of the \$100,000 from Mr Clements which was obtained from Mr Wong?---I think I probably would have mentioned it.

And doing the best you can, when would have you made that mention?
---When I spoke to her about it, but I don't know when that would have been. Probably in the aftermath of the initial interview.

20 So is it fair to say your best recollection is that you would have communicated that to Ms Murnain within short order of your interview with the Electoral Commission?---Within short order meaning maybe a week, two weeks maybe.

Just to orientate you with respect to that. Your interview with the Electoral Commission was on 22 June at 20 – just pardon me for a moment. 22 June, 2017.---Okay.

30 And so are you saying that that, the conversation you just referred to with Ms Murnain, would have been within a few weeks of that date?---Excuse me. Yes.

Any other conversations with Ms Murnain regarding the subject matter of the Electoral Commission's investigation of this investigation?---Nothing more than things like, "Have you heard if anything's happened with the investigation?" and that would be a yes or a no, and that would be it.

And so nothing further, then, about the substance of either the Electoral Commission's investigation or this Commission's investigation?---No.

40 That's the examination for now, Chief Commissioner.

THE COMMISSIONER: Just a couple of matters. You may have told us, how many guests were there at the event in March of 2015 approximately?
---To my estimation, between five to 600.

And who invited guests, individual guests? Was that your function or somebody else?---I think it's, it's kind of everybody's function (not transcribable)

Yes.---In terms of community groups, et cetera, Ernest has the best relationship with the majority of the community groups who may want to buy a table. In terms of individuals, some people, so the flyer gets emailed out to the entire party database, so some people buy tickets as individuals or as groups, and at the same time people who are actively involved, such as people (not transcribable) such as myself, I may try and round up friends of mine on an individual or, you know, group basis to come to an event, to this event.

10 And those who sat on what might be called the main table, we're talking now about those who sat with the guests, Mr Shorten and Mr Foley - - -?
---Yes.

- - - how did it come about that they were selected to sit on that table?
---Generally that's not something that I get involved in.

20 What's your understanding, if you have one?---My understanding of how it would work would be if someone paid more for a, a ticket, then they get a premium seat, so to speak. Or if they are known as a leading member of the community, so that there's no offence caused, so that they're given the appropriate amount of respect, then they would also maybe be given a seat at the main table.

And how many were on that main table? I think we saw a photograph of it yesterday, but can you remember how many were on that table?---I suppose 10 to 12.

30 So on that table there's Mr Shorten, Mr Foley. They were not paying guests. They were guests being invited to attend.---Yes. Unless they choose to pay themselves. Then there may have been two main tables because if you have two guests you may split one on each. I'm not sure what the exact - - -

And to your knowledge, who invited Mr Huang Xiangmo to that fundraising dinner?---I don't, I don't know.

Well, he wasn't a paying guest either, was he?---I don't know. I honestly don't know. I don't know.

40 You don't know. And somehow or other he ended up being put on the main table or one of the main tables.---That's correct.

Which included, I think the Labor luminaries, if I can use that expression. ---Yes, that's correct, yeah. As well as being, as well as being a, a well-known businessman, he's also considered a community leader as well. So, for example, at, at, what do you call it, the Chinese Consulate's annual Chinese New Year party, he's often, or he has been asked to represent the community in a speech. So it may be, you know, a community thing.

Why I ask is I was wondering how it came about that Mr Huang Xiangmo was either selected or placed on one of the main tables, he not being a Labor luminary and, as I understand, not a Labor Party member, possibly not even a subscriber to a Labor Party ideology. How does he come to be on the main table or one of the main tables?---As I said, maybe so as not to cause offence if he's coming, if he wants to come to the event, because he's a rich man and you don't want to offend, you know, a rich and powerful guy.

10

But there were other rich and powerful people there that night, weren't there?---I don't know if there's anyone richer and more powerful than him at that time.

So is that a criteria, is it, that if you're very rich, you'll get put on the main table? Or is there some personal factor that saw Mr Huang Xiangmo on the main table or one of the main tables?---I don't, I didn't put the people on the main table.

20

So you don't know?---So I can't comment on, like, if, if it was a personal thing or not but I'm saying that, in general, that's how these people, the people who sit on the main table get selected so to speak. If they pay for a premium ticket or if they're, they might not be a Labor luminary but they might be a luminary in their community.

All right, thank you. All right. Now - - -

MR ROBERTSON: I should deal with the formal tender that I forgot to do.

30

THE COMMISSIONER: Yes.

MR ROBERTSON: I tender pages 319 and 320 of volume 2 of the public inquiry brief, being an email from Mr Cheah to Ms Wang of 1 March, 2017, 11.38am then forwarded to Ms Zhao, 1 March, 2017, 11.58am.

THE COMMISSIONER: Yes, very well. That email as so identified will become Exhibit 166.

40

#EXH-166 – EMAIL FROM KENRICK CHEAH TO MAGGIE WANG AND JONATHAN YEE TITLED ‘URGENT: RECEIPTS’ AND FORWARDED EMAIL FROM MAGGIE WANG TO JENNY ZHAO TITLED ‘FW: URGENT: RECEIPTS’ DATED 1 MARCH 2017

THE COMMISSIONER: Now, are there any applications for cross-examination of Mr Cheah?

MR RAMRAKHA: Chief Commissioner, I have an application for leave to cross-examine just in relation to the reservation form. My purpose in doing so is really just to develop or extend an idea which Counsel Assisting touched upon yesterday, which is to draw a distinction between table money and other donations. I just wanted to explore that a little bit further with this witness who does appear to be in a position to - - -

10 THE COMMISSIONER: Is that the only issue you want to raise?

MR RAMRAKHA: Yes.

THE COMMISSIONER: All right. Mr Ramrakha, I'll give you leave.

MR RAMRAKHA: Mr Cheah, I appear for Lei Mo and just for your information, Mr Mo has been identified as one of the 10 donors. Now, I just wanted to ask you some questions about the reservation form. You described it yesterday as a pro forma document.---Generally speaking I
20 think you could describe it as a pro forma document on one side of the page, as opposed to the marketing material that's on the other two thirds or half of the page, sorry.

So you would agree that on its face it's connected with the Chinese Friends of Labor dinner event which took place on 12 March, 2015? So on its face it's connected with that event, you agree with that?---These forms, yes.

So you agree that the form could be used to record or declare donations made by persons who attended the actual event at The Eight restaurant,
30 correct?---Yes, yes.

So that's a table money donation, to record a table money donation, correct?---Right, yep, yep.

And it can also be used to record political donations made by persons who wish to support the event but who did not in fact attend the event, that's correct, isn't it?---That is also correct, yes.

And thirdly, you would agree, that this form could also be used more
40 generally to record donations made by persons from within the Chinese community who simply wish to make a donation to either or both of the ALP and Country Labor, correct?---Yep. That's why it's got that option at the bottom, if you look at the form where it says, "I'm unable to attend but I'd like to donate," so that the form can be used for that purpose if necessary.

Yes. So just to be clear, what I am talking about is the donation which, a donation to one or both parties which had nothing whatsoever to do with the

actual event, correct? So you could make a donation to the party and use this form to declare the donation and it really didn't matter whether or not you had an interest in the event or not, correct?---Yeah. That's correct.

10 So apart from its connection with the event at The Eight restaurant, this form, it appears, was being used by persons who had some association with the Chinese Friends of Labor to record political donations which were being sought by them from within the Chinese community. Is that correct, is that your understanding?---What do you mean, who do you mean sought by them, sorry?

Well, a number of people who were connected with the Chinese Friends of Labor, correct?---Yes.

And they were touting for donations from within the Chinese community, correct?---Yes.

And they could use this form to record or declare donations, correct?---Yes.

20 And that wasn't necessarily connected with whether or not that person, the donor, attended the event at The Eight restaurant?---Yes, that's right.

And it would appear that this, this was the only form that was readily available to those, to those persons to in fact record donations. Correct? ---Correct, yeah.

30 There was no other special form that had been prepared for that use. Correct?---No, there's no, I mean to my knowledge we don't have a blank, blank forms of that nature.

Sure. So just a sort of connected point. The event at The Eight was described as a launch.---Yes.

40 So am I correct in understanding that the event being described as a launch simply launched a fundraising drive that was earmarked for the Chinese community?---No, it was, we timed the Chinese launch, it was for, in regards to the, the state election that was coming in two weeks' time, i.e. we have ethnic, for want of a better word, multicultural ethnic launches for, targeted specific community groups. Sometimes these launches could be, what do you call it, press conferences, sometimes they could be dinners or functions of this nature, it really depends what we think of doing at the time and this was designated to be the Chinese launch for the Chinese community to garner support and donations for the state campaign in 2015.

But it always be intended to be only one event within a sort of campaign essentially to drum up support from within the Chinese community. Correct?---Yes, I guess so, yes.

So in a sense the fundraising was really intended to extend well beyond the actual event. Correct?---I guess it gives that, it gives the possibility that you could fundraise beyond that event.

So the fundraising and the moneys that were, the moneys that were raised weren't just tied to this one event which took place at The Eight restaurant. Correct?---Yeah, if you mean that if someone wanted to fundraise, sorry, donate and use that form as a disclosure form, then they could, despite having not come to that event or et cetera.

10

Thank you.

THE COMMISSIONER: Yes, thank you, Mr Ramrakha. Is there any other application?

MR LAWRENCE: Yes.

THE COMMISSIONER: Yes, Mr Lawrence.

20 MR LAWRENCE: There's an application on behalf of Mr Clements. I have reduced, Chief Commissioner, the request and the scope of it in writing which has been transmitted to Mr Johnson, solicitor assisting.

THE COMMISSIONER: Has that been given to Counsel Assisting?

MR LAWRENCE: I think I raised it before with - - -

30 MR ROBERTSON: I'm aware of its existence, I haven't had an opportunity to reflect on it, but in my submission you would grant leave. I haven't seen the extent of the leave.

THE COMMISSIONER: I'll certainly grant leave. Yes.

MR LAWRENCE: Yes.

THE COMMISSIONER: Well, perhaps, Mr Lawrence, what I'll do is, I'll grant leave to you to cross-examine the witness. I'll catch up with your leave document over the morning tea adjournment and if there's any issues I'll raise them when we resume.

40

MR LAWRENCE: Certainly.

THE COMMISSIONER: In the meantime we'll go through till 11.30, so you proceed now.

MR LAWRENCE: Yes. There's a few matters that I was hoping to take instructions upon, if now would be a convenient time, before commencing.

THE COMMISSIONER: Very well. Well, I'll take the morning tea adjournment now and we'll resume at 11.45. Is that suitable to you?

MR LAWRENCE: Certainly. Thank you, Commissioner.

THE COMMISSIONER: Mr Cheah, you can step down and I'll resume at that time.

10

SHORT ADJOURNMENT

[11.19am]

THE COMMISSIONER: Thank you, Mr Cheah. Yes, Mr Lawrence.

MR LAWRENCE: Yes, thank you, Chief Commissioner. In terms of timing I suspect I'll probably be about half an hour.

20 THE COMMISSIONER: Thank you.

MR LAWRENCE: Mr Cheah, I'm a long way away, so if you have any problems hearing me, let me know.---Okay.

You've been asked to remember a lot of details of events said to have occurred back in 2015.---Yes.

Would you agree that it's been hard to remember the precise details of many things that you've been asked about?---Very hard.

30

You have on I think a large number of occasions said things like, "I think." ---Yes, I have.

And when you've said, "I think," you've been expressing a certain degree of uncertainty about what precisely happened?---Yes.

I want to take you to some evidence that you gave yesterday, and it's at transcript 73T, if that can be brought up. And I'll ask you some questions about that, Mr Cheah, when it comes up onto the screen.---Okay.

40

Now, I'm not sure if you can see that on your screen, can you, Mr Cheah? ---Yes, I can, yeah.

Do you see at about line 12 or 13 it says, "You knew he was coming that day. Is that right?"---(No Audible Reply)

I think you might be on the wrong page. It's actually 73T that we're after. Do you see there it says, "You knew he was coming that day. Is that right?"
---Yep.

And do you agree that you answered, "I think someone had mentioned he was coming, yeah."---Yes.

And would you agree that that is one of those instances where you said, "I think," because you weren't completely sure?---Yes.

10

And you weren't completely sure firstly about if somebody had mentioned that he was coming?---Yes.

And you also weren't sure if somebody had mentioned it, who had mentioned it?---Right.

And you were trying to be truthful I take it when you gave that evidence?
---Yes.

20

And then you agree, do you, that you were asked, "Who was that somebody?" And you said, "I really, it's, it's very hard to say categorically?"---Yes.

And I take it you were trying to be truthful when you gave that answer?
---Yes.

You were then asked the question that you see appearing next. I won't read it to you, but you answered, "I think I knew he was coming."---Yes.

30

And then you were asked, "Yeah, and you think you heard that from someone?" And you said, "Yep."---Yes.

And then you were asked, "Who do you think it's likely to have been?" And you answered, "By deduction I guess probably, if it happened, Jamie, who was the general secretary at the time, if that had happened."---Yes.

Okay. Were you trying to be truthful in giving that series of answers?
---Yes.

40

And that's your position still, isn't it, that you're not sure if it was mentioned prior to Mr Huang arriving?---Correct, yes.

And you certainly can't say with any certainty who mentioned it, if somebody did mention it.---Right.

I'll take you now, if I could, to page 80 of that same transcript. Have you got page 80 in front of you, Mr Cheah?---Yes.

Do you see the second last question on the page, sorry, the third last question, you were asked, “But you at least have a recollection of seeing Mr Huang?” and you answered, “Enter in, yes”?---Yes.

And then you were asked, “And do you recall whether you saw him carrying anything at that time?” and you said, “Can’t recall.”---Yes.

And I take it you were trying to be truthful in giving that evidence to the Commission?---Yes.

10

And that is your recollection as you sit here now?---Yes.

You’re unable to say how long it was in between Mr Huang leaving and Mr Clements coming out with the bag, is that right?---I, I think I gave an approximation yesterday of maybe 20 minutes.

It could have been longer?---It could have been longer. It, it may very well could have been shorter.

20

So just to recap, you’re unsure if there was discussion about his arrival prior to his arrival?---Yes.

You didn’t see him holding anything when he entered?---I didn’t look to see if he was holding anything, or hadn’t noticed. I just noticed him walk in.

Sure. And it could have been longer than 20 minutes in between Mr Huang leaving and Mr Clements coming out?---It’s possible.

30

So, Mr Cheah, in terms of what you saw and heard that day, on your evidence, and putting aside things that you might have heard since – and I appreciate that that can be a difficult exercise – you’d agree that you’re unable to say with any certainty that Mr Huang actually brought a bag of cash in?---I didn’t see him carry a bag of cash, is the, is the best answer I can give.

Now, Mr Cheah, you have a very close relationship with Ernest Wong?---Yes.

40

And he has been a mentor to you?---Yes.

You have a close relationship with Jonathan Yee?---Yes.

He is a good friend?---Yes.

Has he also been a mentor to you?---Oh, like in an older brother way, yes.

There’s been some evidence about Ms Murnain, Kaila Murnain.---Yes.

She's the General Secretary of the Labor Party now, is that correct?---That's correct.

She's your boss?---Yes.

And you would agree that she's an important and influential person in the Labor Party?---Yes.

10 Now, would you agree that the relationship between her and Jamie Clements is a poor one?---Yes.

Would you agree that it's well-known that she hates his guts?---I think it's well-known that they both have an intense dislike for each other.

Right. You're not close to Mr Huang Xiangmo?---Not at all.

And do you recall saying to the Electoral Commission, "He didn't talk to me, he doesn't talk to me, I don't talk to him"?---Yes.

20 And you said in your statement of 26 August, at paragraph 22 – I won't bring it up unless we need to – "I do not have any personal relationship with Mr Xiang Huang. I presume he knows who I am, but we don't talk"?---Yes, that's correct.

Now, Mr Clements resigned as the General Secretary of the Labor Party in January, 2016?---(No Audible Reply)

Is that right?---I, I, I can't remember the date, but yes, I, yes.

30 Around that time.---Yep, yep.

You haven't seen him since?---Haven't seen Jamie in person since he stopped working there, no.

For all intents and purposes he is a former work colleague of yours. Would you agree?---Yeah.

40 You were in the position of fairly regularly processing donations to the Labor Party?---Yes.

And when you did that you would check the forms?---Yes.

And was one of the primary purposes of checking the forms to make sure that the amount on the form corresponded to the amount of the donation? ---Yes.

And that was particularly so, was it, in respect of a donation in cash? ---Yes.

And you were also required to check if the person making the donation was on the electoral roll?---Yes.

And you would also, if you were aware from your personal knowledge that they were a prohibited donor, you would ensure that the donation was not processed. Is that right?---That's correct, yes.

10 Now, in the course of doing this part of your job and processing donations, if you had noticed anything on a donation form that seemed suspicious, would it have been part of your job to enquire into that matter?---What do you mean by suspicious?

If there was something about the form, for example, that suggested that it might not have been filled out by the donor themselves?---I guess, yeah, that would be my job to, if I, if I noticed something, yeah, to raise it.

And ways that you might do that might include speaking to a superior?
---Yeah.

20

If you knew the donor or if there was contact details for them then trying to speak to the donor?---Yes.

Now, these forms that you processed you say in April of 2015, I take it you say that you didn't notice anything suspicious about them?---Yes, correct.

So there was no cause to take any particular action after perusing them?
---No.

30 You simply arranged for the money to be banked?---Yes.

Now, you said earlier that you had spoken to Ms Murnain about this allegation that Mr Huang had brought in the \$100,000.---Remind me.

I think you said earlier that you might have told her where you say the money came from.---I had, we talked about the conversation, the short conversation when I left the office about be careful with the money.

40 No, I'm talking about a conversation that you said might have occurred around the time of your interview with the Electoral Commission.---Oh, okay. Yes.

Yes.---The question was then?

Was you had a conversation with Ms Murnain about the \$100,000.---More in general about the interview itself rather than the \$100,000.

Right.---And the \$100,000 may have come up as a point of, you know, a point of note or something like that.

Well, the interview was about the \$100,000. You would agree with that?
---It was about the \$100,000 but there was also a lot of mention about Emperor's Garden and Jonathan and what he does in the Labor Party and things of that nature and also why people have red packets and other cultural questions of that.

10 Sure. But you understood that the purpose of the Electoral Commission in conducting the interview with you was to look into this \$100,000?---Yes.

And you said I think that you spoke to Ms Murnain about your version of events about the \$100,000?---I think so.

You're not sure when that conversation happened I take it?---Not sure when.

20 And do you recall when your interview with the Electoral Commission was?---I don't, I don't recall the date. I know it was the middle of the day about maybe early afternoon.

Sure. But in terms of month and year do you know?---I think someone mentioned early this morning 2017.

Yes, June of 2017.---Okay.

30 Sir, is it possible that that conversation with Ms Murnain that you say occurred happened earlier in 2017?---It's possible.

Is it possible that it happened in 2016?---I guess it's possible. I don't know.

And, Mr Cheah, it's your evidence that you have no knowledge in a personal sense of where the money came from before you say Mr Huang brought it in?---Right.

You haven't spoken to the donors?---No.

40 You haven't spoken to Mr Huang about it?---No.

You assume, I think you said yesterday, that it came from the donors. Is that correct?---Yes.

But you don't know for example if it went potentially from Ernest Wong first from the donors?---Wouldn't have any knowledge of where it's been before it comes to me.

Sure, sure. You wouldn't know if it came to Jonathan Yee and then came on to you?---I don't think so. It's confusing because I think at the Electoral interview they mentioned that, I think one of the questions was, was Emperor's Garden used as a collection point, so I'm not sure if I knew that before, the facts get jumbled now, considering it's four years.

10 So when you took part in that interview with the Electoral Commission, you'd known for some months that the Electoral Commission was looking into the question of this \$100,000?---I can't remember how long I knew for, but I guess whenever they had notified me of the interview.

But your conversation with Ms Julie Sibraa had taken place prior to your interview. Is that correct?---I think so. It would have had to because they arranged for legal lawyers to come or a lawyer to come with me to that interview.

20 If I can take you now to a document at volume 1A, page 12 – I withdraw that question. I think it's actually volume 1, page 12, Chief Commissioner. It's the letter and associated documents from Ms Murnain to the Electoral Commissioner.

MR ROBERTSON: I think my friend might mean volume 1, page 5, if he's looking for the letter of 19 December, 2016 to the Electoral Commission.

MR LAWRENCE: Yes, that's the one I'm looking for. Thank you, I thank my friend.

30 MR ROBERTSON: Exhibit 149 if that helps those working off exhibit numbers.

MR LAWRENCE: Now, Mr Cheah, can you see that?---Yes.

Yes. And that's a letter from Ms Murnain to the Electoral Commission. ---Yes.

And that's dated 19 December, 2016.---Yep.

40 Now, did you see that before it was sent by any chance?---The first time I saw it I think was yesterday.

If we can just scroll to the next page, please, page 6 of volume 1. Now, do you agree that that provides the substantive response to the Electoral Commission that is referred to in Ms Murnain's letter?---I don't know if there's more questions after that, but - - -

Sure. Now, it says in question 1, "Please provide the name of the persons who handed the donations to the ALP on 9 April, 2015."---Yep.

And then the answer is you.---Yes.

Had you and Ms Murnain spoken about that response before it was sent?
---I'm pretty sure the only person I spoke to about this would have been Julie Sibraa.

You didn't sit down with Ms Murnain and talk about it in some detail?---I don't think so.

10 So your evidence is that the General Secretary of the NSW Labor Party sent this response to the Electoral Commission without talking to you?---Yeah, I, I – can you repeat it just so I can make sure I'm sure of the answer?

So your response is that Kaila Murnain sent this to the Electoral Commission without speaking to you?---Yeah, we never sat down and, and, and went through specific questions like this, oh, but like, like, as made out in the, the attachment.

20 So were you ever asked to retrieve the donation forms by anyone?---Oh, sorry, can you be more specific? In, in other, in other events, or other instances, do you mean?

Yes, I'm meaning prior to this response being sent - - -?---Ah hmm.

- - - were you ever involved in a discussion where you and anyone else had these forms in front of you, and were talking about them?---Don't think so.

30 No. So what, to the best of your memory, did you tell Julie Sibraa about the origins of the money?---Pretty sure we just went through what, just as we've done here or yesterday, the order of events where Mr Huang came into the office. He came in, like I said, to the reception area. Possibly the receptionist went to alert, in person or by the phone, I can't remember, Jamie's PA that he was there. He came in. Walked past me. Kind of looked up. Stayed there for a little while, then left.

If I could take the witness now to volume 1A, page 12. I'm going to ask you some questions about your interview with the Electoral Commission, Mr Cheah.---Okay.

40 So do you see there the question 79, "Who was there, et cetera, just explain that"?---Sorry? Question 79?

Yes. Do you agree the question was, "Who was there, et cetera, just explain that"?---Okay.

And then if you could turn to your answer, do you see where you say, "So to my knowledge, someone went to collect the money, ah, Mr Wong went to

collect the money from all these individuals, um, with the sheets, the, ah, ah, disclosure forms, so that it's all legal"?---Yep.

"Um, he came to our office, um, and he gave it to our former general secretary, the money and the forms"?---Yep.

So do you recall giving that evidence to the Electoral Commission?---Words to that effect, so I guess the transcript must be correct, yes.

10 Now, it has you talking about a Mr Wong.---Yes.

But is it the case that you were intending to refer to Mr Huang?---That's correct. In, in, just to clarify, Huang and Wong, Huang is the Mandarin version of Wong, or can be the Mandarin version of Wong, so, in this instance, obviously I'm talking about Mr Huang, since he was the one that brought the, the money, and not Ernest Wong.

20 Certainly. And you're not – are you sure as to whether the word that actually came out of your mouth there was Wong or Huang?---I, it could have been that they heard it ambiguously, and thought I meant, I said Mr Wong when I meant Mr Huang, but - - -

Sure.---I definitely meant Mr Huang.

If I could take you now to page 21 of the exhibit, which is the same document. Now, do you agree at question 172 you were asked, "You had no idea who had custody of the money prior to you being counting and you and Mr Clements giving you the money?"---Yes.

30 And you answered, "No."---Yes.

Now, that's consistent I would suggest with your evidence here that you don't know who had the money.---Yes.

Now, you'd agree that in that earlier answer and question that I took you to on page 12 that one of the very first things that you suggested was that Mr Huang had gone to collect the money and the forms?---Right.

40 You didn't know that. That's your evidence, isn't it?---I didn't, well, I didn't categorically know that, no.

But you went out of your way to suggest it, didn't you?---Because he was the one that brought it into the office.

And you see nothing surprising or unusual about the Chinese billionaire wandering around Chinatown picking up forms and money off waiters and waitresses?---Do I think it's unusual?

Yes.---I don't think it's - - -

Do you think it's unusual?---I don't think it's probably a common practice.

No.

THE COMMISSIONER: We're talking about Mr Huang and what's been put to you, that it would be nothing surprising to have Mr Huang, as he's been described as a very rich man - - -?---Yes, yes, yes.

10

- - - going around Chinatown with a bag, speaking to waitresses to get their contributions or any other person who's being a donor, as a collector, in other words. What do you say?---I don't know, I didn't know who the other donors were apart from the names that I recognised.

No, but just the general proposition that's been put to you that - - -?---Oh, okay, sorry, yeah, sorry, sorry, yep. Yeah, it's unusual.

MR LAWRENCE: It's unusual.---It's unusual.

20

It's surprising.---Yeah, but I'm sure many aspects of his life are probably surprising, yeah.

Yet it was the very first thing that you chose to suggest to the Electoral Commission about where the money had come from.---Right.

Something surprising.---Right.

Something unusual.---Right.

30

It's not true, is it?---What's not true?

It's not true that you had any knowledge that Mr Huang had done any such thing.---I had no, no concrete knowledge. All, the only concrete knowledge was that I thought he was the one that brought the bag in, even though I didn't see a bag accompany him into the office.

So were you genuinely trying to assist the Electoral Commission when you gave that answer?---Yes.

40

Were you trying to protect anybody when you gave that answer to the Electoral Commission?---No.

Were you trying to protect anyone that you cared about?---I gave those answers as honestly as I could.

You didn't tell the Electoral Commission to go and talk to anyone else about the possible origins of the money, did you?---I don't think so.

You didn't think of any other individuals who might have knowledge about it?---I don't think I suggested anything to the commission.

Yet you chose to tell them this fantastical story about the Chinese billionaire wandering around Chinatown trying to get money and forms off waiters and waitresses.---Only because he was the one that came in and by deduction brought in the money. That's the reason why.

10 You were trying to mislead the Electoral Commission I would suggest.
---I would disagree with that entirely.

Trying to divert the investigators from finding out who had really brought the money into head office that day.---Not at all. As I mentioned, I had no prior knowledge of who had or where the money came from or who collected it.

20 Sure. You said in your interview that Mr Huang doesn't like dealing with underlings.---That's, that's my, that's my impression.

So can I take you now to page 23 of volume 1A. Do you see a question 191 and look, it's a bit broken up, but the question spelled out the surname Xiangmo and then said, "Is that the"?---Yes.

And then you said, "And the surname is Huang, sorry, H-u-a-n-g. He was, so he was collecting it from people who hadn't paid on the night over half."
---Okay.

30 What's "over half" all about?---I have no idea what "over half" means.

Just something that slipped out?---I just don't know what it means, "over half". It could mean over half the total amount.

Who told you that?---I just thought of it myself just then. I don't know what it means.

40 So you can't assist the Commissioner with what your source of information was about this suggestion of "over half"?---I don't know what I was referring to when I said "over half".

You didn't say anything to the Electoral Commission about Mr Clements or anybody else saying in advance of Mr Huang coming that he was coming, did you?---I don't think so. No, from memory.

You didn't say anything to the Electoral Commission about Mr Clements telling you beforehand that Mr Huang was coming to drop off donations?---I don't recall saying the answer that I gave here.

Thank you. You didn't say that either in your statement to ICAC of 26 August? Talking about your written statement.---I don't recall what I said exactly at that interview but it would have been the best of my memory.

Sure. So by June of 2017 Mr Clements was no longer working in head office?---Yes.

He'd resigned in what, January of 2016. Is that right?---That's what you said earlier.

10

Mr Huang by then was widely known in the media as a tainted figure. You would agree with that?---I don't know the exact timeline of when the media started attacking him but safe to say that he definitely was for the past few years a tainted figure in the media.

MR ROBERTSON: My friend might just identify what he means by tainted figure in this context?

THE COMMISSIONER: Yes.

20

MR LAWRENCE: I'll withdraw that.

THE COMMISSIONER: I think you should be more specific.

MR LAWRENCE: I'll withdraw that. Mr Cheah, Mr Clements was an easy scapegoat for you when you spoke to the Electoral Commission.

THE COMMISSIONER: Mr Lawrence, just a moment. You've used the word tainted.

30

MR LAWRENCE: I withdraw that question.

THE COMMISSIONER: I think in fairness to Mr Huang Xiangmo you should, if you're going to withdraw that word, make it clear what you were intending to put.

MR LAWRENCE: It was well known - - -

40

THE COMMISSIONER: You withdraw that suggestion of taint as it stands?

MR LAWRENCE: Yes, I do. I do. And I'll ask a question - - -

THE COMMISSIONER: Start again.

MR LAWRENCE: - - - that I think will indicate what I mean.

THE COMMISSIONER: Let's clear it up now.

MR LAWRENCE: It was well known by this time that there was controversy about Mr Huang's donations to the Labor Party. Do you agree with that?---At the time of my - - -

Your interview.---Only, only due to the fact I was being interviewed, yeah. That there was an investigation under way.

10 You were unaware of broader media reporting?---I can't remember if there were media reports at the time but I assume there wouldn't have been.

Sir, my client, Mr Clements, was a convenient scapegoat for you when you spoke to the Electoral Commission, wasn't he?---I didn't use anyone as a scapegoat. I just answered the questions as honestly as I could.

20 And Mr Huang was also a convenient scapegoat for you, wasn't he?---Like I said, I didn't use anyone as a scapegoat. I just told the facts as it happened to me or as they occurred on that day. I have no animosity towards Jamie to make him a scapegoat nor - - -

I accept that.--- - - - animosity towards Mr Huang to make him a scapegoat.

Mr Cheah, the two people that you chose to talk to the Electoral Commission about in these terms seem to be the two people that you were least close with out of this cast of players. Would you agree with that proposition?---Which are those two people, sorry?

I'm talking about Mr Clements and Mr Xiangmo.---Yes.

30 You said yesterday that you didn't know in April of 2015 that Huang Xiangmo was a property developer.---Yes, but I was I think found to be mistaken on that by the emails.

So you occupy a position where a significant part of that position or responsibility of that position is fundraising in the Chinese community. ---Fundraising in general for the party.

40 You no doubt keenly followed the media concerning Sam Dastyari and Huang Xiangmo.---I would have read the articles.

So do you recall seeing anything in the media prior to 9 April that suggested clearly that Mr Huang Xiangmo was a property developer?---I don't recall as, as, that's why I gave that answer yesterday.

So your evidence is that you didn't know on 9 April, 2015 that Huang Xiangmo was a property developer?---Again, sorry?

Your evidence is that on 9 April, 2015, you did not know that Huang Xiangmo was a property developer?---Yeah, but I think I've since been proven that I was incorrect about that by the email that I saw yesterday.

You knew in April 2015 that property developers were not allowed to donate to the NSW Labor Party - - -?---Yes.

- - - for the purpose of state campaigning?---Yes.

10 It was your job to know.---Yes.

It was also your job to know which people in this particular part of the community might be prohibited donors, I would suggest.---If they, if they filled out a form and wanted to donate, then yes.

You knew that Huang Xiangmo had donated to the Labor Party extensively prior to this date?---I had never processed a form from Mr Huang for a donation to the Labor Party.

20 Well, I would suggest that that is not an answer to my question. You knew he had donated to the Labor Party prior to that date, didn't you?---I knew that from media reports of things like he'd given Eric Roozendaal a job and things like that, but no, I had no, no exact knowledge that he had donated the party, like.

You knew he was a property developer then, didn't you?---No.

I suggest that that's a self-serving response.---Please explain, what do you mean?

30 I suggest that that is a response trying to minimise your role.---In, in this whole thing?

Yes, in this whole thing.---No.

The story about Huang Xiangmo bringing \$100,000 to Jamie Clements is made up, isn't it, Mr Cheah?---It's not made up at all, it's 100 per cent truthful.

40 That's the cross-examination, thank you, Chief Commissioner.

THE COMMISSIONER: Yes, thank you. Mr Robertson?

MR ROBERTSON: Before we move on can I just raise one matter. Can we have on the screen, please, volume 1A, page 12, and I might just need my learned friend just to clarify whether he's put a particular proposition to the witness. He may well have, he may not have, but it should be dealt with now if it is being put. This is in volume 1A, forming part of Exhibit 149,

page 12 of volume 1A. The answer to question 79, the fourth line is transcribed as Mr Wong. It's not clear to me whether my learned friend was putting to the witness that that was a, that was intended to be a reference to Mr Ernest Wong or whether it was intended to be a reference to Mr Huang Xiangmo.

THE COMMISSIONER: I understood it was being suggested that it was an error and should record Mr Huang, but perhaps it needs to be clarified.

10 MR ROBERTSON: If that's the position of the cross-examiner then I don't need to take the matter any further.

MR LAWRENCE: I certainly wasn't intending to put a positive proposition that he was intending to refer to Mr Ernest Wong, no, and I did not cavil with his evidence that he intended to be referring to Mr Huang. I was suggesting that it may have been a typo or it may have been him using the word Wong but intending to refer to Mr Huang Xiangmo.

THE COMMISSIONER: Thank you.

20

MR ROBERTSON: I don't need to take the matter further. I'm grateful to my friend.

THE COMMISSIONER: Yes, thank you. Yes. Now, is there any other applications? If not then Mr Cheah, you may step down.

MR DIXON: Oh, I beg your pardon. Sorry, Chief Commissioner, I thought you were inquiring about as to cross-examination. I have some questions for Mr Cheah in if I can call it re-examination, but I would request, Chief
30 Commissioner, a short adjournment so I can take some instructions. There were some matters that were raised with the witness that I haven't had an opportunity to discuss with him.

THE COMMISSIONER: All right. How long do you want?

MR DIXON: Well, I would have wanted at least 15 minutes, if that's okay. He's been in the stand now for a day and a half.

THE COMMISSIONER: Well, it's a question of whether we adjourn for
40 the luncheon period now or not.

MR DIXON: Well, if I can assist, if I spend at least 15 minutes with him, then I think I'll be slightly longer than 15, so I think we'll probably go into the lunch hour, if that assist, Chief Commissioner.

THE COMMISSIONER: Very well. Yes, very well. Well, I think the best thing to do would be to stand over until 2 o'clock. Is that suitable?

MR DIXON: Yes.

THE COMMISSIONER: Mr Cheah, if you wouldn't mind returning here at 2 o'clock and we'll continue. I'll adjourn till then.

LUNCHEON ADJOURNMENT

[12.30pm]