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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 27 AUGUST, 2019

AT 2.00PM

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

MR ROBERTSON: (not transcribable) assist those behind me and I'm attempting so far as I can to accommodate various availabilities of counsel in particular and also witnesses. To attempt to accommodate that as much as possible, tomorrow morning as I've indicated I'll call Mr Tong, then call Ms Murnain immediately. I foreshadowed this morning that I might call Mr Dastyari tomorrow afternoon, but due to availability issues with counsel I'll
10 instead do that on Thursday. My suggestion is that we commence tomorrow, sorry, commence on Thursday at 11.00am rather than 10.00am because Mr Dastyari's examination will be relatively short, and then it's proposed to proceed with Mr Ernest Wong, but at 2.00pm due to some availability issues at his end. So just to summarise that, tomorrow Mr Tong followed by Ms Murnain, Thursday Mr Dastyari from 11.00am, and then Mr Ernest Wong from 2.00pm and we should hopefully accommodate the various things that need to be accommodated.

20 THE COMMISSIONER: Thank you, Mr Robertson. Yes, thank you, Mr Cheah. Yes, Mr Dixon.

MR DIXON: Thank you, Chief Commissioner. Now, Mr Cheah, you mentioned in your evidence that the period of March to April 2015 was a busy time for you. Can you just describe the roles that you were performing at that time in 2015 for the ALP?---So as the community relations director I'm in responsibility for ethnic marketing, ethnic advice to MPs, advertising, looking after the Labor Action Committees, and as we ramp up towards an election, translations on things like how to vote card and all other electoral material.
30

And out of those roles, what percentage of your time would you have spent on, as you say, looking after Labor Action Committees?---Maybe half the time.

Yes.---50 per cent or half.

And what percentage of that time would you have spent looking after the Chinese Friends of Labor in particular?---Five per cent. Same as, same as all the other Labor Action Committees.
40

Now, you were asked about being the conduit, do you recall that word being used, between the Chinese Friends of Labor and NSW ALP?---Yes.

Now, what did you understand the word or term conduit to mean when you were asked that question?---Liaison or a point of contact.

And are there any other to your knowledge conduits between the Chinese Friends of Labor and the NSW ALP?---There's lots of points of contact

between Chinese Friends of Labor and NSW ALP, like, there's no exclusivity between contact points. Some people call the general secretary for things, some people call the assistant general secretary for things, some people call the executive officer for things, yeah.

And are you the point of contact for any other Labor Action Committees?
---I'm the point of contact for all Labor Action Committees.

10 Now, you were asked some questions about your role in, the word used was coordination of payments made to the ALP by way of donations. Do you recall those questions?---Yes, yes.

Now, what did you understand the word coordination to mean in that context?---I would think checking of forms and balancing of the money with those forms.

20 And who else if anyone within the ALP performs that role?---After I check them they get checked by the financial controller, Maggie, when she was there, when she worked there, to make sure that I had not made any mistakes.

And is it ever the case that Maggie or someone in Finance picks up a mistake that you make?---From time to time I made counting errors or addition errors, so yes.

And can you think of a particular example around that time where that would have happened?---For, for various fundraisers forms often get returned to me because of incorrect math on my part.

30 Now, you were asked some questions about the breakdown of how much money was received on the night of the event, and when I say the event, I mean the dinner at The Eight on 12 March, 2015. And I think in your answer you explained the role of volunteers in collecting donations on that night. Do you recall that?---Yeah.

And you gave some evidence that the Chinese Friends of Labor Committee would then have responsibility for chasing up on payments in the days after the event. Do you recall that?---Yes.

40 Now, were you informed on the night of the event as to how much money had been brought in?---No.

When did you first find that out?---The first I would have found out the amount of money being brought in from that night from the table money at that point would have been when Ernest brought in the 19,000 et cetera.

And did you then – what did you do with the cash that you received on that occasion? There was, as I understand there was a cash component and part

of it was paid by way of credit card and the like. What did you do with the cash component?---Counted the cash at my desk, as I do with all other fundraisers.

Now, you gave evidence of receiving 20 forms from the general secretary after Mr Huang had left the ALP offices in April of 2015. You recall that evidence?---Yes.

10 It was put to you that some of the forms were black-and-white photocopies. Do you recall that?---Yes.

Now, can you just tell the Commission, is receiving a black-and-white form an unusual circumstance, occurrence?---It's not uncommon to get coloured forms or black-and-white forms. It just depends on what the person who wants to fill in the form has printed it out as or if they have a colour printer at home to print it out. Often we, I know from my own experience when I print out forms to bring to the functions I would sometimes print out black-and-white, just blank disclosure forms to save the coloured ink, so it's not uncommon for there to be black-and-white forms.

20

And is receiving a photocopy of a signed form an unusual occurrence? ---Often times people will email their disclosure forms in, so they sign them, scan them and then we print them out at the office, so in that, in that sense it's not uncommon.

Now, you were asked some questions about whether you've ever had cause to photocopy any of the 20 forms. You recall that questioning?---Yes.

30 Now, your answer was yesterday I think was, "I don't think so." Do you recall that?---Yes.

Now, you've had a chance, have you not, to reflect on your evidence overnight?---Yes.

In what scenario, can you tell the Commission, would it be possible that you would have had cause to photocopy any of the 20 forms?---The only scenario would be if the credit card, for example, the credit card numbers given on the form were either written incorrectly and thus rejected by the credit card terminal, and contact has to be made with the donor again, so the form comes back to me. So I might make a photocopy of the form so I have one with the contact details and the wrong credit card details to get the right credit card details, and a copy stays with Finance so they know or can remember what's expected to come in. Ah - - -

40

Now, was that answer – sorry, I didn't mean to cut you off, did you, please finish.---So wrong credit card numbers, also expired credit card numbers often get rejected by the machine. People, for whatever reason, maybe

there's a time lapse, their cards have expired by the time we try to process them through the terminal.

Now, do I take it from that answer then you were just speaking generally about what might happen when you photocopy a form, is that what I understand your answer to be?---That's correct.

10 If I could just ask you to listen to my question carefully. In respect of the 20 forms, what do you know of any photocopying, if anything?---I'd have no reason to photocopy any forms of those 20, because they came in \$5,000 per form. 20 forms is \$100,000, which is what I counted the money out to be. So I don't know about any photocopies, nor would I have any reason to make any photocopies.

In respect of the 20 forms, can you tell the Commission as to the circumstances in which they may have been copied?---No knowledge of any photocopying of the forms.

20 And does that encompass who might have had cause to photocopy them?---I don't know who would want to photocopy the forms.

Now, you were asked today if you took any steps to acquire more forms, and when I say more forms, I'm talking about the 20 forms still. Do you recall that question?---Yes.

30 I think at the time you said you don't recall. Have you had an opportunity to reflect on that?---Well, I have no reason to seek out more forms when the number of forms that I received tallies or balances with the amount of money that was collected.

Yes. I wonder if we could bring up Exhibit 163, which is the email of 17 April, 2015. Do you see that, Mr - - -?---Yes.

Now, what conceivably could explain this email to your knowledge?---I don't have any memory of this entire episode taking place. Conceivably, someone else may have instructed Ellie, who was on reception, to call me about those receipts.

40 And what, if any, discussions did you have with Jenny Zhao after this email, do you recall?---I don't remember, I don't remember having any discussions about this entire, about this email, and generally when I'd need to speak to Jenny, if it's something to do with finance, I would email her anyway directly, myself.

Could we then go to volume 1 at page 14. Now, you were asked some questions about the form that was used on the night of the event. Do you recall that?---Yes.

All those questions?---Yes.

Now, who drafted that form?---The event details would have come from myself to the designer and the disclosure details would have come from the Finance team.

And so when you say the event details, you mean which part of the form?
---Predominantly the, the, the two-thirds from the left, left, the red section.

10 And, for example, as to the declaration which is in the bottom right-hand corner, I confirm, et cetera, do you know anything about where that language came from?---That language I would have gotten from the Finance Department.

Do you know whether the ALP ever took any advice on the form of the declaration that appears in the form?---Not aware of, of that.

20 You were asked today by Mr Ramrakha about the word “launch” as it appears at the top left, third line down, NSW Labor Chinese launch. Do you see that?---Yes.

Your answer was that it depends on what “we” – was the word you used – are thinking at the time. What did you mean by “we”?---The context of that is “we” means the campaign team, so people like myself, the general secretaries, the assistant general secretaries, the, the state organisers in terms of whether we have a launch that is a dinner event like this or it’s just a media conference or a barbecue in a park.

30 And now you gave some evidence that the decision as to where the money would be allocated for an event is made typically prior to the event itself. Do you recall that evidence?---Yes.

And that’s whether it was allocated to the NSW ALP or the Country Labor Party or Federal Labor. Do you recall that?---Yes.

Now, were you in any way involved in those decisions?---I have no input into where the money gets allocated.

40 Now, on this form, if you look, go back to the form.---Yeah.

You see on the right-hand side of the form at about point 6 of the page, about halfway down it says, “Payable to Prospect campaign account.” Do you see that?---Yes, yes.

What is the Prospect campaign account?---Prospect refers to a state seat which means this is obviously, that’s a mistake in terms of where the money should be payable to. So a fundraiser like this would not go to just one seat. So this is obviously an early version of a, of the form and I do remember

that we corrected, someone picked up on the mistake and we did correct the form before the event. At least a few days before the event.

THE COMMISSIONER: Corrected how?---Corrected, the Prospect campaign account would have been deleted and I'm not sure which but either NSW Labor or Country Labor would have been put in its place.

10 MR DIXON: Were there any other differences in the form that was used at the event to the form that appears in front of you on the screen?---It might have been, there might have been some black and white versions.

Anything in the text at all?---Apart from the, the Prospect campaign account mistake I don't see any other - - -

What replaced the words "Prospect campaign account", if anything?---Like I said, it was either, and I'm not sure which one it would have been, but it would be either NSW Labor or Country Labor.

20 THE COMMISSIONER: But the form that's on the screen now with the crossing out with Prospect campaign account was the form in which it was utilised, wasn't it, in respect of the particular function we're talking about? ---I think, I think the crossing out refers to paying by cheque in this, in this occasion, just to clarify that.

Yes.---Sorry, your question again?

But with that crossing out, was the standard form used, was it, for this fundraiser?---This was a standard form?

30 Yes, was it?---No, it wasn't, because we made a corrected version.

I see.---Yeah, which we - - -

I see. So - - -?---So this would have been probably sent out or emailed to someone prior to the event and then on discovery of the error we would have fixed it and then used that instead, because there's no way a fundraiser of this size would have its money all going to one seat.

40 So the form which we see on the screen with the wrong reference to Prospect had been sent out, distributed to would-be donors early in the piece, had it?---Yes.

How long before the dinner would that have been approximately?---Two weeks, thereabouts.

And there's four boxes under the subheading Reservation Form, and is that, it says, "Please send me," and then there's the four boxes. That's up to the

donor to tick whichever box he or she is prepared to - - -?---Yes, yes. There really - - -

- - - make by way of a donation. Is that right?---Yes. There really should be five boxes, for that last section where it says, "I am unable to attend but would like to make a donation."

Now, the second-last box is VIP table.---Yes.

10 And the box under that is, "VV," is it, "IP?"---VVIP.

Mean very - - -?---Very, very I guess.

Very, very important.---Very, very important.

Okay, table. How many very, very important tables were there?

---Without being the person doing the seating plan, I would imagine whoever wanted or however many wanted a VVIP table, we would go to lengths to make sure the table was somehow more special than the other
20 tables, be it location of the table, maybe MPs or candidates were sitting at the table with them.

When these forms were sent out with the incorrect reference to Prospect, you'll see the amount of 5,000 handwritten into the last box for the very, very important table.---Yes.

And that amount appeared, did it not, on many of the reservations that were sent out before the dinner?---That we got back?

30 No, no, the ones that were sent out already had, somebody had written in 5,000, hadn't they?---Before, what, before the dinner?

Mmm.---No.

No?---No.

I see.---Or not that I know of.

40 Do you know how the figure 5,000 appeared there, who put it in?---No, I don't know.

You don't know. Okay.---I wouldn't sent out a form which is pre-filled of what, which table you're - sorry, which table you're buying.

Mr Robertson, you may be able to clarify this matter. Do you understand what the position was?

MR ROBERTSON: In terms of whether the Prospect campaign account was identified?

THE COMMISSIONER: No, just whether this form had been used with \$5,000 - - -

THE WITNESS: Pre-filled.

10 THE COMMISSIONER: - - - inserted into it at an earlier point in time before the dinner.

MR ROBERTSON: It's a matter I want to address with a series of witnesses.

THE COMMISSIONER: I see. All right. Well, we'll leave it then.

MR ROBERTSON: It's a matter that may be of some contest.

20 THE COMMISSIONER: I'll leave that till later than. Now, I'm sorry, Mr Dixon, I interrupted your flow.

MR DIXON: No, thank you, Chief Commissioner. Mr Cheah, do you know, when is the first time you saw the \$5,000 entry in a box on a form related to this event?---Would have been when the forms that I were checking that corresponded to the 100,000.

30 And when, to the best of your recollection, when was the form amended prior to the event to remove the reference to the Prospect campaign account?---Within a week of the event or maybe a few days. Once, once the, once the error had been picked up it would have been corrected straightway, so - - -

40 Was it of any concern to you when you received the forms along with the \$100,000 that they were old forms that hadn't been corrected? Did you pick that up?---I didn't pick it up. To be honest, I was mainly focusing on the names and the addresses and making sure that these people were on the electoral roll. It's, like I mentioned before, it's, it sounds very simple, but people spell their names differently as to how they are on the electoral roll. Chinese names, English names, or in other cases, Arabic names, and so forth. Then they don't put the right address. They might put a business address, which is not where they're enrolled at. So it does take a little bit of detective work sometimes. So that's, that was my main concern, checking the forms.

And did you play any role in distributing the forms in the week before the event?---No.

Which forms, if any, did you have in your system if anyone asked you for any forms?---I would have had the most updated, corrected version.

Now, if we could go to Exhibit 160, which is Mr Cheah's witness statement, and go to page 1, please, which is the second attachment. Mr Cheah, do you see the diagram that you made for the purpose of your statement here?

---Yes.

10 Now, you gave some evidence that there were partitions, which are indicated, I think, with the lines that separate your desk from other desks. How high, roughly, were those partitions?---In centimetres, maybe - - -

If you just indicate with your hand as you're sitting there, so - - -?---If that's the desk, then maybe that high.

THE COMMISSIONER: So what are we talking about, about - - -?---The partition.

20 - - - about three metres high, or - - -?---No, no, no, from, from the desk.

Oh, I see, from the desk. That'll be just over a metre, wouldn't it?---Yeah.

All right.---I guess.

MR DIXON: So was it the case, if you stood up, what could you see, as far as the desk next to you goes?---You'd see the top of the partition probably. So you can't really see - it's, it's, it's obscured, it's an obscured view if you're standing up, looking at someone else's desk.

30 Now, who sat across from you in that diagram? The word "desk" appears directly across from yours. Who sat there?---I think at the time Sarah Coward sat at that desk.

And who sat to the right of you as you were facing your workstation, at the end?---That was empty, I think.

And to the left?---To the left was Blake Mooney, as I already said.

40 And just working around clockwise, who sat at the end, on the left?---That would have been Zach Alexopoulos, at the time.

Sorry, could you say that name again?---At the time Zach Alexopoulos.

And in the remaining desk, at about 7 o'clock from where you are?---I think that was empty. But there was a lot of hot desking at the time, so it's a bit hard to keep track.

Now, you had the, as I understand your evidence, you had the cash arranged on your desk, is that correct?---I had the bag of cash on my desk, yes.

And did you take the cash out of your, out of the bag?---I took it out bit by bit for counting purposes.

Now, you gave some evidence that other people saw the cash on your desk. Why do you say that? Why do you say that people saw it?---Where I sit, you can see it's right next to the corridor where people have to go to get to
10 either the boardroom or the assistant general secretary's office or the general secretary's office. And there's also, I didn't put in the diagram, but in front of each office, there's also a, a desk or a partitioned desk for their respective executive assistants. So as they go in and out, or people go in and out from meetings, they would walk past my desk.

And was the day in question where you were counting the money, was that a typical day where people were doing what they normally would do in that circumstance?---A normal day where people walked past to get, to do their, their usual work.

20

Now, you say at paragraph 28 of your statement that when you left, a comment was made to you to be careful with the money, do you recall that? ---Yes.

How many people were standing in the group at the time?---I'd say three or four.

And other than the, I think you identified the assistant general secretary, are there any other people you recall being in that group?---I can't recall
30 specifically who was there. I can recall shapes of people, so to speak, so, which leads me to believe there were three to four people there, but only because Kaila said to be careful was the, is the reason that I remember.

And where was the money at that stage?---It was on my desk or about to be picked up by my hands to take home.

And in what form did you take it home?---I took it home in the plastic ALDI bag as I have mentioned before.

40 And did you go straight home that night?---I went to buy groceries at Coles Lane Cove.

Coles?---Coles Lane Cove. I don't shop at ALDI, which is why the ALDI bag stands out to me. Because I don't shop there it looks different. It's bright and yellow.

Now, you said in your evidence that it was possible that the cash remained at your house for two nights. You recall giving that evidence?---Yes.

Now, have you had a chance to reflect on that? Just for the purposes of, for the benefit of the Commission could you just give your best evidence as to what you say happened to the money in terms of how long it was at your house for?---I, I think I brought the money home for one night only. The reason why I don't think I brought it home for two nights is that I would have remembered quite clearly, as I do on the first night, what I did with it the second night as well.

10 And - - -?---I don't, I don't bring home, like, that amount of cash often so I would know, I would remember what I would have done.

And what did the cash do when it was in your house? Did you do anything with it?---I didn't open the bag at all because I didn't want to lost anything.

And how did you return it to the workplace?---In the same bag the next day. Drove to work.

20 And what eventually happened to the bag out of interest?---Eventually it would have been submitted with the money to Finance.

If we could go to volume 1, page 12. It should be the letter of 19 December of 2016.

MR ROBERTSON: My friend might mean 1A.

MR DIXON: I beg your pardon. I do indeed.

30 MR ROBERTSON: I think my friend is looking for volume 1, page 6 perhaps, forming part of Exhibit 149.

MR DIXON: I thought it was page 12. Page 6.

MR ROBERTSON: There's two responses.

MR DIXON: I beg your pardon. Yes. Thank you. Now, Mr Cheah, you see that this was the questionnaire attached to a letter submitted by the general secretary on 19 December, 2016.---Yes.

40 And in question 1 it asked, "Please provide the name or names of persons who handed the donations to the ALP on 9 April, 2015." The response there is "Kenrick Cheah". Do you see that?---Yes.

If that question were asked of you what is your response to that?---It's incorrect as I was the person who received, who received the money from Jamie so I was not the person who brought the donation in.

And what would your response be to that?---It's untrue, it's not true.

No, but what's your response to the question?---Oh, Mr Huang would have been the person who would have brought the donations in.

Now, you were asked some questions, including from the Chief Commissioner, about Mr Huang collecting money in Chinatown and then delivering it to the ALP offices. Do you recall that this morning?---Yes, yes.

10

And this was in relation to an answer that you gave in the course of an earlier examination. Do you recall that?---Yes.

So could you just explain to the Commission what your sum knowledge of was in respect of how Mr Huang came about acquiring the \$100,000?---I've got no knowledge of how the money was collected or what happened to the money before it reached our office and came into my possession.

20 And other than Mr Huang being of Chinese extraction or nationality, what if anything alerted you to there being any connection between the Chinese Friends of Labor dinner on 12 March, 2015 and the receipt of the \$100,000? ---The only common thing is the forms are the same, the same reservation form is used or same disclosure form is used.

Other than the disclosure form being the same, is there anything else that in your mind connected the receipt of the \$100,000 with the event on 12 March, 2015?---Unless you want to draw inference that Mr Huang is Chinese and it was a Chinese Friends of Labor function, but - - -

30 Now, just a final question. Mr Lawrence today asked you some questions in respect of his client. He put to you that you were using Mr Clements as a quote, "convenient scapegoat." Do you recall that?---Yeah.

What do say about an allegation that you were using anyone, including Mr Clements, as a scapegoat in respect of this matter?---I have never used anyone as a scapegoat. I have no reason to use anyone as a scapegoat. There's nothing untoward about any part of my involvement in this.

40 Chief Commissioner, that's the re-examination.

THE COMMISSIONER: Thank you, Mr Dixon. Mr Robertson.

MR ROBERTSON: There's some matters of clarification that arise out of that line of questioning. In answer to one of the questions you were asked by your counsel, you said, at least according to my note, that you had no input as to where the money is allocated. Do you remember that?---Are you referring to Country Labor or NSW Labor?

That's what I understood you to be referring to when you used the phrase, "No input to where the money is allocated." Did I get that right?---Yes.

10 But you at least gave advice to Ms Jenny Zhao that of the \$100,000, \$50,000 should be deposited in NSW Labor and \$50,000 should be deposited in Country Labor, didn't you?---Yeah. So to clarify what, the difference, the decision of where the donations from a certain event go to, I am not part of that process. Once that decision gets made I am the person who quite often has to tell Finance donations from this event go to Country Labor or donations from this event go to NSW Labor.

So just to be clear about that, as I understood your evidence in response to my initial segment of questions is that in advance of any event there's an understanding or direction, that was your phrase, given as to where money is to be allocated for a particular event. Is that right?---Sorry, where's the question in there?

20 Sorry, I'll start the question again. As I understood your evidence in response to questions I asked you yesterday, in advance of any event like a Chinese Friends of Labor event, there is an understanding or direction given at head office as to where the money for that event is allocated. Do I have that right?---Yes, yes.

And is it your evidence that you have no input into that understanding or direction? Is that what we understand your evidence to mean?---Yes.

30 But that understanding having been arrived at or direction having been given, you accept that you might then give advice to for example the Finance Department - - -?---I convey that - - -

- - - as to what that understanding or direction is. Is that right?---I convey what's been decided to Finance so that they can bank it in the right account.

40 And then if we can just look at that tangibly, if we can go, please, to page 190 of volume 2 of the public inquiry brief, which is an email that I showed to you yesterday, Mr Cheah, page 190 of volume 2. I neglected to tender this yesterday, but I will formally tender it in a moment, so it's available to all. Do you recall, Mr Cheah, that I showed you this email yesterday? ---Yes.

And you would accept, wouldn't you, that you advised Ms Zhao that \$50,000 of the 100,000 should go to the state campaign account, and the other 50 to Country Labor, is that right?---Yeah, as, yeah, as we just said.

And is the effect of your evidence a moment ago that it wasn't your decision that half of the money should go to NSW Labor or half should go to

Country Labor, that it's something that had been set in advance, is that the effect of your evidence?---It was set by someone else.

And when you say someone else, who set that in the case of this sum of money for the Chinese Friends of Labor event?---I don't know about this sum of money, but it would have been probably either the general secretary or the assistant secretary on those occasions, on every event that we have.

10 But in relation to this particular event in 2015 when Mr Clements was the general secretary and Ms Murnain was one of the two assistant secretaries, are you saying you were given some direction by either of those individuals as to where this money should be allocated?---Like I said yesterday, I think – can you repeat the question again, so I can give you a clear answer?

I'm just trying to understand whether you're saying that Ms Murnain, Mr Clements, or someone else gave you a direction that led you to advise Ms Zhao that 50,000 of the 100,000 should go to the state campaign account and the other 50 to Country Labor.---I would have been given direction in terms of that because, like yesterday when we talked about the caps on the forms and, and how much people can donate?

20 Yes.---So - - -

THE COMMISSIONER: And is - - -?---Yes?

Sorry, go on, go ahead.---So, if someone wanted to donate 5,000, and 5,000, then it would be logical for five to go to the state campaign account, which would take it up to the maximum, and the other half to go to the other, Country Labor, vice versa. I, I, I get what you're getting at. Was I given specific instruction on where to bank, or where to instruct the Finance team to bank the money? I don't recall being specifically told, you know - - -

30 MR ROBERTSON: Well, I'm just trying to understand what the understanding or direction if any was in relation to the 2015 Chinese Friends of Labor event. Can you just explain what that understanding or direction actually was, in relation to the money for that event?---For that event?

40 Yes.---So, generally, in a period of time at a fundraising meeting, the general secretary or the assistant general secretary may say, okay, all of our fundraising efforts for the next X amount of time have to go to Country Labor, for whatever reason, or, or NSW Labor, for whatever reason. So the Chinese Friends of Labor one would have been most likely lumped into that. So, I don't think there was a specific, Chinese Friends of Labor goes to X account. I think it's an understanding that we arrived at earlier.

But it can't have been the case that there was an understanding that it would all go to the Country Labor account or all go to the NSW Labor account,

could it, because you said to Ms Zhao, your advice to Ms Zhao was to split it 50/50, 50,000 into one account and 50,000 into the other.---Only because those people would have reached the cap, their individual cap.

10 So are you saying that your logic, to use your term, arose in relation to these particular donations? In other words, because it appeared that some of these individuals wanted to donate more than \$5,000, you deduced that one set of \$5,000 should go into the state campaign account and the other should go into the Country Labor account, is that how we understand - - -?---I can't recall if I deduced that or if I was instructed to is the honest answer.

20 But the particular decision and the particular reason for your advice to pay \$50,000 into Country Labor and \$50,000 into the state campaign account, do I take it, was not because of any pre-existing understanding or direction in advance of the event but rather because you had a look at the forms and you saw that there were two forms for a number of the individuals and you deduced from that that you should advise Ms Zhao to put \$5,000 for each of those persons into the state campaign account and \$5,000 into the Country Labor account, is that how it worked?---Yeah. In context, a lot of donations that come from the corporate sector or from, I think from unions as well, they donate to both, the, they, they donate to the maximum amount for both NSW Labor and Country Labor. So to me it looked like that.

30 But I'm not talking about those donations, I'm talking about these particular ones and I've shown you some examples and others have shown you some examples, Jonathan Yee, May Ho Yee and others. I'm just trying to understand why it was you advised Ms Zhao to deposit half of the money in the state campaign account and half in the Country Labor account, and it sounds like it wasn't because of any understanding or direction that was given in advance of the event on 12 March, 2015, is that right? Rather, the reason you gave the advice was that you saw that these individuals weren't entitled to donate \$10,000 to one of the two political parties, you'd have to split it between the two, is that right?---I wouldn't say split it because they'd already filled out two, two forms, one for \$5,000 and another for \$5,000, that's two separate forms.

40 And is it right to say that because there were two forms, you drew the inference that – I withdraw that. Was it the case that because you saw two forms, you then thought it was appropriate to have one of the \$5,000 deposited in the state campaign account and the other one in Country Labor account?---I don't recall if I was instructed do that or whether I drew the inference.

Is it right to say you don't have any specific recollection of an instruction to that effect?---I don't have a specific recollection of an instruction or an inference from, that I sat there and made myself.

But is it at least right to say that the reason you advised Ms Zhao to deposit the money in the fashion identified in the email that I showed you a moment ago was either you deduced from the fact that there were two forms that the donor wanted to donate \$5,000 to NSW Labor and \$5,000 to Country Labor or alternatively you were given a direction from someone to take that course, is that right?---Right. One of the two.

10 And to be clear about that, if you were drawing that inference, is that because you thought that it must have been the intention of the donor to donate \$5,000 to NSW Labor and \$5,000 to Country Labor?---Yeah. If I was given the instruction then I – yeah, that’s right.

I’m not talking about the instructions at the moment. I think you’ve given us two possibilities as to why you gave the advice to Ms Zhao, one is that you’ve drawn that, you have drawn that inference from the fact that there’s two forms, is that right, that’s one possibility?---It’s a possibility.

And another possibility is that there was a direction, is that right?---Yes.

20 Focusing on the first of those, that you may have drawn an inference about it, is what you’re saying that having two forms each for \$5,000, you’d draw the inference from that that the donor wishes to donate \$5,000 to Country Labor and wishes to donate \$5,000 to NSW Labor, is that right?---I wouldn’t come to a hundred per cent conclusion but I would be drawn to that, to that line of thinking but I would probably qualify that by checking with a superior.

Well, do you have any recollection of checking this particular one with a superior?---No, I don’t. That’s why, what I’ve said before.

30 I’ll just have that email back on the screen. You were asked a few questions a moment ago about the number of the forms that you had when you received the money from Mr Clements but do you see that Ms Zhao has referred to a further additional form from Sydney Today Pty Ltd?---Yes.

Now, is it the case that you’re quite sure that there were only 20 forms accompanying the money that Mr Clements gave you?---Yes.

40 Or is it possible that there was 21?---I am, I am sure that there were only 20 forms.

And if we can just turn the page, please. Can you see there an email with a subject heading “Could you please come to my office when you get a minute thanks”?---Yes.

Can you see that’s dated the next day, 10 April, 2015?---Yeah.

Do you recall whether you did come to Ms Zhao's office on 10 April, 2015 in response to that email?---I, I don't see why I wouldn't so, yes.

Do you have any recollection as to what the discussion was with Ms Zhao in response to that particular email?---No. It could be any number of things.

10 But you have no specific recollection as to what you may have discussed with Ms Zhao on 10 April, 2015. Is that right?---I have no specific recollection. It could be something as, as, for example, it could be about my phone bill account or something like that. I don't have a specific recollection.

If we just go back one page and I just want to make sure I understand this and I'm sorry I'm asking you lots of questions but I want to be very clear about your evidence on this. You're aware as at April of 2015 that there were caps on donations to political parties?---Yes.

20 And is that the real explanation as to why you advised that \$50,000 should be deposited to the state campaign account and \$50,000 should be deposited in the Country Labor account, on other words, ALP accounts couldn't show someone donating \$10,000 as distinct from \$5,000. Is that the real reason? ---They can't because it's illegal.

Yes. But what I'm suggesting to you is that that's a decision that you made to split it up in that fashion and it wasn't based on any understanding of what the donor actually wanted to do?---No, I don't, I don't, I don't accept that. If, if someone's asked to donate an amount of money to Labor or Country Labor they would get told to ask first, are you okay with- - -

30 By you? I'm sorry. Keep going.--- - - -are you okay with – you can't donate X amount of money, it's too much. Are you okay with half of it going to NSW Labor, half of it going to Country Labor?

So did you ask any of the donors the subject of the forms that Mr Clements gave you that question?---I wasn't in contact with any of the donors about that.

40 So how did you know that any of these donors were interested in donating any money to Country Labor?---By deduction I think I must have been told.

So that's not an inference that you would draw yourself just on the basis of there being two forms. It's one that you would have been, it's something that you would have been told by someone. Is that right?---I'm not, I'm not senior enough to make that kind of decision on behalf of someone else.

So let me be clear about that, then. If the only information that you had was that one person had signed two reservation forms for the Chinese Friends of Labor dinner in 2015 and you've seen an example of that form on a number

of occasions, if the only information that you had is that that person had signed two copies of that form each identifying \$5,000, you wouldn't take it upon yourself to say, well, obviously they wanted 5,000 for Country Labor and 5,000 for NSW Labor?---No.

You would require some other information to come to that view?---Yes, definitely.

10 So, for example, some indication from the donor that although the form itself doesn't have the words Country Labor on it, it was actually their intention to donate some money to Country Labor. Correct?---Right.

Or some direction or indication from someone senior to you within head office to say Mr Jonathan Yee, for example, was intending to donate 5,000 to Country Labor and \$5,000 to NSW Labor. Is that right?---Yes.

20 You were asked some questions about various points of contact between Labor Action Committees and ALP head office. Do you remember that?
---Yes.

And I think you said there are a series of points of contact, for example someone might not call you, they might call the general secretary or the assistant general secretary.---That's right.

But it's at least right, isn't it, that part of your role at NSW Labor is to be the principal point of contact in relation to Labor Action Committees?
---That's, that's the intention, yes, but that - - -

30 It's the intention, it's not always followed in the real world.---It's not always followed by the Labor Action Committee people, who sometimes call people that they know directly or have personal relationships with or, or feel like it's something they want to escalate very fast.

40 But you're at least supposed to be the principal point of contact and the, I've used the word conduit or perhaps go-between, between head office and Labor Action Committees?---I'd say liaison between Labor Action Committee people concerning Labor Action Committee matters. That's not to say that for example the head of one of the other Labor Action Committees may want to talk about some branch matters with the executive officer and then at that point the conversation sways into Labor Action Committee - - -

I'm not suggesting for a moment that absolutely every - - -?---I'm just giving you a context.

I'm not suggesting for a moment that absolutely every contact between Labor Action Committees and head office goes through you, but what I'm

suggesting and I think you're accepting this, is that you're at least supposed to be the principal point of contact.---I am supposed to be.

According to my note, in answer to question about whether you know that Mr Huang Xiangmo was associated with a property developer, you said this morning, "Yes, but I think I was found to be mistaken on that by the emails." Do you recall that?---Yes.

10 So do we take it from that, that now having reviewed the emails, you realised that you knew in April 2015 that Mr Huang Xiangmo was associated with a property development company?---Yes.

You were asked some questions about whether you had the \$100,000 in cash at home for one or two nights, and I think in answer to some re-examination questions you said it was probably one night rather than two. Is that right?---I'm quite sure it was one night only.

20 Well, is that the case, are you now quite sure or is it possible that it was two nights?---I'm very, I'm very, very sure it would have been one night and - -

So having reflected on it you're now quite sure that it's one night, not two? ---And just my reflection being that if I had brought it home for two I think I would have remembered what I would have done with it the second night as clearly as I remember what I did with it the first night.

30 Before I forget to do it, I tender the email exchange between Ms Zhao and Mr Cheah on 9 April, 2015 and 10 April, 2015, being pages 190 and 101 of volume 2 of the public inquiry brief.

THE COMMISSIONER: The two emails between Ms Zhao and Mr Cheah 9 and 10 April, 2015 will be admitted and become Exhibit 167.

#EXH-167 – EMAIL FROM JENNY ZHAO TO KENRICK CHEAH TITLED ‘COULD YOU PLEASE COME TO MY OFFICE WHEN YOU GET A MINUTE? THANKS’ DATED 10 APRIL 2015

40 MR ROBERTSON: Can we please have volume 5, page 32 of the public inquiry brief on the screen, which forms part of Exhibit 152. I'm going to put an example of one of the forms up on the screen, Mr Cheah. You were asked some questions about whether this form could be used both for what I've described as table money, in other words, buying seats and tables at the Chinese Friends of Labor event, whether you could also use it for the purpose of a donation. Do you remember that?---Yep.

And I think your answer was you could use it for both of those purposes?
---Yes.

Or at least that was the intention.---Yes.

And that's what's identified by the italicised word, "I am unable to attend but would like to make a donation."---Yes.

10 Now, I take it that signing a form of this kind is not the only way that someone from the Chinese community could make a donation to NSW Labor or Country Labor. In 2015 they could have for example come to head office to make a donation. Is that right?---If they did that they would still have to fill out some kind of disclosure form.

And when you say some kind of disclosure form, it's not necessarily this piece of paper or a piece of paper saying chief financial officer presents NSW Labor Launch?---Not necessarily.

20 But there would be some other form that they would be expected to sign. Is that right?---They would, they would, no money would have been accepted without them signing a disclosure form of some description.

But all I want to make clear is, if one wanted to make a donation in say April of 2015 who happened to be from the Chinese community, they would have to sign a disclosure form. Correct?---Yes.

But not necessarily a Chinese Friends of Labor presents NSW Labor Launch form?---Yes.

30 Is that right?---Yeah.

That's all for me, Commissioner.

THE COMMISSIONER: Yes, thank you. Is there any reason why Mr Cheah shouldn't be excused?

40 MR ROBERTSON: In my submission you wouldn't yet excuse him from his summons because it may well be that other evidence will emerge in the course of the public inquiry that requires further examination.

THE COMMISSIONER: Mr Cheah, you heard what's said. The summons that you're here under will continue to operate. It may or may not be that you will be troubled again about coming back, but you'll be given due notice if you are required. Thank you for your evidence. You may step down.---Thank you.

THE WITNESS STOOD DOWN

[3.06pm]

THE COMMISSIONER: Yes, now, does that complete today's - - -

MR ROBERTSON: The next witness is Mr Tong. I'm not in a position to call him now because we require an interpreter. So 10.00am tomorrow, if the Commission pleases.

10 THE COMMISSIONER: He's tomorrow morning. Yes, very well. That being the case then we'll adjourn and resume at 10.00am tomorrow.

MR ROBERTSON: Thanks, Commissioner.

AT 3.06PM THE MATTER ADJOURNED ACCORDINGLY

[3.06pm]