

KEPPELPUB00001
21/09/2020

KEPPEL
pp 00001-00063

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE RUTH McCOLL AO
COMMISSIONER

PUBLIC HEARING

OPERATION KEPPEL

Reference: Operation E17/0144

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 21 SEPTEMBER, 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: This is a public inquiry of the Independent Commission Against Corruption in which that Commission is investigating whether, between 2012 and August 2018, Mr Daryl Maguire MP engaged in conduct that involved a breach of public trust by using his public office – involving his duties as a member of the NSW Parliament and the use of parliamentary resources – to improperly gain a benefit for himself and/or entities close to him, including G8way International, G8way International Pty Ltd and associated persons. The general scope and purpose of the public inquiry is to gather evidence relevant to the matters being investigated for the purpose of determining the matters referred to in section 13(2) of the Independent Commission Against Corruption Act. I note that Mr Scott Robertson and Mr Alex Brown appear as Counsel Assisting the Commission.

MR ROBERTSON: May it please the Commission.

THE COMMISSIONER: I also note that the following witnesses and their legal representatives are Mr Mark Coure, member of parliament, represented by Mr Walsh; Mr Ho Yuen Li, represented by Mr Pararajasingham, instructed by Mr Lynch; Mr Maguire, represented by Mr Harrowell; Ms Raedler, represented by Mr Beazley; Ms Cartwright, represented by Mr Pintos-Lopez; Mr William Luong, represented by Mr Harris; Mr Jock Sowter, represented by Mr Korbel; Ms Sarah Cruikshank, represented by Mr White; Mr Joseph Alha, represented by Mr Whittaker; Mr Robert Vellar, represented by Mr Singleton; Dr Sarah Hill, represented by Ms McEniery; Mr Elliott, represented by Mr Hutchings, instructed by Mr Reeks; Mr Andrew Bell, represented by Ms Carroll; Mr Charles Cull, represented by Mr Mendoza-Jones; Mr Angus McLaren, represented by Ms Fleeton; Ms Nicole Hatton, represented by Mr Jones; Mr Alan Eldridge, represented by Mr Mackay, instructed by Mr Gooch; Mr Sean Duffy, represented by Mr Kirby, instructed by Mr Kutasi; Ms Wang, Ms Maggie Wang, represented by Mr McInerney of Senior Counsel, instructed by Mr Alden.

Mr Robertson, I invite you to make your opening address.

MR ROBERTSON: Commissioner, as you just outlined, this is a public inquiry conducted for the purposes of an investigation into whether, between 2012 and 2018, Daryl Maguire MP engaged in conduct that involved a breach of public trust by using his office – including his duties as a member of the NSW Parliament and the use of parliamentary resources – to improperly gain a benefit for himself and/or entities close to him, including G8way International, G8way International Pty Ltd and associated persons. In short, this public inquiry will investigate whether Mr Maguire sought to monetise his position as a member of parliament, parliamentary secretary and chair of the NSW Parliament Asia Pacific Friendship Group.

The origins of this investigation lie in a separate investigation undertaken by this Commission, known as Operation Dasha. Operation Dasha is an investigation into allegations concerning the former Canterbury City Council, including whether certain public officials dishonestly and/or partially exercised their official functions in relation to planning proposals and/or applications concerning properties in the Canterbury City Council local area. During the course of Operation Dasha, telephone calls were intercepted between Mr Maguire and a former Canterbury City councillor, Michael Hawatt. Over the course of a number of telephone calls in May and
10 June of 2016, Mr Maguire and Mr Hawatt discussed commissions they could make from brokering the sale of significant development sites owned by entities associated by Charbel Demian. The proposed buyers in those transactions was the developer Country Garden Australia Pty Ltd, whose interests Mr Maguire purported to be representing.

After those telephone calls came to the Commission's notice, the Commission decided to conduct an investigation into whether Mr Maguire's conduct constituted corrupt conduct, and the Commission did that of its own initiative, as it's empowered to do so under section 20(1) of the Independent
20 Commission Against Corruption Act. Mr Maguire was called as a witness in the public inquiry held for the purposes of Operation Dasha on 30 July, 2018, and during the course of his evidence, Mr Maguire admitted that he and Mr Hawatt were planning to share in commissions obtained from property developers who sold their properties to clients of Mr Maguire. Mr Maguire from his then role as a parliamentary secretary and as a member of the parliamentary Liberal Party on that same day. He resigned from parliament a few weeks later with effect from 3 August 2018. Prior to his resignation from parliament, Mr Maguire had been a member of the
30 Legislative Assembly of New South Wales for more than 19 years, representing the electorate of Wagga Wagga from 27 March, 1999.

Tracing his parliamentary career, on 7 April, 2003, Mr Maguire was appointed as Opposition Whip, and following the state election in March of 2011, was appointed as Government Whip. On 24 February, 2014, Mr Maguire was appointed as a parliamentary secretary by then Premier Barry O'Farrell, and continued as a parliamentary secretary across a number of portfolios in the O'Farrell-Berejiklian governments, up until his resignation from the parliamentary Liberal Party on 13 July, 2018. Mr Maguire was also the chairman of the New South Wales Parliament Asia Pacific
40 Friendship Group from 21 June, 2011, until his resignation from parliament.

As a member of parliament, Mr Maguire had an obligation not to use his position to promote his own pecuniary interests or those of entities close to him in circumstances where there was a conflict or a real or substantial possibility of conflict between those duties and his duties to the public. Additionally, Mr Maguire was subject to the code of conduct for members of the Legislative Assembly. That code imposed strict disclosure obligations upon members of parliament. The obligations included that,

under subclause 1a, which required Mr Maguire to take all reasonable steps to declare any conflict of interest between his personal financial interests and decisions in which he participated during the execution of his office. Clause 3, which required that he declare all gifts and benefits received in connection with his official duties, in accordance with the requirements for the disclosure of pecuniary interest. Clause 4 required that he apply the public to which he was granted access in accordance with applicable guidelines and rules. Those applicable guidelines in relation to parliamentary resources included those set out in the New South Wales Parliament Members' Entitlements Handbook, and those guidelines address, amongst other things, the potential intermingling of parliamentary duties and private activities. They provide, amongst other things, that certain resources "should not be intermingled under any circumstances", including parliamentary staff, parliamentary officers, stationery, and allowances relating to travel. Further, from the time that Mr Maguire entered parliament in 1999, he was subject to the Constitution (Disclosure By Members) Regulation 1983. Under that regulation, Mr Maguire was obliged to lodge returns from time to time disclosing his sources of income, any gifts received, any contributions to travel expenses, and any interests or positions in corporations. On 24 March, 2007, the regulation also required members of parliament to disclose any engagement to provide a service that involved the use of the member's parliamentary position to or on behalf of any client.

As we have said, Mr Maguire was a parliamentary secretary, a role that he occupied in different portfolio areas continuously from 2014 until his resignation from parliament. Parliamentary secretaries are members of parliament appointed by the Premier to assist the Premier or another minister with his or her portfolios. As a parliamentary secretary, Mr Maguire was also subject to certain provisions of the NSW Ministerial Code of Conduct from the time of its introduction on 20 September, 2014. As the preamble to that ministerial code makes clear, the code was promulgated in recognition of the fact that it is essential to the maintenance of public confidence in the integrity of government that ministers exhibit, and be seen to exhibit, the highest standards of probity in the exercise of their offices and that they pursue, and be seen to pursue, the best interests of the people of New South Wales, to the exclusion of any other interests.

Some but not all of the provisions of the ministerial code apply to parliamentary secretaries. Clause 5 of the ministerial code required Mr Maguire in the exercise or performance of his official functions not to act dishonestly, and to act only in accordance with what he considered to be in the public interest. That clause also required Mr Maguire not to act improperly for his private benefit or for the private benefit of any other person. Clause 7 required Mr Maguire to not knowingly conceal a conflict of interest from the Premier. Clause 9 required that he not improperly use public property, services or facilities for the private benefit of himself or any other person. In addition, part 2 of the schedule to the code, which is

entitled Standing Disclosures of Interest, required Mr Maguire to comply with his obligations as a member of parliament under the Constitution (Disclosures by Members) Regulation 1983, in relation to the disclosure of his pecuniary and other interests, and to provide a copy of returns made under that regulation to the Premier. Disclosures to the Premier under part 2 of the schedule to the ministerial code are required to be kept on the Ministerial Register of Interests, which is a register kept by the Secretary of the Department of Premier and Cabinet.

- 10 Under section 13(1) of the Independent Commission Against Corruption Act, this Commission’s principal functions include the investigation of circumstances which, in the Commission’s opinion, imply that corrupt conduct, conduct liable to encourage or cause the occurrence of corrupt conduct, or conduct connected with corrupt conduct may have occurred. This public inquiry has been conducted for the purposes of such an investigation.

- 20 For conduct to constitute corrupt conduct for the purposes of the Independent Commission Against Corruption Act, it must, generally speaking, fall within the description in section 8 of the Act but not be excluded by the description in section 9 of the Act. Section 8 of the ICAC Act identifies a number of categories of conduct that may constitute corrupt conduct. The category of principal relevance to this investigation is that set out in paragraph 8(1)(c), which provides that corrupt conduct may be constituted by “conduct of a public official that constitutes or involves a breach of public trust”. That concept of public trust is one that has a considerable historical pedigree, although it may be fairly described as having partially unmapped boundaries. It’s not limited to trust in the private law sense. Rather, it’s directed more generally to the public trust and confidence reposed in public officers by virtue of their office.

30 That being so, a breach of the public trust may be constituted by what might broadly be described as an abuse of office. For example, it may be a breach of public trust for a public official, such as a member of parliament, to use, for private purposes, taxpayer-funded resources to which he or she is given access to perform public duties. It may also be a breach of public trust for such a public official to leverage, or to seek to leverage, their position for personal financial gain.

- 40 As we’ve already noted, conduct only constitutes corrupt conduct for the purposes of the ICAC Act if it’s not excluded by section 9 of the ICAC Act. Section 9 provides that conduct does not amount to corrupt conduct unless it could constitute or involve, relevantly, a criminal offence, whether under the law of this state or under another law; reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official; a substantial breach of the code of conduct for members of the Legislative Assembly or the NSW Ministerial Code of Conduct; or conduct that would cause a reasonable person to believe that the conduct –

that is to say, the impugned conduct – would bring the integrity of a minister or a member of parliament’s office concerned into serious disrepute, or the parliament itself into serious disrepute.

Thus, in the course of considering whether Mr Maguire engaged in corrupt conduct within the meaning of the ICAC Act, one of the questions that will be necessary for the Commission to consider is whether Mr Maguire has engaged in any conduct which could constitute or involve a criminal offence or which could otherwise fall within one of the categories in section 9 of the ICAC Act. It’s important, however, to emphasise that in considering that matter, this Commission is doing so as an investigative body and is not doing so as a criminal court. Consistent with that, the Commission will not be making any findings of criminal guilt. The Commission will, however, consider whether, if the facts as found by the Commission were to be proved on admissible evidence to the requisite standard accepted by an appropriate tribunal, there would be grounds on which such a tribunal would find that Mr Maguire has committed a criminal offence, such as the common law offence of misconduct in public office. The Commission is also required to include in the report that it must prepare, in relation to this investigation, a statement in relation to which affected person, as to whether or not in all the circumstances of the case the Commission is of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions with respect to the prosecution of the affected person for a specified criminal offence.

The Commission will also consider making recommendations in its report as to changes that should be made to laws, practices or procedures with a view to reducing the likelihood of the occurrence of corrupt conduct in the future and to promote the integrity and good repute of public administration. The details of any recommendations that the Commission is considering making in that regard will be dealt with in written submissions, which will be made available after the conclusion of the public inquiry.

It should be apparent from what we have said so far that the focus of this investigation, and therefore the public inquiry, is on whether Daryl Maguire engaged in conduct that constitutes or involved corrupt conduct during the period from 2012 to 2018. That having been said, the evidence led in this public inquiry may reveal the conduct of other persons other than Mr Maguire which calls for findings or comments to be made. The Commission would not, however, make any findings adverse to any person without giving the potentially affected person notice of the proposed finding and an opportunity to make submissions as to whether such a finding should be made. Any such notice will likely be given by way of written submissions that will be prepared by the counsel assisting you, Commissioner, after the conclusion of the public inquiry.

Over the course of the investigation to date, the Commission has gathered a large range of evidence, some of which will be presented, tested and

expanded upon in this public inquiry. Such evidence had been gathered both through the voluntary assistance of various individuals as well as through the use of the Commission's compulsory powers. Such compulsory powers including the conduct of compulsory examinations under section 30 ICAC Act, the issue of notices to produce under section 22 of that Act, the execution of search warrants issued under section 40 of the ICAC Act, and the interception of telecommunication services pursuant to section 46 of the Telecommunications Interception and Access Act 1979.

- 10 During the course of this public inquiry, we will tender some of the material that has been gathered so far and we will call on a number of witnesses to give oral evidence. It appears from the evidence available to the Commission that, while he was member of parliament, Mr Maguire pursued a number of commercial opportunities between 2012 and 2018, although not always successfully. Commonly those interests involved at least some association with the People's Republic of China.

- 20 It will not be possible within the four weeks that have been set aside for this public inquiry to explore all of the commercial opportunities that Mr Maguire and those associated with him apparently sought to pursue between 2012 and his resignation in 2018. That being so, the public inquiry will instead focus on a series of topic areas and further topic areas may be pursued if time allows or if evidence emerges that justified further inquiry in public into those areas.

- 30 The first topic that will be explored in this public inquiry is Mr Maguire's involvement with a company known as G8way International Pty Ltd, G8way being spelt G and then the number 8-w-a-y and the word International. G8way International is a vehicle through which Mr Maguire appears to have pursued commercial opportunities, albeit while formally distancing himself from its formal ownership and managerial structure. Such opportunities were largely pursued either in China or in Australia or in the South Pacific, albeit involving Chinese associates. G8way International was registered as a business name on the 14th of June, 2012 by Phillip Elliott, who is the first witness who we will call later today. Phillip Elliott was a close friend of Mr Maguire and had previously acted as his election campaign manager. G8way International Pty Ltd was incorporated on the 2nd of October, 2012. Mr Elliott was the sole director and shareholder upon incorporation.

- 40 Prior to the incorporation of G8way International Pty Ltd, Mr Maguire had already been pursuing business opportunities through China. By way of example, the Commission has obtained a series of emails between Mr Maguire, using his parliamentary email address, and representatives of a regional wine producer between March and May of 2012. Those emails concerned prospective wine sales into China in which Mr Maguire and/or what he described as his company, stood to make a commission.

On the subject of commission, Mr Maguire wrote this on the 28th of May, 2012, to a potential client who was seeking to sell wine into China. “As for commission, standard industry is fine and vary according to price point. We want a long-term profitable partnership so therefore we are flexible. Our priority is for you to gain a sale and a bigger footprint in China. We all benefit. Kind regards, Daryl.” The “we” in that email appears to be a reference to the nascent G8way International, which by that stage had its first business card, designed by Nicole Hatton, one of Mr Maguire’s parliamentary staff.

10

The role that Mr Maguire apparently played in this proposed transaction is one that, the evidence suggests, Mr Maguire repeated on multiple occasions during the period from 2012 to 2018. Mr Maguire knows people. In this case, a regional wine producer. He has cultivated trade contacts in China over a long period of time. He puts his respective contacts together and seeks a commission for his service. It appears to have been the intention that that business model of G8way International would adopt so as to open the door to Australian and Chinese business interests in return for remuneration to Mr Maguire and/or his associates. So that appears to be how G8way International operated. Utilise a network of contacts to provide a service and charge a fee, be that a fixed fee or a commission-based fee.

20

An email sent by Mr Elliott to Mr Maguire on the 2nd of October, 2012, the very date on which G8way International Pty Ltd was incorporated, appears to be indicative of Mr Maguire’s intended role in the company. Mr Elliott wrote, “By setting up a company, it cocoons the income from my own business. Plus if the money that runs through is what we hope for, it will be subject to company tax rate and not top marginal rate. Plus if and when you give your other job away, we just appoint you as a director and away we go.” It thus appears that Mr Elliott was to be the official controller of G8way International Pty Ltd, at least until Mr Maguire’s retirement from parliament, but that Mr Elliott and Mr Maguire would share a common interest in G8way International’s financial success. It also appears, from the material available to the Commission, that although Mr Maguire was not formerly appointed as a director of G8way International Pty Ltd, Mr Maguire effectively controlled that company in such a way as to be a de facto director. Neither Mr Maguire’s role in G8way International Pty Ltd, nor any income derived from his activity with that company, was ever declared in Mr Maguire’s parliamentary returns between 2012 and 2018.

30

40

G8way International appears to have generated some income over the years that followed, including a commission of more than \$9,000 for the sale of nearly \$300,000 worth of wine from a regional wine producer into China. G8way International also appears to have charged a fee for, amongst other things, providing an introductory service in connection with a visit by delegation from Liaoning Province, in the People’s Republic of China, to the NSW Parliament, during the course of which then Premier Barry O’Farrell had a courtesy call with the Party Secretary of Liaoning Province.

However, despite some success, G8way International does not appear to have produced the financial returns that Mr Maguire and Mr Elliott envisaged. Mr Maguire and Mr Elliott were not the only individuals that the available material suggests were part of the G8way International organisation. In an email sent by Mr Maguire to Mr Elliott on the 25th of June, 2014, he wrote this: “Great. I paid Rebecca \$500 and Nic \$300. Before you distribute, can I see the amounts? We need to add M1aggie into these and Rebecca with a one-off. I think the partnership is you, me, Nic,
10 Julian, Maggie, Du Wei.”

It therefore appears that Mr Maguire, at least, saw himself as being in a partnership – or something of the nature of a partnership – that included various individuals, including Nic, who appears to be Nicole Hatton, one of Mr Maguire’s parliamentary staff, based in Sydney; and Rebecca Cartwright, who had been part of Mr Maguire’s staff when he was Government Whip. To whether and if so the extent to which Mr Maguire improperly drew upon Ms Hatton and Ms Cartwright’s time to assist in the private business activities of Mr Maguire or others is one of the issues that
20 will be explored in this public inquiry. Using parliamentary staff for such purposes was, of course, proscribed under the code of conduct for members of the Legislative Assembly.

G8way International ultimately had a website. Under the Benefits tab, the following is stated: “In addition to this service, we host and arrange your tour from China to Australia and Australia to China. At each end you’ll be met by our people who have the connections within the economic marketplace as well as at all levels of government.” Under the About Us tab, it can be seen that one of the services offered were membership in
30 something as an international business network for an annual fee, noting that “G8way International’s influence and experience reaches the high levels of government.” Whether Mr Maguire used or attempted to use his parliamentary office and the access it gained him to advance his own interests and those of G8way International are matters of interest to this investigation and this public inquiry. Before leaving G8way International’s website, a further service apparently offered by G8way should be noted. “G8way International assists with immigration. G8way International has responded to demand for immigration services and assistance with the appointment of our specialist in that area. Contact us for more
40 information.” That specialist appears to have been Maggie Wang, to whom Mr Maguire appears to have been introduced in 2012.

Mr Maguire’s role in G8way International’s immigration activities is one of the topics that will be explored in this public inquiry. In that topic, the Commission is investigating whether Mr Maguire misused his public office, including his physical office at Parliament House and the colour of his office as the member for Wagga Wagga, improperly to gain a benefit for G8way International and/or himself by referring constituents to Maggie

Wang for their participation in a scheme to assist Chinese nationals to improperly obtain an Employer Nomination Scheme visa or a Regional Migration Scheme visa. In short, the Commission is investigating whether Mr Maguire was involved with what might be described as a cash-for-visas scheme.

10 The scheme in which G8way International was involved appears to have involved at least the following elements. First, the identification by Mr Maguire of a business in or around Wagga Wagga as one that might be prepared to nominate or sponsor a person under the Employer Nomination Scheme or Regional Sponsored Migration Scheme, noting that such schemes or noting that nomination or sponsoring in such a scheme was a prerequisite to the granting of visas to live and work in Australia. Secondly, the identification of a person seeking such a visa. In this case, all of those identified were Chinese nationals and often students. Next, the payment by the visa applicant or their family of something described as a training fee shared between the nominating business and G8way International. And finally, the payment by the visa applicant or their family of an amount of money sufficient to reimburse the nominating business for the visa applicant's wages for three or more months.

20

In a compulsory examination before this Commission, Mr Maguire accepted that on more than one occasion he received cash from Ms Wang in relation to immigration placements that he facilitated. Mr Maguire accepted that sometimes such cash was received by him from Ms Wang in his Parliament House office before being passed on to Mr Elliott. Mr Maguire further indicated that on at least one occasion the cash was not passed on to Mr Elliott at all, but was rather kept by Mr Maguire himself.

30 The next topic that this public inquiry will explore is Mr Maguire's role in the NSW Parliament Asia Pacific Friendship Group. As we noted earlier, Mr Maguire was the chair of that friendship group from 21 June, 2011, until his resignation from parliament in 2018. Parliamentary friendship groups are non-party political groups of members of parliament with a common interest in a particular area. They are regulated by the parliamentary friendship groups policy, which, amongst other things, prohibits friendship groups from undertaking activities of a commercial nature. From April 2015, the policy provided that their activities must not confer or be seen to be conferring a material benefit on a commercial endeavour. The Asia Pacific Parliamentary Friendship Group had as its focus an opportunity for interaction of members of parliament and the consular core, and a high interest in the nations surrounding Australia, with a particular interest in assistance to underprivileged areas.

40

In addition to being chair of the Asia Pacific Friendship Group, Mr Maguire was also honorary chairman of an organisation referred to as the Shenzhen Asia Pacific Commercial Development Association, which I will refer to as SAPCDA. That organisation appears to have been founded by Mr Gordon

Tse, spelt T-s-e, a Mr Ho Yuen Li, Maggie Wang and Mr Maguire. President of that organisation appears to have been Mr Li. It was, essentially, a consortium of private businessmen in China. The establishment of SAPCDA appears to have commenced in Shenzhen, March of 2016. Minutes of a meeting of that organisation, which meeting appears to have occurred on the 20th of July, 2016, describes SAPCDA as a non-government organisation with what was described as, “Rich enterprise and business resources in China.” Those minutes further record that the purpose of establishing SAPCDA is, “To open up extensive business cooperation, information sharing and mutual development with the South Pacific island countries in areas such tourism, marine resources, agriculture resources, mineral resources and real estate, and at the same time to actively participate in charity events that assist with the development of the backward areas in the island countries.”

The minutes of that meeting also record Mr Maguire as stating that, “In the past three months, through the New South Wales Parliament Asia Pacific Friendship Group, I contacted many countries and did a lot of work, which achieved key development. At the moment seven countries have largely confirmed their intention of strategic cooperation.” That use of the Parliamentary Friendship Group is consistent with a letter that Mr Maguire sent to Mr Li on parliamentary letterhead on the 16th of June, 2016, which letter offered the assistance of the Asia Pacific Friendship Group.

Mr Maguire is further recorded, in meeting minutes of the meeting to which I referred earlier, as stating the following. “The South Pacific region covers an oceanic area as wide as one sixth of the total area of the earth but the countries are scattered and some have not formally established diplomatic relations with China. Therefore it is not straightforward on the foreign policy level to establish cooperation with all of the countries of the same which will slow down the progress. With that in mind, I was selective in choosing the countries to establish intention of cooperation with SAPCDA.” Mr Maguire is later recorded, through the New South Wales Parliament Asia Pacific Friendship Group, “SAPCDA will be able connect with the South Pacific island countries as develop extensive business cooperation in areas such as tourism, marine resources, agriculture resources, mineral resources and real estate. As the chairman of the New South Wales Parliament Asia Pacific Friendship Group and honorary member of SAPCDA, I will help expedite the work of SAPCDA by reasonably using the long-term network I have built with government officials, such as the consul general and commercial councillors.” Mr Maguire did not disclose his activities with SAPCDA formally to the Asia Pacific Friendship Group though he did declare his membership on his parliamentary returns.

So in light of the material to which I have just referred, and other material available to the commission, there is a question as to whether Mr Maguire used his position as chair of the New South Wales Parliament Asia Pacific Friendship Group, and in particular the diplomatic connections with which it

provided him, to further the interests of SAPCDA and perhaps the commercial interests of Mr Maguire himself.

10 In April 2017, members of SAPCDA, including Mr Maguire, visited a number of Pacific Island nations, one of those nations was to Samoa. The Commission has obtained evidence suggesting that Mr Maguire arranged a meeting with the head of the Samoan Chamber of Commerce on the 14th of April, 2017, via the Consul General of Samoa. On the 20th of April, 2017, the CEO of the Samoan Chamber of Commerce sent an email to the members of the SAPCDA delegation, including Mr Maguire. It included information that had been requested by the delegation regarding the application process for a casino licence. Can I ask that telephone interception 4476 now be played, which is an extract of a call between Mr Maguire and Mr Elliott of the 9th of December, 2017.

AUDIO RECORDING PLAYED

[10.35am]

20 MR ROBERTSON: Evidence available to the Commission suggests that the reference by Mr Maguire to “Samoa is definitely a go” may have been a reference to a casino being developed in Samoa by business interests connected with SAPCDA. The call suggested Mr Maguire and/or G8way International may have had a financial interest in that project, with the result that if the project succeeded, there may have been – as Mr Elliott put it – “a bit of cash flow back in the tin”.

30 The Commission will use Mr Maguire’s activities in Samoa as a case study to explore the adequacies of controls of friendship groups generally, and in particular to consider whether Mr Maguire improperly used his role and the accompanying diplomatic weight of his office as chair of the Asia Pacific Friendship Group as a door-opener, or perhaps a gateway, in the pursuit of his own financial interests, as well as in the pursuit of private Chinese business interests.

40 A further issue that will be considered in connection with SAPCDA is whether Mr Maguire received travel expenses for the Pacific Islands visit in April of 2017 from Mr Ho Yuen Li. The Commission has obtained evidence suggesting that Mr Maguire was handed an envelope by Mr Li at Sydney Airport, which he subsequently dropped, but which it revealed contained cash inside. No travel expenses were declared in any of Mr Maguire’s subsequent returns in relation to the Pacific Islands visit of April 2017.

Another topic that this public inquiry will explore is whether Mr Maguire’s association with property developers, and/or vendors of substantial properties, that being the issue that was the genesis of this investigation. It appears that whilst Mr Maguire was a member of parliament, he had

relationships with a number of developers and vendors and took steps to further their interests with the intent, at least in some cases, to earn profits for himself. For example, during the course of his evidence at the public inquiry, held as part of Operation Dasha, Mr Maguire admitted that he had an interest in facilitating the sale of properties owned by interests associated with Charbel Demian to Country Garden, a large property development company based in China. Discussions around that topic took place between May and June of 2016, between Mr Maguire and Michael Hawatt. One such conversation, which took place on 2 June, 2016, became Exhibit 140 in the Operation Dasha public inquiry, and I'll ask the operator to play an extract of that call now.

AUDIO RECORDING PLAYED

[10.39am]

MR ROBERTSON: That conversation raises a number of issues of relevance to this investigation, in particular Mr Maguire's involvement in what he described as "door openings" and "lobby work" for developers whilst Mr Maguire was a member of parliament. Also, why Mr Maguire thought it was necessary for some of that work to be dealt with at "arm's length". Those issues will be explored in this public inquiry in relation to a number of developers and potential developers.

Commissioner, as a member of parliament, Mr Maguire had a duty to serve the public. This public inquiry will investigate whether and if so he breached that duty by pursuing his own financial interests and those of his associates. May it please the Commission.

THE COMMISSIONER: Thank you, Mr Robertson. The Commission will adjourn for 15 minutes to enable the camera person to remove her equipment from the hearing room.

SHORT ADJOURNMENT

[10.42am]

THE COMMISSIONER: Can I just make some formal announcements concerning the sitting times and other matters in relation to the public inquiry. The inquiry will sit from today until 23 October, 2020, although it is endeavouring to finish the inquiry within four weeks, which would bring it to an end on 16 October. It won't, of course, sit on Monday, 5 October, which is a public holiday. Sitting days will commence at 10.00am and finish at 4.00pm, with breaks for morning tea and for lunch. The public inquiry is being conducted in accordance with the Commission's Operation Keppel Public Inquiry COVID-19 Protocol, which has been published on its website. I notice, in particular, the following aspects of the protocol.

The Commission has instituted a screening process for all those attending the public inquiry to mitigate against any risk of transmission of COVID-19. In order to observe relevant health advice, the capacity of the Commission's hearing room has been assessed at a maximum of 18 persons, including Commission staff. After allowing for necessary Commission staff and the witness giving evidence, only nine other persons will be permitted in the hearing room at any one time.

10 Members of the public and the media will not be given access to the Commission's premises for the purposes of the public inquiry, but will be able to observe the public inquiry through live streaming and will be able to access transcripts and exhibits through the Commission's website. Those seeking to be present in the hearing room on any particular day – or part of a day – should, at least one working day before their intended attendance, email the Commission with relevant details in accordance with paragraph 9.5 of the protocol. The Commission will determine who can be present in the hearing room on any day or part of a day. Subject to my decision, only one member of a party's legal team will be permitted to be physically present in the hearing room at any one time. Parties involved in the public
20 inquiry and their legal representatives, who are unable to be physically present in the hearing room, can keep track of the progress of the public inquiry through the live streaming, and may also apply to attend via Microsoft Teams audio-visual link. I ask that all those involved in the public inquiry familiarise themselves with the protocol and adhere to the procedures set out in it.

I've already announced who has been given leave to appear and who's been authorised to be legally represented. Anyone else who seeks leave to appear or to be legally representative should make a written application in
30 accordance with section 4 of the Operation Keppel Public Inquiry COVID-19 Protocol.

Mr Robertson, do you seek a further section 112 direction?

MR ROBERTSON: I do. In my submission, it would be appropriate for the Commission to make a direction under section 112 of the Independent Commission Against Corruption Act in relation to private information, such as private email addresses and the like. I understand that you've been provided with a proposed form of direction.
40

THE COMMISSIONER: I have.

MR ROBERTSON: And our submission, the Commission would make that direction.

THE COMMISSIONER: Yes, thank you, Mr Robertson. Pursuant to section 112 of the Independent Commission Against Corruption Act, I make a suppression order protecting against publication to any person outside the

Commission any private email addresses, private residential addresses, private phone numbers, bank account details and tax file numbers contained in any exhibits to be tendered in this inquiry, and/or other documents shown during this inquiry, with the exception of Commission officers for statutory purposes, and between witnesses in the inquiry and their legal representatives, subject to any further order of the Commission.

10 **PURSUANT TO SECTION 112 OF THE INDEPENDENT**
COMMISSION AGAINST CORRUPTION ACT, I MAKE A
SUPPRESSION ORDER PROTECTING AGAINST PUBLICATION
TO ANY PERSON OUTSIDE THE COMMISSION ANY PRIVATE
EMAIL ADDRESSES, PRIVATE RESIDENTIAL ADDRESSES,
PRIVATE PHONE NUMBERS, BANK ACCOUNT DETAILS AND
TAX FILE NUMBERS CONTAINED IN ANY EXHIBITS TO BE
TENDERED IN THIS INQUIRY, AND/OR OTHER DOCUMENTS
SHOWN DURING THIS INQUIRY, WITH THE EXCEPTION OF
COMMISSION OFFICERS FOR STATUTORY PURPOSES, AND
20 **BETWEEN WITNESSES IN THE INQUIRY AND THEIR LEGAL**
REPRESENTATIVES, SUBJECT TO ANY FURTHER ORDER OF
THE COMMISSION.

THE COMMISSIONER: Mr Robertson, do you seek to tender any documents at this stage?

MR ROBERTSON: I do. I'll tender each of the documents to which I referred in the opening statement. I understand that you've been provided with a document entitled Material to be Tendered After Opening Statement.
30 Can I respectfully suggest that that first be marked for identification, and once that's occurred, I'll make the formal tenders.

THE COMMISSIONER: That document, headed Material to be Tendered After Opening Statement, is marked MFI 4.

#MFI 4 – MATERIAL TO BE TENDERED AFTER OPENING STATEMENT

40 MR ROBERTSON: That document identifies each of the documents to which I drew attention in the opening statement and proposes they be marked Exhibit 105 through to Exhibit 126 respectively. I tender each of the documents identified in MFI 4 and respectively suggest that they be marked in the manner suggested in MFI 4.

THE COMMISSIONER: Very well. I will mark each of those documents Exhibit 105 through to 126 as set out in MFI 4.

#EXH-105 – BUNDLE OF DISCLOSURES AND OTHER DOCUMENTS RELEVANT TO CONSTITUTION (DISCLOSURES BY MEMBERS) REGULATION 1983 NSW AND NSW MINISTERIAL CODE OF CONDUCT (PUBLIC INQUIRY BRIEF VOL 1)

10 **#EXH-106 – MEMBERS ENTITLEMENT HANDBOOKS DATED FEBRUARY 2011 AND FEBRUARY 2015 (PUBLIC INQUIRY BRIEF VOL 2)**

#EXH-107 – NSW PARLIAMENT LEGISLATIVE ASSEMBLY HANDBOOK, LEGISLATIVE ASSEMBLY MEMBERS' GUIDE 2015, LEGISLATIVE ASSEMBLY MEMBER'S GUIDE 2015 (AMENDED APRIL 2017) (PUBLIC INQUIRY BRIEF VOL 3)

20 **#EXH-108 – BUNDLE OF DOCUMENTS CONCERNING NSW PARLIAMENTARY FRIENDSHIP GROUPS (PUBLIC INQUIRY BRIEF VOL 4)**

#EXH-109 – BUNDLE OF DOCUMENTS RELEVANT TO CORRUPTION PREVENTION (PUBLIC INQUIRY BRIEF VOL 24)

30 **#EXH-110 – AUDIO RECORDING OF INTERCEPTED TELECOMMUNICATION SESSION 8292 AND CORRESPONDING TRANSCRIPT (OPERATION DASHA EXHIBIT 136)**

#EXH-111 – AUDIO RECORDING OF INTERCEPTED TELECOMMUNICATION SESSION 8361 AND CORRESPONDING TRANSCRIPT (OPERATION DASHA EXHIBIT 137)

40 **#EXH-112 – AUDIO RECORDING OF INTERCEPTED TELECOMMUNICATION SESSION 10493 AND CORRESPONDING TRANSCRIPT (OPERATION DASHA EXHIBIT 140)**

#EXH-113 – TRANSCRIPT OF EVIDENCE GIVEN BY DARYL MAGUIRE IN OPERATION DASHA PUBLIC INQUIRY ON 13 JULY 2018

#EXH-114 – AUSTRALIAN BUSINESS REGISTER SEARCH FOR PHILLIP ELLIOTT (PUBLIC INQUIRY BRIEF VOL 5, 1)

#EXH-115 – AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION CURRENT & HISTORICAL ORGANISATION EXTRACT FOR G8WAY INTERNATIONAL PTY LTD (PUBLIC INQUIRY BRIEF VOL 7, 17-22)

10

#EXH-116 – EMAIL FROM DARYL MAGUIRE TO ANDREW CUDMORE OF BERTON VINEYARDS DATED 28 MAY 2012 (5:30PM) (PUBLIC INQUIRY BRIEF VOL 5, 162-163)

20

#EXH-117 – BUNDLE CONSTITUTED BY EMAIL FROM NICOLE HATTON DATED 1 MAY 2012 (3:17PM) WITH SUBJECT LINE “RE: BUSINESS CARD- G8WAY INTERNATIONAL” AND SCAN OF “G8WAY INTERNATIONAL” BUSINESS CARD FOR PHILLIP ELLIOTT (PUBLIC INQUIRY BRIEF VOL 5, 99-101)

30

#EXH-118 – CHAIN OF EMAIL COMMUNICATIONS BETWEEN DARYL MAGUIRE TO PHIL ELLIOTT ON 2 OCTOBER 2012 INCLUDING EMAIL FROM PHIL ELLIOTT TO DARYL MAGUIRE SENT AT 2:23PM AND STATING “IF AND WHEN YOU GIVE YOUR OTHER JOB AWAY WE JUST APPOINT YOU AS A DIRECTOR AND AWAY WE GO” (PUBLIC INQUIRY BRIEF VOL 7, 25-26)

40

#EXH-119 – EMAIL CHAIN BETWEEN ANDREW CUDMORE OF BERTON VINEYARDS AND PHIL ELLIOTT ON 25 JUNE 2014 (PUBLIC INQUIRY BRIEF VOL 11, 75-77)

#EXH-120 – EMAIL FROM DARYL MAGUIRE TO PHIL ELLIOTT DATED 25 JUNE 2014 (11:34AM) STATING “I THINK THE PARTNERSHIP IS YOU ME NIC JULIAN MAGGIE DUWEI” (PUBLIC INQUIRY BRIEF VOL 11,74)

#EXH-121 – G8WAY INTERNATIONAL WEBSITE AS AT FEBRUARY 2017 (PUBLIC INQUIRY BRIEF VOL 12, 163-176)

#EXH-122 – MEETING MINUTES OF SHENZHEN ASIA PACIFIC COMMERCIAL DEVELOPMENT ASSOCIATION (IN ORIGINAL

CHINESE AND ENGLISH TRANSLATION) (PUBLIC INQUIRY BRIEF VOL 18, 50-60)

10 **#EXH-123 – EMAIL FROM ELECTORATE OFFICE WAGGA WAGGA TO CEO SAMOA CHAMBER DATED 13 APRIL 2017 (12:28PM) CONFIRMING ATTENDANCE OF DARYL MAGUIRE MP AT MEETING WITH HEAD OF SAMOAN CHAMBERS OF COMMERCE ON 15 APRIL 2017 (PUBLIC INQUIRY BRIEF VOL 18, 241-243)**

#EXH-124 – AUDIO RECORDING OF INTERCEPTED TELECOMMUNICATION SESSION 4476 (TIME INDEX 13:25 TO 14:39) AND CORRESPONDING TRANSCRIPT

20 **#EXH-125 – EMAIL FROM NICOLE HATTON TO PHIL ELLIOTT DATED 29 NOVEMBER 2012 (11:23AM) ATTACHING G8WAY INTERNATIONAL TAX INVOICE #SHEN 201201 FOR (INTER ALIA) “INTRODUCTORY SERVICE” (PUBLIC INQUIRY BRIEF VOL 13A, 13-14)**

#EXH-126 – PHOTOGRAPH OF THEN NSW PREMIER BARRY O’FARRELL, THEN PARTY SECRETARY OF LIAONING PROVINCE WANG MIN AND OTHERS (PUBLIC INQUIRY BRIEF VOL 13A, 42

30 MR ROBERTSON: And can I indicate for the assistance of those who are following along, the written version of the opening statement is either presently available on the Independent Commission Against Corruption website or shortly will be, which identifies both the words that I used and has footnotes identifying the particular documents, including by reference to the exhibit numbers that you’ve now marked, Commissioner.

40 THE COMMISSIONER: Thank you, Mr Robertson. Do you now propose to call your first witness?

MR ROBERTSON: Before I do that, can I just raise one other matter? I assume that the standard directions for public inquiries February, 2018, which are available on the Commission’s website, will apply to this public inquiry, subject of course to the limitations indicated in the COVID-19 directions to which you’ve drawn attention, Commissioner.

THE COMMISSIONER: Yes, that is the case. Those standard directions do apply. Thank you, Mr Robertson.

MR ROBERTSON: May it please the Commission. That's all of the housekeeping matters from my perspective, so I call Phillip James Elliott.

THE COMMISSIONER: Yes, Phillip James Elliott, please come forward. Would you go into the witness box please, Mr Elliott? Do you wish to take an oath or make an affirmation, Mr Elliott?

MR ELLIOTT: Affirmation, please, Commissioner.

10

THE COMMISSIONER: Very well.

THE COMMISSIONER: Please be seated, Mr Elliott. Mr Hutchings.

MR HUTCHINGS: Yes, Your Honour?

THE COMMISSIONER: Have you explained to Mr Elliott his rights and obligations as a witness?

10

MR HUTCHINGS: I have, Your Honour, and I seek a section 38 declaration in relation to any evidence to be given or any document to be produced by this witness.

THE COMMISSIONER: Very well. Thank you, Mr Hutchings. Mr Elliott, as a witness, you must answer all questions truthfully and you must produce any item which has been described in your summons or required by me to be produced.---Yes.

20

You may object to answering a question or to producing an item. The effect of any objection is that though you must still answer the question or produce the item, your answer or the item produced cannot be used against you in any civil proceedings or, subject to two exceptions, in any criminal or disciplinary proceedings. The first exception is that this protection does not prevent your evidence from being used against you in a prosecution for an offence under the Independent Commission Against Corruption Act, including an offence of giving false or misleading evidence, for which the penalty can be imprisonment for up to five years. The second exception only applies to New South Wales public officials, and I don't understand that you fall into that category, so I won't explain that to you.---Thank you.

30

So I can make a declaration that all answers given by you and all items produced by you will be regarded as having been given or produced on objection. This means you don't have to object with respect to each question asked and the answer you might give or the production of each item. Do you wish me to make such a declaration?---Yes. Thank you.

40

Very well. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for Mr Elliott 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 THIS WITNESS AND ALL

DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR MR ELLIOTT TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

- THE COMMISSIONER: Yes, Mr Robertson.
- 10 MR ROBERTSON: Your name is Phillip James Elliott, is that right?
---That's correct.
- I'll just get you to point your face in the direction of the microphone so that everyone can hear.---Sorry, yes, that's correct.
- You are a principal of a business that trades as Riverina Strata Management, is that right?---That's, that is correct.
- 20 Are you the sole principal of that business?---Yes, I - - -
- THE COMMISSIONER: Mr Elliott, could I ask you to speak up, please?
---Oh.
- That's a recording device, it's not a magnifying device necessarily.---Right. Sorry. My apologies.
- Thank you.
- 30 MR ROBERTSON: You are a director of Wagga RSL Club Ltd, is that right?---That's correct.
- And you've been a director of that organisation for more than a decade, is that right?---Yes.
- You were a business advisor at the Riverina Business Centre?---Yes.
- Do you still hold that role?---No.
- 40 When did you cease to hold that role?---10 or 11 years ago.
- You are a director of G8way International Pty Ltd?---That's correct.
- And the G8way in that is spelt G with the number 8.---With the 8.
- And then way International, is that correct?---Correct.

And there's no space between G8way and International, is that right?---It's all one word, yes.

You were the sole director, sole appointed director of that organisation until your wife was appointed as the director in 2018, is that right?---Yes, oh, actually my partner, but - - -

I'm so sorry, your - - -?---It, it, sorry, whichever way you need to have it, that's correct.

10

But at least up until that point you were the sole appointed director, is that right?---Correct.

You are a close friend of Daryl Maguire, correct?---Yes. That's correct.

You were the campaign director of Mr Maguire from time to time?---Yes.

You assisted him in his election campaigns and re-election campaigns, is that right?---Yes.

20

You registered G8way International as a business name in June of 2012, is that right?---Yes.

And you incorporated G8way International Pty Ltd in October of 2012, is that right?---Yes.

You were the person that made that happen, is that right?---Correct.

30

I think you might have done it through your accountant, but you were the one that caused that entity to come into existence, is that right?---Yes.

THE COMMISSIONER: Mr Robertson, it's difficult for me to see Mr Elliott fully. I'm just wondering if we can either use a different microphone or adjust that screen?

MR ROBERTSON: May I perhaps - - -

THE COMMISSIONER: Yes. Thank you.

40

MR ROBERTSON: Because of COVID conditions, I may just ask the witness to stand down and we'll - - -

THE COMMISSIONER: Oh, yes. Just stand over there, please, Mr Elliott. Just the screen I think is - I don't know, Mr Elliott isn't sitting there. Would you have a seat again, please Mr Elliott, and we'll see if that's improved things. Yes, that's much better. Thank you.

MR ROBERTSON: Can you still see that screen reasonably well?---Yes. I'll step back if necessary.

If at any point you can't see the screen, just let us know and we'll do our best to proceed. Do you agree that G8way International Pty Ltd was treated by you as a vehicle through which you and Mr Maguire would be in business together?---Yes.

10 And that was even though Mr Maguire was not formally appointed as a director. Is that right?---Yes.

Is the reason that Mr Maguire was not formally appointed as a director was that, at the time that you set up G8way International Pty Ltd, Mr Maguire was a member of parliament and therefore, as you understood it, did not want a formal office within the company?---That's correct.

20 And as you understood it, Mr Maguire viewed G8way International Pty Ltd as a business enterprise in respect of which he was closely involved, is that right?---Yes.

In the real world, Mr Maguire acted as if he was a director of G8way International Pty Ltd, is that right?---I'm sorry, could you repeat?

For all intents and purposes, although Mr Maguire was not formally appointed as a director of G8way International Pty Ltd, he did the kinds of things that a director might do. Do you agree?---Yes.

He looked to pursue business opportunities, for example?---Yes.

30 And you agreed with Mr Maguire that if profits were ultimately earned by G8way International Pty Ltd you would share those profits with him, is that right?---Yes.

Do you agree that Mr Maguire made an initial contribution to provide working capital for G8way International Pty Ltd?---I don't recall that.

40 Can we go, please, to volume 9, page 252. I'm just going to show you a document up on the screen that might help you with the answer to the question that I have just asked. Volume 9, page 252. I'll draw your attention to the email at the bottom at the moment, an email from you, 29 June, 2013, 6.53pm. Do you see that there?---Yes, yes.

And do you see in the second paragraph you say, "We made a tiny profit. Contributions are yours, mine and also some money of Karen's. I'm hiding it in a bank to avoid her idiot husband." Do you see that there?---Yes.

And Karen is your partner, is that right?---Correct, yes.

But you're referring to contributions. So you're referring to the fact that you had paid some money into G8way International Pty Ltd, is that right?
---Yes.

But you're also referring to the fact that Mr Maguire paid some money into that entity as well, is that right?---I, I don't see it that way, I'm, I'm sorry, Counsel. Could you just be more - - -

10 If you draw your attention to the second sentence of the second paragraph see it says, "The contributions are yours, mine and also some money of Karen's." Do you see that there?---Yes.

Now, by contributions, are you referring to monetary contributions that are paid into the company or are you referring to something else?---I, I believe I was referring, where I have made a comment about, "We have made a small profit," that the contribution would have been that share of the profit as opposed to the, to an actual physical contribution.

20 But have a look at the context of that sentence. "Contributions are yours, mine and also some money of Karen's." It reads to me at least as suggesting that there are three people who had made contributions, monetary contributions into the company. Is that how we should read it or should we read it in some other way?---I'm reading it differently but I - - -

Well, it's your email, so you're more likely to understand it than I am.

THE COMMISSIONER: If you look at the last sentence too, Mr Elliott.
---Yes.

30 Which refers to "directors' contributions". And as I understand the evidence you've just given, you effectively regarded Mr Maguire as a director.---Yes. That, that was correct.

Does that assist you in understanding the paragraph immediately above it?
---I will agree with you that the contributions would have been Mr Maguire's.

40 MR ROBERTSON: So having looked at that email now, it refreshes your memory that Mr Maguire made at least some financial contributions to the setting up of the G8way International organisation, is that right?---I'm still very confused with it, but I'll, I'll say yes.

Well, no, don't let me put words in your mouth. It may be that, having looked at that document, you still don't recall one way or the other.---I, I still don't recall one way or the other. My, my reading and my understanding of that is that if a small profit had been made, his share, if you will, was retained.

So are you saying that where we see the word “contributions” on the document on the screen, we should take that as not necessarily meaning financial contributions, but contributions in kind to the development of the organisation?---That’s my understanding and how I read it, remembering this is eight or nine years ago as well.

But you’re not saying that you’re in a position to positively deny that Mr Maguire made financial contributions to the organisation, is that right?
---No, I can’t positively deny that, nor could I positively affirm that.

10

You’re saying that you don’t recall one way or the other, even having the benefit of looking at the document on the screen?---No.

Commissioner, I tender the document on the screen, being an email from Phil Elliott to Daryl Maguire, 1 July, 2013, 3.05pm, volume 9, page 252.

THE COMMISSIONER: Very well. That email will be Exhibit 127.

20 **#EXH-127 – EMAIL DARYL MAGUIRE TO PHIL ELLIOTT
DATED 1 JULY 2013 RE P&L REPORTS**

MR ROBERTSON: Can we go, please, to Exhibit 118, which is also volume 7, page 25. Mr Elliott, if you have a look at the email that starts about halfway down the page, 2 October, 2012, 2.23pm. And just to help you get your bearings, 2 October, 2012, was the date that G8way International Pty Ltd was incorporated.---Yes. Yes.

30 Can I ask you to focus your attention on the third paragraph, that says, “By setting up a company”. Do you see that there?---Yes.

And I’ll just get you to read that paragraph to yourself, and let me know when you’ve read it.---Thank you.

And so was the arrangement with Mr Maguire that, although he was not to be formally appointed as a director of G8way International Pty Ltd, he would be treated as if he was a director, and that when he gives his other job away, he would be appointed as a director, and away you go?---Yes.

40

And so the arrangement was that once he gave the other job away – in other words, was no longer a member of parliament – he would be appointed by you as a director of G8way International, is that right?---Yes.

But the arrangement was also that, whilst he was a member of parliament, if G8way International Pty Ltd earned profits, he would be entitled to receive some of those profits, is that right?---At the conclusion?

Well, I'm asking you. Was it the case that he would be entitled to some of those profits during the course of the business of G8way International and before Mr Maguire had ceased to be a member of parliament?---That's not my understanding.

That wasn't your understanding as at 2012, which is the date of that email?
---My understanding was that he would receive his share of the profits, but, at the conclusion, that everything would stay within the company.

- 10 Did Mr Maguire ever receive any distribution payment, et cetera, in relation to any G8way International Pty Ltd activities while he was still a member of parliament?---I don't believe so. I, I can't recall, sir.

There was never any distribution made to him, for example, from moneys owing to G8way International Pty Ltd?---I don't recall, Counsel.

What about cash receipts? Was there ever a case where you, on behalf of G8way International Pty Ltd, received some money in cash - - -?---Yes.

- 20 - - - and you shared that cash with Mr Maguire?---I don't recall specifically, but I would suggest to you the answer would be yes.

Well, what do you mean by that, "suggest that the answer would be yes"?
---Well, I - - -

Do you have a recollection of doing it or - - -?---I, I'm really unsure. I think I had given him an amount of money. I couldn't tell you how much, I couldn't tell you when, I couldn't tell you the scenario.

- 30 Is it right that, for at least some activities, G8way International Pty Ltd dealt in cash rather than in other means, such as electronic funds transfers, cheques and things of that kind?---Yes, we did, or I did receive amounts of cash, which were subsequently banked.

THE COMMISSIONER: Sorry, did you want to tender that last email?

MR ROBERTSON: I do. In fact, I already tendered it as part of the initial opening tender. It was Exhibit 118. So, Mr Elliott, are you saying that - - -?
?---I'm sorry.

- 40 - - - from time to time G8way International Pty Ltd did receive fees in cash?---Yes.

And are you saying that that cash was always banked or do you say that, from time to time, some of it was not banked?---From time to time, some of it wasn't. The majority was. A small amount was kept out usually for exchange into Chinese or Asian currency.

G8way International Pty Ltd prepared accounts on an annual basis, is that right?---Yes, they did.

It filed tax returns on an annual basis, correct?---Correct.

Was all of the income relating to G8way International Pty Ltd recorded on the books? In other words, recorded in those two documents, the accounts and the tax returns. Or from time to time, was some of it kept off the books?---Some must have been kept, some would have been kept off the
10 books.

So at least some income or at least some profits relating to G8way International Pty Ltd was kept off the books, in cash, is that right?---That would be correct.

When that cash was in existence and not banked, where would it be kept? ---I have a safe at my residential property.

And can you recall where that cash came from? It may be a few different
20 sources, but from whom did you receive cash relevant to G8way International Pty Ltd's activities?---From Mr Maguire.

Only from Mr Maguire or from others as well?---Sorry, Commissioner, I'm a bit, to the best of my recollection, only from Mr Maguire.

Did that happen on one occasion or more than one occasion?---No, more than one. Possibly two or three.

No more than three times?---I don't believe so.
30

Do you recall what that cash was relating to?---It was payment, I understand, from some immigration-related activity that you mentioned in your opening.

We'll go to the detail of that in a little while.---Sure.

But what was the basis of your understanding that the cash, to which you've just referred, had something to do with immigration? Did Mr Maguire tell you or is there some other reason you came to that understanding?---No,
40 that's what I was told.

By Mr Maguire?---Yes.

On two or three occasions, is that right?---Yes.

Roughly speaking, how much money are we talking about? Are we talking about thousands, tens of thousands, hundreds of thousands?---Tens I

believe, and I'm trying to recall from my last appearance some years ago. 16 or 18,000.

So your best guess is it's somewhere between about 16 and 18,000, is that right?---To the best of my recollection.

And you're saying that some of that cash was banked in G8way International's bank account?---Yes, it was.

10 But not all of it.---Most of it. Not all.

The bits that weren't banked, how was that cash used, as you recall it?---It was subsequently used to exchange for Chinese currency for trips and so on.

Was any of it used to pay anyone a dividend commission payment, anything of that kind?---I don't believe so.

20 So are you saying your best recollection is that cash that was received from Mr Maguire pertained to a matter of immigration? That's the first proposition?---Yes.

That that cash was mostly, but not all, banked. Correct?---Yes.

The bits that weren't banked went to expenses and not to paying anyone a commission fee, distribution, anything of that kind, is that right?---No. Yes, that's - - -

I've got that right?---That's right, yes, I'm sorry.

30 Just in relation to G8way International more generally, can I just ask you to explain, at least in general terms, what was the business model of G8way International? What was G8way International trying to do or trying to be when it was incorporated in 2012?---So initially the idea was that it would become a link between Australian suppliers and buyers and Chinese suppliers and buyers. And the idea initially was that there were groups who were looking to purchase products from China without confidence or guarantee that what they purchased might actually be what was received, and that's, the company was set up to act as that, that link, that liaison between those parties. If I may continue - - -

40 Please.--- - - - because it may lead to a point that you made in relation to the business club on the website, and the idea of extending that was that there would be a membership core on both sides, so that there'd be a degree of confidence between suppliers and, and purchasers that members of that club would have been vetted, for want of a better description.

So is the basic idea that G8way International has contacts within Australia and contacts within China and is attempting to bring those two different sets of contacts together?---Correct.

And was G8way International to play a role in the transactions, for example to buy things and to sell things, or was it simply the intermediary along the way?---To be the intermediary, to be the broker, for want of a better - - -

10 Whose idea was it to try and set up a company of that kind, being that link, or bringing people together type role?---It was probably a joint discussion between myself and, and Mr Maguire.

And when did that idea first germinate?---I'm finding it very difficult to define an exact time but it, because the company was set up in that 2012, in that area, of that, that period, that area.

You've been on a number of trips to the People's Republic of China with Mr Maguire, is that right?---Yes.

20 And that included a trip that you went with Mr Maguire in early 2012, before G8way had been established as a incorporated entity?---That was my first trip.

So was that part of the background to setting up G8way International, that you've had your first trip with Mr Maguire, and that got you thinking, and to your understanding got Mr Maguire thinking, about potential business activities involving China and Australia.---Yes, that, that would be fair.

30 In terms of what's in it for G8way International, if it's not buying and it's not selling, how – at least as a matter of business plan or business model – was G8way to receive money, to make money?---So there'd be a couple of, of options. One would be a, a pure fee that was paid by a, a potential purchaser for us to, or for me to, to set up a, a meeting, a connection, and the other way was via way of commission on sale.

You said for you to set up, but at least on some occasions it would be Mr Maguire who would do the setting up, is that right?---Yes.

40 So part of the business model of G8way International was that Mr Maguire had many contacts both in Australia and in China, correct?---Correct.

He also had the ability to make further contacts, given that he was a member of parliament and eventually a parliamentary secretary and also a chair of the NSW Parliament Parliamentary Friendship Group, is that right?---Yes.

Those roles allowed Mr Maguire to act as a door opener in China. Would you agree with that?---Yes.

And so there were occasions in which Mr Maguire was able to make contact with officials in particular in China in a way that you couldn't, for example, because he was a, he was seen as a government official in Australia and you were not, is that right?---Yes.

10 Did you ever have any occasions where that was made obvious by the Chinese side of a transaction or potential transaction where it was clear from the Chinese side that they were providing a more senior official to meet with either you or to meet with Mr Maguire, because Mr Maguire was seen as a government official?---Yes.

And can you tell us about that example or one of those examples?---So my first trip to China in early 2012 to the Shenyang University in the north of, of China, and the welcome board or the welcome screen welcomed the Honourable Daryl Maguire MP, Member of the New South Wales Parliament, and delegation.

20 Is it right though that although he is being identified there as MP and member of delegation, at least one of the things that Mr Maguire was doing on that trip was attempting to pursue business opportunities for himself? ---Yes.

And perhaps business opportunities for himself in conduction with you, is that right?---Yes.

30 In the trips to China which you attended, did you ever hear Mr Maguire saying to the opposite party, "Yes, I might be a member of parliament, but I'm attempting to achieve business opportunities for myself and my own benefit"?---I can't recall that.

Do you recall – I withdraw that. I take it that in the trip to China it was very common for you and Mr Maguire to exchange business cards or name cards?---Yes.

Consistent with the cultural practice- -?---The tradition, yes.

- - - in that part of the world, correct?---Certainly.

40 Do you ever recall which business card Mr Maguire would use, in particular whether he would use a parliamentary business card or whether he would use a business card associated with G8way International or some other private entity?---I can't specifically but I can recall having seen parliamentary business cards with a Chinese translation on the reverse.

So you recall seeing a Mr Maguire parliamentary business card, English one side, Chinese text on the other side?---On the reverse, yes.

And you've seen him have those business cards when you've been in China, correct?---Yes.

Have you seen him exchange those particular cards?---I believe so, yes.

10 And have you see him exchange those particular cards in connection with a business deal as opposed to in connection with some governmental-type function?---Most of the memory I have on that has been with, with, in governmental, so with government officials. I, I can't say with any certainty.

So you can't exclude the possibility that Mr Maguire used his parliamentary business card in connection with a business activity?---No, I couldn't exclude that.

20 And I suppose you would agree that, at least sometimes, the line between him appearing in his parliamentary role and him appearing as someone attempting to make personal profits is not always easy to draw, is that right?---I would agree.

That's particularly the case in China where, in relation to a business a deal, you might not just have the commercial people involved, you might have people who also have government roles involved, is that right?
---Government, yes, yes, that's correct.

30 But I think you've agreed with me that, with Mr Maguire being involved, parliamentarian, friendship group chair, parliamentary secretary, to your observation, he was able to access more senior officials that what, as you would understand it, you would be able to access not being a parliamentary official?---Certainly, certainly.

And you has actual personal experience dealing with matters of that kind?
---Yes.

You were explaining a little while ago about how G8way International was to make its money and I think you referred to a fixed fee being a possible structure.---Ah hmm.

40 I take it another possible structure is a commission-type structure?---Yes, I mentioned that. Yes.

And is it right that from time to time G8way International did make commissions when acting in that linking form that you identified, is that right?---Yes. Yes.

For example, I think there was a commission made on a sale of wine, for example?---Correct.

Was there ever a commission structure, maybe a rack rate of commission structures that G8way International were promoting as being the structure for linking Australians and Chinese?---No.

Never any structure saying that if it's a particular deal it will be X per cent, so on and so forth?---No.

Can I just try and assist you this way.---Yeah, sure.

- 10 Can we go to volume 5, page 146. Do you see there a document that starts, "For all successful tenders your company or associated companies secure, our company, G8way International, seeks a commission payable in US dollars." Do you see that there?---Yes.

Do you recognise the documents on the screen?---No, I don't.

Do you know whether you drafted or some other person drafted it?---I don't, I don't recall that, Counsel.

- 20 And are you saying that, despite being shown this document, you have no recollection of a rack rate-style commission structure being ever established by you?---No but I was certainly – sorry. I was certainly looking all the time at different thoughts and, and ideas and the fact that that says, "Payable in US dollars," makes me consider I have plagiarised that from a, a, you know, a document and then made changes, if that was the case but I, I don't honestly recall that particular document.

This document doesn't refresh your memory that you created a commission structure of the kind that we can see on the screen?---No, it doesn't.

- 30 THE COMMISSIONER: Does that document need to be tendered or at least marked for identification?

MR ROBERTSON: Can we perhaps mark it for identification for present purposes?

THE WITNESS: Counsel, I have no memory of actually doing that, that document.

- 40 THE COMMISSIONER: Very well. I picked up the volume, volume 5, but not the page, Mr Robertson. What page was it?

MR ROBERTSON: Volume 5, page 146.

THE COMMISSIONER: Thank you. The document concerning the Commission which appears in volume 5 at page 146 will be MFI 5.

THE COMMISSIONER: Mr Robertson, is it appropriate to take a short adjournment?

MR ROBERTSON: May it please the Commission.

10 THE COMMISSIONER: Before we do, I'll just ask you one question, Mr Elliott.---Yes.

The spelling of G8way's name, was the 8 chosen instead of the actual formal spelling because it's a propitious number for the Chinese?---Yes.

Thank you. We'll adjourn for 15 minutes for morning tea.

SHORT ADJOURNMENT

[11.30am]

20

THE COMMISSIONER: Please be seated, Mr Elliott. You are bound by your affirmation.---Thank you.

Yes, Mr Robertson.

30 MR ROBERTSON: Can we go, please, to volume 8, page 148. Mr Maguire, before the adjournment, I was asking you questions about Mr Maguire being a door-opener, and in particular, him having the ability to access officials in China more easily than someone like you, who wasn't, for example, a member of parliament.---Certainly.

And can I just draw your attention to this email. We're not in 2013. It's an email from Mr Maguire's personal email address to your email address, riverinastrata, 28 February, 2013, 7.26am. And can I just get you to read to yourself the first sentence of that email.---Yes.

Now, does that – just let me know when you've read that first sentence. ---Up to "Why I am sure".

40 Yes.---Yes. Thank you.

Now, does that refresh your memory as to an occasion in China when you were seeking to meet with a Mr Pang and a Mr Jin, but were ultimately not able to do so?---It doesn't as such, but that would be absolutely correct.

Well, let's just go down the page a little bit, just to give you the context. ---Yep.

So if you have a look at the email, subject “G’day”, from you to Mr Maguire, 27 February, 2013, 10.01pm. I’ll just scroll down just a little bit further. And if you just read to yourself the paragraph starting with, “Hello, old friend.”---Yes. Yes.

And can you draw your particular attention to “It turned out to be a little waste, as Mr Pang is in Japan and Mr Jin is in Beijing.” Do you see that there?---Yes, I do.

10 Does that refresh your memory as to a trip that you made to China without Mr Maguire, and in respect of which you had less access to officials than Mr Maguire might have access to if he was in attendance?---Yes, that’s correct.

That’s consistent with your recollection of something actually happening in February of 2013?---Yes.

Commissioner, I tender the document on the screen, volume 8, page 148-149, which is an email from Mr Maguire to Mr Elliott, 28 February, 2013, 7.26am.

20

THE COMMISSIONER: That email will be Exhibit 128.

**#EXH-128 – EMAIL DARYL MAGUIRE TO PHIL ELLIOTT
DATED 28 FEB 2013 RE GDAY**

MR ROBERTSON: Now, Mr Elliott, I was asking you about commissions before the adjournment.---Yes.

30

And I think you agreed that, on at least some occasions, G8way International earned commissions from the work that it did, is that right? ---Yes.

We gave an example of a commission in relation to wine.---Yes.

What was the arrangement as to what would happen with those commissions? In other words, when the commissions are received, who would they ultimately be paid to? Would they stay in the G8way International account or would they be paid by way of distributions to anyone? Or what was the arrangement in relation to matters of that kind? ---So they went into the G8way account and there was a small distribution, I couldn’t even tell you the year, but a small distribution to a number of parties after that. Some time after.

40

And a distribution of that kind, how many times did that actually occur? ---Once, to my recollection.

So there was only ever one distribution in relation to profits earned by G8way International, is that right?---I think so, yes.

Was there any other occasions where there wasn't a formal distribution, but that you shared some money in relation to a commission payment or some other profit line in relation to G8way International?---Yes, there was.

And what was the occasion of that?---There was a commission earned for furniture that was, that was purchased, that we hosted through the RSL.

10

Through the Wagga RSL?---Through the Wagga RSL.

And so that was in relation to a trip where you went to China and sought to source furniture for the RSL, is that right?---Correct. That's correct.

For the Wagga RSL?---For the Wagga RSL.

And who was the commission shared with in relation to that matter?---There was a commission to Mr Bell.

20

And who's Mr Bell?---Mr Bell who was the general manager of the RSL Club.

Did you receive any commission in relation to that matter of furniture?
---Yes. Commissions went into the account, into the G8way account.

So we'll deal with that in part. So did you personally receive and keep any money in relation to that transaction?---Ah - - -

30

Or did all of the money, the G8way money if I can call it that, end up into the G8way account?---It went into the G8way account.

Did any of that money end up with Mr Maguire?---Not to my recollection.

Was there an intention of some procedure or some practice that, when a commission was earned, it would be shared in some fashion? Or was it always the case that, if a commission was earned, it would go into the G8way account and, if there's enough money, then it might then end up being a distribution?---Just to clarify in my mind, can you just repeat that?

40

I'm just trying to understand what the intention was or what the practice was in terms of commissions. Was the practice that if G8way was doing a commission, it would always end up in the G8way account, all of it?---One of the ideas that was discussed was that if various parties brought business to the table, that an amount of money earned via commission or fee, 50 per cent would go into the G8way account and the remaining 50 per cent would be distributed amongst the person who introduced it, and another four or five, five or six persons.

And did those four or five or six persons include Mr Maguire?---I'm hesitating because I can't recall whether it included Mr Maguire as one of the five or six, or Mr Maguire as part of the G8way section, if that makes - - -

10 Were any commissions ultimately distributed in that fashion? Or was that just an idea that wasn't ultimately followed through?---There was a, a small distribution. And it would have been in hundreds, I think, as opposed to thousands.

And so the idea, just so I understand it, is that the person who arranges the deal, who we might call the introducer - - -?---Sure.

- - - would get some proportion of the money. G8way International would get 50 per cent.---Correct.

20 And of the remaining 25 per cent, that would be shared out amongst people associated with G8way International, is that right?---That's almost exactly right.

Can we go to volume 8, page 191, because this might help you refresh your memory in relation to whether Mr Maguire was one of the individuals to share in such an arrangement. So do you see there an email from you to Mr Maguire, 16 March, 2013?---Yes. Yes.

The attachment is a thing called Banking and Distribution.xls?---Ah hmm.

30 Does that file name ring a bell?---I know that I did a spreadsheet up, but -- are you going to produce that for me to see?

I am, I'm just asking you first whether the name of the file, Banking and Distribution.xls, whether that rings a bell.---Yeah, it, that would be the sort of thing I would have named, yes.

40 So let's go to the next page, because this might assist. So do you see there we've got G8way 50 per, introducer 25 per cent, Julian 5 per cent, Nicole 5 per cent, Du Wei 5 per cent, Daryl 5 per cent, Phil 5 per cent?---Oh, okay. Yes, that's correct.

So does that now refresh your memory that at least one of the commission sharing ideas that you and G8way International had was that G8way would keep 50 per cent, the introducer would get 25 per cent, and the remainder would be shared amongst the five individuals identified there including Mr Maguire?---Including Mr Maguire. That's correct.

And just so we know who's who, the reference to Julian is Julian who? ---McLaren.

The reference to Nicole is Nicole who?---Hatton.

Then Du Wei is the full name of a gentleman, is that right?---A gentleman in China, correct.

And Daryl I take is Daryl Maguire?---And myself.

10 And Phil, Phil is you. And so were you saying that on at least one occasion, there was a distribution consistent with this formula?---Yes, I believe so.

And so I think you've said that there was only one time where there was a formal distribution from G8way International.---Yeah, I think so.

Are you saying that when that happened it was done in a way consistent with this formula, or is it possible that there were two occasions on which there was distributions?---I can only recall the one.

20 On the one distribution that you can recall, do you recall whether it was only the individuals that we've just seen on the screen who were given a distribution, or is it possible that there are others who may have been given a distribution?---It's possible, Counsel, but I can't recall. I can't recall anybody else.

Well, on the one distribution that you can recall, did Maggie Wang receive any money by way of distribution?---Oh, she may have, I can't recall it.

You just can't remember?---No.

30 Can't recall one way or the other?---No.

Do you agree that in connection with the G8way International business, Mr Maguire made available to the business resources that were available to him as a member of parliament?---Mmm. Yes. Yes.

That included access to parliamentary staff to assist with activities of G8way International, is that right?---Yes.

40 Those parliamentary staff included Nicole Hatton, correct?---Yes.

Rebecca Cartwright, correct?---Yes.

Zach Bentley?---I, I'm, I'm pausing momentarily because to my memory, Zach did one job and that, one job specific to this, and that was to have taken a passport from the parliamentary office across to the Chinese Consulate, across Hyde Park. And it was, and the reason I'm pausing is that it would be the sort of thing I would have expected a, a, a local member to have done to assist a, a constituent. But yes, he was a member of - - -

Well, it was a little bit more than just a local member assisting a constituent, wasn't it? Mr Maguire made it clear that you could access his staff in order to do tasks relevant to G8way International, do you agree?---Certainly with Nicole and Rebecca, but I didn't specifically recall with Zach.

I might just try and help you this way, can we go to volume 10, page 190?
---Yep, sure, please.

10 And I want to show you an email which I think is consistent with what you've said, but it may assist your recollection.---Okay.

So if you start towards about the middle of the page, "I'm sending a couple of visa applications up today for Zach to do, please."---Oh.

Do you see that there?---Yes. Yes, that - - -

And Zach's a reference to Zach Bentley?---Yes.

20 So does that refresh your memory that Mr Bentley provided at least some assistance, including in connection with visa applications?---Yes.

And that was assistance needed in relation to G8way International activities, is that right?---That's correct.

I tender that document, Commissioner.

THE COMMISSIONER: Were you going to tender the one you showed Mr Elliott about commission distribution, Mr Robertson?
30

MR ROBERTSON: I am. Thank you for reminding me. So I first tender the email from Phil Elliott to Daryl Maguire, 16 March, 2013, 10.10am, public inquiry brief, volume 8, page 191 through to page 200.

THE COMMISSIONER: That will be Exhibit 129.

40 **#EXH-129 – EMAIL PHIL ELLIOTT TO DARYL MAGUIRE
DATED 16 MARCH 2013 ATTACHING BANKING AND
DISTRIBUTION EXCEL SPREADSHEET**

MR ROBERTSON: And then next I tender public inquiry brief volume 10, page 190, which is an email from Mr Maguire to Mr Elliott, 4 March, 2014, 7.43pm.

THE COMMISSIONER: That will be Exhibit 130.

**#EXH-130 – EMAIL DARYL MAGUIRE TO PHIL ELLIOTT
DATED 4 OCTOBER 2014**

MR ROBERTSON: From time to time, G8way International also obtained the assistance of the Wagga Wagga electorate office of Mr Maguire, is that right?---I can't, I can't, I can't think of a specific case but the answer would, would be yes.

10

Well, just as an example, when you needed to get documents from Wagga Wagga to the Sydney parliamentary office, you would do so by, or on at least one occasion, by making it available to the parliamentary bag that goes from Wagga Wagga to the New South Wales Parliament, is that right?
---Yes, yes.

And so I take it that you wouldn't take it upon yourself to use the benefit of the staff, this was something that Mr Maguire made clear to you that you could access for the benefit of G8way International, is that right?---Yes.

20

Is another example of assistance that G8way International had, through use of parliamentary resources, the use of the parliamentary library to do research for the benefit of G8way International?---I don't recall that. Let me, excuse me, I don't think I've ever been to the parliamentary library.

No, but is it possible that Mr Maguire, by way of assistance to G8way International, asked for research tasks to be done by the parliamentary library?---It's possible, yes.

30

I'll try and assist your recollection this way. If we go to volume 11, page 54, please. And if we just go down the page a little bit, just so you can get the context. So do you see, there's an email that's starting about seven-tenths of the way down the page, is an email asking certain questions about things including dairy cow price per cow, land size required, et cetera, et cetera. Do you see that there?---Yes, thank you.

And if you we just turn over the page so you've got the full context. A series of questions, average number of cows per farm in the area et cetera, et cetera. Do you see that there?---Yes, thank you.

40

So does that refresh your memory about a particular matter where you were asked a series of questions?---Yes.

And if we go back to the preceding page, and we can scan up a little bit, and if you just have a look at the email at the top of the page, you see Mr Maguire says to you, "I've got the library working on some numbers for you as well," et cetera?---Yes.

So does that refresh your memory that on at least one occasion, Mr Maguire obtained the assistance of what he described as the library in order to assist in relation to a G8way International matter?---Yes.

Commissioner, I tender the document on the screen, an email From Mr Maguire to Mr Elliott, 6 June, 2014, 9.54am, volume 11, pages 54 to 55.

THE COMMISSIONER: Yes. That will be Exhibit 131.

10

**#EXH-131 – EMAIL DARYL MAGUIRE TO PHIL ELLIOTT
DATED 6 JUNE 2014 RE MILK MATTER**

THE COMMISSIONER: Who was Mr Brady, Mr Elliott?---Mr Brady, from my memory, Commissioner, was a consultant in, in dairy who was based in the north eastern part of Victoria.---I see.

20 And, do I – yes, a consultant and we had organised a meeting and he addressed the meeting, members of whom included development officers from local council and so on.

I see. Thank you.---Thank you.

MR ROBERTSON: Did those arrangements lead to any profits to G8way International?---No.

30 To your knowledge, did G8way International ever charge a fee to any person for an introduction to a New South Wales minister or other government official?---No.

When I asked you that question you reacted with – well, you reacted as I was asking the question. Why did you have that reaction?---I'm sorry, I, because I noted in your preamble before I was in the box here, where you produced a document that, that showed a fee being charged for a meeting with, I think, Mr O'Farrell at the time.

40 Well, let's go to that document. Volume 13A, pages 8 to 9. And I'll start with an email from you to Ms Hatton.---Yes.

Going to two email addresses, a parliamentary email address and a G8way International email address. 27 November, 2012. And you see there you say, "Can you have a peek at this and give me your thoughts or maybe run it past Daryl?" You see that there?---Yes.

And just before we get to the next page, see the email about half the way down the page, from Milpo Kapooka? And that's the post office in Kapooka, is that right?---That's correct. Where I was - - -

And I've probably pronounced that wrongly.---Kapooka is the military base. Milpo is the military post office. And - - -

But – sorry, keep going.---And a very dear friend of mine was the licensee, for whom I was doing some casual work.

10 And so is it right that when we see an email like this from that particular email address, we don't assume that you're an interflora florist in your spare time, but rather you've used the facilities at that location for the benefit of your business activities?---I would have done so, yes.

Can I just turn – sorry, before we get to that. See in the third substantive line of the email, “Spoke briefly to Lydia this morning.” See that there? ---Yes.

Who's Lydia?---I can't recall Lydia's surname, but Lydia was introduced to me in that 2012 period. Zhang, perhaps. Z-h-a-n-g.

20 And what was her role, as you understood it?---I met Lydia and either her husband or partner, Humphrey Xu I think.

Xu. Is that spelt X-u? At least when one spells it in English.---I'm sorry, whether it's C-h or X-u, I'm not sure. And Humphrey was the host on the first trip that I made to China, back in the early part of that year.

30 And what was Humphrey's business activity or government relation or position, as you understood it?---To my understanding, he was just a businessman, but I, I really have no idea.

Can we then turn the page, please. This appears to be the text of a draft tax invoice that you are then sending on to Ms Hatton. Can you see that it says, “To business name address for introduction and interpreter services,” four-tenths of the way down the page. You see that there?---Yes.

What did you mean by “introduction and interpreter services”?---I can't recall exactly what that would, what that would reference.

40 Well, if not exactly, roughly what are you talking about there? This is your email. You're preparing some draft text for an invoice. When you sent the email, what did you mean by introduction and interpreter services?---I can't recall the exact detail. It would have been a pro forma invoice in relation to the subject that's mentioned. So we're obviously going to charge somebody for a service.

Well, for what service, though?---Well, it says “introduction or interpreter services”. I can't be more specific.

Introduction to who, then?---I, I don't know. I have no recollection of to whom.

But this is your company. You're preparing a draft tax invoice to charge some money to another entity. Surely you've got some idea of what you're going to be charging for.---I don't know how to answer that. I have no recollection of that.

10 Well, have a look about halfway down the page. See it says, "Secretary, Liaoning Province, PRC".---Oh, yeah, yep.

See that there?---Yes.

And so does that refresh your memory that preparing this draft invoice has got something to do with the Secretary of the Liaoning Province?---That would be reasonable, yes.

20 And does that then ring any bells as to what this invoice was relating to?---I don't recall the specific situation.

Well, surely you're able to provide some assistance as to what the phrase, "introduction and interpreter services," was intended to mean when it appears you drafted those very words in this document.---It's, it's obviously a document that's been drafted where a fee was going to be charged to provide a person to be an interpreter between the secretary of Liaoning Province and somebody.

And who?---I don't specifically know.

30 So it's not just interpretation services, an introduction service as well. Are you saying you don't have any recollection as to who was being introduced in exchange for a fee?---No, I don't.

If we jump back to the preceding page you say to Nicole, "Or maybe run it past Daryl." Do you see that there, towards the end of the first line after the ellipsis?---Yes.

40 Do you recall whether Daryl spoke to you about this particular proposed invoice?---I don't but what I'm guessing or thinking is that I've just been asked to do an invoice with those details and I've done it and forwarded it on, and I think the reference of, "Maybe run it past Daryl," probably confirms that.

Well, do you have any recollection of Daryl or anyone else identifying the subject matter of what an invoice should sent for?---I, I have no recollection of it.

Do you have any recollection of, other than this occasion, G8way International providing an invoice in relation to introduction services?---No, I don't.

Do you recall whether you had any involvement in a visit from a delegation from Liaoning, including the secretary of that province, to Sydney?---No.

I'll try and help you this way.---Yes, please.

10 Can we go to – I'm so sorry.---No. Please.

Go back to volume 13A, page 23, please. There's an email from Mr Maguire to you, 29 November, 2012, subject heading, "Finally it's happening." And you just note that the attachments includes photo.jpg and then we just turn the page to see that photograph and just zoom in a little bit. Does that set-up ring any bells to you?---(No Audible Reply)

20 THE COMMISSIONER: You've got to answer, Mr Elliott, not just nod. ---Yeah. Sorry, Commissioner. So the people of, or a company called – sorry – a company called Wuai were looking to do an international trade centre in the city of Wagga Wagga, and I think the heading in the previous email of, "Finally it's happening," was suggesting that their delegation was going to sign, and again in your preamble, I think I saw a photo of Mr Maguire and Mr O'Farrell, the mayor of Wagga, who would have been, for a signing ceremony, I note there, the – sorry, excuse me. Oh, yeah. So on the second English line done where it says, "The signing ceremony of Australia Wuai International Trade Centre."

30 MR ROBERTSON: So you recall there being a signing ceremony in connection with the then proposed Wuai International Trade Centre in Wagga Wagga, is that right?---Yeah. It was - - -

What involvement did G8way International have in that signing ceremony? ---I don't know, to be honest.

Well, did you personally have any involvement in that?---No.

40 Save that it looks like you at least prepared a draft invoice in relation to at least introduction services and certain other things?---And interpretive services, yeah.

Do we take it from some of your answers you've just given that at least in some areas Mr Maguire would take the running on activities of G8way International and not necessarily keep you involved in each and every step? ---Yes, that would be fair.

And that's consistent with what you've said before, namely that Mr Maguire, although he wasn't formally appointed as a director, he was performing the kinds of roles as a director?---That would be correct.

10 In terms of invoicing, would Mr Maguire play any role in the actual issue of invoicing, or was that someone else's job within the G8way International family, if I can call it that?---Mmm, I would normally have done any invoicing that was involved, but I recall when I last met here, that there was an invoice that was under the G8way letterhead, and I recall saying to the people at the time that that's the, the manner in which I do the invoice, but it was incorrect, it was incorrect because there was a GST amount that was incorrect, and that's an error that wouldn't ordinarily be made. So, I guess in short, somebody has taken that invoice template on behalf of - - -

So are you saying that on at least one occasion someone other than you would issue an invoice in relation to a G8way International activity?---Yes.

But on at least some occasions you would do it yourself, correct?---Yes.

20 I take it that when you would issue an invoice yourself, you would satisfy yourself as to what the invoice was actually for.---I would think so, yes.

And so do I take it from that that you satisfied yourself as to what was meant by introduction and interpreter services?---I understand what introduction and interpreter services are, but I'm suggesting that I would have put that down as instructed.

30 As instructed by who?---I, I would have thought by Mr Maguire, and that's probably reinforced by the comment of "run this past Daryl."

Can we go please to page 10 of volume 13A, so I can show you the next step in this exercise?---Sure. Yep.

See there an email with the subject heading Invoice Template?---(No Audible Reply)

Do you see that there, Mr Elliott?---Yes. Yes.

40 27 November, 2012. And there you say, "attaches a tax invoice template to be used for the event on Friday," do you see that there?---Yes.

And what was the event on Friday?---I presume that was at the signing that you produced in that earlier - - -

And so does that at least refresh your memory that it was you who prepared the tax invoice template?---And I would have prepared that. If I put down "attached is," then I would have prepared that.

So can we just go to what appears to be the invoice template. I'm just going to show you a document that at least looks to me like the invoice template, but in fairness to you, I should indicate that in our copy of the email that I've just shown you, it's not actually attached to that email. We've got that by way of a separate document.---Oh, okay.

Does that make sense?---Yes. Yep, yes.

10 So if you just have a look on the screen, here's what appears to be a template style document. It does have some content in it as well. And do you see there it says the charged fee is for the introductory service, et cetera?---Yes.

Now, you see the fee is there five and half thousand dollars including GST, do you see that?---Yes.

Who came up with that fee? Was that you or was that someone else?---It, well, it wouldn't have been me.

20 Why do you say it wouldn't have been you?---I wouldn't have known what to even charge in a situation like that.

And when it says "introductory service," what do you understand those words to mean?---I, I can't answer with clarity, it's a point that we've spoken of a, a few moments ago, it, it reads and says "introductory and interpreter service," so - - -

30 THE COMMISSIONER: Well, it actually says "introductory services," comma, Mr Elliott.---Oh, comma.

Then "interpreter."---Okay. Thank you.

MR ROBERTSON: I'm sorry, what do you understand that phrase to mean as it appears on this document?---So as it appears there it's, well, it's a, a, it appears based on that that it's an introduction to the, the secretary of the, of that province.

40 Well, who's being charged this invoice? Is it being charged to what I might describe as the Chinese side, or is it being charged to an Australian side?---I don't know.

If you assume that the invoice is being sent to the Chinese side – and I'll show you a document to that effect in a moment.---Sure.

And I take it you would accept that the reference to introductory service can't be a reference to introduction to the Chinese side. It must be a reference to introduction to someone on the Australian side, do you agree? ---That would be fair, yeah.

Are you able to identify any reason as to why the Commission wouldn't conclude that this invoice was charging for, amongst other things, an introduction to New South Wales government officials, including the then Premier, Mr O'Farrell?---I could understand why you would think that. I, I can't speak with any clarity on that.

10 There's nothing that you can say that would put a question mark over drawing the inference I've just identified, is that right?---No.

I tender the document that appears on the screen. A draft tax invoice, G8way International Pty Ltd, sum of \$5,500.

THE COMMISSIONER: Very well. That will be Exhibit 132.

#EXH-132 – INVOICE TEMPLATE G8WAY RE LIAONING PROVINCE_REDACTED

20 THE COMMISSIONER: There are a couple of earlier documents, Mr Robertson, that you haven't tendered yet. Volume 13A - - -

MR ROBERTSON: There are. I might finish this line first, if I may.

THE COMMISSIONER: Very well.

30 MR ROBERTSON: Because some of them are already in evidence, because I've referred to them in the opening. Can we go, then, please to page 13 of volume 13A. And you now see on the screen, Mr Elliott, an email from Ms Hatton to yourself and you, 29 November, 2012?---Yes.

And it says, "Here is a copy of the invoice for Lydia for our records." See that there?---Yes.

"Coming in today to pay." See that?---Yes, I can see that.

40 And we'll just turn the page so we can have a look at the invoice itself. So now you'll note that it's addressed to Lydia Zhang. Do you see that there? ---Yes.

And she was from what I might describe as the Chinese side.---Yes.

And this appears to be a final version of the \$5,500 invoice that we referred to before.---Yes.

Just have a look at the invoice number in the top right-hand corner. See it says "2012-01". You see it there, see that there?---Yes.

So we take it from there, I take it, that's the first invoice that was issued by G8way International in 2012?---That would be correct.

And indeed, this is probably the first invoice ever, noting that G8way International Pty Ltd was only incorporated in 2012. Is that right?---That would be correct.

10 THE COMMISSIONER: Just under two months before that, I think, on 2 October.---Yes, I believe so, Commissioner.

Can I just ask you this, Mr Elliott, while there's a pause. If we just go back to the first page in this. Ms Hatton has sent this from her Parliament House email address but she's also sent it to herself at a G8way International address. Would you understand why she might have done that?---Yes, because we endeavoured to set up a number of email addresses that were @g8wayinternational. So there would have been a phil@g8wayinternational.

20 So that you might have included her own G8way address, what, to keep it within G8way's records as well?---I would think, yes, I would think so.

Thank you.

MR ROBERTSON: But in terms of those email addresses, you also set up one for Mr Maguire.---Yes.

daryl@g8wayinternational.com.au.---Yes, I believe so.

30 And the invoice that we saw on the screen a moment ago, was that invoice ever paid?---I don't, I don't believe so.

Well, you saw from the email Ms Hatton said, "They are coming in today to pay." That doesn't refresh your memory as to whether or not it was paid? ---No, I, not that amount. I have a recollection of, for some reason, 2,000. I don't know why an amount was paid and then subsequently was refunded. And I'm guessing it's, it's that situation, but - - -

40 Well, we'll come to that particular one. But are you saying that you have no recollection of receiving a payment in response to the particular invoice that we've there identified?---No. No, I don't.

So did you issue some sort of a credit note or invoice reversal in relation to that?---I don't believe so.

Well, why not?---Can you just go back one step? Are you referring now to 5,500-odd - - -

The \$5,500 invoice, yes.---No, I can't recall having actually been paid.

But did you issue any credit note or anything of that kind to, as it were, reverse the invoice?---No.

You'd agree that, as a matter of proper accounting practice, at least, that if one issues an invoice and it's never going to be paid, one issues a credit note or similar document.---I would have thought, yes.

10 Are you saying that never happened in relation to that matter?---I can't recall that happening, no.

In terms of payment of invoices of that kind, is that an example of where any money received would be paid into the G8way International bank account?---Yes.

20 Or is this in the other category where you would keep some of the money, or perhaps all of it, in the safe.---The reference to that invoice, I think, if, if you wish to go back to it, indicates a bank account down the bottom. So it would have gone into an account.

But in terms of the Liaoning delegation more generally, are you saying you recall receiving some money in connection with that delegation?---I recall receiving a figure of \$2,000 and then that was refunded some time after it.

And that money was received in what form? Was that an electronic funds transfer or cash or in some other way?---I think so. I think it was electronic.

30 And is that the only money you can recall receiving in relation to the Liaoning delegation?---I, yes.

Can we go, please, to page 26 of volume 13A.---Yep, sure.

Here's another email from you to Mr Maguire, 30 November, 2012. Attachments, China Invoice November 30.doc.---Ah hmm.

If we can then just turn the page. Now, do you see there a tax invoice for \$2,265?---Yes.

40 And do you see that's addressed to Shenhe District, Mr Jin, J-i-n?---Yes.

Is this the \$2,000 that you're referring to before, do you recall?---I thought the one I was referring to was an exact 2,000, so I, I'm not, I'm not positive.

You'll see it says "function preparation and room set-up, decoration and associated activity". Do you see that there?---Yes, I do.

What involvement did G8way International have in function preparation and room set-up, decoration and associated activity in relation to an event on 30 November, 2012?---None that I can recall.

Well, why are you preparing a draft invoice and sending it to Mr Maguire in relation to that matter?---I would have prepared it on instruction. I have no recollection of that specific event.

10 So are you saying your best recollection is that, to the extent that any invoices were issued by you in relation to this event of 30 November, 2012, they were issued on Mr Maguire's instructions, rather than you deciding to do it off your own bat, as it were?---Yes.

And does it follow from that that the prices in the tax invoice were identified by Mr Maguire, rather than by you or someone else?---Yes, I would think so.

20 And does it follow from that that the narratives, the descriptions of the work, came from Mr Maguire as well?---I would think so. Yes.

Can we just have a look at one further one, page 20 of volume 13A. This is addressed to a Ting Duan, T-i-n-g D-u-a-n. Do you see that there?---Yes.

And that's for a \$1,000 figure. Do you recall the circumstances in which this invoice was issued?---No, I don't. And this is the one that I made reference to earlier when I spoke of having been here a few years back. The GST figure was incorrect.

30 So what you're drawing attention to now is that if the non-GST figure was \$910, one should be adding \$91 in GST rather than \$90 in GST.---Correct.

And do we take it you infer from that that you didn't prepare this document because you wouldn't have got such a thing wrong?---I would have had 909 and change, plus whatever to make up that even figure, so, yes.

40 If we just go back one page so we can see the context of the email. See there from Ms Hatton, from her Parliament House email address to her G8way International email address, and to you as well, 29 November, 2012. Copy of invoice for dinner. Do you see that there?---Yes.

Does that ring any bells as to why an invoice was being issued for a dinner on 30 November, 2012?---No, but it's been copied in to me.

THE COMMISSIONER: Did you have a G8way email address, Mr Elliott?---Yes, I did.

This isn't sent to that thought, it's sent to - - -?---Sent from my business email, Riverina Strata.

How do we understand that consistent with the logic of the use of G8 email address, for G8 business?---Probably, Commissioner, because I'm terrible with emails and I would have asked for it to, anything to be sent to my Riverina Strata address.

I see.---Sorry, I'm just terrible with those things.

10 MR ROBERTSON: Was there some procedure that made sure that invoices of this kind were sent to you so that you would make sure they went through the books?---I, I can't say for certain. That would be the presumption.

So does that mean it's quite possible that Mr Hatton or someone else prepared invoices using your template, perhaps on Mr Maguire's instructions, but you never saw the invoice being issued?---That would be possible but again in this case I am copied in on that.

20 Did you file quarterly business activity statements and things of that kind through G8way International?---Yes. All BAS were, were, were done and up-to-date and - - -

But I think it follows from something that you said before that those BASs wouldn't necessarily record all of the income for G8way International, it would record at least some of it but not necessarily all of it, is that right? ---Yes, yeah.

Because you accepted before, I think, that at least some of the income of G8way International didn't go through the books, is that right?---Correct.

30 So I've now shown you a series of documents connected with what appears to have been an event on the 30th of November, 2012. Are you saying, despite that, you don't have any recollection of what you may have done in connection with that event?---My recollection is doing nothing, or certainly not very much. I recall, because of the date that was shown, and the connection to the, Wagga and the trade centre that that was obviously the launch of that but, but I don't recall having any direct involvement in organising or any of those things.

40 So you're saying that other than sending a few invoices or perhaps templates of invoices and receipting a few invoices, perhaps by way of being copied into them, you personally were not involved in any of the events of the 30th of November, 2012?---I don't believe so. I certainly didn't attend.

Do I take it from that, then, that you had an arrangement with Mr Maguire that if Mr Maguire wanted you to use G8way International as a vehicle through which to be involved in things, such as the events of the 30th of

November, 2012, he had your permission to use G8way International as soon as vehicle for that purpose?---Yes.

And you would in effect leave it to him, he would come up with pricing narratives, et cetera, et cetera, and he could use G8way International as the vehicle through which to do activities of that kind?---Yes.

In relation to invoices and the like, you didn't personally satisfy yourself that the work had actually been done, correct?---Correct.

10

You didn't personally satisfy yourself that the prices were appropriate, is that right?---Correct.

Do you have any idea whether the particular invoices we have seen built in a profit margin for G8way International?---I, I, no, I have no idea.

You don't know one way or the other?---No.

20 Well, surely as the director of the company you wouldn't want G8way International Pty Ltd to be used as a vehicle for anything without making some profits along the way?---You would hope to make a profit along the way.

Did you make that clear to Mr Maguire that if he was to use G8way International Pty Ltd as a vehicle for things like the 30th of November, 2012, event, that he should make sure that he builds in a profit line in relation to that?---I don't recall that.

30 You never made that clear to him?---I, I don't recall having said that. I may have done, I don't recall.

Even as the director of a company which is in business and the purpose of business of course is to make a profit?---Yes, I agree with you and no problem, I don't recall specifically.

You, in effect, just left matters of that kind to Mr Maguire?---In this situation, that would be the case.

40 And you'd agree that that's consistent with something you said before, Mr Maguire was effectively able to act as a director of G8way International even though he wasn't formally appointed as such?---It was something that you said before and I agreed with you.

I will tender a number of the documents in volume 13A. I might do that immediately after lunch, if that's convenient.

THE COMMISSIONER: Yes.

MR ROBERTSON: Because I don't want to double tender things that are already in evidence.

THE COMMISSIONER: Very well.

MR ROBERTSON: Mr Elliott, do you agree that one of the services that was offered by G8way International Pty Ltd was immigration services?
---Yes.

10 That was something, for example, that was promoted on the G8way International website?---Yes, it was.

The G8way International website indicated that there was a specialist available to G8way International who could provide such services?---That's correct.

Who was that specialist?---That specialist was Maggie Wang.

20 How did you come to know Maggie Wang as the specialist in that area?---I first met Maggie, and I can't tell you the exact date, around that 2012, 2013 period, and - - -

How did you come to meet her?---Introduced by Mr Maguire.

30 Do you recall where you were at the time that you were introduced to Ms Wang?---No, I don't. I, well, I've been thinking about that over the last period of time. I know I met with her at a, a, a restaurant, café, bar, somewhere in Martin Place, and I think that was the first introduction to her, but I, I, I'm really not sure on that one.

40 Do you agree that at least on one occasion, you had a meeting with Mr Maguire in his Parliament House office relating to G8way International Pty Ltd?---Mmm. Yes.

And it wasn't just once or twice or three times, it was multiple occasions you would have meetings, either in his Parliament House office or at least in the Parliament House building?---I, I'm just trying to think of the number of times, I, I don't know that it would have been more than half a dozen, eight times that I've been in there. I'll, I'll stand corrected on that, but it's
40 certainly around that number, I would have thought.

You've referred to Ms Wang and providing specialist immigration services, can you just identify in general terms what specialist immigration services were offered by G8way International?---Yeah, so any introduction, to my understanding, that went to Ms Wang, who was able to provide immigration services, as you noted in your preamble, to persons looking to see if a certain visa – I couldn't even tell you the number of the visa – that allowed them to, to, to work or to stay in Australia.

So what was in that arrangement for G8way International?---There was a financial reward, payment.

Paid by who?---I understood it was paid, well, it was received from Ms Wang.

10 Where does Ms Wang get the money from for that exercise?---I would have understood it came from the particular person or the family of the people who were looking for that immigration.

By which you mean the visa applicant or persons associated with them?
---The, the, yep, yep, sure.

So just so we can understand how that works, so G8way International provides what I think you describe as the introduction, is that right?---Yes.

20 Well, so what do you mean by that? Introduction of who to who?---So on the particular website it, from memory, said something along the lines of "Coming soon," or "Keep an eye out," or whatever, for introductory services, immigration services.

Well, I'll get that up on the screen so you don't have to go from memory.
---Thank you.

30 If we go to volume 12, page 167, which forms part of Exhibit 121. So was the thing you were trying to remember the little box on the right-hand side, "G8way International has responded to demand," et cetera?---Yes. Yeah, that's correct.

And I think you were explaining how the introduction worked.---Yeah, so if I'd, if somebody was looking to, to, to seek a visa, we were in a position where we could provide that, that introduction to, to Ms Wang. She would have been the immigration person.

But so an introduction to who, who are you introducing?---Well, I'm introducing the person looking for the visa services to Ms Wang, who I guess in turn is then looking to introduce them to a host, or employer.

40 Was G8way International involved on both sides, as it were, with people, visa applicants who were interested, and trying to match them up with businesses? Or was it only one side of that transaction?---Only one side, to my recollection, so from - - -

Which side?---From the visa applicants' side.

So are you saying that there were visa applicants who made contact directly with G8way International - - -?---No.

So what are you saying then?---The, the, the thing on the website is just talking of a service. It was just part of the promotional area within that.

Well, putting aside the website, what immigration services did G8way International in fact provide?---G8way themselves, none.

Never?---Not that I'm aware of.

10 Did G8way International ever make any money connected with immigration?---Yes.

And what were the circumstances in which that money was made?---Areas where people presumably were placed and, and made payment, and then payment was made to G8way.

Payment by who?---Well, I, you mean specifically to G8way or - - -

20 Yes.---So those funds were the ones that you mentioned again in your preamble or we spoke of earlier, where there was cash amounts that were provided from Mr Maguire to myself, and which I subsequently banked.

But I think you said you didn't necessarily bank all of the money. You banked some of it.---Certainly most of it, yes.

So just to try and understand this.---Yep.

30 The visa applicants, who sourced them?---Well, it would have been various. I know in a particular situation I sourced a couple, working within the parameters as I understood the regulations worked. So my understanding at the time was that there were certain parameters that fitted with a particular visa category, and in one particular case I provided a lead, if you will, a meeting with, with one person, who spoke to Ms Wang, and another lady, whose name I can't recall.

So this was someone who was seeking a visa, is that right?---No, no. Someone who was seeking a, on behalf of someone who was seeking a visa, yeah.

40 As in the visa applicant themselves, is that what we're talking about? ---We're confusing ourselves a bit, I think.

Well, what I'm trying to understand is, was the focus of your activities on the visa applicant, the person who wanted to get a visa to be able to stay in Australia, or was the focus of your activities on identifying potential businesses that could be a sponsor - - -?---The latter.

- - - or a nominator of a business?---The latter. The business.

And so what you started to explain, was that focused on the business end, rather than the visa applicant end?---Yes.

And so in terms of the visa applicants themselves, the people who wanted the visa - - -?---Ah hmm.

- - - where did they come from? Where were they sourced from?---Through Ms Wang, presumably. Not through myself or G8way, to my knowledge.

10

It wasn't something that G8way was associated with, as you understood it? ---Pardon me, no.

And so G8way's role, is this right, was to identify potential businesses that might sponsor or nominate a particular individual as a visa holder, potential visa holder?---Businesses, yes.

To identify businesses?---Yes, yes.

20

And then how did that then work? So you identify, or perhaps Mr Maguire would identify, a potential business.---Yep.

And what would happen then?---And then that information would be passed on to Ms Wang, who would then speak to that potential business. Or to that business, not potential business.

What were the arrangements in terms of payment? How much was G8way International entitled to be paid in relation to identifying a business?---Yes, I'm not sure.

30

And how did that work?---I'm not sure. I'm not sure of the exact amount. I just know the amount that I received at the other end.

Well, you're the director of the company.---Yes, I know what you're saying. I don't know.

So how much did you receive at the other end, then?---I think I received 16 to 18,000. And I can't say whether that was for two or three or whatever number.

40

Do you have any recollection of any discussions as to how much money G8way International should be entitled to receive in respect of each nominated business?---No, I don't. Not specifically, no.

And I take it that that money is only payable in the event that someone successfully applies for and is granted a visa, is that right?---I would presume so, yes.

Well, were there any sort of interim fees? You get \$1,000 for just nominating the business, and you get \$15,000 in the event that the fees are ultimately issues? Was there some arrangement like that?---There was one situation where a potential host was paid \$1,000 to attend a meeting. That's my only recollection of a figure other than what you spoke of.

And what was that particular occasion?---So that was a gentleman who was the independent caterer, again at the Wagga RSL.

10 And so that was an example of you identifying someone who might be able to nominate the business?---Yes, correct.

What was your understanding as to how much money G8way International would be entitled to in the even that a successful visa application was made?---I had no idea.

Well, surely, before you put the time in, you were interested in knowing how much money there might be at the end of the rainbow.---I had no idea.

20 How many visa applicants did you think you might be able to place with either Wagga RSL Club Limited or with entities associated with it?---Three in total.

And why would it be three in total?---The Wagga RSL Club was an independent business. The caterer was an independent business and there were two caterers.

But you referred to a particular meeting that was associated with the contract caterer, is that right?---That's correct.

30 Were there any meetings in relation to the other two entities you've just identified?---Not with the, ironically, Chinese restaurant. And a meeting, to my memory, of the RSL Board declined to progress down that line.

And why did they decline to progress down that line?---I can't say. I don't know.

40 Well, the RSL Board was concerned in relation to this immigration matter, including because you were in a position of conflict of interest, is that right?---That would be fair, yep.

They were also concerned that the immigration scheme didn't look particularly legitimate, as far as they could see, is that right?---As it turned out, no.

In relation to the meeting that you referred to before, I think you referred to a meeting and \$1,000 being exchanged.---Correct.

Just explain the circumstances in which that occurred.---So the individual who had the contract-catering business was an informed, told that they'd be paid \$1,000 to attend the meeting, which they did, and I think I noted that earlier here, that they attended that meeting in the Qantas meeting rooms in Sydney, and that was a fee for them attending.

10 Did you attend that meeting as well?---I attended it. I, I'm again trying to recall the circumstances. I believe I attended, introduced and then left, but I, I couldn't guarantee. If I didn't leave, I would have sat in the corner and said nothing.

Did you receive any payment in relation to that meeting?---No, I don't recall that.

You're saying you didn't or you don't recall one way or the other?---No, I just didn't receive anything.

20 And did you see any other cash changing hands during the course of that meeting?---No, I don't recall that. Only, only the amount that would have been paid to the gentleman who attended.

You say the gentleman who attended - - -?---Sorry, the catering contractor.

And who are you referring to now?---Yes.

Sorry, who are you referring to?---Oh, I'm sorry. Tim, I think the surname is Howe. Howell or Howe.

30 And do you remember the name of the candidate?---No.

Was a visa ultimately issued in relation to the candidate the subject of that meeting that you're now referring to?---I don't believe so. I think the, my memory of the event is that the, the gentleman, the contractor caterer declined to, to continue on. Subsequently. I don't know exactly when after.

40 Well, but wasn't that in the context of concerns at the RSL level as to both your conflict of interest and being involved in the matter, but also concerns as to the legitimacy of this immigration arrangement?---That would be right, yeah.

Go, please, to volume 9, page 120, so we can have a look at some of the documents associated with what you've just explained.---Sure.

See there's some minutes of a special meeting of the Wagga RSL Club Board of Directors? See that there?---Yes.

This was a meeting in which you were hauled over the coals, so to speak, for being involved in this immigration matter.---Ah hmm.

Without, so it was said, “proper disclosure to the board”.---Yes.

And so the board were very anti continuing with this matter of immigration, is that right?---Yes. Yes.

And that was of some influence, as you understood it, to Mr Howe in relation to whether he would take up a particular employee. Is that right? ---Just bear with me. Yes.

10

I tender the document that’s on the screen, Minutes of Special Meeting of Wagga RSL Club Board of Directors, 14 May, 2013. Volume 9, page 120, 2121.

THE COMMISSIONER: Those minutes will be Exhibit 133.

**#EXH-133 – MINUTES OF THE SPECIAL MEETING OF THE
WAGGA WAGGA RSL CLUB BOARD OF DIRECTORS 14 MAY
2013**

20

MR ROBERTSON: Now, in the event that that particular placement came off with Mr Howe, how much money would G8way International be entitled to receive?---I’m not sure.

You don’t have any recollection of the potential money flows from this matter?---No. But if we placed two or three others and received 16 to 18,000 the presumption would be it would be in that range of 6 or 7,000, somewhere around there.

30

Didn’t you have discussions with Mr Maguire as to how much would be likely to be received in relation to immigration payments?---Oh, I may have done. I can’t recall specifically.

You were both quite excited that you might be able to make substantial amounts of money through an immigration scheme, is that right?---I, I don’t specifically recall that but probably, yes.

40

Well, let me help me you this way. Can we go, please, to volume 8, page 180. Can you direct your attention to Mr Maguire’s email to you at the top of the page, 11 March, 2013, 7.20pm. If you have a look, towards the end of the first line, “It’s big, a very big deal. Also, Maggie tied up our first nominated visa applicant and the applicant is very good. Peter Wood is taking that person on his payroll. I have got another three placements as well as your two at \$20,000 per placement for G8way.” Do you see that there?---Yes, I do. I don’t recall that.

Does that refresh your memory that the fee was \$20,000 per placement for G8way?---Up until this point, no, it didn't. I can see it right in front of me but I certainly have no recollection of that.

So even with the benefit of the email that doesn't refresh your memory that that was the sort of money that one was talking about?---No.

10 When Mr Maguire says, "I have also got another three placements as well as your two," what were the two of yours that you're referring to?---One would have been, I'm, one would have, I presume been, Mr Howe from the club and I introduced Maggie to another local business around that time.

What was the name of that business?---The gentleman's name was Mr Crivallero. I can't recall his business.

20 Could you do your best at spelling that name for us?---Oh, sorry. C for Charlie, r-i-v for Victor, a-l-l-e-r-o, I think. Crivallero. He had a furniture business in Copeland Street that was called Furniture something, a number, Furniture 295 or 395 or something like that.

THE COMMISSIONER: Furniture business in Wagga?---In Wagga. Sorry, yeah, yeah. In Wagga.

MR ROBERTSON: I tender the document on the screen, an email from Daryl Maguire to Phil Elliott, 11 March, 2013, 7.20pm.

THE COMMISSIONER: That will be Exhibit 134.

30 **#EXH-134 – EMAIL ELLIOTT TO MAGUIRE DATED 15 MAY 2013
RE RSL**

MR ROBERTSON: Do you recall ever having any discussions with Ms Wang when you sought to negotiate the fee that G8way International would be entitled to in relation to this matter of immigration?---No.

Don't have any recollection of that?---No.

40 Let me try and assist you this way. Volume 9, page 28. Just have a look at the email from you to Mr Maguire, 12th of April. 2013, 10.31am. It seems like you were in Rotorua at the time.---Yes.

And if you just read the email from you to Mr Maguire, to yourself, particularly focussing on, "When I get back, I thick [sic] I should be able to finalise," et cetera.---Well, I accept, Counsel, on the email, that that's correct. I have no recollection of it but I accept that I was obviously sent that so it must be right.

Do you agree with us that – or do you agree that the way we read your email is to say that G8way International would be entitled to \$30,000 in relation an immigration plan?---Yeah, yeah, based on that.

Is that right?---Yes. Based on that, certainly.

But are you saying you still don't recall having discussions of that kind?

10 ---No. It's there in front of me, so I have to acknowledge that's correct but I don't recall, I don't recall it.

I mean, you'd agree, wouldn't you, that despite some very significant efforts between 2012 and 2018, G8way International did not make a lot of money?

---No. I, I, sorry, yes, I agree. No, it didn't make a lot of money.

So surely it must stick out in your mind, when we're talking about figures of like 20 or \$30,000 for an immigration placement, that you may have had negotiations with Ms Wang in relation to matters of that kind?---That's, that's a reasonable assumption, but I just don't recall that.

20

You still just don't recall one way or the other?---No.

Would you at least agree that, as you understood it, what the visa applicants were looking for was a path to permanent residency in this country?---That would seem, yeah, that, that would be my understanding.

So at least part of what you were seeking to facilitate through G8way International was a pathway for certain Chinese nationals to ultimately get permanent residency within Australia, is that right?---That, yes, that would be correct.

30

Do you agree that part of the visas in which you had discussions with Ms Wang and that you were seeking to identify businesses to nominate or sponsor was that there was a necessity of a genuine employment relationship?---Mmm. Yes.

But in point of fact, this scheme did not involve genuine employment relationships, did they?---It, it, that's how it turned out, yeah.

40 In fact, as you understood it, these individuals, the visa applicants weren't going to be turning up for full-time work for the nominated businesses at all, were they?---That's what I've worked out, yes.

Not just that you worked out, you knew that was the situation at the time, that you were involved in nominating or identifying businesses that might nominate potential visa applicants, do you agree?---Well, my understanding was that the people who were nominated and the businesses that we saw were legitimately able to be placed in, in those particular businesses.

As you understood it, it was made clear by Ms Wang or an associate of Ms Wang that the visa applicants wouldn't actually be turning up to full-time work, correct?---I understood that, I, I certainly established that, yeah.

Not just you established that, you knew that at about the time that you were nominating potential businesses to nominate visa applicants, do you agree?
---Yes.

10 So in other words, you knew that this was a scam, correct?---I don't know how I respond to that.

Well, you knew that you were participating and that G8way International was participating in a scheme that would allow people to get visas but without their being a genuine business relationship at the end of the line, do you agree?---Yes.

In fact, you knew that Ms Wang said to Mr Howe, the contract caterer, that if the Immigration Department turns up, they should just simply say that the
20 visa application is on leave, holidays, et cetera. You knew that something to that effect had been communicated, do you - - -?---I don't recall those exact words, but - - -

Well, let's go to volume 9, page 122.---Yes, please.

Now, do you see there an email from you to Mr Maguire at his iPrimus email address?---Yes.

And then I'd like to just draw your particular attention, there's a paragraph
30 that starts, "When asked by Tim what happens if Immigration officials turn up," do you see that there?---Oh, yes, yes.

"They probably won't, but on the off chance they do, just tell them he is on leave/holidays/sick, et cetera." Do you see that there?---Yes. Yes.

So do you accept that at least as at 15 May, 2013 you knew this immigration scheme was a contrivance in the sense that it wasn't an arrangement pursuant to which a visa applicant would have a genuine employment relationship with a business in or around the Wagga Wagga area?---Yes.
40 Am I allowed to continue to the next paragraph?

Yes, of course.---Where I've noted that the other thing was the candidate, he was excellent but telling fibs, for example he was asked where he was from, et cetera, et cetera. So I've obviously had a concern in, in that situation.

THE COMMISSIONER: What was your concern, Mr Elliott?

---Commissioner, I, my understanding initially was that the candidates were legitimate candidates with the correct qualifications and so forth. And I've

obviously picked up here, you can see in my line where I've said he was excellent but telling fibs, so there was something that was in the CV or the presentation that just didn't, didn't sound right, wasn't correct.

So the applicant himself was lying to try to get the position?---Yeah. I believe so, yes.

So there were two problems. One, the applicant may not turn up, and then may not be genuine for another reason.---Yes, yeah.

10

MR ROBERTSON: So do you agree, then, that at least as at May of 2013, you knew that what Ms Wang was promoting was a scheme pursuant to which Chinese nationals would get visas but not in exchange for a genuine employment relationship?---Yes, I do agree with that.

And you knew that from at least May of 2013?---Yes.

THE COMMISSIONER: Is that a convenient time, Mr Robertson?

20

MR ROBERTSON: Just one last document, if you wouldn't mind, Commissioner. Volume 9, page 124. Direct your attention to the email starting, "Hello, Maggie," 15 May, 2013.---Ah hmm.

11.47am. This is you reporting to Maggie that Tim Howe will not be hosting the visa applicants, is that right?---Yes.

And then just have a look at the sentence that starts with, "There were also concerns in regard to telling lies to Immigration." See that there?---Yes.

30

So do you agree that by May of 2013, you knew that an integral aspect of the immigration scheme, with which Ms Wang was involved, involved telling lies to Immigration?---That would be (not transcribable) yes.

Is that a convenient time, Commissioner?

THE COMMISSIONER: Yes. So will you, over the luncheon adjournment, Mr Robertson - - -

MR ROBERTSON: I will.

40

THE COMMISSIONER: - - - do an audit on volume 9 and volume 13A documents to the extent they haven't been tendered.

MR ROBERTSON: I'm sure Mr Brown has been preparing a schedule as we speak.

THE COMMISSIONER: Very well. We'll adjourn now for an hour, Mr Elliott, for lunch.---Thank you.

LUNCHEON ADJOURNMENT

[1.02pm]