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27/08/2020

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COMPULSORY
EXAMINATION

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

COMPULSORY EXAMINATION

OPERATION AERO

Reference: Operation E18/0093

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 27 AUGUST, 2020

AT 10.00AM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: Chief Commissioner, Mr Ming Biu Tam appears in response to a compulsory examination summons issued to him.

THE COMMISSIONER: Yes. Is Mr Tam here? Mr Tam is waiting outside?

10 MR ROBERTSON: No, Mr Tam is by video link.

THE COMMISSIONER: Oh, right.

MR ROBERTSON: You should be able to see him directly in front of you on the screen.

THE COMMISSIONER: Yes. Good morning, Mr Tam. Can you hear us?

MR TAM: *It's a little bit soft, Your Honour.*

20 THE COMMISSIONER: Is the volume not – can you hear me now?

MS LUM: Yes, we can hear you now.

THE COMMISSIONER: You can. Right. Mr Tam, just before we start this compulsory examination, there are a few formal matters to deal with. I understand you wish to give evidence on affirmation. Is that right?

MR TAM: *Yes, Your Honour.*

30 THE COMMISSIONER: You are not legally represented, there is no lawyer here for you. Is that right?

MR TAM: *No, I'm not represented.*

THE COMMISSIONER: Then I'll administer the affirmation. Now, sir, would you state your full name.

MR TAM: Ming Biu Tam.

<MING BIU TAM, affirmed

[10.20am]

THE COMMISSIONER: All right. Now, Mr Robertson, before we commence with taking of evidence from Mr Tam, I understand he's been recalled to give evidence in this compulsory examination by reason of evidence that's been given in the public inquiry.

10 MR ROBERTSON: That's so, if it pleases the Commission.

THE COMMISSIONER: And I understand that Mr Tam wishes to have a declaration made under section 38?

MR ROBERTSON: I understand that to be so.

20 THE COMMISSIONER: The compulsory examination, being a private hearing under section 30(5), means that in due course if the evidence to be given today is to be used, there will be a need for an order to be made permitting that to occur, in effect, because it is a private proceedings.

MR ROBERTSON: Yes. And can I indicate I anticipate that such an order will be sought by me in due course.

THE COMMISSIONER: Right, okay, very good. Well, then, I propose to make a declaration under section 38 of the Act and then we'll proceed to taking evidence from Mr Tam.

THE WITNESS: Okay.

30 THE COMMISSIONER: Mr Tam, I understand that it has been explained to you that you are entitled to give evidence under objection.---Ah hmm.

And I propose to make a declaration that your evidence is given under objection and therefore the evidence can't be used against you in the future, except for an offence under the Independent Commission Against Corruption Act, such as giving false evidence. Do you understand?
---Ah hmm. *Yes.*

40 Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by the witness, Mr Ming Tam, and all documents and things produced by him during the course of his evidence at this compulsory examination are to be regarded as having been given or produced on objection. Accordingly there is no need for Mr Tam to make objection in respect of any particular answer given or document or thing produced.

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

THE COMMISSIONER: Mr Robertson will shortly commence the examination. Madam Interpreter, would you mind firstly putting your name on the record and then as to whether you take an oath or an affirmation?

MS LUM: My name is Garman Lum, G-a-r-m-a-n, my last name is L-u-m. I'm a Cantonese interpreter.

20 THE COMMISSIONER: Do you wish to take an oath or an affirmation?

MS LUM: Affirmation, please.

<GARMAN LUM, affirmed

[10.24am]

THE COMMISSIONER: Yes, Mr Robertson.

30 MR ROBERTSON: Mr Tam, can you see and hear me clearly?---*You are a little bit soft, sir.*

THE COMMISSIONER: Say again.---*Yes.*

MR ROBERTSON: Madam Interpreter, if there's ever a position where you can't hear me very clearly, just let me know, please.

THE INTERPRETER: I will. Thank you.

40 THE WITNESS: *Yeah.*

MR ROBERTSON: Mr Tam, you participated in a compulsory examination private hearing before this Commission in about June of last year. Is that right?---*Yes. Yes.*

Did you tell the truth during that compulsory examination?---*It's something that happened a year ago already. I don't really remember very well.*

Do you remember giving evidence to the Commission last year regarding whether your wife had made any political donations?---*Yes.*

And do you remember what you told the Commission when you gave evidence about that last year?---*I think I said that it was true.*

10 You mean it was true that your wife had made a political donation. Is that what you mean?---*I did say that at that time.*

Was that the truth or was that a lie?---*It was a lie.*

Do you agree that, to your knowledge, your wife did not make any political donations in 2015?---*I agree.*

When you told the Commission that your wife had made a political donation, you knew that it was a lie. Is that right?---*Yes.*

20 Why was it that you lied to this Commission?---*Someone told me to do so.*

Who told you to do so?---*Someone by the name Wong Kwok Chung. I, I don't know if that's his English name but I think it was Ernest Wong.*

When did Ernest Wong tell you to lie to this Commission?---*I think around June last year. I think it was around that time.*

30 Let me help you this way. Commissioner, there may be a technical difficulty. If you'll just pardon me for a moment. Just pardon me for a moment. Commissioner, there's a technical difficulty which prevents me from showing a document on the screen that I wanted to show, which technical difficulty may have been immediately fixed. If we can go to Exhibit 285 if that's possible.---Okay.

I'm sorry, Mr Tan, there's just a technical difficulty. Just bear with us for a moment.---*Okay.*

40 THE COMMISSIONER: Just while that's being fixed, Mr Robertson, would you be taking Mr Tam through the circumstances in which he apparently discussed this matter with Mr Jonathan Yee and Mr Ernest Wong?

MR ROBERTSON: Yes. Now, Mr Tam, up on the screen in front of you, and we'll zoom in, can you see a document called Summons to Appear and Give Evidence?---Ah hmm. Yeah. *Yes.*

Operator, can we just zoom in in relation to the first dot point? Can you see, Mr Tam, a reference there to Wednesday, 12 June, 2019?---Yep. *Yes, I can see that.*

And is it consistent with your recollection that when you last attended before this Commission it was on or about 12 June, 2019?---*Yeah.*

10 And do you agree that about a week or so before 12 June, 2019, you were given this document by Mr Vickery of the Commission?---*What's the name, again?*

Mr Phil Vickery, I'm suggesting to you, gave you a copy of the document you can now see on the screen.---*So, is that someone from ICAC as well?*

That's correct.---*I don't recall the person's name, but I do remember someone, like a staff from, the staff member from ICAC came to my home, and delivered this document to me.*

20 After the staff member from the ICAC gave you a copy of this document, what did you do about the document?---*What did I do? I attended on the date that I was required according to this document.*

Commissioner, there's a technical difficulty that's arisen. Would you mind adjourning briefly while we attempt to fix that?

30 THE COMMISSIONER: Yes, all right. Well, I'll adjourn for a short time. Mr Tam, I'm going to stop the hearing at this point because there's some technical problem, either with the video recording or the sound system. That's going to be fixed, but I'll adjourn, I'll stop the inquiry for a short time, and then we'll recommence. I'll adjourn.---Okay. Okay.

SHORT ADJOURNMENT

[10.33am]

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: I'm sorry about that delay, Mr Tam.---Yep.

40 Can we have Exhibit 285 back on the screen, please. Mr Tam, after you received the document that you can see on the screen, who did you tell about the fact that you had received that document?---*My wife.*

Anyone else?---*No.*

Did you tell Jonathan Yee?---*My wife might have told him.*

But you didn't tell Jonathan Yee directly yourself. Is that right?---*No.*

What about Ernest Wong, did you tell Ernest Wong about the document that's on the screen?---*No.*

You said this morning that Ernest Wong told you to lie at your last private hearing. Is that right?---*You mean on the same day?*

10 I'm asking you to confirm whether it was Ernest Wong who told you to lie on the last occasion in June of 2019. Is that right?---*I did say that.*

And when did Ernest Wong tell you to lie?---(No Audible Reply)

I couldn't hear that answer?---*It's been a long time. Maybe on the same day I attended the hearing here or the day before. I cannot recall when, the time of the day I was required, so it could be the day before.*

20 So just to help you, Mr Tam, you were required to attend at 2.00pm on Wednesday, 12 June, 2019. Does that help you with your recollection? ---*I have not met him face-to-face.*

You have not met who face-to-face?---*Ernest Wong.*

So is it right that you've never met Ernest Wong face-to-face, is that what you're saying?---*No, I have not.*

30 You've never seen him before, for example, at the Emperor's Garden Restaurant?---*He's a celebrity at Chinatown so I must have seen him in other restaurants apart from Emperor's Garden, but I do not know this person personally.*

Have you ever discussed the ICAC investigation with Ernest Wong? ---*No.*

Have you ever discussed the ICAC investigation with Jonathan Yee? ---*No.*

What about his brother, Valentine Yee?---*Neither.*

40 How did you know that Ernest Wong wanted you to lie to the ICAC? ---*Because he gave us a print, a letter in Chinese, it was a printed letter, and told us to say according to what's in the letter.*

Did Ernest Wong give that letter directly to you or did you get that letter in some other way?---*He gave it to my wife and my wife took it home.*

And did your wife then show you that letter, is that right?---*Indeed.*

Do you remember when that happened, was that on the same day as the compulsory examination or the day before or at some other time?---*I'm not too sure but I think it was in the morning on the day I last came into the ICAC.*

THE COMMISSIONER: How do you know that Mr Wong gave that document you referred to, to your wife? How do you know?---*Because my wife told me so.*

10 What did she say?---*She told me that Wong, Ernest Wong gave her that letter, and that we should tell at the hearing according to the, what is in the letter.*

MR ROBERTSON: Did your wife say anything else to you about what Mr Wong had said to her?---*No, it all related to this letter and matters relating to attending the hearing.*

20 Did your wife tell you when she had that discussion with Ernest Wong?---*I think before she got back home.*

So are you saying that your wife told you that Mr Wong had spoken to her, what, on the same day? Is that what you mean?---*To the best of my recollection, yes.*

Mr Tam, you had a lawyer with you when you attended last year. Who paid for that lawyer?---Jonathan Yu. *Jonathan Yee.* Yee. *Jonathan Yu, Jonathan Yee.*

30 THE COMMISSIONER: How do you know Jonathan Yee paid the lawyer? ---*My wife told me so.*

I can't hear. Say again?---*My wife told me so.*

MR ROBERTSON: So you told your wife about receiving the summons to attend last year, is that right?---*Yes.*

And did she tell you that she was, that she had spoken to Jonathan Yee about that summons, is that right?---*Yes.*

40 And did your wife tell you that Jonathan Yee was going to pay for the lawyer?---*She told me at a later stage.*

Was that before or after you participated in the private hearing that she told you?---*After.*

So at the time of your private hearing, who did you think was going to pay for your lawyer?---*I think Jonathan Yee will, would.*

So at the time of the private hearing in June, you knew that Mr Jonathan Yee had arranged legal representation for you, is that right?---*Yes.*

And you knew that Jonathan Yee was going to make arrangements to pay for that lawyer, is that right?---*Like I said before, I knew about it afterwards.*

10 No, but you at least knew that Mr Jonathan Yee had arranged the legal representation for the private hearing, is that right?---*Yes.*

But is what you're saying that you didn't know that Jonathan Yee was going to pay for the lawyer's bill until after the hearing?---*Yes.*

But at the time of the private hearing you thought that someone else would be paying for the lawyer and not you. Is that right?---*Yeah, that was what I thought would be the case.*

20 Did you ultimately pay anything towards the lawyer who attended with you on the last occasion?

THE INTERPRETER: I beg your pardon?

MR ROBERTSON: Did, Mr Tam, did you ultimately pay any money to the lawyer who came with you in June of 2019?---*No.*

Do you know where Jonathan Yee got the money from to pay for the lawyer who attended with you on the last occasion?---*I have no idea.*

30 Can we have, please, Exhibit 286A, page 2. I'm just going to ask for a document to be put up on the screen for you to have a look at, Mr Tam. Just bear with us for a moment. And go to page 2 of that document, please, operator. Mr Tam, you referred a little moment ago to a letter from Ernest Wong. Is this the letter that you were referring to?---(No Audible Reply)

So do you recognise the letter that is on the screen, Mr Tam?---*Ah hmm.*

40 Does that mean yes, you have seen the document that's on the screen before?---*It has similar, you know, content but I'm not sure if this is exactly that one.*

So is it right that you remember seeing a document that has at least some of the content that you can see on the screen. Is that what you're saying? ---*Correct.*

So you've either seen the document that's on the screen or something quite similar to it. Is that right?---*Indeed.*

And I'll just get the operator to turn to the next page just so you can see the end of the document.

THE COMMISSIONER: Page 2 of the document.

MR ROBERTSON: PDF page 3, page 2 of the particular document. Can you see that on the screen now, Mr Tam?---*I see that.*

10 Again you remember seeing some text along the lines of what you can now see on the screen. Is that right?---*Yes.*

And so does this document, the two pages that I've shown to you, look like the document that you were given by your wife that you explained earlier today?---*Yes.*

And is it right that you understood that this document came from Mr Ernest Wong because your wife told you that it had come from Mr Ernest Wong? ---*Correct.*

20 And what did you understand this document to be communicating to you? ---*It tells me to tell at the hearing according to what's in the letter.*

THE COMMISSIONER: You see, just going back to the first page for a moment, so the first three lines are underlined. Do you see that, it's got underlining?---*Yes, I see that.*

When you read this letter or when you, well when you read this document you noted the underlined sections and read them, did you?---*I did.*

30 And you see the first two and a half lines that are underlined is in the nature of a direction or instruction. Would you agree?---*Yes.*

And is that how you took it, as a direction or instruction?---*Yes.*

MR ROBERTSON: Do you agree, Mr Tam, that the gist of those first three lines is an instruction that you should tell this Commission that you, or you and your wife, had donated money to the Labor Party?---*Yes.*

40 And you and your wife had not donated to the Labor Party. Correct?

THE INTERPRETER: I beg your pardon?

MR ROBERTSON: And you and your wife had not donated to the Australian Labor Party. Is that right?---*Correct.*

And so is it right to say you understood this letter to be encouraging you or instructing you to lie to this Commission?---*Yes.*

And you decided to follow that instruction. Is that right?---*Yes.*

Why did you decide to follow that instruction?---*Because Jonathan Yee was the boss of my wife and was my ex-boss as well.*

But how did you know that Jonathan Yee had anything to do with this question of donations?---*Because I know he is very close to Ernest Wong.*

10 How do you know that?---*My wife has also told me so.*

So did you agree to follow this instruction because you wanted to comply with Mr Wong's instruction, or because you were concerned about Mr Yee, or for both of those reasons, or some other reason?---*I think it related to Jonathan Yee being our boss.*

THE COMMISSIONER: Related to, Jonathan Yee's what?

20 THE INTERPRETER: "Being our bosses, like, boss of my wife and myself."

THE COMMISSIONER: Right.

THE WITNESS: *My ex-boss.*

THE COMMISSIONER: And what did that have to do with you agreeing to carry out the instruction?---*My wife was working for him at that time, and I think donation would bring us no harm any way.*

30 MR ROBERTSON: But how did you know that Jonathan Yee had anything to do with the question of donations?---*My wife told me so. Again, my wife told me so.*

So your wife told you that Jonathan Yee had something to do with donations, is that right?---*Yes.*

THE COMMISSIONER: You said earlier that this document that's now on the screen that we've been asking questions about was handed to you by your wife. Is that right?---*Yes.*

40 And from what your wife said, did you understand that she had obtained the document from Mr Wong or from Mr Yee?---*From what she told me, it was Ernest Wong.*

So the instruction or the direction underlined on page 1 of this letter, did you understand that that was a direction coming from Mr Wong himself?
---*Yes.*

You said you'd never met Mr Wong. So why would you obey a direction or instruction such as that written in this letter underlined on page 1?---Mmm.
Because he was a, because he's a good friend to Jonathan Yee, and Jonathan Yee was our boss and my ex-boss.

MR ROBERTSON: But how did you know they were good friends?---*I have seen them together, appearing together at the Emperor's Garden.*

10 When were you first told about anything to do with donations and Mr Wong or Mr Yee?---*It should be sometime before my wife handed me this letter.*

You knew about this question of donations before you received the summons to give evidence before this Commission. Is that right?---*Rang a bell. What? Which matter do you mean?*

Well, you knew that your wife had said that she had donated money to the Labor Party. Is that right?---*I knew that I will be required to donate to the Labor Party.*

20 When did you find out about that?---*Before the hearing.*

How long before the hearing?---*I can't recall exactly but I think within the month before the hearing.*

Do you agree that you knew for a number of years before the June 2019 hearing that your wife had said that she donated money to the Labor Party?

THE INTERPRETER: A number of years?

30 MR ROBERTSON: A number of years, yes.---*I can't remember about that.*

Go to Exhibit 152, please, page 10. Mr Tam, do you recognise the handwriting where it says Teresa Tam? We might just zoom in a little bit if we can, operator, just to make it easier for Mr Tam. Do you recognise that handwriting, Mr Tam?---*I don't.*

40 Do you know whether that's your wife's handwriting where it says Teresa Tam?---*I am not sure.*

What about the signature? Does that look to you like your wife's signature? ---*No.*

The document that's on the screen at the moment, have you seen that document before?---*Not to my recollection.*

So, so far as you can recall, the first time you've seen the document that's now on the screen is today with me showing it to you. Is that right?

---*Correct.*

Can we go, please, to Exhibit 287 starting at page 11. Page 11 of that bundle, please. And if we can just scroll down a little bit, please, operator. Mr Tam, can you see that there's a signature towards the bottom left-hand side of the page?---*Yes.*

10 Does that look like your wife's signature?---*It does.*

The document that's presently on the screen, have you seen this document before?---*Not to my recollection.*

But did you at least know as at 2016 that your wife had told the Electoral Commission that she had donated money to the Labor Party?---*She did mention this to me but I can't recall whether it was 2016 or before, I can't remember.*

20 You knew about it well before you were given the summons to attend before this Commission to give evidence in June of last year. Is that right?
---*Yes.*

You know that your wife attended before this Commission in a private hearing?---*Yes.*

And how did you know that?---*She told me.*

30 So is it right that soon after she received a summons she told you that she'd received the summons?---*Yes.*

After she attended to give evidence in the private hearing, did she tell you about what happened at the private hearing?---*That it related to the donations she told me.*

So she told you a little bit about the topics that were being discussed with her in her private hearing. Is that right?---*Yes.*

40 And after you participated in your private hearing, did you tell your wife about what happened at the private hearing?---*I did.*

Did you tell anyone else other than your wife?---*No.*

Just looking again at the document on the screen, can I just confirm that where you see the handwritten "Teresa," that looks like your wife, Teresa Tam's, handwriting. Is that right?---*Yes.*

That's how she would usually sign her name if she's asked to sign something. Is that right?

THE INTERPRETER: He's asking to repeat.

MR ROBERTSON: Looking at the handwritten signature towards the bottom left-hand side of the page, that looks like a signature that your wife, Teresa Tam, would sign on a document. Is that right?---*Yes.*

10 Can I go, please, to page 23 of this bundle. Mr Tam, have you seen the document that is presently on the screen before?---*I don't remember.*

Does the signature towards the bottom of the page look like it's in your wife's handwriting?---*It does.*

Do you remember that when you gave evidence last year you suggested that you participated in drafting the document that you can see on the screen? ---*Yes.*

20 And was that a lie when you told the Commission that on the last occasion? ---*Yes.*

Just in fairness to you, Mr Tam, I'm just going to show you what you said on the last occasion. Could we go to the compulsory examination transcript, please, page 1043? Your daughter's name is Tracy, is that right, Mr Tam? ---*Yes.*

30 Just pardon us for a moment, Mr Tam. Mr Tam, I'll just ask the interpreter to translate for you starting from the third line, where it says Mr Johnston, it starts with, "Mr Tam," and to go through to line 12, which is the line that finishes, "a letter like that in English." I'll just ask the interpreter to interpret that for Mr Tam, if she'd be so good as to do so.

THE INTERPRETER: Can you maximise it a little bit for me? Thank you. So from line 3 - - -

MR ROBERTSON: From line 3 to line 12, if you don't mind.

40 THE INTERPRETER: To line 12, line 12. "A letter like," okay. Mr Johnston. "Mr Tam, have you seen this letter? Is that Teresa, is that your wife's signature at the bottom? Who wrote this letter?" "Which letter?" "The letter that you've had read to you, who wrote it?" "I think - I think my wife and I put together the letter with the assistance of my daughter, because our English, we couldn't, we wouldn't have been able to write a letter like that in English."---Ah hmm. *Yes.*

MR ROBERTSON: Mr Tam, I want you to assume that the letter that you were discussing with Mr Johnston is the letter that I showed you on the screen a moment ago. Do you understand?---Ah hmm. *Yes.*

Do you agree, based on that assumption, that what you told the Commission about the letter on the last occasion was false?---*Sorry, I can't remember what was in the letter we saw before already.*

10 THE COMMISSIONER: Perhaps if we could have the letter back on the screen.---*Can I please have it again?*

MR ROBERTSON: Yes, we'll put that back on the screen for you.---Okay.

That's Exhibit 287, page 23. Now, Mr Tam, would you like - - -

THE COMMISSIONER: I'm sorry. Can you read English?

THE INTERPRETER: Okay. He will need that interpreted.

20 THE COMMISSIONER: What did he say?---*I will need that interpreted, please.*

Yes, need it interpreted.

THE INTERPRETER: Yes.

MR ROBERTSON: Now, Mr Tam, did you contribute to the drafting of the letter that has just been translated for you?---*No.*

30 Do you know how the letter that is on the screen came about, how that came to be produced?---*My wife drafted it for us. She wrote it, she drafted it.*

When did you first see either this letter or a draft of this letter?---*I'm not sure whether I have seen this letter before or not.*

Well, how do you know that it was your wife who drafted this letter? ---*My daughter drafted it.*

40 THE COMMISSIONER: Just go back to the top of the letter if it could be scrolled up to the top. See this letter was written to Mr Peter Smithers described as Senior Investigator, Inspector of the NSW Electoral Commission.---Ah hmm.

So this letter was providing information to Mr Smithers, who was an investigator at the NSW Electoral Commission. You understand? ---Mmm.

Now, when did you first see this letter or have knowledge about this letter?
 ---*I only knew that my wife and my daughter put together a letter to the
 ICAC. To my recollection I have not seen this letter before.*

MR ROBERTSON: How do you know that it was your wife and your
 daughter who put together a letter?---*My wife told me so.*

10 So is it right that you knew that your wife had been asked to give documents
 to the Electoral Commission?---*Yes.*

And she told you that she was asked to produce documents to the Electoral
 Commission. Is that right?---*Yes.*

But did you have any role at all in producing the letter that you can see on
 the screen dated 23 September, 2016?---*No.*

Do you agree that you told the Commission last year that your wife and you
 put the letter together, with the assistance of your daughter?---*Yes.*

20 Do you agree that when you said that to this Commission it was a lie?
 ---*Yes.*

And you knew it was a lie at the time that you told that lie to this
 Commission. Do you agree?---*Yes.*

Why did you lie to the Commission about the production of this letter?
 ---*Because of the letter of Ernest Wong and that we had to follow his
 instructions.*

30 But how did you know in 2016 that you had to follow Ernest Wong's
 instructions?---*Because we knew he was a good friend to Jonathan Yee.
 Well, Jonathan Yee was our boss.*

But how did you know that Ernest Wong wanted your wife to send a letter
 like the one that we see on the screen?---*Again, it was my wife who told
 me about it.*

40 THE COMMISSIONER: I can't hear you, Madam Interpreter.---*Again, it
 was my wife who told me about it.*

Mr Tam, you will see the letter that's on the screen has the appearance of
 being a very professionally written letter. By that I mean it is in perfect
 English and it is set out paragraph by paragraph as you see on the screen.
 Now, have you ever seen your wife produce a letter like this one in perfect
 English set out in a very professional manner?---*I don't think she can do
 that.*

I don't think what?---*I don't think she* - - -

Madam Interpreter, I'm having trouble hearing you. Maybe the mask is making it difficult for your voice to carry. Could you just give me the answer again, please.---*I don't think she could do that.*

Just refresh my memory. What is your wife's occupation?---*She is a cashier.*

10 Do you have any information as to who wrote this letter or who produced this letter?---*I think my daughter wrote it.*

What makes you think that?---*Because neither of us have that level of English.*

Yes, but the detail in that letter talking about the number of donations, the amounts of donations, dates of invoices and the like, are they the sort of matters your daughter would know and have known about in your view? ---*I think my wife told her those informations, information.*

20 MR ROBERTSON: But did any of the content of the letter, the ideas in the letter, come from anyone other than your wife?---*That I do not know.*

Well, to your knowledge, did Jonathan Yee contribute to the drafting of the letter that you can see on the screen?---*Not to my knowledge.*

Well, didn't your wife explain to you that Jonathan Yee wanted her to sign a letter that looks like the one on the screen?---*Not to my recollection.*

30 Or did she tell you that Ernest Wong wanted her to sign a letter like the one on the screen?---*Not to my recollection.*

But you at least agree that what is said in this letter is false. Is that right? ---*Yes.*

You and your wife did not make donations to NSW Labor or Labor Country in March of 2015. Correct?---*That's right, we didn't.*

40 You said a little while ago that the reason that you have lied to this Commission is because Mr Wong wanted you to lie, do I have that right? ---*Yes.*

I just want to be clear, how did you know that Mr Wong wanted you to lie? ---*Because he gave us that printed letter in Chinese.*

Well, he gave that letter to your wife, is that right?---*Yes.*

And your wife told you that it came from Mr Wong, is that right?---*Yes.*

But why would you follow Mr Wong's instructions?---*Like I said before, he's a good friend of Jonathan Yee, and Jonathan Yee was our boss.*

But you knew it was a very serious thing to lie to this Commission, didn't you?---*I didn't know at that time.*

Sorry, you're saying you didn't know that it was a serious thing to lie to this Commission? Is that what you're saying?---*I didn't know.*

10 Well you were told on the last occasion that it was a serious criminal offence that could lead to imprisonment for five years, weren't you?---*You mean at the hearing?*

At the hearing in June of 2019, you were told that it was a serious offence to give false or misleading evidence to the Commission. Correct?---*Was that told to me when I attended the hearing last time here?*

20 Yes. I suggest you were told that it was a very serious offence, and you indicated that you agreed, that you understood that it was a serious offence. ---*Ah hmm, yeah.*

You also had a lawyer with you on the last occasion who had given you some legal advice about this Commission. Is that right?---*Yes.*

But you decided to lie because Mr Wong wanted you to. Is that right? ---*Yes.*

30 And you did that because, as you understood it, Mr Jonathan Yee also wanted you to lie. Is that right?---*Yes.*

And you knew that because your wife told you. Is that right?---*Yes.*

THE COMMISSIONER: Before June 2019, did you regard yourself as having been an honest and truthful person?---*Yes, yes.*

And prior to June 2019 did you endeavour, as best you could, to tell the truth and not to mislead people?---*Yes.*

40 Well, what made you, an honest man, come here to this Commission and tell many lies? What made you do that?---*Because of Ernest Wong and Jonathan Yee.*

But why would you lie for those two men?---*Like I said before, because he was our boss and the other person was his very good friend.*

The other person was?---*Ernest Wong.*

Why would you lie for Ernest Wong?---*Because the relationship between Jonathan Yee and Ernest Wong was they're good friends.*

MR ROBERTSON: Is it right to say that you felt pressured to do what your wife's boss, Jonathan Yee, wanted?---*I agree.*

And Jonathan Yee was also your boss at one point, you used to work for Jonathan Yee. Is that right?---*Yes.*

10 And is that part of the explanation as to why you lied to this Commission on the last occasion?---*Yes.*

THE COMMISSIONER: Prior to that letter that was on the screen a moment ago, September 2016, '15?

MR ROBERTSON: '16.

20 THE COMMISSIONER: '16. Prior to that letter that has been translated to you a moment ago that was on the screen, is said to have been signed by your wife, as at that time was your wife a friend of Mr Wong?---*I don't think they were actually friends.*

Would it be correct to say that your wife and Mr Wong were good friends, would that be correct or incorrect?---*Incorrect.*

30 In that letter that was translated for you and that's on the screen now, in the first paragraph this letter, which is said to have been signed by your wife, says, "These donations were made in support of my good friend, the Honourable Ernest Wong, MLC." Is that statement true or is it completely false?---*It was false. It was false.*

Does that statement that I read to you or anything else in this letter suggest to you that this letter may have been written by somebody other than your wife?

THE INTERPRETER: He's asked me to repeat.

THE WITNESS: *My apologies, but I don't understand the question.*

40 THE COMMISSIONER: Mr Tam, this time I want you to answer my question truthfully. Who, to your knowledge, wrote that letter that you see on the screen and that has been translated to you? Who wrote it?---*I believe it was drafted by my daughter.*

I can't hear you, madam. I believe what?---*I believe it was drafted by my daughter.*

And do you know whether your daughter was asked to write this letter by someone who was not a member of your family?---*I don't think so.*

MR ROBERTSON: Why do you believe it was drafted by your daughter? ---*Well, first of all my wife told me that my daughter would help with this, that is, to draft this letter, but I'm not hundred per cent sure it was her who drafted it. That was my belief only.*

10 So you at least knew that your wife needed to send a letter back to the Electoral Commission. Is that right?---*Yes.*

And you knew that before this letter was sent off to the Electoral Commission. Is that right?---*Yes.*

Did you help with any of the ideas or the words for the letter that's on the screen?---*No.*

20 So you're saying that nothing that was in the letter that was translated to you was your idea for your wife to write?---*No.*

Did you discuss with your daughter the fact that your wife had to send a letter to the Electoral Commission?---*I cannot, I, I cannot remember for sure.*

Do you remember whether your wife mentioned that Jonathan Yee or Ernest Wong or someone else wanted this letter to be written?---*I do not recall.*

Mr Tam, have you been telling the truth today?---*Yes.*

30 Why have you decided to tell the truth today, when the last time you were here you were telling lies?---*Because, because my wife has told the truth already, and I cannot continue with any lies.*

So you know that your wife attended before this Commission in the public hearing and told the truth, is that what you're referring to?---*That's right.*

And now that that's happened, you realise that you can't get away with telling lies anymore, is that right?---*Yes.*

40 Has Jonathan Yee or anyone else said to you that you don't need to lie to this Commission anymore?---*No.*

Did Jonathan Yee speak to you about this question of donations after the public inquiry?---*No.*

Has Ernest Wong ever spoken to you directly about this question of donations?---*No.*

We'll go to Exhibit 307, please. Mr Tam, do you see on the screen a tax invoice to Ming Biu Tam?---*To me?*

Yes, just have a look in the top left-hand corner. Do you see the words "tax invoice" and then your name underneath it?---(No Audible Reply)

Do you see that Mr Tam?---*Sorry, I can't see my name there. Oh, yeah, I can see it now.*

10 Have you seen the document that's on the screen before?---*Is that something from the law firm to us, may I ask?*

If you just have a look, it's described as an invoice from CMI Legal Pty Ltd. Do you see that on the right-hand side of the page?---*Yes.*

And you'll remember that they were the firm of solicitors who assisted you when you attended before this Commission last year. Is that right?---*Yes.*

20 And if you just look towards the bottom of what's on the screen, do you see it says "disbursements – counsel fees, Matthew Kalyk," K-a-l-y-k?---*Yes, I see that.*

And he was the barrister who came along with you when you attended in June of last year. Is that right?---*I don't recall his name but this has happened.*

Do you remember seeing this tax invoice before?---*I believe so.*

30 When did you see this tax invoice for the first time?---*I think it was sent to my phone.*

And did that happen last year soon after you attended the private hearing? ---*Yes.*

And did you pay anything towards this tax invoice?---*I think my wife paid and then Jonathan Yee paid her back.*

And how do you know that?---*My wife said so.*

40 Do you know where Jonathan Yee got the money from to reimburse your wife for the tax invoice?---*That I do not know.*

That's the examination, Chief Commissioner.

THE COMMISSIONER: Just in relation to this bill, the total amount is \$3,822. You'll see that. What was the name of the solicitor from that firm who provided services to you?---*It was a male by the last name Wong and that's all I know.*

His last name was Wong?---*If I go back to my phone I will see some record I think.*

Yes. Would you check your phone to find out his name, please. Just bear in mind this is about June of 2019 that you might find some entry.---*Yes, bear with me.*

That's unless we already know, Mr Robertson.

10

MR ROBERTSON: I'm so sorry?

THE COMMISSIONER: That's unless we already know who the solicitor was.

MR ROBERTSON: If you just pardon me for a moment, I think we know, I just want to check.

THE WITNESS: *Can I answer the question now?*

20

MR ROBERTSON: Yes, please, Mr Tam.---*I don't, I don't think I was ever shown his business card so I recorded as Wong, but I'm guessing the spelling only.*

THE COMMISSIONER: Do you have his name and phone number in your phone?---*I should do. I should do.*

Could we just scroll up to the top of that fee invoice, please. Thank you.

30 THE WITNESS: *Yes, I have it.*

THE COMMISSIONER: Does he have that number? Does he have the number in his phone is my question, please.---*Yes.*

What is the number in your phone?---*I don't know how to retrieve the number but I know there's a button where I, or there's a spot where I hit and then I can call to that person.*

Do that.

40

THE INTERPRETER: Try to call now, is that what Your Honour wants him to do?

THE WITNESS: *0-4-1-0-6-0-1-2-7-0.*

THE COMMISSIONER: 2-7?---*0*.

And again, has he got the name of the solicitor? And if so, what is the name?---*Give me a moment, please. Sorry, I can't find it.*

Is your evidence that the solicitor's name was Wong?---*Yes.*

MR ROBERTSON: Does the name Ken Wong mean anything to you?---*I, I'm not sure.*

10 THE COMMISSIONER: Anyway, you'll see on the screen in big bold type "CMI" and then below that has "invoice date 13 June, 2019", and opposite that it's got "CMI Legal Pty Ltd" and there's an address at Chatswood. Prior to June 2019 had you ever engaged or retained CMI Legal Pty Ltd for any work?---*So this Mr, solicitor Wong was instructed at the time of the hearing last time.*

Listen to my question, please. Before June 2019 had you ever engaged this legal firm to do any legal work you before?---*No.*

20 Before June 2019 had you ever heard the name CMI Legal Pty Ltd?---*No.*

Before June 2019 had you ever done any work with the solicitor, Mr Wong, that you've referred to?---*No.*

Never engaged that solicitor before June 2019?---*No.*

Who do you believe retained CMI Legal to do legal work for you concerning the ICAC summons and the compulsory examination?---*To my understanding it was Jonathan Yee.*

30 And your understanding that Jonathan Yee engaged CMI is based on what? What is your understanding based on?---*I believe my wife has told me so.*

And where did you first see Mr Wong from CMI Legal, where did you physically meet with him for the first time?---*Downstairs at my lobby of my home.*

Sorry? At your - - ?---*Downstairs at the lobby of my home.*

40 And was your wife present on that occasion when you first met Mr Wong the solicitor?---*No.*

Did you have a second or third meeting with Mr Wong after that first meeting at your home?

THE INTERPRETER: Downstairs at the lobby, Your Honour, not in his home.

THE WITNESS: *If I remember it right, the first time I met with him was exactly that day when the hearing happened.*

THE COMMISSIONER: Okay. And that was at your home, was it?---*At the lobby downstairs of my apartment.*

But did Mr Wong, I thought you said before, the solicitor come to your home? Is that what you said? No.

10 THE INTERPRETER: No.

THE COMMISSIONER: I misunderstood what you said. Okay. So - - -? ---*At the lobby downstairs of my home.*

I see.

MR ROBERTSON: I think the lobby of his building, Chief Commissioner, I think that's the intent.

20 THE COMMISSIONER: And how did that meeting take place? Did you ask for that meeting, for him to meet in the lobby of the building that you live in? Did you ask him to come, or did somebody else arrange for him to come?---*I don't recall, maybe I was required to show the summons to the solicitor Wong, perhaps.*

Did you and/or your wife ever give documents to Mr Wong the solicitor? ---*Sorry, the solicitor Wong is calling back, because I tried to call to get the number just now.*

30 Oh, just put that to one side. I'm asking you about the solicitor Mr Wong from CMI Legal. Did you ever give him documents, or did your wife ever give him documents before you gave evidence in the compulsory examination here at the Commission?---*I cannot remember about that.*

All right.

MR ROBERTSON: Mr Tam, you'll remember that when you came here last year, you had two lawyers coming with you, do you remember that? ---*Yes.*

40 The second of those two lawyers, when did you first meet him?---*Same day.*

The same day as the compulsory examination, is that what you mean? ---*Yes.*

And where did that occur?---*In his office.*

And where is his office?---*Somewhere close to Wynyard.*

And was Mr Wong at that meeting as well?

THE INTERPRETER: Mr Wong being which one?

MR ROBERTSON: The solicitor, Mr Wong, was he also at the meeting with the second lawyer?---*Yes.*

10 And was anyone else present other than you, Mr Wong and the second lawyer?---*My wife came with me initially but we were told at a later stage that my wife could not be present and so she left.*

So is it right that your wife was present for part of the meeting but not the whole meeting?---*She was told that she shouldn't be present right at the beginning so she left from there.*

And there was no one else present at that meeting. Is that right?---*No one else.*

20

Is it possible that that meeting was closer to Phillip Street rather than Wynyard?---*I cannot remember clearly about the actual address. I might be able to show you where it is but I cannot recall the actual address.*

When you saw the solicitor, Mr Wong, in the foyer of your building, was there anyone else present other than you and Mr Wong?---*There might be some security guard near us.*

30 But no one else participating in that discussion. Is that right?---*No one else.*

And so before you attended last year in June of 2019 you had the meeting with the solicitor, Mr Wong, in the foyer of your building, you had a subsequent meeting with the solicitor, Mr Wong, and a second lawyer, you think somewhere near Wynyard, and that's the only meetings with lawyers in advance of the compulsory examination. Is that right?---*I think there was another meeting after the hearing at the barrister's office.*

40 After the hearing you went back to see the barrister. Is that right? ---*That's my recollection but I'm not a hundred per cent sure.*

Was that on the same day as the private hearing or on a subsequent day? ---*Same day.*

The letter that I showed you this morning in Chinese text that had the instructions as to what you might say, did you have that document with you during any of the meetings with the lawyers?---*I don't remember having done so.*

But your wife had given you that document on probably the day of the private hearing. Is that right?---*I remember my wife had shown it to me but I cannot remember the actual date she did so.*

But you had certainly seen it before you participated in the private hearing. Is that right?---*Yes.*

That's the examination.

10

THE COMMISSIONER: The summons that you received from the Commission to come here in June last year was shown on the screen earlier today and you recall the day you received that summons. Is that right? You recall the day you received the summons?---*I do not remember which day it was.*

But you do remember receiving the summons requiring you to attend here at the Commission last June?---*Yes.*

20

Did you decide that you needed to have a lawyer to represent you or did somebody else make that decision for you?---*I think someone made that decision.*

Not you?---*No.*

And just to be clear about it, who do you believe made the decision to engage a lawyer for you when you appeared before the Commission in June last year?---*I believe it could have been Jonathan Yee.*

30

Thank you.

MR ROBERTSON: So why do you believe that, Mr Tam?---*Because we simply do not know this person called Ernest Wong, especially me. I simply didn't know him at all.*

But why do you think that Jonathan Yee thought that you needed a lawyer to assist you? Is that something your wife told you that Jonathan Yee had told her?---*My wife has told me so, yes.*

40

She told you so after you received the summons and before you attended the private hearing. Is that right?---*Yes.*

THE COMMISSIONER: Is there any reason why Mr Tam should not be excused from the summons?

MR ROBERTSON: No. He can be released from the summons in my submission.

THE COMMISSIONER: Mr Tam, that concludes the examination today. Thank you for your attendance.---Okay.

And you're excused from further attendance.---*Thank you.*

Just before we do adjourn, is there anything you wanted to say about any aspect of this matter or not? You don't have to but is there anything you want to say?---*I just want to say that we have not made any donations.*

10 Sorry, what's that?---*I just want to say that we have not made any donations.*

Sorry, I'm not getting the message.---*I just want to say that we have not made any donations.*

Not made any donations. Right, thank you. Sorry.

MR ROBERTSON: And when you say "we", Mr Tam, you mean you haven't made a donation and your wife hasn't made a donation. Is that right?---*That's right.*

THE COMMISSIONER: All right. Thank you. I'll adjourn.

THE WITNESS EXCUSED

[12.45pm]

AT 12.45PM THE MATTER WAS ADJOURNED ACCORDINGLY

[12.45pm]

30