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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC  
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION AERO

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 28 AUGUST, 2019

AT 2.00PM

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

THE COMMISSIONER: Mr Robertson.

MR ROBERTSON: I call Kaila Murnain.

THE COMMISSIONER: Yes, thank you. Just take a seat there if you would. Now, Mr Neil, do you have any application to make?

10 MR NEIL: I do, if it please. The provisions of sections 37 and 38 of the Independent Commission Against Corruption Act have been explained to Ms Murnain. She, being a person who has been summoned to attend and appear before the Commission at this public inquiry, objects to answering any question asked of her in this public inquiry on such grounds under section 37(2) of the ICAC Act as it may be available to her and she asks for a declaration under section 38 that all answers given by her in this public inquiry be taken as having been given on such an objection by the - - -

THE COMMISSIONER: And insofar as she may be required to produce documents or other things, similarly she wished the declaration to apply?

20 MR NEIL: She makes the same objection and asks for the same declaration.

THE COMMISSIONER: Very well, thank you. Would you mind just putting on the record your name, so that we've got it.

MS MURNAIN: Kaila Leah Murnain.

30 THE COMMISSIONER: Ms Murnain, the provisions of section 38 of the Independent Commission Against Corruption Act have been explained, I'm told, by Mr Neil and you have an understanding about those provisions?

MS MURNAIN: Yes, yeah.

THE COMMISSIONER: Thank you. Do you wish to take an oath or an affirmation to give evidence?

MS MURNAIN: An affirmation.

40 THE COMMISSIONER: Thank you. Would you mind just standing and my associate will administer the affirmation.

THE COMMISSIONER: Thank you. Just take a seat. Ms Murnain, in relation to the declaration sought under section 38, you understand that as a witness you must answer all questions truthfully? You need to respond so that it's recorded on the transcript.---Yes. Yes, Commissioner.

10 And insofar as you may be required to produce any documents or other items, you are required to do so. But again, under a declaration made under that provision, you do have the protection, that is to say that any answers given or documents or items produced can't be used against you in other proceedings in the future – such as criminal proceedings, civil proceedings, administrative proceedings or disciplinary proceedings – but nonetheless that protection doesn't extend to an offence under the Independent Commission Against Corruption Act, such as an offence of giving false or misleading evidence. Do you understand that?---Yes.

20 So the evidence could be used in the event of proceedings that are concerned with an offence under this Act but otherwise you have the protection of the provision. You understand that?---Yes.

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

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**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS, MS MURNAIN, AND ALL DOCUMENTS AND THINGS PRODUCED BY HER DURING THE COURSE OF HER EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION. THERE IS ACCORDINGLY NO NEED FOR HER TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

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THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: Ms Murnain, you are the General Secretary at the Australia Labor Party NSW Branch, correct?---Yeah.

You're also the General Secretary of Country Labor, correct?---Yes.

You've held those dual roles since towards the start of 2016, is that right?  
---Correct, yeah.

And you were acting in that role during January of 2016 but was formally elected in February of 2016, is that right?---Yes.

10 And you succeeded Mr Jamie Clements in the role as general secretary, is that right?---That's correct, yep.

As general secretary, you're also a member of NSW Labor's Administrative Committee, is that right?---Yes.

At the time that you succeeded Mr Clements and general secretary, you were one of two assistant general secretaries of NSW Labor, correct?---Yes.

And the other one was Mr John Graham, is that right?---That's correct.

20 And that role of assistant general secretary, you had since about September of 2013, is that right?---Yes. I think so.

At least roughly speaking, about 2013 was when you first had that role, is that right?---Yes, that's correct.

30 Can you just explain to us, what was the division of responsibility as between Mr Clements and general secretary on the one hand and between the two assistant general secretaries on the other?---Well, the rules go a great deal into this. The general secretary is largely responsible for the Labor Party and its administration, particularly in between the meetings at the party offices, the administrative committee and the conferences. The assistant secretaries, as was frequently reminded of me when I was the assistant secretary, is to assist the general secretary. The left assistant secretary, or one of the assistant secretaries, John Graham that you spoke of, the position back then, there were no written formal divisions except by way of responsibilities that may have evolved over time. So during the campaign typically I would look after the – or my role as the assistant general secretary would be to look after the marginal seat campaigns and the organising structure around the organisers and he would, John Graham  
40 would look after the how to votes and the left of the party essentially.

And is it fair to say that the division at least as between the two assistant general secretaries was more done on an ad hoc-type basis rather than having particular portfolio areas, is that the effect of what you're saying?  
---Yes, yeah.

Is it the case that you didn't have particular portfolio areas, for example did you have a general responsibility for matters such as fundraising and

financing when you were assistant general secretary?---I, my responsibilities to that were limited to the fundraising. I would participate in the Fundraising Committee meetings. If Jamie wasn't present for those I would obviously attend that and chair it. I would encourage MPs and candidates to fundraise and, but overall the general secretary would make sure that there was enough money for a campaign, just as I would now as the general secretary.

10 But would it be correct or incorrect to say that whilst you were assistant general secretary under Mr Clements you were in charge generally of fundraising and finance?---I wouldn't characterise it like that, no. I would say that the general secretary would largely be responsible for those things and checking those things, unless he gave that task to someone else in the office, including me.

20 But it's right to say, isn't it, that you had at least some involvement and responsibility in those areas, but I think I understand you to be saying you didn't have a general responsibility or being in charge of those two areas. Is that fair?---Yes, unless I was obviously asked to by the secretary.

But you weren't asked generally in relation to – I withdraw that. You weren't asked by Mr Clements to generally take responsibility for fundraising and financing. Is that your evidence?---No. Yeah, not to the best of my recollection I don't believe he did.

Well, focussing in particular on the year 2015, so we'll call it the year ended 30 June of 2015, would it be right to say that you were in charge of fundraising and financing?---I wouldn't have characterised it like that, no.

30 But when you say I wouldn't have characterised it in that way, does that mean you had some involvement in those areas but you wouldn't regard yourself as being in charge of them. Is that right?---Yes, that's correct.

40 Can you just explain in general terms what a Labor Action Committee is within the context of NSW Labor?---Labor Action Committee is an organisation that would frequently run fundraisers for the party but would also run policy events, they would pursue agendas based on the organisation's make-up, so they might be a particular policy area that they want to pursue or what is more frequent with these groups is they're organised around different culturally and linguistically diverse communities.

So can I just focus on the fundraising aspect of Labor Action Committees. Is that an activity that is organised and controlled by them, and at the moment I'm talking about in the year 2015 when you were assistant general secretary, or is that a matter that is principally controlled at the head office end?---My understanding was that the Labor Action Committees largely ran themselves at that time. Obviously it is different now, there have been changes to the rules that have occurred, but back then they would run their

own fundraisers and they would run their own accounts even. There would be some involvement from party office, but we didn't run those organisations, they're largely, I would say autonomous back then.

10 So at least as at 2015, if a Labor Action Committee wanted to run a fundraising event, was it expected that they'd obtain approval from head office or is it a matter that they were permitted to do without getting approval from head office?---They were permitted to do without getting approval, to the best of my memory, but they, they would obviously tell us.

So far as you're aware was there any written policy in 2015 as to matters of that kind?---No.

Are you saying there was not a written policy or you can't remember, you don't know one way or the other?---I don't know one way or the other, back in 2015 I don't know, but I, I, I don't believe so but I don't know.

20 You mentioned a moment ago that Labor Action Committees in 2015 may have their own accounts.---Yep.

By that do you mean bank accounts?---Correct, yeah.

And does it follow from that, that at least as at 2015 it was open to Labor Action Committees to run fundraising events for their own benefit as distinct from for the benefit of NSW Labor campaign account, Country Labor campaign account or perhaps the federal party account?---Yes.

30 Was it also permitted for Labor Action Committees to run events where money would not be to the benefit of any of those accounts that I identified but perhaps for the benefit of some other entities not related to the Australian Labor Party?---I, I couldn't tell you for certain, but certainly back then because they ran their own accounts, or some of them ran their own accounts, they could have spent that money on anything that they wanted so they might have had events that they were holding, but certainly there was a, there could have been occasion where money would have gone to other, other organisations or to pay for things.

40 Was that something that was permitted as at 2015 or was it more in the nature of something that may just have been tolerated rather than positively permitted from a head office perspective?---I think it wasn't permitted. It was, it was tolerated but I don't think there was a knowledge that, of what they were doing until, until later.

So you're suggesting, are you, that there may have been a practice that was tolerated, or at least that was going on, of money associated with Labor Action Committees ending up elsewhere, but isn't something that was necessarily known at head office until some later stage, is that right?---Yes, I think so, yeah.

And you've drawn attention - - -

THE COMMISSIONER: But there must have been some limits, surely. If funds were raised in the name of the Labor Party, they couldn't be spent for, the funds raised couldn't be spent for extraneous purposes?---You wouldn't want that, no, and that would not be tolerated, but they might have held other events that weren't related to the party. So they might have paid for a lion dance for Chinese New Year, for example, or, you know, Greek Friends of Labor holds events for Greek Independence Day and things like that so, that are not necessarily related to the Labor Party but they run those events.

Yes, but if funds are raised, as it were, in the name of Labor, you'd expect, would you not, that the moneys would not be spent on extraneous matters but would be legitimately used, for example, to defray expenses associated with a fundraising event and things like that?---Yes. With events - - -

There's got to be some nexus or connection surely with the Labor cause. Is that right?---Yeah.

MR ROBERTSON: But is the effect of what you're saying that you now know that at least in times gone by there were Labor Action Committees who may have run events but money from those events not ending up in an Australian Labor Party bank account. Is that the effect?---Yes.

And that's one of the reasons for some of the changes that have been made in terms of donations policy at NSW Labor. Is that right?---That's correct, yes.

And so does it follow from that that at least as at 2015 there may have been examples in which a Labor Action Committee may have run an event where some of the money has ended up in an Australian Labor Party or Country Labor Party bank account but some of it may have ended up in some other bank account?---It is possible that that has happened.

And if I understand what you're saying correctly, it wasn't expressly permitted at a head office level but it may well have been going on and, if not tolerated, then at least occurring without intervention from the head office level. Is that fair?---Yes.

And so it's quite possible, isn't it, that at least as at 2015 there may well be events where some money has ended in Australian Labor Party or Country Labor Party bank accounts but some may have ended up in an account completely unrelated to the Australian Labor Party or County Labor. Correct?---Yes.

Still focusing on 2015 and fundraising by Labor Action Committees, did head office have any particular involvement in matters such as handling of

money, processing of money and decorations?---Sorry, can you repeat the question.

As at 2015 what involvement did head office have, as distinct from Labor Action Committees themselves, in handling of donation money, processing them and disclosure or declaration forms?---The, if, if the money being raised was for the party, for any of those accounts, the money would be either dropped in by the organisation, so the people who ran it, or they would be, or the money would be dropped in by any number of staff in the office who may have attended that event and the party office would then receive the forms, which it was sort of, it wasn't a written rule at the time, it was an expectation that forms had to be received for money that had come in, and the - - -

Just pausing there. Sorry to interrupt you, but when you're talking about forms, I take it you're referring to disclosure forms identifying the donors of the money. Is that right?---With their address and details, because we wouldn't always have the details of every donor who gives money to the party, so they would, they would bring the money in, they would, there would be an expectation that the group would provide the forms with it or that, or that the person bringing the money in would bring those with them as well, and then that money, as far as – and this is to the best of my recollection – would be that the Accounts team would be given those things and they would process the payment or bank the payment and, and process the form accordingly on our system.

Was there a practice or procedure as to who was responsible for ensuring the donation money would find its way to head office?---I don't think there was a formal procedure, no.

As a matter of practice, though, was there a practice as to who would take responsibility, in particular whether it was a Labor Action Committee person or a head office person?---I think it varied, depending on the event, but certainly I mean if, if Kenrick Cheah was at the event he would bring the money to the party office.

So to be clear about that, was it at least the practice and the expectation from head office level that if Mr Kenrick Cheah, the community development director, was at a Labor Action Committee event, that he would ensure that the money from that event would find its way to head office. Is that right?---Yes. But also I should just say that it would also be the responsibility of those who ran the Labor Action Committee, it wasn't always Kenrick's job, even, even if he was there, so I'm not actually sure whether he did it every single time, but, but it would be an expectation that either him or the people running the group would bring the money into the party.

Well, I'm just trying to understand the details of that expectation, whether there was a specific expectation that a Labor Party head office staffer like Mr Cheah would ensure that the money comes in or whether it was left to the Labor Action Committee itself or whether it was simply unclear and it was hoped that between those two categories of people, the money would end up in head office?---In my view it was quite unclear, but it was a mixture of the two.

10 Was there any procedure in place in terms of the banking of money that might be received at head office, in particular as to what the timing of that banking might be?---I, I actually am not familiar with any, any written procedures. I can speak to the practice, which was that money should be banked as quickly as possible, but I mean I actually don't know if there were actual procedures in place back then.

20 So at least in your capacity as assistant general secretary in 2015 it was at least your expectation, was it, that money that had been received from a Labor Action Committee event would be delivered to Sussex Street within short order and then banked within short order. Is that fair?---I would have liked that, but obviously that didn't always happen.

But at least from your perspective that's what you would expect as assistant general secretary. Is that right?---That would be an expectation.

But I think you're drawing to attention that so far as you're aware there was no specific at least written policy in relation to that area?---That's correct, as far, as far as I'm aware, yeah.

30 THE COMMISSIONER: When you talk about the practice of banking donations, are you talking about it being banked as soon as possible, meaning the next day or - - -?---I couldn't tell you. The next day or if, I mean I'm unsure of how the accounts team would process the forms and the documents, so if it was, it might have taken them time to reconcile.

Subject to the donations being properly processed by Finance, you'd expect the money to be banked as soon thereafter as possible?---Yeah, that's correct.

40 For example, the same day or the next day following completion of the processing?---Yes.

MR ROBERTSON: I've asked you questions about your expectations of those matters in 2015 when you were assistant general secretary. Was that also your understanding of Mr Clements' expectations, who at that time was general secretary?---I'm unsure of what his expectations were at the time.

So to be clear about that, the various answers you've given me as to what your expectations were in terms of matters such as handling of money,

processing of money and declarations and banking of cash, the answers you've given are in relation to your own expectations and is it right to you say you are not sure as to what Mr Clements' expectations were on those matters?---Yes.

Do we take it from that that at least as at 2015, from your perspective as assistance general secretary, there appeared to be a lack of procedures or practices in relation to those areas?---Yes.

10 And does that help explain some of the changes that have been made while you were general secretary?---Yes.

THE COMMISSIONER: And you also said there was a lack of proper accountability prior to the changes being made?---That's correct. The, the end of 2015, the party undertook three different reviews and has undertaken some since as well in relation to procedures on handling donations in particular but also in relation to the way the office is structured. It, it was the case back then that procedures, everyone has a slightly different view of procedures because that's what happens when things weren't written down.  
20 Some, there were some areas of the office that had procedures but obviously governance was a pretty significant issue in 2015, which has been widely reported, and then we proceeded to make a significant number of changes to improve accountability and governance in the office because of those reviews. So there's a number of recommendations, rules, changes and processes that have been put in place since then. We now have a governance director, we banned cash donations over \$1,000. Immediately, in February 2016, we started putting on the website immediate disclosure of large donations, that is anything, I think, over, I'd have to double-check but \$1,000 or \$5,000 and so, and the list goes on. There's a, a whole host of  
30 things we've put into place since 2015/'16 and have continued to try to reform.

MR ROBERTSON: You said a moment ago that there were obviously governance issues in 2015. What are the particular governance issues that you have in mind in giving that response?---Structures of the office. We - -  
-

40 So just pausing there, when you say structures of the office, what do you mean by that?---The, the fact that people had in their heads their roles and responsibilities but nothing was written down that really clearly delineated people's roles that other people would have access to. No one really understood each other's roles other than when they worked with each other to understand it. Obviously donations, income and expenditure was something we had to look at. Expenditure policy, credit cards and I mean there's a whole host of issues that, that I could go through. But John Whelan and Simone Farrar did a significant report on changes to governance in the office as did John Tarrant and David Tierney and they outlined some of the concerns with, not just the governance of the party but

also the party office. It's, it's quite an old organisation and legislation changes incredibly quickly and so it, the part structures and processes hadn't evolved as quickly as that legislation.

I'll ask you about some of the details of some of the changes separately but can I ask you about a specific one. You identified that it's now the policy of NSW Labor not to accept donations of more than \$1,000, correct?---Yeah, that's correct.

10 And do we infer from that that there was no such policy as in 2015, in other words, subject to the caps that applied under the Electoral or at the time there was no relevant policy or rule against accepting cash in particular amounts?---It wasn't, it wasn't practiced and not to the best of knowledge, I don't believe so.

So far as you're aware, in 2015 when the relevant cap on donations to political parties was \$5,700, the party, either party, NSW Labor or Country Labor, would have no difficulty accepting \$5,700 in cash provided that it was associated with a relevant disclosure form, is that right?---Correct.

20

THE COMMISSIONER: Were you involved in the implementation of that policy or the adoption of that policy?---Yes. Yeah.

MR ROBERTSON: And we'll come back to some of the detail of that a little bit later on. I should say subject to any questions that you have, Chief Commissioner, in the meantime. Can I ask you to focus on the Chinese Friends of Labor dinner on 12 March, 2015. You're aware that an event happened on that date?---Very aware.

30 Do you recall whether you attended that event?---That was the day of the how-to-votes. I, I can't recall attending that event. The event was in Chinatown not far from party office. We were in the office doing how-to-votes until about 3.00 in the morning. That's the process whereby you sign off the order of the how-to-votes, your preference order cards. I don't, I don't believe I attended the dinner but obviously it was quite close to the office, so if I did I may have gone for a little bit, but to the best of my recollection I actually didn't go.

40 How much money would you ordinarily expect to raise in a dinner like the Chinese Friends of Labor dinner?---I would only be speculating to be honest. I, I don't know.

Did you have any - - -

THE COMMISSIONER: If I could just add to that. If you assume that there were something in the order of five or 600 people attending that function, does that enable you to estimate or provide a range as to what sort of donation levels might be achieved or are you not able to say?---I, I can

speculate but I don't know what I would have thought at the time because it wasn't sort of, it was a long time ago, but 600 people between 60 and 100 so  
- - -

60 and 100,000?---Mmm.

MR ROBERTSON: Is that a reference to the revenue from the evening or the profit from the evening after expenses, which one?---Oh, that, that would be profit if, but it would depend on the ticket price and I know this is  
10 terrible but I actually don't remember the ticket prices.

You know that the Chinese Friends of Labor dinner on 12 March, 2015 was within a couple of weeks of the state election that year?---Yes.

So is it fair to say that you would ordinarily expect a larger turnout and therefore more fundraising in an election year?---Yes, absolutely, although those dinners are always massive and, yeah, very large.

But you're also aware that both the then federal leader, Mr Shorten, and the  
20 then state leader, Mr Foley, were slated as guests to attend that event?---I am now because of the many photos that have been put up about the event, yes.

And that presumably would increase the likelihood of people attending and therefore the revenue to be earned. Is that fair?---Yes.

Do you recall whether in advance of the event you had any communications with anyone as to what you thought, sorry, what they thought may be raised from the Chinese Friends of Labor dinner?---I, I obviously saw evidence  
30 given yesterday with correspondence that was tendered to the ICAC. If you'd have asked me before that I wouldn't have been able to tell you off the top of my head but obviously there was correspondence that was received.

So let's just go to that document. That's Exhibit 161 which I'll describe as the roadmap document, and if we just turn to the second page of that document for now. We might zoom in a little bit. Ms Murnain, is that the document that you were alluding to a moment ago entitled Roadmap to Dollars Dollars Dollars?---Yes. That's the one I saw yesterday, yeah.  
40

And so does that, having looked at that, does that refresh your memory that you had at least some communications concerning the estimated revenue from the Chinese Friends of Labor dinner on 12 March, 2015?---To be honest I couldn't remember it but it's there and looks fairly straightforward  
so - - -

But having now seen that do you now recall having some communications in relation to that matter?---I, I honestly don't recall it but, but it wouldn't be uncommon.

So it was common, was it, in your role as assistant general secretary to have discussions as to estimated revenue or profit from particular events?

---It was, I think I explained that those fundraising meetings, people were required to report in. This would, this looks like something that would have been something that went to the fundraising meeting. What would typically happen if Jamie couldn't attend the fundraising meetings, I would go to those fundraising meetings and we would talk through people's figures and this, this looks like a document from, from that process.

So do we take it from that, that when you were assistant general secretary you wouldn't generally attend the fundraising meetings. Is that what we take from that?---I would or wouldn't?

Would not, unless Mr Clements was unavailable?---Oh, no, no, I would attend, but Jamie preferred to chair those meetings if he was there, but there would be, I would sometimes not attend as well, other people would attend, organisers, the business communications director and the other, and the, and John Graham as well, I think, actually I'm not sure exactly who used to attend, but yeah, that, that would be the purpose of this.

So just to make sure we understand that, is it right to say that there were semi-regular fundraising meetings at which, if you were available, both Mr Clements and you would attend. Is that right?---Yeah.

And presumably those meetings would be more commonly held or more regularly held in the lead-up to an election. Is that fair?---That's correct.

And perhaps immediately after an election as well, to have an idea as to financial position. Is that fair?---Yeah, that's fair.

And is it right to say that both you and Mr Clements, at least as at 2015, would usually attend those meetings but obviously enough sometimes there will be other commitments. Is that right?---That's right, yeah.

And during the course of those meetings one of the things that might be discussed is estimated revenue for particular events.---Yes.

Is that right?---Yeah. Just to add to that, that these, these figures, so if someone was responsible for certain targets, they, they would then report it through that process and then essentially the secretary would say, yes, that's fine, or no, that's not fine.

But to understand where those estimates come from, if you have a look at the heading that says Main Organiser, it identifies a series of organisations

and individuals. The first one, Ernest Wong/Chinese Friends of Labor, Kenrick Cheah for the Nova Peris-Kneebone dinner for example. Where's the source of the estimated revenue coming from? Is it coming at the Labor Action Committee level or the organiser level or is it coming at some other level?---I'm not sure, to tell you the truth, I'm not sure which way it, whether they've reported in that that's what they thought they could get, or vice versa.

10 Just turn back one page in that document, please. You'll see this is an email that Mr Cheah sent to you in February of 2015.---Ah hmm.

And so that's Mr Cheah reporting to you, isn't it, as to what he described as the roadmap in advance of the state election. Is that right?---Yes, although that's only six weeks before the election, so, but, but yes.

20 But it wouldn't have been unusual for Mr Cheah to be reporting to you as assistant general secretary to give you an idea as to what money is likely to come in, in particular a few weeks out from a general election?---It wouldn't have been uncommon and, and then I would make sure that I reported that then to the general secretary.

30 So do we take it from that, that it wasn't your role to keep an eye on the amount of money that was likely to come in and therefore how much might be capable of being spent in an election campaign, and that was Mr Clements rather than you, is that what we take from that?---Yeah. What he would do is, he would ask me to say draft, you know, I remember he would ask me to draft a budget and then give it to him so that he could then go through it. He used to meet with the organisers one-on-one to give them sort of how much they would be able to spend and he would, he would say yes or not to the targets that people were setting in terms of the money that they thought they could raise essentially.

So do we take it from that, that at least on some occasions you have knowledge of Mr Clements setting targets for particular Labor Action Committees in terms of fundraising?---Yes, yeah.

40 Are you aware as to whether Mr Clements set any target in relation to Chinese Friends of Labor in connection with the election of 2015? ---For Chinese Friends of Labor, I mean I know he would speak, I mean not to the best of my knowledge in terms of a number, but there might be something from one of those meetings, but I just can't remember what it might have been.

But are you saying it was at least not uncommon for Mr Clements to set targets for particular Labor Action Committees. Is that right?---Yeah.

And to engage in at least some communications with Labor Action Committees as to what it should do by way of fundraising, is that fair?  
---Yes. He would have one on one conversations with people like those MPs.

10 In 2015, when you were assistant general secretary, would you ever set any targets of that kind or was that left to Mr Clements?---If, if I sent them out to people or told people about them, it would always be that I checked with him first.

So you may have had in mind a particular target but you wouldn't have communicated that to a Labor Action Committee without Mr Clements' approval, was that - - -?---That's correct.

20 Can we go please to volume 7 of the public inquiry brief, starting at page 31, which are the NSW Labor Rules as at 2015, and I just want to ask you some questions, Ms Murnain, about the structure and organisation of Labor Action Committees as at 2015.---Yep.

I'll come back to the position under the more recent version of the rules but I want to focus on 2015 to start with. So you'll see there the front cover page of the 2015, NSW Labor Rules and you're aware that those are the rules that were in force at least as at March of 2015, is that right?---Yes, yeah.

They've been amended since then, correct?---Yeah, many times, yep.

30 Can we go please to page 73 of that volume of the brief, page 43 of the rules. That will be a PDF, page 73 and this is Exhibit 156 for those working off that numbering. Can you see there, Ms Murnain, a heading Labor Action Committees, about half the way down the page?---I can.

And can you see the objectives that are set out in sub-paragraph A?---Yes.

Now, you would add an additional objective to that, wouldn't you, namely fundraising was an important objective of Labor Action Committees, correct?---I would, yeah.

40 Just have a look at little (b) underneath the heading Charter, "The Administrative Committee may grant a charter for a Labor Action Committee."---Yep.

Do you know whether that was a reference to a charter in a sense of a governing document, maybe a constitution or something along those lines, or was that, at least as a matter of practice, just dealt with as a charter as in a permission to be a Labor Action Committee?---My understanding was that it was a permission to be Labor Action Committee. So they were supposed

to go, if they were a new LAC, to the Admin Committee and they would attach a list of names and, and I've obviously had a bit of time to think about this, but they would normally attach their list of names when they would apply to become a Labor Action Committee. The only caveat to that is some of these Labor Action Committees are outside of the scope of that process because they were set up well before Labor Action Committees were reference in the rules. So some of these organisations have been around for 20 odd years.

- 10 So far as you're aware, does Chinese Friends of Labor have a constitution or other governing document?---Not to the best of my knowledge, not that I, not that I know of at the moment, no.

So at least including as at now, so far as you're aware, there's no constitution or other governing document in relation to Chinese Friends of Labor?---I don't believe so but they, they may have something for you. The only thing I also add is that one of the recommendations from the last conference or the conference before was that we would create a standardised document with a rule, with rules for each Labor Action Committee. The by-  
20 elections and general elections have prohibited us from getting that done but as far as I am aware, I am not, I'm not aware of it, no.

So to be clear about that last point, that's something that the Labor Party has in mind implementing but has not yet implemented, is that right?  
---Correct, yep.

- It's right to say though that in the time that you were assistant general secretary and now as general secretary, Chinese Friends of Labor is recognised as a Labor Action Committee by NSW Labor, correct?---Yes,  
30 yes.

And so to the extent that its charter means permission, it has and continues to have that permission to act as a Labor Action Committee as you understand the position, is that right?---I do until the Administrative Committee would make a decision to withdraw a charter.

But there would be no decision of that kind in relation to Chinese Friends of Labor, as at - - -?---Not to my knowledge.

- 40 It's right, isn't it, that to be a member of a Labor Action Committee one doesn't necessarily have to be a financial member of NSW Labor or Country Labor. Is that right?---Yes, technically. A lot of people are members of these organisations but not actual members of the Labor Party, so what you find is they put their name on the form and they're not on our membership database so the requirement, I'm not sure what the rule is but I'm pretty sure it says you have to have 30 members – is it 30? Is it in there?

Yes, the little (d) towards the left-hand side - - -?---Sorry, 30, off the top of my head, yeah.

- - - first column.---Thank you. That 30 members have to be members also of the Labor Party but obviously you can, you can be involved in these organisations without being a member. And so what you would find is if someone were applying for an LAC they would often send this list of names in and then a whole lot of those people wouldn't be members of the party.

10 Going back to the Chinese Friends of Labor dinner on 12 March, 2015, from your perspective as assistant general secretary, who were the principal organisers of that dinner?---Ernest Wong, Jonathan Yee were the main organisers.

Now, Ernest Wong at that time was the convenor or patron of Chinese Friends of Labor. Correct?---That's right, yeah.

And Mr Yee was the president or chairman of that organisation?---I actually don't know but they were, they ran it.

20

But at least between Mr Wong and Mr Yee they were the principal organisers. Is that right?---That's right, yeah.

What role, if any, did you have in the organisation of that dinner?---The, to the best of my recollection I didn't organise it. It would be discussed in those fundraising meetings that I talked about and I don't know if this was one of them, but from time to time Kenrick and other staff would ask me to ask the general secretary or to ask directly for special guests like our leaders of the party to attend these events. So I would frequently, not frequently but occasionally do that for them, get special guests to attend, and on occasions, but it didn't happen all the time, if they had a booking form it would, it would make it across my desk, but that was quite infrequent. So that, that's the booking form that books the dinner out basically.

30

Sorry, you're talking about a booking - - -?---Mainly to make sure there's no spelling mistakes so - - -

So when you're referring to the booking form, what are you referring to now?---Sometimes there would be like a booking form or a reservation so occasionally that would come by my desk for these functions and I would mainly be checking it for spelling errors so that MPs and others didn't have their names spelt wrong.

40

Can we go then to page 1 of volume 5 of the brief. In fact if we can go to page 3 of volume 5 of the brief, Exhibit 152. When you say booking form, is this the kind of form you have in mind? Here we have an invitation, something that's described as Invitation Chinese Friends of Labor Presents

NSW Labor Chinese Launch. Is that the kind of thing that you're talking about?---The booking forms, yeah.

And so this calls itself a reservation form and you're calling it a booking form. Is that right?---Yeah. They're called all different things basically.

Do you recall whether you had any involvement in signing off on this particular booking or reservation form?---I don't remember to be honest with you.

10

As at 2015 what was the procedure or practice in terms of booking forms for Labor Action Committee events, was there an expectation at Labor head office that those would be received in advance of the event?---Like if, if someone booked to attend the dinner?

20

Yes.---No. I mean I, I don't know what everyone's expectations were. I mean this is the issue with lack of policies that are written down. These would come in at all times, so after the event, prior to the event if they were booking a particular table, or there would be sort of open dinners where people would just show up and then they would fill stuff in later.

Or at least what was your expectation as assistant general secretary insofar as it pertained to booking forms, like the one you can see on the screen? ---That they would be filled in when, when either a booking was made or a donation was made.

Does it follow from that that your expectation at least would be that money and forms should come together - - -?---Absolutely.

30

- - - rather than money first and forms later, is that fair?---Absolutely. Yep.

You mentioned a moment ago Mr Cheah in connection with the dinner. As best you know, what was Mr Cheah's involvement in organising the Chinese Friends of Labor dinner on 12 March, 2015?---I have obviously seen yesterday, so that's - - -

We'll come back to after the dinner.---Yeah. Yeah.

40

I'm focusing at the moment on before the dinner and – well, before the dinner did you have any understanding of what Mr Cheah's role, if any, was in the organisation of the dinner in advance of it occurring?---Only what was reported widely in the media because it's quite a long time ago. But he would be, he would attend, I know he went to the dinner. I don't know what he did while he was at the dinner. He I think gave evidence to that effect but, as to what he did at the dinner, but I, I wasn't aware at the time of his role.

But from your perspective at the time as assistant general secretary, the principal organisers were Mr Ernest Wong and Mr Jonathan Yee, is that correct?---Yes, that's right.

10 But it would at least be fair to say, wouldn't it, that Mr Cheah would have acted as a go-between, perhaps a conduit, between Labor Party head office and the Labor Action Committee itself, is that fair?---On, yes, and, but they would also deal directly with the office as well if they were to meet with us or meet with members of the office or, or drop forms in or money in themselves.

When you say deal with us directly, what individuals are we talking about in terms of direct contact between either of those two principal organisers and people based at Sussex Street?---Anybody in the office, essentially.

Well, presumably it will depend on the particular exercise that we're talking about.---Yes. It would depend on the event, yeah.

20 Well, I'm focusing particularly on the Chinese Friends of Labor event on 12 March, 2015.---Yep. Ah hmm. Yep.

Is it right to say that the principal go-between, not necessarily the exclusive one, but the principal liaison between Sussex Street and Chinese Friends of Labor in relation to the 12 March, 2015 event would be Mr Cheah?---Yes. Between Ernest and Jonathan and Cheah, yes.

30 But you're drawing attention to the fact that it's possible that there were particular communications in relation to the dinner between, for example, Mr Wong and someone else within head office, is that right?---Yes. Yep.

I take it that on the night of the event, if you were there, you didn't take any possession of money yourself?---No.

You didn't take any forms back with you?---No.

Did you have any involvement at all in relation to money or forms on that night?---No.

40 So that was something that, as assistant general secretary, you left to either Chinese Friends of Labor or Mr Cheah, is that right?---Or other staff if, if he wasn't there.

Well, did you specifically task anyone within the paid staff of NSW Labor to take any actions on 12 March, 2015 in relation to money or forms?---On 12 March, I don't believe so, no.

That's something, is it, that was left to either Chinese Friends of Labor or perhaps Mr Cheah, is that right?---Yes.

You now know, don't you, that on 9 April, 2015, \$50,000 in cash was banked into NSW Labor's campaign account and another \$50,000 into Country Labor's account, correct?---Yes, that's correct.

And you're aware, aren't you, that that was recorded in NSW Labor's accounts as being a donation in connection with the Chinese Friends of Labor event, correct?---Yeah, that's correct.

- 10 Did you become aware that there was \$100,000 in cash to be banked on 9 April or 8 April or 7 April?---Sorry, can you ask that question again, sorry. The - - -

When did you first become aware that there was \$100,000 in cash or some other substantial figure of that order that needed to be banked in either or both of NSW Labor and/or Country Labor's bank accounts?---I've obviously seen the, seen yesterday, but I, my, my recollection of that was that I found out that there was a large sum of money that had come into the office that week and I didn't actually remember who had told me or what day that was.

20

So I just want to be clear about this. Let me help you with some dates.

THE COMMISSIONER: Can I, just before you do that, when you say you found out a large amount of money had come in, what are you referring there to, the money had been, a large amount of money had been received or are you saying you found out the large amount of money had been banked? ---A large amount of money had been received I think, yeah, I think.

- 30 MR ROBERTSON: I want to be quite clear about this. Is it your evidence that you were aware that there was a substantial amount of money that needed to be banked, before it was in fact banked?---I, the truth is I actually don't remember what, at what stage I became aware that there was a large amount of money.

It would be a very significant matter, would it not, for the Sussex Street office to receive something in the order of \$100,000 in cash?---Yes.

- 40 It's something that would be unexpected to receive an amount of that magnitude in 2015?---It's out of the ordinary.

Well, has it ever happened before or ever happened since, receiving something in the order of \$100,000 on a single day?---Not to the best of my recollection, I don't - - -

But is it your evidence that you simply don't recall whether you found out about the \$100,000 or some other similarly large figure before or after it

was banked. Is that your evidence?---I just don't remember at what point I became aware. It was so long ago.

Can I try and help you this way.---Yeah.

6 April, 2015 was a Monday. In fact it was Easter Monday.---Okay.

So therefore a public holiday.---Yeah.

10 And you've accepted from me that the money was banked on 9 April, 2015, which is a Thursday. Does that help position you as to whether you found out about it before or after the banking that occurred on 9 April, 2015?---I mean I, I obviously saw the testimony or the evidence given yesterday but I, I, all I remember is being told that there was a large amount of money and I don't remember at what point it was banked, to the best of my knowledge, I'm sorry.

20 During or about that period did you see Mr Cheah counting a significant amount of money at his desk?---I just don't remember that, I'm sorry. Like I, again I saw yesterday but I don't remember the counting taking place in the open plan.

So you have no specific recollection of Mr Cheah counting substantial amounts of cash?---I don't.

Is that your evidence?---Yeah.

30 And you may have found out about a substantial amount of money before or after it was in fact banked.---Yeah.

Is that the effect of your evidence?---Yeah, it was around that period though, it was around that.

So doing the best you can, you probably found out about the matter of \$100,000 being received in cash sometime during the course of the week of 6 April, 2015, or perhaps the following week?---Correct.

40 In fact is it the case that you probably found out about it during the week of 6 April, 2015, but that you can't recall whether it was before or after it was in fact banked on the Thursday?---That's correct.

So your best recollection is sometime during that week you were aware that a substantial amount of money had been - - -?---Sometime around that period, yeah.

Can we go please to Exhibit 160, the final page of that witness statement. While that's happening, at that time in April of 2015 to your knowledge was there any safe or other secure facilities at Sussex Street office to hold and

secure cash and other important or valuable instruments?---There was a safe, it was in the general secretary's office or next to it, but he was the only person who had the key to it, or the, or the code.

Was there any practice or procedure at that point in time as to whether it would be permitted for employees of NSW Labor to take cash home for safekeeping?---No.

10 Did you authorise Mr Kenrick Cheah to take home for safekeeping any money in connection with the Chinese Friends of Labor event on 12 March, 2015?---No.

To your knowledge, did Mr Clements or anyone else authorise Mr Cheah to do that?---I actually don't know.

But you don't have any knowledge of Mr Clements to anyone else giving that approval, is that right?---That's right, yep.

20 Can we go to the last page of this statement, please. Do you agree that what you can now see on the screen is an approximate representation of NSW Labor's offices in Sussex Street?---I, I actually don't know because we've changed it quite a bit since then. Oh, not that is the current layout.

Well, can we focus on 2015 first of all. Does this, from your recollection, approximate, the way in which the Sussex Street office was set out as at 2015?---Yes. In terms of the desks but I can't remember where Kenrick actually sat, so - - -

30 And if you look on the right-hand side toward the bottom we see general secretary's office?---Correct, yep.

That was Mr Clements' office at the time, correct?---Yep. That's right.

And is your office immediately above that?---It's above it, yep.

So where it's marked assistant general secretary's office, that's your office? ---Correct.

40 Was that just your office was it an office that you shared with the other assistant general secretary?---No, that was my office. They've left the left winger off as tends to happen. They're over in the bottom left corner, in the corner of the page. Sorry.

Well, assume that's not deliberate to put the gentleman from the left on the left.---Left. Poor John.

Do you recall whether you were at the Sussex Street offices on the 9<sup>th</sup> of April, 2015?---I don't.

Do you recall whether you were based in those offices throughout the week of 6 April, 2015?---I know I was in and out of the office a lot. I would have been in the office for a bit but I was, there were other events on. I know there was a graduation that week because I have looked at my photos from that week. So I was out of the office for one of the days but I honestly can't remember.

10 Do you recall seeing Mr Huang Xiangmo in the Sussex Street offices during the week of 6 April, 2015?---No.

Are you quite sure you didn't see Mr Huang Xiangmo during the course of that week?---I am sure.

At that point in time, would have you recognised Mr Huang Xiangmo by sight?---Oh, good question. In, in, I actually don't think I would have, no.

20 THE COMMISSIONER: Did anyone inform you that there would be a visit to ALP head office that week or any day of that week?---I know that, I know that at some point there were conversations with Ernest where he would say he was dropping in or someone else was dropping in but, like, I obviously just can't remember and I've tried to go back through my records to work out what happened that week but I, the truth is I wouldn't have been able to tell or recognise Mr Huang even if he did walk in the door of the office.

30 Just clarifying your answer, are you saying that Mr Cheah said something about somebody dropping in that week or that day, 9 April, or are you talking more generally?---Oh, more generally. I don't, I don't think Mr Cheah told me about Huang but I can't be sure. I mean, I honestly just can't remember what was said back then and what wasn't. To me, I wouldn't have known the difference between, or who Huang was, so while I don't recall that he was there or that he was there when this event happened, I wouldn't have known him, I wouldn't have known what he looked like.

40 So did you know something about him, who he was, at that time or not?---I don't, I don't know. I don't think I did know who he was back then. I remember that I came to be aware of his significance in 2016 when I went to meet him.

Don't worry about that. We'll come to that.---Okay.

MR ROBERTSON: But are you clear as to whether you were told in advance that \$100,000 was expected to be coming into the office during or about that period?---I, I just don't remember if people were talking about donations coming in or amounts.

But it would have been a very significant matter, wouldn't it, to be receiving \$100,000 in cash on a single occasion, correct?---That is significant, yes.

You told us before that you have no recollection of that kind of amounts of money being received before or since, correct?---Yes. But that's – I don't know, I, I doubt that has happened simply because we changed the way we do things in the party office.

10 But what I'm suggesting to you is that you must be in a position to know whether you were told about the \$100,000 in advance because it would have been such a significant matter that, if you were told about it, you would remember.---Yes, I would remember I think.

THE COMMISSIONER: And do you remember?---I don't.

MR ROBERTSON: Do you recall – I'm sorry.---Did you - - -

20 THE COMMISSIONER: When you say you don't remember, are you able to say whether that's simply because of the passage of time? You're unable to recall such a thing being said to you?---Yes.

MR ROBERTSON: Do you recall whether you ever saw Mr Clements or Mr Cheah or anyone else at head office with an ALDI bag around about April of 2015?---I don't remember people with the ALDI bag. I don't remember that.

30 But is it possible that you did see that and you simply don't recall that now?---I don't actually think I saw the ALDI bag, but I don't, I honestly just don't remember that.

THE COMMISSIONER: Do you have any recollection of Mr Cheah ever holding a plastic bag which was said to contain cash money?---He, if that's a general question - - -

40 No, I'm asking you a question as to whether you have any recollection of seeing such a thing, that is, Mr Cheah holding a bag, plastic bag of some kind.---He would frequently bring in bags of money from fundraisers, but I can't remember seeing, or can't recall particular days when this would happen.

MR ROBERTSON: Do you recall any circumstance in which Mr Cheah had substantial amounts of cash on him in a bag, intending to take that money home?---Obviously I saw the evidence yesterday.

THE COMMISSIONER: Please don't refer to the evidence yesterday. ---Okay.

Just directly answer the question. I'll just ask you to listen again and I'll - -  
-?---Yeah.

Would you mind putting the question again?

MR ROBERTSON: Do you have any recollection of Mr Cheah having money in a bag on his way out the door from Sussex Street?---I just don't remember it. I wish I did.

10 Do you deny that Mr Cheah ever had such a bag and that you said to him, "Be careful"?---I, I don't, I just don't remember seeing a bag. Using words like "be careful" would be something I would say to people is the truth, and, but if, in relation to this bag, I don't actually remember seeing this bag that everyone is now talking about.

Is it possible that on either 7 or 8 April, Mr Cheah had a bag of money on him, was leaving the ALP office, and you said to him, "Be careful," or words to that effect?---It's possible but obviously I don't remember that interaction.

20

So it's possible that it happened but you have no recollection of that occurring, is that right?---Yeah.

In relation to the - - -

THE COMMISSIONER: Are you finished with that segment?

MR ROBERTSON: With the sub-segment.

30 THE COMMISSIONER: Sorry?

MR ROBERTSON: I've finished with the sub-segment, but that might be a convenient time if you have any questions on the immediate sub-segment.

THE COMMISSIONER: Yes, well, I think it's going to be necessary at some point in time, let's say, for Mr Cheah to be recalled about certain evidence he's given, particularly evidence that might be said to impact adversely upon Ms Murnain. I'll say no more at this stage but I think if Mr Cheah could be put on notice that he may be required to come back  
40 tomorrow morning. Thank you.

MR ROBERTSON: Please the Commission. In relation to the \$100,000 was that banked on 9 April, 2015, you know that half of that was banked into NSW Labor's campaign account and half of that was in Country Labor's account, correct?---Yes.

Did you give any direction or guidance as to how the \$100,000 should be split as between NSW Labor and Country Labor?---Not to the best of my memory but - - -

Well, as at 2015, did you have any involvement in giving direction or guidance in relation to matters of that kind, in other words, where particular donations or other money should be deposited?---No. Not to the best of my memory.

10 Is was a part of your ordinary functions, is that what you're saying?---That's right.

But you qualified it by saying, "Not to the best of my memory," is that to reserve the possibility that you did but it would be an unlikely occurrence? ---It would be unlikely.

Are you denying that you gave any direction in relation to this particular \$100,000 or are you just simply saying, "I don't recall one way or the other"?---I don't recall one way or the other.

20

As a matter of practice of NSW Labor and Country Labor as at 2015, how did one decide whether a particular sum of money should be deposited into NSW Labor's bank account, Country Labor's bank account, the federal campaign account or some other account?---It would be based on the forms that would be sent in.

30 So looking at the this tangibly in relation to the Chinese Friends of Labor event, if we can bring back up, please, volume, which is Exhibit 152. Volume 5, public inquiry brief, and we'll go to page 34 of that bundle, please. I've got up the screen, Ms Murnain, just an example of a filled out reservation form in relation to the Chinese Friends of Labor launch. This is the one for Mr Tong who we heard from this morning.---Yep.

40 Now, can I assist you by noting that ALP's account, NSW Labor's account showed this as a donation to the Country Labor Party. How would it be the case that this form, which at least so far as I can see, doesn't have the work Country Labor on it at all, would be connected with a donation to the Country Labor Party as distinct from New South Wales Labor, by which I mean the Australian Labor Party (NSW Branch).---I am not sure, to be honest.

THE COMMISSIONER: Well, there's nothing on it, is there, to provide a direction or guidance on that issue?---I don't think so. There's a CL up the top but I don't know what that means or whether that's the Commission's handwriting.

MR ROBERTSON: Well, if you take it from me that the form as originally submitted by or on behalf of Mr Tong didn't have that handwriting on it, do

you agree with me that there's nothing on this document to suggest that there was an intention to donate to Country Labor as distinct from NSW Labor?---Yes but what's handwriting up the top? Can you see that?

What I am focussing at the moment is ignoring the handwriting for the time being, if one received this form but without the handwriting in the top right-hand side, as a matter of practice or procedure in 2015, how would one know whether this should be deposited, the money associated with this form should be deposited in NSW Labor, Country Labor or the federal account?  
10 ---I don't know.

Was there at least a practice in 2015 that if particular individuals wanted to donate more than the cap in a particular period and wanted to donate to what I might describe as the Labor movement or the Australian Labor Party more generally, was there a practice to your understanding at head office to simply split up the donation so that some of it goes into NSW Labor and some of it goes into Country Labor?---I, if there, I mean I, I'd like to, I think I've said this, that the, if, if that were to be the case you would have to check with the donor and make sure that they were okay with it going to  
20 another account, you'd have to check that first.

Well, that would be your expectation at the time as assistant general secretary, as I apprehend it?---Yes.

But what I'm asking you is whether in point of fact in 2015 you have knowledge of the Labor Party in a scenario of that kind simply saying, well, we're going to allocate it as between those two accounts in order to keep one underneath the cap?---I, I don't know what the practice was back then, but it may well have happened. Like the, and that's why we've now got  
30 procedures in place around different forms and things for both parties, but  
- - -

Is it then fair to say that at least as at 2015 the procedures were sufficiently lax as might permit something of that kind to occur, in other words for a donation to be split up as between NSW Labor's account and Country Labor's account, even if the donor had not been consulted as to that matter?  
---I'm not aware of it actually occurring but it is possible, given the lack of policies.

40 THE COMMISSIONER: Mr Robertson, I was going to take a 10-minute break at about this time. I'll sit on till 10 past 4.00. Is that a convenient time to take a break?

MR ROBERTSON: May it please the Commission.

THE COMMISSIONER: Ms Murnain, we'll continue in about 10 minutes. You may step down. I'll adjourn.

**SHORT ADJOURNMENT**

**[3.17pm]**

THE COMMISSIONER: Yes.

MR ROBERTSON: Ms Murnain, has anyone within the Australian Labor Party, and I mean that as in the broader sense, suggested to you that there may have been unlawful conduct in connection with donations associated with the Chinese Friends of Labor event in 2015?---Yes.

Who?---Ernest Wong.

When?---2016. September of 2016.

How can you pinpoint it to September 2016 as opposed to an earlier or later date?---The, I was, in the many hours and days I've had off in relation to this matter in the last few weeks, I've gone back through my text messages and found a date where I met with Ernest Wong.

20

Can we please have document 143 on the screen. Is this one of the set of text messages that you alluded to a moment ago?---Yes.

These are a set of text messages of 16 September, 2016.---Yes.

And does this appear to be a copy of a document that you have provided to the Commission under compulsion?---Yes.

You understand this is an exchange by text message, or perhaps iMessage, between you and Mr Wong, correct?---Yes.

30

And your response, your texts are on the right-hand side and his are on the left-hand side. Is that right?---His are on the left-hand side, yes.

His are on the left-hand side, black with a grey background, and yours are on the right-hand side, white with a blue background. Is that right?---Yeah.

Before I forget to do it, I tender the chain of text messages or iMessages that presently appear on the screen.

40

THE COMMISSIONER: Yes. The text messages 16 September, 2016 between Ms Murnain and Mr Wong will be admitted, Exhibit 172.

**#EXH-172 – SCREENSHOT OF MESSAGES SENT FROM KAILA MURNAIN TO ERNEST WONG DATED 16 SEPTEMBER 2016**

MR ROBERTSON: Ms Murnain, doing the best you can, can you explain your communications with Mr Ernest Wong on 16 September, 2016?  
---Ernest called me. He was, he, I believed he called me at some point on 16 September or, and he texted me, I called him, he said he wanted to see me in person. I met him out the back of the New South Wales State Parliament. He had said to me he, obviously we were texting back and forth about where we were, this is 16 September, 6.42pm. Somewhere around 6.45 I found Ernest out the back of the parliament. Ernest was quite distressed. He sort of just blurted out that a donor who had said they'd  
10 given money to the Labor Party had not actually given money to the Labor Party.

Did he identify who that donor was?---He didn't.

Are you quite sure about that?---I'm, to the best of my knowledge.

Well, not just to the best of your knowledge, the best of your recollection sitting there now?---Yes, to the best of my recollection.

20 THE COMMISSIONER: Well, could you just use the words as best you're able to recall them.---Yeah.

So you said he was quite distressed. Well, what words did he say, as best you're able to recall them?---All that, all that I remember is he said that he, that - - -

Just try and use the first person if you would. I know it's difficult, but it's sometimes in the interests of accuracy better to try and put it in those terms, if you're able to, he said, I said.---He said that someone, some, I don't  
30 remember the exact conversation but a donor had not donated money that they had said they had and that, that is, I mean that's roughly what he said to me. I, I at some point responded back, "What the shit?" I remember that. I then asked him a question about who, I just said, "Who donated the money?" And he, he said very quickly, "Mr Huang." I don't remember whether I had asked him how much the donation was for or whether he told me at the initial outset how much it was for. I'd obviously at some point connected it to the money raised from the dinner. I can't be sure that he said \$100,000 but I have that figure in my memory, but I just remember him  
40 telling me that someone hadn't given the money to the Labor Party.

MR ROBERTSON: Was it clear that he was talking about money at a state level as distinct from a federal level?---Sorry, yes, he said that.

Well, doing the best you can, what words did he use to make that clear to you?---I, I honestly just can't tell you what, what it was.

He made a reference to Mr Huang. Did he refer to that gentleman as Mr Huang or Mr Huang Xiangmo or some other fashion?---I think he said Mr

Huang. I do remember my response to him being, "The Chinese property developer?" And I do remember stepping back and realising what all this meant.

So at that point in time in September 2016 you knew who Mr Huang Xiangmo was. Is that right?---Yeah, yeah.

10 And how did you come to know who that individual was?---So according to others he'd been in the Chinese community for some years. He, in early 2016 when I became secretary, people recommended that I go and meet with him. I met with him on two occasions at his offices in North Sydney. That is when I understood his standing in the Chinese community. I was told he was a person who had a great deal of respect and that he, that he had supported the Labor Party. I met him at his office sometime in 2016, early 2016 with Chris Bowen, I believe Ernest, obviously Huang and some of his staff.

20 During those meetings, did Mr Huang Xiangmo have an interpreter present, do you recall?---Yeah, there might have been two, yes.

Do you happen to know the name of that or those interpreters?---I know Tim Xu.

So is it the case that you've got a specific recollection of seeing Mr Xu at at least one of those two meetings you've identified?---He was at one of them. I don't know which one.

He was only at one and not at both, is that right?---I just don't remember.

30 What was the purpose of the meetings that you had with Mr Huang Xiangmo towards the start of 2016?---To seek donations for the federal campaign.

And are you quite sure that there was no discussion with him in relation to any state campaign that was exclusively federal, is that right?---Yes.

40 THE COMMISSIONER: Can I ask you this, when you met with Mr Wong on this evening, what was his demeanour?---He was sweating, he was, he was just upset, he was quite upset and - - -

What do you mean by quite upset?---He seemed - - -

How did that manifest itself?---He was, it was summer, it was September, he was hot, that's, and he seemed sort of agitated and speaking quickly.

And when you said a while ago that the significance of what he was saying became then apparent to you. What did you take the significance to be or to

mean?---That a significant donor had, had made a donation to our state campaign account who was a prohibited donor.

What sort of a donation did you understand or believe that Mr Wong was talking about?---He, he said it was one person. I remember that.

What that one person had in fact made a donation?---One person had not made a donation.

10 Not made a donation.---And that that the money was actually Mr Huang's. The, the part that I don't remember is whether he said \$100,000 or not. I don't know whether that's just - - -

Well, whether he said it or not, is that what you were drawing the conclusion to, that it was \$100,000?---Or, or a large amount, yeah.

MR ROBERTSON: So as at September of 2016, you knew that Mr Huang Xiangmo was a prohibited donor for the purposes of state law, correct?  
---Yes.

20

When did you first become aware of that matter, namely that he was a prohibited donor?---To the best of my recollection, sometime in 2016. I knew for sure when I went to his offices in 2016 because there's property development things in his office.

I think you said in answer to one of the Chief Commissioner's questions is you weren't clear whether Mr Ernest Wong referred to \$100,000, is that right?---I wasn't clear, yep.

30 But at that point in time, you knew that \$100,000 in cash had been received at the Sussex Street office the previous year, is that right?---Yes. Two years, yeah, a year and a half, yep.

Just taking a little bit of a step back, do you have a recollection of whether Mr Wong called you first or texted you first on 16 September, 2016?---I, I don't know. I thought he had called me but I just, I don't know.

But at the very least, he went you a message that we can see on the screen that says, "Please ring me," correct?---Yes.

40

Did you then ring him?---Yes. MPs frequently call me freaking out about stuff, so I tend to try and get back to them as quickly as possible.

Doing the best you can, what was the nature of that conversation?---That he wanted to see me quickly, as quickly as possible. I said I would go and see him on the way home and, and that I would come and meet him.

THE COMMISSIONER: Where did the meeting take place?---Hospital Road, out the back of Parliament House.

Well, can you describe, where did you meet him and where did you walk to and - - -?---So I parked on Hospital Road. My car was somewhere there on Hospital Road. Mr Wong came down. He, he met me on Hospital Road and then we started walking through The Domain. I thought we were going to go get a coffee but we stopped very quickly because he told me about a donor who hadn't given money that was worried about the fact they hadn't given money.

MR ROBERTSON: Just to be clear, at the time that you had the telephone discussion with Mr Wong after he sent you the text that says, "Please ring me," where were you at that time, can you remember?---I can't remember. I think I might have been at party office but I just don't remember.

But you do have a recollection of driving to the vicinity of Parliament House, is that right?---Ah hmm. Yep.

20 And you parked your car behind Parliament House, is that right?---Correct.

And do I take it that the telephone conversation that you had with Mr Wong after the "please ring me" message was a relatively short one?---I think so, yeah.

Did he tell you what the subject matter of the discussion was that he wanted to have with you?---I don't think so.

30 Were you able to ascertain or draw any inferences about his concern or demeanour in relation to that call? In other words, did he appear calm, panicked or anything of that kind?---He was sort of agitated and upset and – agitated, yeah.

So it was clear to you, was it, as at the time of that telephone call, that it was a matter of some urgency that Mr Wong wanted to speak to you about, is that fair?---Yeah.

40 But he didn't tell you the subject matter of that until you attended upon him near Parliament House, is that right?---Yeah, yes, yeah.

And so you drove from wherever you were to Hospital Road, behind Parliament House, is that right?---That's right.

Did you speak to anyone else between the call with Mr Wong and meeting Mr Wong behind Parliament House?---Between the call – I don't know.

Did you call anyone insofar as you can recall? Did you say to, for example, one of your staff members, "I'm going off to see Mr Wong"?---I don't know. I don't, I don't know. It was a long time ago.

And so do I take it that you sent the message we see on the right-hand side of the screen, 6.36pm, once you'd already parked behind Hospital Road?---I can't see it but, yes.

I'm sorry.---Yeah, no.

10

We'll put that back up on the screen, I'm sorry. There's a message from you saying, "Come down," at 6.36pm.---Yeah.

And do I take it you sent that message once you'd already parked behind Parliament House on Hospital Road?---Yes.

And by that I take it you're meaning "Come down from your Parliament House office and come to meet me"?---Yes, yep.

20

Why was it that you were going to meet Mr Wong outside of Parliament House rather than in Parliament House?---Because I thought we were going to go have a coffee.

So is it the case that during the telephone conversation that you had with Mr Wong he gave some indication as to where he wanted the meeting to take place?---I don't know. I don't remember.

30

Well, I'm just trying to understand why it was when you arrived behind Parliament House that you said, "Come down," as opposed to, for example, "I'm coming up"?---Because I probably didn't have my pass because I'm not very good at holding on to my pass and it was a Friday night, so - - -

But Mr Wong probably could have signed you in, couldn't he?---Yeah, but that's a bit of a hassle, so, and it was a Friday night. I thought we'll go to a coffee shop nearby.

40

But doing the best you can, was it arranged during the telephone call that you had with Mr Wong for you to meet outside of Parliament House or did that just happen after you arrived?---I actually don't remember. I think it was to meet outside of Parliament House to go get a coffee.

Where was one planning on getting a coffee at 6.36pm on a Friday evening?---Yeah. The, the art gallery or the hospital on, there's all these cafes on the main road on Macquarie Street.

And do we take it from the next series of messages, 6.37 and 6.39, there was some difficulty in finding each other?---Yeah, I couldn't find him, yeah.

And when you say at 6.41, "Come out the back," you mean come out the back of Parliament House?---Of Hospital Road, where it says Hospital Road, yeah.

And I take it then that Mr Wong attends on you somewhere out the back of Parliament House, is that right?---Yeah. And we start walking towards the, the art gallery.

10 So you're walking, at that point you're walking on the footpath across The Domain in the direction of the art gallery, is that right?---Ah hmm. Yeah, yeah.

And have you now told us the extent of your recollection of what you said and what Mr Wong said during the course of that discussion?---There was one, a few extra times I'd, I'd said to him, "You need to get the person to come forward, to come see us, just get them to talk to us, we'll deal with it."

20 When you say the person, which person are we talking about?---The, the person who said they didn't donate the money.

Did Mr Wong provide any response to that suggestion?---I, I just, he just kept talking, I can't remember exactly what he said back, I can't remember exactly what he said back.

Is there anything else that you recall in relation to that discussion?---I just kept saying, "Get them to come forward," I remember swearing, and I mean I think he wanted help, but that, that's about all I remember.

30 You just said you think he wanted help. Did he identify what sort of help he wanted from you, noting that at this point in time you're the general secretary of NSW Labor?---I think just people come to the general secretary when they have issues. It wasn't clear, to the best of my recollection I can't remember it exactly, but I can't, I can't remember exactly what he wanted from me, I think he wanted to tell me and - - -

Well, did he not make any requests of you as to what you should do in light of this information?---No.

40 This was obviously very significant information that you were given about illegality that apparently had occurred in connection with donations in 2015, correct?---Yeah, yeah.

And are you saying that Mr Wong didn't identify any help or assistance that he was asking for or for that matter any reason why he was actually telling you?---I, I think because I'm the general secretary people tell me when there's, when there's issues like this, and my response to him was, "You need to get them to come forward to our office," essentially.

THE COMMISSIONER: Sorry, you need to what?---Get them to come forward, the person to come forward to us.

But you're talking about the person who said he wasn't the donor?  
---Correct.

Well, did you say to him what about the need to get the person who allegedly did make the donor to come forward? Sorry, I should have said - -  
-?---It might have been implied by what I was saying, yeah. It might have  
10 been implied by what I was saying. I said, "You need to get them to come forward," several times.

MR ROBERTSON: But is it your evidence that there was no specific response to that suggestion?---If there was, I can't remember what it was.

THE COMMISSIONER: You don't recall the discussion even on a provisional basis of some arrangement that would follow to get to grips and deal with this problem?---Only that the recommendation from me, which was that you need to get the person to come forward, and I thought that was  
20 pretty clear from the discussion.

And you've spoken about Mr Wong's demeanour, what was your demeanour by the time you received this message?---I was pretty upset. Oh, the only - - -

Do you mean pretty upset, very upset?---Very upset. The only other thing I'd add, I think there was a, I said we need to get, there was a discussion about talking to the lawyer or to the governance director who'd started in the office by this time, and there was a discussion about that, but by this  
30 stage - - -

MR ROBERTSON: Sorry, to be clear about that, that was a discussion between you and Mr Wong, was it?---Yeah.

So one of the things that you and Mr Wong discussed behind Parliament House in The Domain was whether or not to get the governance director and the lawyers involved. Is that right?---Yes.

You have a specific recollection of that occurring. Is that right?---It was  
40 governance director or the lawyers, like, we need to, yeah, make sure we, yeah.

Well, doing the best you can, who raised that issue and what words did they use?---It was me. "We need to get advice off the governance director or the lawyers."

And are you saying that you identified both the governance director and the lawyers or are you saying you identified one of them and you just don't

recall which one?---I, I think I identified both, but it was an or, I think it was an or situation, I think I said or, sorry, I don't - - -

After that conversation came to an end – before I ask that, have we now exhausted your recollection of what you said and what Mr Wong said during the course of the meeting on 16 September, 2016?---I, I believe so, and then it ended pretty abruptly, pretty quickly.

10 And after it ended, what did you then do?---I called Sam Dastyari for advice.

Was that the first call that you made after the end of the meeting with Mr Wong?---To the best of my recollection. I thought I had called the governance director at some point but I think the governance director had gone home so I don't know whether I had called her or not. I just don't have my phone records from that period.

20 Well, are you sure or unsure that your first call after your meeting with Mr Wong was to Mr Dastyari?---To the, from the best of my memory, I think it was Sam, yes.

Is it right to say that you have, at least at that time, had a very close relationship with Mr Dastyari?---Sam was the predecessor to me that, that I could actually talk to because my relationship with Jamie Clements by this stage had gone to the point of no, we did not speak. In fact it was quite antagonistic.

30 But he was more than just a predecessor, wasn't he? He was, at least at that point in time, a friend, correct?---He was a friend, yep.

You'd talk with each other regularly, wouldn't you?---Yep.

And is it right to say that you would speak to each other not just about this matter but about other matters on a regular basis?---Yes.

And would that usually just be by telephone or would you have other forms of communication such as texts, WhatsApp messages - - -?---All of the above.

40 FaceTime calls, all of the above?---Yep, yep.

So just to be clear about that, your methods of communication with Mr Dastyari would include telephone calls in the ordinary way, correct?---Yes.

Messages, such as iMessages of the kind that we've seen on the screen before, correct?---Yep, yep.

Any other forms of communication, such as FaceTime, WhatsApp?  
---Potentially, yes, yes. Yep.

Do you have a specific recollection of using those kinds of apps or - - -?  
---Oh, yeah.

With Mr Dastyari, I mean.---Oh, yeah, WhatsApp, yes, yep.

10 So one of the ways you communicated with Mr Dastyari was, at least in the past, has been by way of WhatsApp message, is that right?---Yes, yep.

THE COMMISSIONER: How did your relationship with Mr Dastyari commence, in what context?---I worked for him when he was the state organiser. So I went to work for party office in 2008 when I was 20 and Sam and Karl Bitar recruited me to the party office.

MR ROBERTSON: So you called Mr Dastyari, have I got that right?  
---Yep.

20 And that's, as best you recall, the first call you had after your meeting with Mr Wong, correct?---Yep, yep.

And doing the best you can, what was the discussion that you had with Mr Dastyari?---I mainly went to him because he was a predecessor who had dealt with both, well, Mr Huang and Ernest as well. So when I met with him I was obviously pretty upset, I explained to him what's happened and then asked him for advice on what do to.

30 So was this done during a telephone call, is that what you're saying?---No. No, no. I called him and said, "Are you in the city, can I come and see you at your office?" He said, "Sure," but I think he was going home. So he dropped by the back of the Parliament House. I hopped in the car, drove around the little part of The Domain to the best of my knowledge. It was only a couple of, it would be between five and 10 minutes max and I told him what had happened with Ernest and I didn't know what to do and it was a Friday afternoon. I think everyone else in Sussex Street had well gone by then and he said, "Go and see the lawyers. Go and see Holding Redlich."

40 So just to unpack all of that, Mr Dastyari, after a telephone call, comes to drive to meet you, is that right?---Ah hmm.

Do you happen to recall what sort of vehicle he was using at the time?---No. I have no memory, sorry.

And why was it that he didn't just park and you had a chat a coffee shop or elsewhere rather than getting in the vehicle?---I, I've been trying to remember why that is and I think it was just there were too many, I don't

think there were many car spots in the afternoon. Hospital Road gets pretty booked up, so instead of him stopping, just did a loop of the circuit.

And so your best recollection is that you jumped in Mr Dastyari's car towards the rear of Parliament House, correct?---Yep. Correct. Somewhere there.

10 And then he then drives along Hospital Road, going in a roughly northerly direction because it's a one-way street?---I actually don't know. I, I really couldn't tell you to be honest.

Would you have any recollection of the route that you drove or that Mr Dastyari drove and that you were in the car?---I, I thought it was down the back of The Domain but I just can't remember.

What was your demeanour at that point in time that you were in Mr Dastyari's car?---Upset, crying.

20 And do you recall where, and the conversation occurred I think you said about five or 10 minutes?---Yep.

And do you recall where he dropped you off?---I don't. I thought it was somewhere near parliament. I just don't know exactly where.

30 And in terms of the content of your conversation with Mr Dastyari while you were in his car, did you tell him specifically what Mr Ernest Wong had told you earlier that evening?---I told him that someone hadn't, I, I told him specifically what Ernest had said, which was that someone hadn't given money that signed a form, and that - - -

40 I might just stop you there. I know it's difficult to do in light of the fact that it's some time ago, but as best you can now do, can you identify what words you uttered to Mr Dastyari and what words if any he said to you?---I can't remember. All I remember is telling him the, what had happened with Ernest and that Ernest wasn't sure what to do, and that he knew Huang. I remember asking him whether Huang had donated the money. He thought he might know for sure because 2016, well, 2016 obviously I knew who he was by this stage. I knew that he was quite, obviously a property developer. And he said go and, just go and see the, go and see Holding Redlich, go and see your lawyers, go and see Ian Robertson.

But are you quite sure that you uttered the words "Mr Huang" to Mr Dastyari whilst you were sitting in his car on the evening of 16 September, 2016?---Yes.

Are you also quite sure that you told Mr Dastyari that there was someone who said that they had donated money but had not donated money?---Yeah.

Quite sure you made both of those matters clear to Mr Dastyari?---I'm sure.

Doing the best you can, what did Mr Dastyari say back to you other than what you've already told us, which is "Go speak to the lawyers"?---Sorry, it's just, there's so much. I honestly just don't remember, sorry.

When he says "the lawyers", what was he referring to?---The party lawyers. Go and see Holding Redlich.

10 And is that a reference to a particular individual within Holding Redlich?  
---Ian Robertson.

So did Mr Dastyari refer specifically to Ian Robertson, do you recall that?  
---Yes.

And did you tell us where you thought he, Mr Dastyari, dropped you off?  
---Somewhere at the back of parliament or around parliament I think. I - - -

20 Did you then go see the lawyers?---Yes.

Can you just tell us, how did you arrange that meeting?---I called Ian Robertson and I needed - - -

Just pausing there. I'm sorry to interrupt. So there was a call to Mr Ian Robertson after you'd left Mr Dastyari's vehicle, is that right?---Yeah, yeah.

I'm sorry, I interrupted you. You've called him and then what happened?  
---I went, he said come over to - - -

30 THE COMMISSIONER: What did you say to him?---"I need to see you urgently. Like, urgently." So - - -

And he said?---He said, "Of course. I'm still here at the office." And I went over.

MR ROBERTSON: And when you say "here at the office", you'd been to his office before?---MLC Centre.

40 And what happened then?---I waited at the top of the escalators.

Just pausing there.---Oh, in between.

We've got to the point at which I think your best recollection is that you're back near Parliament House because Mr Dastyari had dropped you off, is that right?---Somewhere in that vicinity.

Somewhere in the general vicinity. It may have been the front of the building, may have been the rear of the building, but at least in that area, is that right?---Yes.

And where physically were you when you called Mr Robertson, as best you recall?---I just don't remember, sorry.

But it would have been somewhere around Parliament House, is that right?  
---Yeah, yeah.

10

And so you call Mr Robertson and arrange for an urgent meeting, correct?  
---Yes.

And do you then immediately attend Mr Robertson's offices?---Yes. So, 6.05, it was about 7.00, 20 past 7.00 I get to his office and wait at the top of the escalator.

How did you get to his office from the area around Parliament House?---I walked.

20

Are you quite sure you walked rather than drove?---I think so, yes.

Between getting out of Mr Dastyari's vehicle and being at the top of the escalator, did you call anyone else?---I don't know. I don't think so but - - -

Are you sure about that?---I don't have my phone records so I couldn't tell you, I'm sorry.

30

Well, I'm not asking about your phone records, I'm asking about what you recall. Do you recall speaking to anyone else?---I don't remember talking to anyone about this, yeah.

At this point in time you're presumably fairly shaken up?---Yeah, I was pretty stressed, yeah.

Did you call your partner or husband and say, something significant has happened to me, for example?---I don't know if I'd called him yet or whether I was just trying to get to the lawyer's.

40

So you ultimately called him, did you, on that day?---The lawyer?

No, no, your, I can't remember whether it was partner or husband at the time.---I would have called him at some point, yeah, to tell him I was coming home late, because by this time it's 7.30 at night so - - -

But did you call him to say something significant had happened to me this evening and identify what it was?---Oh, no, I didn't tell him what, so I'm

sure I spoke to him about being late, but I don't, I don't really remember what I said.

And did you call anyone else between leaving Mr Dastyari's vehicle and being at the top of the escalator?---Not that I remember, sorry.

How is that you knew that you were at the top of the escalator around 7.20pm, I think you said, or maybe 7.18pm?---Because I had to go through all my text messages for the purposes of this public inquiry.

10

Can we go to document 144, please. Is this a screenshot of a text message that you provided to the Commission under compulsion?---Yes.

And when you said before a reference to, "I'm at the top of the escalators," was that a reference to this message of 7.18pm?---Yes.

And is this a screenshot showing messages between you and Mr Ian Robertson of Holding Redlich?---Yes.

20

When you referred in this message and in your oral evidence to being at the top of the escalator, what escalators are we talking about?---The corner of the MLC Centre.

Is that a reference to the corner of King Street and Castlereagh Street?  
---Yes.

And so there's a set of escalators I think near the corner of those two streets. Correct?---Yeah.

30

And are you saying that you went to the top of those escalators and then sent a message to Mr Robertson. Is that right?--- Yes.

Why did you sent him a message when you were at the top of those escalators?---Because it was Friday night and the doors were locked.

What happened then?---He came down to get me.

And did he scan you into the building?---Yes.

40

And what happened then?---We went up in the escalator to a meeting room in Holding Redlich.

In that meeting room who was present, was it just you and Mr Robertson or was there someone else?---Just me and Mr Robertson.

And I take it you had a discussion with Mr Robertson in that meeting room?  
---Yes, yes.

Chief Commissioner, I'm now about to ask some questions and I would like to start on it today, even though it's after 4.00pm. Plainly enough at least at general law what occurred in that meeting, subject to ordinary exceptions, be subject to legal professional privilege. As you'll appreciate, section 37 of the Act abrogates that privilege at least in part. Before I ask those questions I wanted to flag that. My learned friend Mr Moses indicated to me that he wanted to say something on the subject, so he might conveniently do that now.

10 THE COMMISSIONER: Yes, thank you, Mr Robertson. Yes, Mr Moses.

MR MOSES: Thank you, thank my learned friend and the Commission. The position is Chief Commissioner - - -

THE COMMISSIONER: Could you use the microphone.

MR MOSES: Thank you. The position is this, that the, the position of the Australian Labor Party NSW branch and the Country Labor Party is that in order to assist this Commission to properly explore all matters relevant to  
20 this inquiry to get to the bottom of what has occurred, it makes it clear that it will not object to any evidence by any witness which discloses privileged communications concerning the subject matter of the discussion between Mr Wong with Ms Murnain on 169 September, 2016, the subject matter of the notice issued by the Electoral Commission on 6 December, 2016, the response provided to the Electoral Commission on 19 December, 2016 by Ms Murnain and the subsequent investigation by the Electoral Commission up and until the time of the referral to the Electoral Commission to the Independent Commission Against Corruption on 15 January, 2018. And  
30 then after that, of course, there are matters concerning section 37(5) of the Act but we take no objection and it's a matter for the Commission to try and get to the bottom of this.

THE COMMISSIONER: Mr Moses, you may have touched on it but so far as the questioning of this witness now in relation to the night conference that she says took place, I take it - - -

MR MOSES: That's caught by that issue waiver, Chief Commissioner. So it flows from all of that and everything up until the referral to the Independent Commission Against Corruption on that issue waiver. We are  
40 very happy for this Commission to examine to get to the bottom of this matter. Thank you.

THE COMMISSIONER: Yes, thank you for that. It is the case, of course, that there's a real question as to whether privilege has been abrogated in any event. But, however, if I understand your position, there's no embargo, no reason not to have this matter thoroughly ventilated.

MR MOSES: No.

THE COMMISSIONER: Thank you.

MR MOSES: And we're happy for that to occur.

THE COMMISSIONER: Thank you.

MR MOSES: Thank you.

10 MR ROBERTSON: Ms Murnain, doing the best you can, can you explain  
to us what words you uttered to Mr Robertson and what words he uttered to  
you during the course of that meeting?---“There’s been a massive fuck-up,”  
I would have said or I did say. I was pretty upset. I told Ian Robertson, who  
was the party’s lawyer, that I’d met with Ernest, that, that Ernest had told  
me that someone who said they donated the money definitely hadn’t and  
that, that Mr Huang had donated that, that money for that donor. I told him  
that I believed Ernest to be telling the truth. He asked me whether he  
thought I, whether Ernest was telling the truth or not. I said, “Yes.”  
Obviously my, I thought the, I’d sort of put everything together but  
20 obviously the events of 2015 meant that I obviously knew there was large  
money raised from this dinner and I, and can I just - - -

THE COMMISSIONER: Just focus on, you’ve been asked to relay what  
was being said. So if you, don’t go off track, if you wouldn’t mind. Just  
stay with it. I think the last part of it you said he said, “Was Ernest telling  
the truth?” And you said, “Yes.” Were there any other words said by either  
of you after that?---I explained to him that I had told Ernest to get the person  
to come forward. He said, “Well, let me ask you in a different way. Did he  
give you any evidence to suggest that this has happened?” I said, “No, he  
30 didn’t.” I was, the conversation went on for maybe 20 minutes, maybe  
more. I don’t remember everything that was said but obviously I was quite  
worried, I was worried for the – I explained to Ian that I was worried for the  
reputation of the party, the office and the staff.

If you just stick to the conversation, please, without the intermediate  
observations, just give us the conversation.---And, and after I relayed the  
story about what Ernest had said to me, he asked me again whether, whether  
there was any evidence that he’d provided. I said, no, he hadn’t. He asked  
me several times, “Do you believe him?” And I said, “I believe so.” That  
40 was asked a few times. And then at the end of the conversation, Ian told me  
– sorry, Commissioner. Ian said to me, “Don’t, there is no need to do  
anything from here. Don’t record this meeting, don’t, don’t put it in your  
diary. Forget the conversation happened with Ernest and, and I, I won’t be,  
won’t be billing you for this either.” And that was it. And, “Don’t tell  
anyone about it.” So I literally didn’t tell anyone about it.

MR ROBERTSON: Now, are you quite sure that Mr Ian Robertson said  
each of those matters that you’ve just last relayed?---Yes.

And that's your best recollection of the precise words that he used during the course of the meeting, is that right?---Yes.

I just want to be very clear about your recollection of this meeting because it's a matter of significant importance to the investigation. It happened for about 20 minutes or so, is that right?---Yep.

10 Towards the start of the meeting you relayed, as best as you could then recall it, exactly what Mr Wong told you in The Domain earlier that evening, is that right?---That's right.

Did you specifically utter the words "Mr Huang"?---Yes.

You're quite sure about that?---I'm sure.

Are you quite sure that Mr Robertson asked you whether any information was provided?---Yes.

20 Are you quite sure that that was asked on multiple occasions as you told us before?---Yes.

And are you quite sure that Mr Ian Robertson uttered each of the further things that you identified a moment ago, including not taking records of the meeting?---Yes.

Do you recall whether you saw whether Mr Robertson took any file notes in relation to the meeting?---He wasn't writing anything down.

30 So is it quite clear in your mind that he didn't have with him a notepad or other device, either in paper or electronic form, to take notes of what was going on?---Yes.

You're quite sure about that?---Yes.

Were you sitting down in the meeting room?---Yes.

So you were sitting at a table?---No. On a chair.

40 So how large was the meeting room?---Very large.

And you were sitting in chairs, what, not at a table but perhaps in the corner of the room?---Yes.

And you're quite sure that Mr Robertson was not taking any notes on that occasion, is that right?---Yes. Yes.

Chief Commissioner, I will have some more questions, including in relation to this matter, but I do note the time. There's one other further matter I want to raise once the witness has been stood down as well in relation to what's just happened.

THE COMMISSIONER: Yes. You proceed.

10 MR ROBERTSON: But in terms of the examination today, that's all I propose to do today, and we'll need Ms Murnain back tomorrow morning.

THE COMMISSIONER: Yes. Thank you. Ms Murnain, you may step down and if you could return here tomorrow by 11 o'clock. Sorry, by, yes, 11 o'clock. Is that right?

MR ROBERTSON: Perhaps 10.00, 10 o'clock, if it pleases the Commission.

20 THE COMMISSIONER: All right. Well, make it 10 o'clock tomorrow. If you could be here at 10.00. You may be kept waiting for a little while but we will proceed as soon as we can. I'd ask you not to discuss the evidence between now and your return tomorrow with anyone. Mr Neil, does that occasion any difficulty with you?

MR NEIL: It does not, no.

THE COMMISSIONER: All right. Well, if you need to at some stage after the examination by Counsel Assisting, to confer with your client at some later point in time, let me know.

30 MR NEIL: I shall. I would propose, if it please Chief Commissioner, to speak very briefly with Ms Murnain about arrangements for tomorrow.

THE COMMISSIONER: Yes, certainly. Yes. That's quite in order. Yes, thank you, Ms Murnain. You may step down. You're free to go today.

**THE WITNESS STOOD DOWN**

**[4.18pm]**

40 MR ROBERTSON: Can I deal first with a housekeeping matter. I referred to a series of text messages, including the one that says, "I'm at the top of the escalator." I tender that screenshot of text messages between Ian Robertson and Ms Murnain.

THE COMMISSIONER: The text messages between Ms Murnain and Mr Ian Robertson will become Exhibit 173.

**#EXH-173 – SCREENSHOT OF A MESSAGE SENT FROM KAILA MURNAIN AT 7.18PM DATED 16 SEPTEMBER 2016**

THE COMMISSIONER: Yes?

10 MR ROBERTSON: The next two matters arising out of the evidence that we've received today. First, in my respectful suggestion, as a matter of fairness, particularly to Ms Murnain, in light of the evidence that emerged regarding the, what I've described as the "be careful" conversation, there's force, in my submission, in requiring Mr Cheah to attend back before the Commission in short order so that, if so advised, my learned friend who appears for Ms Murnain can put anything to Mr Cheah he wishes to in terms of that "be careful" meeting. That's the first matter. I think my learned friend was about to - - -

20 MR NEIL: If it please, Chief Commissioner, we would wish to have that opportunity particularly having regard to the way in which Mr Cheah's evidence was reported overnight and this morning.

THE COMMISSIONER: Yes, yes, I understand. Well, what I anticipate is, Mr Robertson, that you'll further examine Mr Cheah to some extent tomorrow.

MR ROBERTSON: Ms Murnain I think you mean, Chief Commissioner.

THE COMMISSIONER: I'm sorry?

30 MR ROBERTSON: I'll further examine Ms Murnain.

THE COMMISSIONER: No, I'm talking about Mr Cheah now.

MR ROBERTSON: Oh, Mr Cheah, yes.

THE COMMISSIONER: Yes. And then I'd suggest that he be here, what time?

40 MR ROBERTSON: Perhaps about midday, if it pleases the Commission. I propose to call him after I finish my immediate examination of Ms Murnain and after Mr Dastyari, which my best guess will be around noon tomorrow.

THE COMMISSIONER: Right. Not before noon tomorrow.

MR ROBERTSON: Not before noon in my submission.

THE COMMISSIONER: All right. So arrangements should be made for Mr Cheah to be here by midday.

MR ROBERTSON: There's one other matter that I think I should say as a matter of fairness. Plainly enough some of the evidence that's just fallen from the witness involves a significant matter against Mr Ian Robertson. I should make it clear that there will be further examination in relation to that issue and I should make clear that I apprehend that there will be further evidence tending in relation to that matter, so it should be clear that that is only part of the evidence that I apprehend will be before the Commission in due course regarding the circumstances of 16 September, 2016.

10 THE COMMISSIONER: So Mr Ian Robertson will be given an early opportunity to give evidence on the matters that have been raised in the evidence of Ms Murnain. Is that right?

MR ROBERTSON: That's so. I apprehend calling him during the course of next week, probably on Wednesday or Thursday. I've had some discussions with my learned friends for Mr Robertson and will endeavour to meet their convenience as well, but Mr Robertson will plainly enough have an opportunity to say whatever he wishes to say in relation to the matters that have fallen from the witness this afternoon.

20

THE COMMISSIONER: Yes. All right. Yes, Mr McInerney?

MR McINERNEY: Yes, Chief Commissioner. McInerney for Mr Robertson. If I might, having regard to what's fallen from the witness this afternoon, indicate at this preliminary stage and notify to the Chief Commissioner and to this Commission that there will be an application to cross-examine Ms Murnain.

30

THE COMMISSIONER: Sorry, could you speak into the microphone?

MR McINERNEY: Yes, I do apologise, Chief Commissioner.

THE COMMISSIONER: That's all right. I just lost the last few words.

MR McINERNEY: If I may notify that there will be an application made to cross-examine Ms Murnain with respect to the evidence that she's given.

THE COMMISSIONER: Yes.

40 MR McINERNEY: I understand what my learned friend, Counsel Assisting, has indicated, that that's not the extent of the evidence which will be adduced before the Commission on this issue, but I make it plain that Mr Robertson will be seeking leave to cross-examine with respect to these issues.

THE COMMISSIONER: Yes. Yes, well, Mr McInerney, I understand that your client does wish to give evidence on this matter and we'll endeavour to permit him the earliest opportunity practicable in the programming of this

hearing and insofar as the evidence of the present witness is concerned, obviously any reporting on that matter will be taking into account that the Commission has not yet heard from Mr Robertson but will do so.

MR ROBERTSON: And can I indicate for the assistance of my learned friend, Mr McInerney, and other interested, that that opportunity to cross-examine Ms Murnain in relation to that or other matters is likely to arise towards the middle of next week and I would apprehend that a draft witness list for next week will become available during the course of tomorrow.

10

THE COMMISSIONER: All right. Mr McInerney heard that.

MR McINERNEY: Yes, I have, thank you, Chief Commissioner.

THE COMMISSIONER: Anything else?

MR McINERNEY: No.

THE COMMISSIONER: Nothing else you want to add?

20

MR McINERNEY: No, thank you.

THE COMMISSIONER: Thank you. Very well, I'll adjourn.

**AT 4.23PM THE MATTER WAS ADJOURNED ACCORDINGLY  
[4.23pm]**