

KEPPELPUB00373
24/09/2020

KEPPEL
pp 00373-00430

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE RUTH McCOLL AO
COMMISSIONER

PUBLIC HEARING

OPERATION KEPPEL

Reference: Operation E17/0144

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 24 SEPTEMBER, 2020

AT 2.00PM

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.

<ANGUS JAMES HUGH McLAREN, on former affirmation [2.02pm]

THE COMMISSIONER: You're bound by the affirmation you took earlier this morning, Mr McLaren.---Thank you.

Yes, Mr Robertson.

10 MR ROBERTSON: Commissioner, can I indicate that in relation to one of the directions that you made yesterday to Ms Cartwright in relation to the photographs, I'm told that has now been complied with. A series of photographs have been produced and I tender the bundle of photographs that were produced in response to the direction that you had given.

THE COMMISSIONER: Very well. These are the photographs produced by Ms Cartwright?

20 MR ROBERTSON: That's right. I have a hard copy if that assists you, Commissioner.

THE COMMISSIONER: Yes, by all means.

MR ROBERTSON: But the electronic one is the one that I formally tender. Regretfully, it's harder to hand things up in COVID time so I'll hold my hand out and no doubt it will find its way to the bench. There's some additional photographs on top of what I have previously shown witnesses from volume 13A of the brief, although there seems to be at least some degree of, if not commonality, then of similar scenes, if I can put it that way.

30 THE COMMISSIONER: Yes. Very well. The bundle of photographs produced by Ms Cartwright pursuant to the section 35(2) notice made on 23 September will be Exhibit 180.

#EXH-180 – PHOTOGRAPHS PRODUCED BY R CARTWRIGHT OF THE WUAI SIGNING CEREMONY

40 MR ROBERTSON: May it please the Commission. Mr McLaren, just by the way, what did you do with the money that Ms Wang gave you in relation to the fee, the thing that we've described as the training fee? ---What did I do with it?

Did you put it in the bank or did you - - -?---No, just kept it as cash.

So just kept it as cash on hand?---Yes.

Didn't put it through the books in the first instance?---We did the first payment but then we stopped and then at the end we put them all through the books.

And ultimately put it through the books.---Correct, the 40 per cent, that's when - - -

So does that mean you ultimately banked the cash?---No, we never banked the cash.

10

So you kept it at what, at home or something?---Yes.

And then use it for what, personal expenses and things over time?---Correct. Yes.

Not necessarily for the business?---Not for the business, no.

But it's now being recorded as income of the business?---Correct.

20 And paid tax and GST and that kind of thing?---Yes, yeah, yep, for sure.

You mentioned a China trip this morning with Mr Maguire. That was the trip to Shanghai and I think to Wuhan as well, is that right?---Wuhan. Yes.

Who paid for that trip?---I paid for the airfares, or the, Miller & James paid for the airfares to, from Sydney to Shanghai. But after that, I believe it was all paid for by UWE, United World Enterprise.

30 So in terms of the flights, they were paid for at your end, correct?---Yes. Correct.

In terms of what I call the Chinese end, that was paid for by someone else? ---Correct.

And your understanding is it was paid for by UWE?---Correct.

And that's Mr Jimmy Liu's company, as you understood it? ---Jimmy. That's right. Yes.

40 What about visas? Did you pay for that or did someone else pay for that? ---Now, that's a very good question, because I know that Daryl and his secretary down here in Sydney had quite a bit to do, Nicole has quite a bit to do with getting that visa. Whether or not I paid, paid for it, or someone else paid it, I couldn't tell you.

But at least Mr Maguire's office assisted in organising the visa?---Yeah, nah, they did.

And you identified Nicole as the principal person associated with that?
---I'm pretty sure, yeah, oh, there, there, there's probably some email
correspondence between us.

And is that Nicole Hatton?---Yes.

Did you get any assistance from the Wagga Wagga end, as in the electorate
office of Mr Maguire?---I don't, I don't think so.

10 You don't think so, your main recollection it was Sydney-based staff rather
than the Wagga Wagga based staff.---Yes. Yes.

THE COMMISSIONER: Can you remind me what year that trip was,
please, Mr McLaren?---2014.

MR ROBERTSON: And so why was it, as you understood it, that Ms
Hatton was assisting you in relation to visas and the like?---Oh, look, I have
no idea, other than I, you know, he was a, she was a PA to Daryl, and, and I
suppose she was doing Daryl's menial tasks. I'm not sure even then why
20 Daryl was involved, really, when you think about it.

Well, I was going to ask you that.---Yeah.

What, as you understood it, was Mr Maguire's role in the trip?---Well, I
think, I, I don't really know what his role in the trip was.

Who else was in attendance, other than you and Mr Maguire?---Oh, look,
there was, there were several people in attendance. Yeah, a couple of UWE
employees. A guy from Goondiwindi. A guy from Wagga. Sort of all
30 agricultural-related people.

Have you heard of the company name G8way International?---Yes, I have,
yep.

And in what context have you heard that name?---Oh, in some of the
conversations I had with Daryl, he would mention G8way International, as
being a, a, a company that he was involved in, that was dealing with people
in China.

40 And what did he explain was his involvement in that company?---He was,
he was pretty vague, other than, you know, "it's," oh, "it's ours," and "we"
and you know, "our, our company."

So he described it as being his company, is that right?---Yeah, I had no
doubt that he was actively involved in that company in some capacity.

So when you say actively involved, you mean actively involved in what way?---Well, well, you know, it sounded to me like that was his, the corporate arm of what he was trying to achieve in China.

So does that mean, as you understood it, he had some financial interest in this G8way International entity?---Mmm, yeah.

10 What led you to reach that conclusion?---Oh, just the conversations that we had and, you know, he'd be talking about, oh, if this person comes out and buys this place here, and then they'll need fees and it'll all go back and, you know, the G8way, into the G8way company, and you know, our people. This type of thing.

So he used sort of the plural "we" and "our" and all that sort of stuff in relation to the company?---Yes, that's right. Yeah, that's right.

20 And he communicated in such a way to suggest that he had some ownership or financial or something interest in relation to that company?---Well, that was the impression I had.

Did he ever say in so many words, "This is a company that" – or "This deal I've got, I stand to personally gain"?---No, oh - - -

Or is something that you were inferring from use of words like "our" and "we" and things of that kind?---He, probably the latter.

What did G8way International actually do, as you understood it?---I didn't really know, to be honest. I, it was pretty, pretty vague. I don't know.

30 So it was a business at least, it was a commercial enterprise?---It was a business. Yeah, a commercial enterprise.

It was one, as you understood it, that Mr Maguire had some involvement with?---Yep.

And it was an organisation in which Mr Maguire, as you understood it, was trying to make some money for himself, is that right?---Yes. Yep.

40 In relation to the China trip in 2014, was there any, as you understood, any G8way International business being done?---Not that I'm aware of.

Was Mr Maguire, as you saw it, attempting to do any business over there?---Not that I can recall.

But what, as you understood it, was Mr Maguire doing on what sounds like a UWE-related trip?---Well, he seemed to be quite friendly with Jimmy, had some sort of relationship, but other than that I'm not really sure.

You said this morning – I asked you a number of questions about production of documents and the like, and I just want to be clear on what you’ve produced and what you haven’t produced. Can I have on the screen, please, what I’ll describe as the section 22 notice. Now, do you recall, Mr McLaren, you were given a notice from this Commission to attend and to produce documents in connection with this investigation?---Yes, absolutely.

10 And if we just turn to the schedule of that document, which is page 4, do you recall being asked to produce a whole series of documents and records?---Yes.

Do you see that there?---Yes.

And is it consistent with your recollection that you received this notice to produce, if not on 12 December, 2018, then within a couple of days of 12 December, 2018?---Correct.

20 Now, you remember I showed you an email exchange with Ms Wang where it looked like she was responding to a request from you for documents. Do you remember seeing that this morning?---Yeah, I do remember it. Yes.

I’m happy to show it to you again. Do you remember seeing that?---Yeah, I might need to see it again. Yeah, I do remember seeing it, yep, yep.

Was this notice to produce, was that the impetus to you making contact with Ms Wang to see what documents she had?---No. Absolutely not.

Are you sure about that?---100 per cent.

30 So just have a look at this date, it’s 12 December, 2018, and we’ll just turn over one further page. It’s got a little note suggesting that that was sent to you by email on 14 December, 2018. Do you see that there?---Yes, yep, yes, yep.

40 And then can we now have up on the – so just keep that date in your head, 14 December, 2018. And can we have on the screen, please, page 37 of volume 21, which is now Exhibit, I think, 179. So just have a look at those dates there, 17 December, which is only a couple of days after. So we’ll just go back to where we were, page 37 of volume 21 of Exhibit 179. See how that date is only a couple of days after the date you seem to have got the notice?---Yep, yes, I do. Yep.

So does that assist you in remembering the circumstance in which Ms Wang may have sent you an email, 1.32pm, saying, “I don’t have any documents or info,” et cetera?---Yeah. Look, that’s, that’s an odd email, I have to admit but what I think she is saying – I, I haven’t contacted her before this email. I think she has sent me that email and she is saying, “I don’t have

any document or info because I left Monika's company." Perhaps is trying to leave a trail. I'm, I'm only speculating.

But why would she be sending that email to you out of the blue?---Well, perhaps because she's been asked to get information for ICAC as well. I'm not a hundred per cent sure.

10 And back to the section 22 document. Do you say that you've produced each and every document that is in your possession, custody, control or power, in other words documents that you presently have or that you can get, that responds to the schedule that I have put up on the screen a moment ago?---To the best of my knowledge.

And so is it right that there are other documents that might respond to that schedule, such as the agreement for training we talked about, but that you've had a look but you can't find and you think you've probably disposed. Is that fair?---That, that's possible.

20 I tender the notice to attend and produce documents to Mr Angus McLaren, dated 12 December, 2018.

THE COMMISSIONER: That will be Exhibit 181.

#EXH-181 – SECTION 22 NOTICE TO ANGUS MCLAREN DATED 12 DECEMBER 2018

30 THE COMMISSIONER: It does have a time period in it, Mr Robertson.

MR ROBERTSON: It does and I'm about to show a further document to square the circle on that matter. I apply for the direction that was given under section 112 of the Independent Commission Against Corruption Act in relation to the compulsory examination of Mr Angus McLaren on 4 April, 2019, be lifted insofar as it would otherwise prevent publication of the fact that Mr McLaren gave evidence in a compulsory examination on that date.

THE COMMISSIONER: Very well. I make that order.

40 **VARIATION OF SUPPRESSION ORDER: THE DIRECTION THAT WAS GIVEN UNDER SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT IN RELATION TO THE COMPULSORY EXAMINATION OF MR ANGUS MCLAREN ON 4 APRIL, 2019 IS LIFTED INsofar AS IT WOULD OTHERWISE PREVENT PUBLICATION OF THE FACT THAT MR MCLAREN GAVE EVIDENCE IN A COMPULSORY EXAMINATION ON THAT DATE.**

MR ROBERTSON: Now, Mr McLaren, you participated in a compulsory examination, a private hearing before this Commission, during the course of last year. Is that right?---That's right.

During the course of that private examination, the Chief Commissioner gave you a direction to produce certain further documents. Does that ring a bell?
---Yes, it does, yeah.

10

Can I have that requirement on the screen, please. Do you see there, Mr McLaren, after you received the first notice that I showed you before, we're now in April of 2019, you were given a further requirement to produce a wider range of documents over a wider time period. Do you see that there?---Yeah, I do, yeah.

And so do you say that you have produced all documents in your possession, custody, control or power that respond to the notice or the requirement that's on the screen now?---To the best of my knowledge.

20

Again, there may have been documents that were in existence once upon a time that you've disposed of. Correct?---No, but, no, no. There may be documents that were on my computer that I haven't sent just because I missed them or whatever, you know, like.

You've done your best to comply with this document?---Yeah, that's exactly what I'm saying.

With this requirement as best you can?---Yeah.

30

The possibility that you haven't done it perfectly is a possibility. Correct?
---Yeah, yeah.

But you haven't deliberately held back any documents that respond to this notice?---No, no. No, absolutely not.

But there may have been some documents that you had once upon a time, such as the agreement for training in relation to Mr Ding, which you haven't produced, not because you're holding it back - - -?---Because they - - -

40

- - - but because you've disposed of that document. Is that fair?---Correct. Yeah. Yeah, that's fair.

I tender the requirement to produce documents dated 4 April, 2019 made by the Chief Commissioner.

THE COMMISSIONER: That will be Exhibit 182.

**#EXH-182 – SECTION 35(2) SUMMONS TO ANGUS MCLAREN
DATED 4 APRIL 2019**

MR ROBERTSON: Speaking of that compulsory examination, did you tell anyone in advance of that compulsory examination that you had been required to attend before this Commission? Putting aside lawyers. Don't regard lawyers.---Yeah, yeah, yep, yep.

10

But did you tell anyone other than lawyers that you had been required to attend the compulsory examination on 4 April, 2019?---On that date specifically or - - -

20

No, any time before 4 April did you say to anyone, "I've got to go and see ICAC. They've required me to attend a private hearing"?---Well, the only, oh, look, I'm not a hundred per cent sure on that because I know that we were not meant to be telling anyone at all, but at some stage, whether it was just before Christmas 2018 or just after, I think it was just before Christmas, and I mentioned this in my last hearing that Maggie Wang visited my office, and I can't remember whether or not I told her that I was going to, had to front ICAC, but I remember telling her that I couldn't talk to her about anything.

So let's try and get the timing of that as best we can. So your compulsory examination was on 4 April, 2019.---Yeah, yeah.

30

Was it within short order of that date, was it briefly before that date or was it some number of months before?---No, no, no. No, I'd say in December.

You think it was in December of 2018 or thereabouts?---Yes. Because she wanted to talk to me over the phone and I wouldn't talk to her over the phone, and then she visited me in my office, unsolicited by the way.

So she made contact with you, you think, probably in late of 2018?---Yes.

40

And what was the nature of that conversation? What was she asking you there?---Well, I think she wanted to, I think she was trying to make me say that, you know, we hadn't received the cash payments.

So this happened on the telephone call. Is that right?---No, this is in my office.

So let's focus on the telephone call first. Was that just to make mechanical arrangements to meet up with you or was there some substance - - -?---Well, I assume so, yeah. I, I pretty much shut it down.

On the telephone call?---Yes.

So doing the best you can, what did she say to you and what did you say to her?---I can't exactly remember but - - -

No, you won't be able to exactly remember.---Yeah. No, well - - -

10 It's fine to say she said these words or words to the following effect, something like that.---Yeah. Look, I think, you know, perhaps along the lines that she wanted to catch up and I sort of said, "No. Look, I can't, you know, I can't."

So as you recall it she was attempting to set up a meeting?---Yes.

Did you discuss anything about this Commission, the investigation on the telephone?---If, if I did I might, you know, I might have said, "You know we can't talk about this," you know.

20 So nothing of substance. You may have said, "I can't talk to you about this," or something along those lines. Is that right?---That's my recollection.

And did you then say that she turned up unannounced?---Yep.

And where did she turn up?---At my office.

And what happened when she did that?---Well, she came up into the office and, you know, once again I said, "Look, we can't really talk," and you know, she may have been there for five or 10 minutes.

30 So as best you can recall, what did she say?---She was basically saying that she didn't want me to talk about cash payments or that type of thing.

And I know this is very hard to do, but if you just pause and reflect, do the best you can to identify what words or words to the effect Ms Wang said to you during the course of that discussion.---Well, just as I said, I think she was trying to encourage me - - -

40 Don't worry about at the moment as to what you think she was trying to do. ---Yeah.

Just try and focus on, and I appreciate it's always difficult to go back in your memory banks, but this is not happening many years ago, this is happening a while ago but not a long while ago.---Yeah, a couple of years ago.

Search your memory banks. What words did she use or words to what effect did she use to you during that meet-up?---She was very distressed, I know that. She was crying. And pretty much I was, I was quite stressed

about it too, I didn't want to be talking to her and I was saying to her, "We can't really be talking, you shouldn't be here." Words to that effect, those effects. She'd just been up, her brother-in-law had been killed in a car accident so she was visiting her husband's, the boyfriend's family for the funeral and then she'd driven down. Look, I, I stand by what I said before, I think she was trying to encourage me to basically deny that there had been any cash payments.

10 Now, did she say that in so many words or why did you come to that inference that that was what she was there for?---Well, because I know that she was trying to get me from saying that, you know, there was money involved in these immigration schemes.

And can you recall - - -?---I'm sorry, I can't, I can't.

So you've drawn the inference that she's attended and wants you to not talk about the cash payments. Do I have that right?---Pretty sure.

20 Well, that's at least the message that you took away from the occasion. ---Yeah, yeah.

She turns up unannounced, stressed, and she says at least something about this Commission's investigation. Is that right?---Yes, yep.

She says at least something about the issue of cash payments?---Yeah.

And the message, as you recall it, that she's trying to communicate is don't talk, don't tell the Commission about the cash payments.---Yeah, yeah.

30 Is that the idea?---Pretty much.

And so did that happen after you had been summoned to appear - - -?---Yes.

- - - before this Commission in a private hearing?---Yes.

And so I told you that that happened on 4 April, 2019.---Yes.

40 Does that help you in identifying at least roughly when she attended your office?---Yeah, I said just before Christmas. I'm pretty sure just before Christmas 2018.

But the compulsory examination happened on 4 April, 2019.---That's right, yeah.

Is it your recollection that you were summoned, what, before Christmas?

---I was summoned – I know that it was meant to be in February but I couldn't make it, so then they, they put it back a couple of months.

So your best recollection was it was somewhere around Christmas in 2018, I take it.---Yeah, yeah.

At that point in time you knew that you were required to attend in a private hearing. Correct?---Yes.

You hadn't attended that private hearing yet?---No.

10 And you indicated to Ms Wang, "I can't talk about it."---"I can't talk. We can't talk about it."

But the message you took away was that she was trying to influence what you were going to say during the private hearing.---Yes, yes.

But did you ultimately comply with her request or did you give honest evidence during your private hearing?---No, I gave complete honest evidence during my private hearing.

20 I need to apply for the 112 direction to be lifted a little bit higher to ask the next question. Perhaps the Commission will bear with me. I apply for the direction given under section 112 of the Independent Commission Against Corruption Act to be lifted in relation to the compulsory examination of Mr Angus McLaren on 4 April, 2019, insofar as it would otherwise prevent the publication of any question asked or answer given in this public inquiry.

THE COMMISSIONER: Yes, I make that order, Mr Robertson.

30 **VARIATION OF SUPPRESSION ORDER: THE DIRECTION GIVEN UNDER SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT IS LIFTED IN RELATION TO THE COMPULSORY EXAMINATION OF MR ANGUS MCLAREN ON 4 APRIL, 2019, INsofar AS IT WOULD OTHERWISE PREVENT THE PUBLICATION OF ANY QUESTION ASKED OR ANSWER GIVEN IN THIS PUBLIC INQUIRY.**

40 MR ROBERTSON: I think, Mr McLaren, you may have said during the private hearing that Ms Wang may have visited you about a week or so before the private hearing, does that ring a bell?---Oh, look, I thought it was, I thought it was earlier than that.

I might just bring up the transcript of that, just so I can try and work out, on the date.---Okay. Yep, yep, yep.

Page 1058 of the private transcript, please. You'll appreciate that I'm going to ask Ms Wang about this particular matter.---Yeah, yeah, that's right.

So I'm just seeking your assistance as best we can.---Yep, sure, well, just - -

In one sense, it doesn't matter when it is, but in another sense, it's important for the Commission to have a, as best as it can, your recollection as to when you say this meeting happened, so - - -?---Yep, well, yep, when you're talking to her, ask her when her brother-in-law was killed in the car accident, and it was several days after that. That's - - -

10 So I'm just showing you here the transcript of your compulsory examination. And you'll see, for example, at around line 30, there's a reference to the meeting that you're now discussing.---Mmm, yeah.

And what I want to draw your particular attention to is, you'll see the line numbers on the left-hand side, it goes 10, 20, et cetera. Between 10 and 20, it says, "Now, when was the last time you had any contact with Maggie Wang?" and you said, "Last week."---Okay. Yep, yep, yep.

20 So I'm just wondering whether that helps you as to your recollection.---No, well, I, well, it must have been later than what I was recollected. I'm probably getting confused in that I got first summoned, I got my first summons in December, 2018. And it may have been six weeks or so after that when she visited. Yep.

So what you're really recalling is you get the summons, so you then know that you've got to turn up for a private hearing.---Yes. Yes.

And it happened within relatively short order of that, maybe a few weeks, something like that.---Yeah, looks like it, yeah.

30 So that gives us the bookends. So obviously it happened before the compulsory examination.---Yep.

And it happened after you'd received the summons to attend the compulsory examination.---Yes.

Is that fair?---Yeah, that's fair.

40 Can we now please go to page 42 of volume 21, which is Exhibit 179. Volume 42 – sorry, I withdraw that. Page 42, volume 21, which is Exhibit 179. And what I'm about to show you, Mr McLaren, is some documents provided to the Commission from the relevant department concerning Mr Ding, and I'll go through them relatively quickly, but I want to just make sure I understand your involvement in preparation of documents or signing off on documents compared to Ms Wang. So do you see there there's a business outline, Redwin Farming Trust, you see that there?---Yes. Yes.

The letterhead in the right-hand corner, that's not the letterhead that you actually used for that trust?---No. No, it's not.

So that's someone at Ms Wang's end who organises that?---Yes. Yes.

The text of this business outline, was that drafted by Ms Wang's end or drafted by you?---I'm just looking through that, and I don't think I would have quoted Barnaby Joyce. So I, look, the, the, it is correct that we grow about 3,000 tonne of wheat and 1,500 tonne of canola, I must have given them that information, but they've drafted most of this up themselves.

- 10 So you may have provided some input to the content, but the content itself was drafted up at the other end, is that right?---Yeah. Yes.

Go to page 44, please, two pages along. And is there a document called Appropriate References to the Australian Government's Job Outlook, you see that there?---Yes, I do.

Is that a document of yours or is that a document of someone else's?
---Someone else's.

- 20 Two further pages along, please, page 46. Appropriate references to the ABS Employee Earnings and Hours Survey.---Someone else's.

Even though it's got your name at the bottom?---That's right. Someone else's.

Further next page, please. Is that a document that you procured?---Yes, it is.

- 30 And we take it was on the request of Ms Wang or someone at Ms Wang's end?---That's right.

Next page, please. Job description. Your document or someone else's document?---Someone else's document.

But did you provide any input in relation to the document so far as you can recall?---No, I, no, I didn't.

So this is all at Ms Wang's, is it?---Yes.

- 40 Coming up with what the tasks and duties, et cetera, would be?---Yep, yep.

The documents I have shown you so far, were they provided to you for your sign-off before they were sent to the Immigration Department? Did you get to see them? Did Ms Wang say, "Here is what I proposing to produce. Are you happy or unhappy"?---I can't answer that. I don't recall.

So it's possible but you don't recall one or the other, is that fair?---No, I don't.

Turn the page. Statement of remuneration. Who prepared that document?
---Ms Wang.

Can we actually just go back one page, to page 49, this org chart. You or someone else?---Someone else.

You wouldn't call yourself or anyone within the trust a "maining" director, I assume?---No.

10

Is this org chart accurate in the sense that does the Redwin Farming Trust have that business structure?---No, it does not.

Has it ever had that business structure?---No, it has not.

Did you say to Ms Wang that business structure or some business structure like it?---No.

20

So she's just making that up, as you understand it, is that right?---Yeah, I think so.

Let's go to page 52. Appropriate reference to industrial award. Your document or someone else's document?---Someone else's.

Go to the next page. Is that your signature?---That is my signature.

Do you recall whether you affixed your signature to that particular document?---I can't remember seeing these documents but maybe these were the documents I was signing at the Sheraton that day.

30

Can we then jump, please, to page 57 of the same bundle. Do you see there a Regional Sponsored Migration Scheme and Regional Certifying Body Advice?---Yes.

Have you see this document before?---Can't recall seeing it. It's not my writing anyway.

40

Just turn the page. Turn another page, please. Just have a look at the declaration. I might need to zoom in a little bit. Look at the second dot point under 15. "The nominated position cannot be filled by an Australian citizen," et cetera. Do you see that there?---Yes, I do.

Was that your understanding as to what had to happen relating to the nominated position as at August of 2014? In other words, you could only use this scheme if the nominated position could not be filled by an Australian citizen or an Australian permanent resident?---Yeah. Well, I suppose that was the point of advertising.

And then can we jump please to page 59. I'll try and do this as quickly as we can.---Yeah, I appreciate that.

Have you seen this document before, from Regional Development Australia? This is addressed to Ms Hao, who I think is the lady you referred to before lunch.---Oh, okay. Monika, yep, yep. I don't remember seeing that.

10 Turn the page, please. Do you see there's a heading that says Background, "Since 2009," et cetera?---Yep.

Do you recall whether you provided the text for that particular paragraph?
---No, I didn't write that.

Jump to page 62. See an ad, is that an ad that you placed or is that an ad that someone else placed?---No, I didn't place that. No. I did not place that ad.

20 Jump to 64. Next page. Again, not an ad that you placed?---Not an ad I placed.

Jump please to page 73. I take it that financial report, was that a legitimate financial report that you provided?---Yeah, that looks like a legitimate financial report to me.

30 So just to summarise that material, when there's a document that's being prepared for the purpose of a particular visa application, you might have provided some input into it, but it's Maggie Wang's end that did the legwork in terms of producing the document. Is that right?---Yeah, that's right.

You may have been sent it for approval or may not, you can't assist us one way or the other?---That's right.

But you knew that she was taking responsibility for sending out material of that kind. Is that right?---Yes.

40 Go to page 123, please. You'll see a declaration there. "This position vacant assistant financial advisor has existed for more than five months."
---Yeah, that was all written by the agency.

And do you recall signing a declaration of that kind?---Yeah, well, I don't recall, but I'm not saying that I didn't.

So you're not sure one way or the other, but I think you said this morning that Ms Wang may well have had a copy of your electronic signature.---She could have. I mean that does look like - - -

You may have signed a document like this?---Yep.

You may not have signed a document like this?---She could quite easily. I mean it's a scam, isn't it, so anything goes.

Now, we mentioned briefly this morning a Karen Wong.---Yes.

And that was another example of one of these immigration scams?---Yes.

10 Did that play out essentially the same way as we've discussed in relation to the two others that we spent some time on, Mr Ding and Mr Xu?---Yep.

So notionally employed for a three-month period. Is that right?---Yep.

You received in cash from Ms Wang enough money to cover wages and on-costs such as superannuation?---Yes, but only up – just getting my memory back – and they would have all been like this, the full amount was not paid, for the wages was not paid in one single payment, so it was like half of it.

20 So we'll deal with timing in a moment, but just in terms of structure, the structure's the same?---Yeah, yeah.

You get fully reimbursed in relation to wages and on-costs. Correct?---Yes, yes.

You get a fee of \$30,000. Correct?---Yes.

\$1,000 as a deposit?---Yep.

30 \$14,000 a bit later?---Yep.

\$15,000 a bit later.---Yep.

There was a written contract that dealt with that fee structure. Correct?---Yes, yep.

You've disposed of your copy of that document?---Yes.

40 Ms Wang ultimately paid you in cash but over a series of payments enough money to cover the fee and to cover the reimbursement of expenses. Correct?---Yes. That was the intention, but that lady left us after a few weeks' employment.

THE COMMISSIONER: She did actually turn up, did she?---No, sorry, when I say she left us – that's a good question. She never did turn up, no, she never did turn up, but for some reason the, it finished halfway through the – I think she went back to China.

So is that consistent with her not pursuing her visa application?---I would, I would say so. I'd say she never got it because she didn't finish the employment.

So did you receive the initial payment of \$15,000 from Ms Wang in relation to her?---Yes, yes.

And what then, you didn't receive the other \$15,000?---Correct.

10 MR ROBERTSON: So are you saying that at some point in time within the notional employment period it was made clear to you that, as it were, the deal's off, and so you don't have to continue putting money through the books? Was that the idea?---Yeah, I can't recall the exact circumstances but that's, that's pretty much what happened.

But you at least paid some money to - - -?---Yes, we did.

- - - this particular individual.---Yes, yep.

20 Not a full three-month period?---No.

Perhaps a few weeks?---Might have been a month or six weeks.

You weren't out of pocket because you got all the money back by way of cash.---That's right, yep.

And you got your fee but you didn't get the full \$13,000, you got - - -?
---That's right.

30 - - - say \$15,000.---Yeah.

Something like that.---That's right.

THE COMMISSIONER: Can I just understand, you received money from Ms Wang for the wages you paid these people who didn't turn up?---Yes, yes.

40 Which you understood, as I understand your earlier evidence, more probably than not, she in turn received from the visa applicant. Is that - - -?
---Yeah, that's my understanding, but - - -

And did you pay those amounts of money into a bank account nominated by the visa applicant?---Yes. Yes.

In other words, do they – was it like a round robin?---Yes.

They ended up getting the money back.---Yeah, minus tax.

Minus tax.---Yes.

And superannuation amounts.---Yeah, they were paid, they were paid superannuation, yep.

Was that paid into a particular - - -?---Into a, yeah, specific superannuation account that they nominated.

10 I see, so will they receive that money back too, then, effectively, in the immediate future?---Yes, correct. Yeah, yeah.

Thank you.

MR ROBERTSON: And in terms of the documentation in relation to the Karen individual, does the answer that you've already given in respect of the other individuals apply equally to Karen? For example, that it was Ms Wang that took responsibility for the documentation?---Yes.

20 You may have signed some of it, correct?---Correct.

You didn't analyse the documentation carefully yourself?---No. No.

Some of it may have been sent for your approval but some of it may well not have been sent for your approval.---That's right.

30 And can I show you a particular document. I'm not going to do the same exercise as what I've done with respect to the others. If we go to page 242 of volume 21, and while that's coming up, I'll tender what I'll describe as the immigration bundle in relation to Ms Yu, which I think is Y-u, Rong, R-o-n-g, Miller & James, pages 166 to 260, volume 21, public inquiry brief.

THE COMMISSIONER: That will be Exhibit 183.

#EXH-183 – KAREN YU IMMIGRATION BUNDLE

40 MR ROBERTSON: And I'm showing you a document called Application for Permanent Employer-Sponsored or Nominated Visa, Record of Responses. Do you see that there?---Yes.

Do you recall whether you gave any input to Ms Wang or to anyone else in relation to an application for permanent employer-sponsored or nominated visa?---No.

If we can go to page – we'll actually go back to page 95 of volume 21. This is jumping back into the documents with respect to Mr Ding. Page 95. I'm

now showing you an application for employer nomination for a permanent employment. Permanent employment. Do you see that there?---Yes, I do.

And, again, are you saying you didn't provide any particular input to this application?---No, I did not.

You may have been asked a few things by Ms Wang.---Yes.

10 Details and things of that kind, ABNs, whatever. But is it right to say that you weren't given a draft of the material that was to be put forward by this application before it was sent off?---No. No.

And I just want to draw a particular aspect of this document to your attention. If we go to page 101. Page 101 of the same document. Just have a look where it says, towards the middle of the page, "ENS/RSMS declarations." So these are declarations that are being made on behalf of you.---Yes.

20 "Warning. Giving false or misleading information is a serious offence." Have a look. One of them is, "Will provide full-time employment for the visa applicant for at least two years?" Answer, "Yes." Do you see that there?---Yeah, I do.

Did you authorise - - -?---No, I did not.

30 - - - Ms Wang or anyone else to tell the Immigration Department that, in relation to Mr Ding or anyone else, you would provide or one of your companies would provide full-time employment for the visa applicant for at least two years?---No, I did not.

You deny that on your affirmation, correct?---I do.

That's the examination, Commissioner.

THE COMMISSIONER: Yes, thank you, Mr Robertson. Mr Harrowell, did you have any questions?

MR HARROWELL: No, no, Commissioner.

40 THE COMMISSIONER: Ms Fleeton, did you wish to ask Mr McLaren anything?

MS FLEETON: No, Commissioner.

THE COMMISSIONER: Very well. Shall I excuse Mr McLaren?

MR ROBERTSON: Certainly for today's purposes. My suggestion would be to not formally release him from the summons, only because, obviously enough, some of what I've put to this witness I'll need to put to Ms Wang.

THE COMMISSIONER: Yes.

MR ROBERTSON: It's conceivable, I hope to avoid it, but it's conceivable that that will require me to recall Mr McLaren. I hope to avoid that.

10 THE COMMISSIONER: Yes.

MR ROBERTSON: But I think in the face of that, it's appropriate that he not be discharged.

THE COMMISSIONER: Very well. Mr McLaren, you can leave the Commission today, but as you heard from Mr Robertson, on that advice I'm not releasing you from the summons completely to attend. There's a possibility, which we'll try to avoid, that we might have to recall you.
---Okay.

20

So we'd be in touch if that was the case. You can now step down, please.
---Okay. Thank you.

THE WITNESS WITHDREW

[2.45pm]

MR ROBERTSON: The next witness my learned friend, Mr Brown, will call. I've been a little bit longer than expected. We may just have to see
30 how we go. It may be that perhaps the Commission can sit a little bit later than usual and in the meantime I'll try and work out a plan B in the event that we can't finish today.

THE COMMISSIONER: Yes. Are we calling Mr Duffy?

MR BROWN: I call Shaun Bruce Duffy, Commissioner.

THE COMMISSIONER: Mr Duffy?

40 MR DUFFY: Yes.

THE COMMISSIONER: Please come forward. Please stand in the witness box. Do you wish to take an oath or make an affirmation, Mr Duffy?

MR DUFFY: Make an oath, please.

THE COMMISSIONER: Please be seated.---Thank you.

Are you representing Mr Duffy?

MR KIRBY: Yes. May it please, Commissioner. My name is Kirby, initial
10 N. I understand that leave has been granted for our appearance for
Mr Duffy.

THE COMMISSIONER: Yes, it has. Have you explained Mr Duffy's
rights and liabilities under the Independent Commission Against Corruption
Act?

MR KIRBY: I have, Your Honour. Pardon me, Commissioner.

THE COMMISSIONER: Does he seek a section 38 declaration?

20 MR KIRBY: A section 38 declaration?

THE COMMISSIONER: Yes.

MR KIRBY: I seek that, Commissioner.

THE COMMISSIONER: Very well. Mr Duffy, will you please listen to
what I'm about to explain to you very carefully. As a witness you must
answer all questions truthfully and produce any item described in your
summons or required by me to be produced. You may object to answering a
30 question or producing an item. The effect of any such objection is that
although 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. I don't believe the second exception
applies to you. It only applies to New South Wales public officials and as I
40 understand you're independently employed.---Yeah, I'm not, yes.

Very well. 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 do not have to object in relation to each
answer or the production of each item, and I understand you wish me to
make that declaration.---Thank you, yes, I'd like that.

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 him to make objection in respect of any particular answer given or document or thing produced.

10 **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 HIM TO MAKE
OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER
GIVEN OR DOCUMENT OR THING PRODUCED.**

20 THE COMMISSIONER: Yes, Mr Brown.

MR BROWN: Thank you, Commissioner. Mr Duffy, can you please state your full name.---Shaun Bruce Duffy.

You're an electrician by trade with qualifications as an electrical engineer. Is that right?---Correct, yeah.

And you're the managing director of Great Southern Electrical?---Correct.

30 Can you give us a brief description of what that business does?---We build high voltage infrastructure, so electrical infrastructure. We build poles and wires.

And how many employees, roughly?---Roughly 50.

You're also the manager of D&M Electrical, is that right?---I was. D&M Electrical was morphed into Great Southern earlier this year.

40 Formerly D&M Electrical was a trading name for Jodegan Pty Ltd, is that right?---Correct, yeah.

Now, you've known Daryl Maguire for some time?---I met Daryl I think in 2011, although I did see him on one occasion before that on a professional matter, or a, "Can you help me as your local member," matter.

And what was the nature of your relationship with Mr Maguire in 2011, were you friends?---A mate of mine, Richard Allsopp, who is also a neighbour of mine, we were around there one Saturday night and he said,

“Oh, I’m going to China with Daryl Maguire,” and he said, “Would you like to come?” And I said, “Well, yeah, I think that would be fun.” So I, that’s when I sort of met Daryl as a, as a friend, yes.

Now, your counsel’s provided the Commission with a document earlier today. Are you aware of that?---Yes.

Is that a document that you prepared yourself?---Yes.

10 And how did you prepare that document?---Basically I’ve got file of each – I looked at my passport and worked out when I’d been to China for the four trips I’ve been to China and then I looked at the files of each Chinese person and worked out when things had happened, yeah,

And does that document represent your best memory having regard to those records of the events?---It does, yes.

THE COMMISSIONER: Do you want to show Mr Duffy a copy of the document, Mr - - -

20

MR BROWN: Yes, I’m making sure that it’s actually been – if that document can be brought up on the screen, please. Commissioner, if the section 112 direction that was made on 5 February, 2019, by the Chief Commissioner, can be varied insofar as it discloses the fact of this witness’s attendance on that date for a compulsory examination.

THE COMMISSIONER: Yes. I make that order, Mr Brown.

30 **VARIATION OF SUPPRESSION ORDER: THE SECTION 112 DIRECTION THAT WAS MADE ON 5 FEBRUARY, 2019, BY THE CHIEF COMMISSIONER, IS VARIED INsofar AS IT DISCLOSES THE FACT OF THIS WITNESS’S ATTENDANCE ON THAT DATE FOR A COMPULSORY EXAMINATION.**

MR BROWN: Thank you, Commissioner. Mr Duffy, is this the document that we have just been speaking of?---Correct, yes.

40 And so in this document you have identified the dates of a number of trips to China, is that right?---Correct, yep.

You also identified a number of dates in relation to some immigration placements that you participated in?---Yes. Yes.

Three of those placements, the contact you’ve identified is Maggie. Is that a reference to Maggie Wang?---It is, yes.

And in one of those contacts you've listed Lydia in relation to the activity of, "Employed Susan Song." Who is Lydia?---So Lydia Zhang is the contact that we met in, on our first trip to China. So we, I met her, well we met her in Shenyang.

Well, I'll go through those trips to China now. So July 2011 you've identified as the first trip to China. Who went on that trip?---So there was obviously Daryl, Richard Allsopp, myself, Alan Brown and Daryl's son, I just can't - - -

10

Was that James?---James Maguire, yes, correct.

Was that the July 2011 trip or could that have been the, sorry, the second trip you've got listed is 13 to 18 November. So July - - -?---No, it was definitely July 2011, yeah, yep.

20

And what was the purpose of that trip as far as you understood?---Look, we went to Beijing for a couple of days, just to have basically to have a look around. We went to a lot of, oh, we went to a few functions. We had no idea what was going on. There were lots of people there in, in suits. Daryl did a lot of formal interchanges between dignitaries, I suppose. And then we went Shenyang.

So you mentioned some official functions. Is it your understanding that Mr Maguire was travelling in his role as a member of parliament?---Look, I, at the time I, I don't, I wasn't sure. I thought he was, yes, yes, yeah.

30

That was the impression you got from going to these various functions? ---Yes, yeah. Well, we spoke to his, his secretary in Sydney and she arranged the itinerary, so I thought that was just part of his job.

Can you recall the name of his secretary?---I'm pretty sure it was Nicole.

Nicole Hatton, is that - - -?---Yes.

40

You mentioned Shenyang. What activities did the group get up to in Shenyang?---Well, Shenyang was interesting in the fact that where we stayed in the hotel, right next door or a couple of doors up there was a building there which was portrayed as a restaurant, but no one ever went there, and we used to eat on the first floor, so we used to come back for dinner and eat on the first floor, and then downstairs Daryl was saying, "Well, this is where all the local produce is going to be, is going to be sold from." So yeah, he was talking about importing Riverina food into Shenyang.

So was it your understanding that Mr Maguire had some kind of business proposal in relation to that building?---I don't think I did at the time. I think it was just him being a proactive politician, that's what I thought, he was

trying to help out local people in Wagga to get their, to get their goods sold in China.

And were you hosted by anyone in particular in that trip?---Oh, we were hosted by Lydia and Humphrey.

Humphrey Xu?---Humphrey Xu, yeah.

And Lydia Zhang?---Yes.

10

Is that the first time you'd met Lydia Zhang?---Correct.

And who introduced you to Lydia Zhang?---Well, we just went back to the hotel and Humphrey and Lydia were there, so their staff picked us up from the train station, which was a terrible trip from Beijing, but anyway, that's fine, they picked us up from the train station and took us to the, to where we were staying and then, yeah, that's when we were introduced to Lydia and Humphrey.

20

Did you pursue any business activities on the trip?---Not on that trip, but like, they did take me to some switchboard manufacturers and there was a transformer place that I went to, but everyone was dragged around as a group. Like, I went to a wet market and I've got no interest in that, but somebody else did, so we, yeah, we did some, some industry visits I suppose.

If we can bring up volume 5, page 31.

30

THE COMMISSIONER: Do you want to tender this document, Mr Brown?

MR BROWN: Yes, thank you, Commissioner. I tender that document.

THE COMMISSIONER: Well, the document prepared by Mr Duffy of dates and trips to China plus immigration placements will be Exhibit 184.

**#EXH-184 – DOCUMENT PREPARED BY DUFFY S
CHRONOLOGY IN PREPARATION OF APPEARANCE ON 24
SEPTEMBER 2020**

40

MR BROWN: I've picked up Mr Robertson's practices of tendering documents, Commissioner. Apology.

MR ROBERTSON: He should remind you.

MR BROWN: I take full responsibility.

THE COMMISSIONER: It's a switched role.

MR BROWN: Mr Duffy, can you see that document in front of you?---I can, yes.

If you just want to have a read of the email which is at the bottom half of the page. It appears to be from you, dated Tuesday, 13 September, 2011, to a Luyi Trendhouse.---Yes.

10 The first line of that email refers to, "I met you in Shenyang while visiting with Daryl, James, Alan and Richard." Is this a reference to the July 2011 trip?---Correct.

So Daryl is Daryl Maguire?---Yes.

James is James Maguire?---Yes.

Alan is Alan Brown?---Yep.

20 And who's Alan Brown?---Alan Brown was a councillor at the time on Wagga City Council.

Wagga Council. And Richard is Richard Allsopp?---Richard Allsopp, yes.

30 So you go on to say, "I'm interested in purchasing generators, solar kits and wind turbines from China. I understand you're doing some work as an agent for Daryl and I'm wondering if you could do the same for me." Do you recall the basis on which you thought that Luyi was doing some work as an agent for Daryl?---Yeah, and I, like, I've got something interesting to say about that. Supposedly Daryl met Luyi. She was supposedly working out on the street selling stuff, and Daryl ran into her, and then all of a sudden we were best friends and this girl was doing everything for us. So just, I, it doesn't make sense to me.

THE COMMISSIONER: Ran into her on the street on the trip you were on?---Yes. So Daryl used to often go out for a walk after dinner, and he claims that he, he went out for a walk and he met Luyi on the street.

40 A total stranger?---Mmm, correct.

And then what happened?---Well, then all of a sudden, Luyi's our best friend and she's our agent and she's buying stuff for us and - - -

MR BROWN: Did you ever actually do any business with Luyi or nothing came of it?---No. No, well, Luyi, that's what I mean, like, my second trip, because I was going virtually over there by myself and I, like, it was difficult. So I, I arranged for Luyi, Luyi arranged someone to pick me up in Shanghai, take me to the hotel. Then I flew from Shanghai to Shenyang the

next day, so she arranges James, which was her boyfriend, to pick me up from the airport in Shenyang.

This is the second trip, this is the November 2011 trip?---This is the second trip. Yeah. Yeah. So it was just, it was really odd.

And did you see Mr Maguire at all on the second trip?---Yeah. Sorry, no. That's not the second trip. That was the – yes, I did. I did. Because that was the trip where Daryl and his daughter came.

10

All right, well, start from the beginning of the second trip. How did that trip come about?---Again, I think it was another trip that Daryl sort of had organised to say, “Well, I’m going back in November or December, whatever it was. If you’d like to come, that’s fine.”

Did you pursue any business activities on that trip?---Not really. I mean, I was looking around but I didn’t actually form any contacts or, or, or buy any gear, yeah.

20 THE COMMISSIONER: Why did you decide to go to China twice in one year, Mr Duffy?---Good question.

I take it you hadn’t been there before.---No, I hadn’t been there before. I just, I found it interesting, I suppose, a different, a different way of life. And, like, there was a big market in Shenyang and it was huge and it sold everything. And say, for example, we use lugs to terminate on the end of cables, and the lug that you would buy in Australia for \$20 was \$2 in China. So, and then you get all excited about the potential to make money, but it just, it was all too difficult.

30

What, to import those sort of materials to Australia?---Yeah, yeah.

So, for example, the email that’s just vanished in which you ask Luyi to, whether she could help you buy a number of electrical components - - -?
---Yes.

- - - did that ever bear fruit?---Not with Luyi, no, no.

With anybody?---Yes, yeah.

40

During, as a result of one of these trips you’ve referred to in this schedule?
---Correct, yep.

Which one?---The third one and then the fourth one, definitely.

Well, we might let Mr Brown come to those.

MR BROWN: Certainly. Well, let's go ahead to the third trip. You've indicated in your schedule that you've prepared that Lydia was the contact for this third trip. How did that come about?---I wanted to go back because I, I'd, I'd done some research by that stage and I'd worked out where, I'd worked out what I thought was a reputable wind turbine manufacturer in Qingdao, and that I'd worked out an LED lighting manufacturer in Taizhou. So I particularly wanted to go to those two cities. So I don't exactly remember why Lydia came, whether she was, she was going anyway, I don't know.

10

Did you travel with Lydia or did you meet her over there?---No, I met her over there.

And where did she take you?---She took me to Qingdao. So we went to the wind turbine place in Qingdao.

THE COMMISSIONER: Can you spell that please, Mr Duffy?---I think it's Q-i-n-g-d-a-o.

20 Q-i-n-g-d-a-o?---D-a-o.

Thank you.

THE WITNESS: And then she took me to a lighting manufacture in Taizhou and we ended up buying some lights from Taizhou.

MR BROWN: And how did that work? You were buying wholesale lights?

30 We were buying wholesale – like they were retrofit fluorescent fittings. So they were actually, they would fit into a fluorescent light but they were actually LED. So we went to the bother of getting approval for them to use them in, in Australia or New South Wales through the Office of Fair Trading. So we had, we did, there was a lot of work to get them approved and then when I almost ran out of stocks, I asked, I rang them us and asked them if I could order some more and they said, “Oh, no we don't make them anymore, we've got better ones.” And I went, “Oh, God. This is all too hard.”

40 Did Mr Maguire have any involvement in that third trip?---No.

So that was purely a trip that you arranged with Lydia?---That's right, yep.

And Lydia was assisting you in interpretation?---Yes.

In your schedule you've then made reference – this is exhibit 184 – to a fourth trip where you listed the contact as Susan Song. Can you tell the Commission how you came to meet Susan Song?---I think was all fabricated, well, prefabricated as well. Susan Song's father was a

businessman in Taizhou. So I think Lydia wanted me to, wanted to take me there to meet the father because Susan Song was, or had just, had just finished university in Australia and was looking for a, a work visa.

So was this on the third trip when you went to visit Taizhou, did Lydia take you to meet Susan Song's father on that trip?---Yes.

10 And then when did you first meet Susan Song?---So it would have been – oh, well, I've got December here. I don't, I don't think I met her before we employed her. Like, she came and we employed her straight away.

You said before that you felt like it was all a bit prefabricated. Why do you say that?---Well, because I think, again, Lydia took us, took me to Taizhou to meet the father, maybe to get an approval from him to say, "Yes, this person is okay to employ my daughter."

20 And can you remember how long after the third trip to China you were introduced to Susan Song?---Well, it says here sort of from October to December, so it wasn't very far, was it?

THE COMMISSIONER: The fourth entry appears to be a period of employment of Ms Song. Is that - - -?---Yeah. But her employment commenced in December.

17 December?---Yeah.

2012. Oh, I see. And then lasted about 11 months, is that - - -?---Yes, correct.

30 Is that period of employment correct, Mr Duffy, as you reflect on it now? ---Yeah, it is. But the anomaly is that Lydia – we employed her under a training agreement with Lydia for a period of three months or whatever it was but then after that I continued to employ her because I, I was getting value out of what she did.

40 MR BROWN: You mentioned a training agreement. What was the nature of that training agreement with Lydia?---Well, there was no written agreement but it was like, "If you employ her for as long as it takes to get a visa, I will pay you to employ her."

And what would she pay you?---Whatever the agreed rate was. It was \$20 an hour or something.

So the arrangement was that you would employ Susan Song?---Yes.

That you would pay her an hourly rate?---Yes.

That hourly rate would be supplied by Lydia or you'd be reimbursed?---We were reimbursed.

So initially you paid it out of your own pocket?---Yes.

And how often were you reimbursed by Lydia?---At the end of the period I believe.

10 The end of the three months period?---I don't think it was three months. I think it was, it was shorter than that. It didn't take three months to get the visa.

So your understanding was that the purpose of this employment relationship was to assist Susan Song to get a visa?---Correct. But then from our point of view, like Susan was what we wanted because she, she was able to get me contacts in China. She was able to speak the language and, and she was an accountant so she was doing calculations for me as well on payback periods for example.

20 And what was the nature of the employment? Did you have an employment contract with Ms Song?---Yes, we did.

And did that specify the employment as permanent full-time employment? ---I don't recall. It's in the, I've got the, it's in the file. I, I think it was part-time. I think it was only 20 hours a week or something.

And that as in the employment contract itself was it?---I'm not sure. I can't remember.

30 Are you confident that you still have retained a copy of that employment contract?---Yes.

THE COMMISSIONER: You have or haven't retained a copy of it?---I have retained a copy of it.

Is that in the documents you produced to the Commission?---Correct.

40 MR BROWN: We might just need to turn that one up, Mr Duffy. So when was the prospect of this employment agreement first raised, to the best of your recollection?---I think it, I don't think it was raised in China. I think it was raised after I got back from China so it would have been raised somewhere between, yeah, the trip to China to obviously when we employ her.

And there was no written agreement, this was just an oral understanding?---I have a, yeah, there wasn't a written agreement between us.

And what was in it for you?---Well, I suppose at that, I, I was still hyped up about the opportunities in China at that time so Susan offered an opportunity to, to take me to China or accompany me in China to, to go and pursue these business opportunities.

Were you required to supply any documents to immigration authorities in Australia in connection with - - -?---I don't remember with Susan, no.

10 THE COMMISSIONER: So during the period of December 2012 to November 2013 did you visit China again and Ms Song accompanied you? ---I think, is that the last trip on the spreadsheet?

Yes, it appears to be.---That's right. She accompanied me on the last trip, yes.

And where did you go?---We went to Taizhou and we went to Hangzhou.

20 And did Ms Song, as I understand what you've been saying, assist you in interpreting with vendors of electrical equipment again?---Well, it was only really the one vendor. It was only the LED light people that we were dealing with.

And is that person still in the position to supply you with these LED/fluorescent tubes you got when you went there on the third occasion or were you buying something else from them?---I didn't get them on the third occasion. I didn't pick them up, physically pick them up. We ordered them sometime after and they, they arrived.

30 So on the fourth trip was that when you were trying to source the same product and - - -?---Yes, we were trying to source the same product, yes.

And was that person able to supply them then or was that when you were told they weren't making them anymore?---No, at that stage we hadn't got any yet. That was sometime after.

40 So what did you source on the fourth trip from that supplier?---That was still going back to them and saying this is, these are the specifications we want. These are what, what, yeah, this is what we want. Can you, can you make this for us and they did, yes.

MR BROWN: If we may be able to bring up a copy of the contract, Commissioner. Do you recognise that as the employment contract? ---Yes, it's a pro forma contract, yeah.

If we can scroll down.---So 16 hours a week part-time.

So paragraph 3, the final sentence, "Generally 16 hours per week part-time." And then under Remuneration, paragraph 4A of the document, "The

financial investment advisor should be paid wages in arrears in the amount and at the frequency shown in the schedule.” Was that the capacity in which you were employing Ms Song, as a financial investment advisor?
---Yeah.

Was that the role that Ms Song was actually performing for you?---Well, we’re investing in LED lights, so if you, probably not, no.

10 If we can scroll down to the schedule, so the employee’s remuneration at paragraph 7 in schedule 1 is listed as 16,640 per annum. Is that the rate at which you paid Ms Song?---Yes, to the best of my knowledge, yes.

And so that went through the books of the company?---Correct.

And tax was paid on that?---Yes.

And you were reimbursed by Lydia Zhang for the moneys paid?---Yeah, we were.

20 How was that done, was that in cash or was that by way of funds transfer?
---We sent her an invoice and she paid it.

How did she pay it?---She paid it over a number of periods through, on a credit card or a, yeah, debit card.

So while that’s an employment agreement, the reality of the situation was that you weren’t paying her a salary, she was in fact funding her own employment. Is that right?---Correct, correct, yeah.

30 THE COMMISSIONER: Was that your understanding, that the moneys Lydia reimbursed you were ultimately sourced back to Ms Song or members of her family?---Correct, yes.

How did you acquire that understanding?---I have a vague recollection, and it’s very vague, that Lydia was paid a fair bit of money to organise this.

MR BROWN: How much?---Vaguely I think it was 80, 80,000.

40 80,000. And by whom was Lydia paid that amount?---Circumspectly I think it was her family, her father.

And what’s the basis of your knowledge or belief?---Because there was a dispute between Lydia and Susan and I about what, how things happened, yeah.

So did you have any conversations with Susan about - - -?---Correct, yeah.

- - - the circumstances of her employment?---Yep.

And did Susan tell you what the arrangements were?---Again I have a vague recollection that Lydia was hassling Susan.

THE COMMISSIONER: About what?---About money.

In what respect?---Well, I think that Lydia wanted Susan to pay me, not Lydia.

- 10 In addition to the amount that you believed her family had already paid?
---Correct.

MR BROWN: And that figure of 80,000, where did that come from?
---Look, it's a vague recollection that I have that there was, I did see an agreement, I vaguely, I vaguely remember seeing an agreement, but it was written in Mandarin, I had no idea.

Did you recognise anything on the document?---No.

- 20 So how did you know it was an agreement?---I think Susan told me it was an agreement between Lydia and her father, and it was for the sum of 80,000.

Moving on to a different topic, Mr Duffy. Maggie Wang, do you know her?---Yes.

How were you introduced to Maggie Wang?---I was introduced to Maggie at a function at Parliament House.

- 30 By whom?---Daryl.

And doing the best you can, when was that function?---I, I've been searching around for something to find to work out the date, but for the, to the best of my recollection, it was late 2012.

2012. I'll try and assist you with the date shortly, but before I do that, I'll catch up on exhibits. Firstly, Commissioner, I tender volume 5, page 31 of the public inquiry brief, which was the email from Mr Duffy to Luyi.

- 40 THE COMMISSIONER: That will be Exhibit 185.

#EXH-185 – EMAIL DUFFY TO MAGUIRE DATED 13 SEPTEMBER 2011 RE EMAIL TO 'LUYI'

MR BROWN: Next I tender the employment contract of Ms Susan Song, which does not form part of the public inquiry brief.

THE COMMISSIONER: That will be Exhibit 186.

**#EXH-186 – EMPLOYMENT CONTRACT SONG DATED 29
OCTOBER 2012**

10 MR BROWN: And that's dated 29 October, 2012. The employment
contract. If volume 23, page 130 can be brought up. Now, this isn't a
document that involves you, at least directly, Mr Duffy. However, if you
direct your attention to item 63.---Mmm.

Have a read of that. And just to give you the context - - -?---So January - - -
- - - this is a message from Daryl Maguire to Maggie Wang on 16 January,
2013.---Yep.

20 Have you had a chance to read item 63?---Yes.

Do you recall speaking with Daryl Maguire in January of 2013 in relation to
Maggie Wang?---I don't remember the exact, no.

30 If you just look down at item 65, two lower. "I told him you were in the
G8way organisation. No need to tell your friend Monika too much." Does
"the G8way organisation" mean anything to you?---The only time that I
heard of the G8way organisation was when we were in Shenyang, and that
was part of the funny shop that we, I told you about, where the people in the
Riverina were going to sell produce into China.

So Shenyang, is that a reference to the first trip you made to China?
---Correct, yes.

And in what context did you hear a reference to G8way?---Oh, well, Daryl
just said, "This is where we're going to sell the G8way produce that we're
going to get from the Riverina."

So this was in July of 2011?---Correct.

40 Do you have any recollection of speaking with Maggie Wang in as early as
January of 2013 in relation to immigration placements?---I've got a note in
my diary that I picked her up from the airport, yes, but I don't, I don't
remember speaking to her on that day, but obviously I did pick her up from
the airport.

THE COMMISSIONER: In Wagga?---Yes.

On what date?---(not transcribable)

MR BROWN: I don't have your diary in front of me, Mr Duffy.---I do somewhere.

If you'd be assisted by - - -

THE COMMISSIONER: Do you have it in the hearing room?---No, it's here. No, it's in that Maggie Wang file.

10 Was that in a file you've produced to the Commission on an earlier occasion?---It was the diary dates, yes.

So it looks like you brought a bundle of diaries and files.---It's in that Maggie Wang one that's in my leather briefcase.

MR BROWN: Have you got that diary?

THE COMMISSIONER: I think it's just coming, Mr Brown.

20 MR BROWN: So your recollection that you did meet Maggie Wang in as early as January 2013 in connection with - - -?---Look, I, I don't recall it but it's in my diary. Sorry, what date was that?

THE COMMISSIONER: January 2013.---January 2013. I do, I, I can't see it but I have seen it in my diary.

MR BROWN: Could that be a year later, could that be January 2014 that you might be thinking of?---It was 2014, you're right. Because I met her in 2012 and I think it was a fair while after that, yeah.

30 If can just bring back up the previous page, which is volume 23, page 130. And if we just have a read of item 66 there. Firstly, Mr Duffy, do you recognise that phone number as being yours?---Correct.

And the text reads, and this is in the entries that are from Maggie Wang, "Hi Shaun. My email address is," and there's an email address, "Thanks, Maggie." Do you have any recollection of Maggie Wang making contact with you in January of 2013?---No, I don't, I don't.

40 When do you first recall the prospect of taking an immigration placement via Maggie Wang came up?---It would have been 2013.

So we're now in January 2014, you recall picking her up from the airport?---Yep.

How long prior to picking her up from the airport?---I don't recall. But I would have - - -

Was it weeks or months?---Before picking her up from the airport?

Yeah.---It would have been months. It would have been – like she probably contacted me again in 2013 and we started conversing. Yeah.

So do you recall having phone conversations with her prior to picking her up from the airport?---I remember having conversations with her, yes.

10 Did those conversations involve the mechanics of you taking on a visa applicant to employ?---Yes, ah hmm.

And can you recall what details were discussed?---The details were that we would employ that person for a minimum period of three months. We would be reimbursed those wages and there was a fee on top paid.

And what was the fee on top?---It was depending on the level of qualification but I believe it was, one level was 30,000, another level was 50,000.

20 Was the distinction based on the type of visa that was being sought?
---I think so, yes.

Did she discuss the types of visas that the applicants were seeking? This is back in 2013 I'm asking.---Yeah, she would have, yeah.

30 So the discussions were quite detailed prior to you picking her up from the airport?---I don't really remember having detailed conversations with her about it but I think, I think what happened was she was saying, and I remember vaguely her just producing resumes and saying, "Would this person fit your business, would this person fit your business." And I sort of kept saying, "I don't think so." But I don't really – my recollection was they were obscure visas, because the pretention was the people were going to be paid, the salary was quite large.

We'll get to the documents shortly. In fact, why don't we get to the documents now.---Yeah.

40 If the first bundle can be brought up in relation to the applicant Shuanghui Zong, S-h-u-a-n-g-h-u-i Z-o-n-g, and if volume 19, page 204 can be brought up. The bundle to be tendered is volume 19 of the public inquiry brief, pages 202 to 255.

THE COMMISSIONER: Very well, that will be Exhibit 187.

#EXH-187 – SHUANGHUI ZONG IMMIGRATION BUNDLE

MR BROWN: The document that's been brought up is headed Agreement for Training. Do you recognise that document, Mr Duffy?---Yes, I do.

And that appears to be dated at the bottom 4 February, 2014.---Yes.

That appears to be the signature block for Maggie Wang. And on the right-hand side there's a date of 7 February, 2014. Do you recognise that signature, Mr Duffy?---Yes, it's mine.

10 So just looking at the details of the document, is that the arrangement that was in place in relation to Shuanghui Zong?---Correct, yes.

And did the arrangement proceed in accordance with that agreement?
---The person never showed up.

So just looking at the responsibilities under paragraph 1, "Part A ensures the training fee to party B is paid on time." What was the training fee?---The training was to adapt these people into I suppose Australian culture, how to, how to be a member of a business in Australia.

20

That was your understanding of the training services that you were meant to be providing pursuant to this agreement?---Correct.

And under paragraph 2, "The total training fee payable will be \$50,000."
---Yes.

30 Under Responsibilities in paragraph 1 it references, "Party B providing training to improve professional English, being adapted to the Australian workplace environment and meeting the requirements in getting the ENS Employer Nomination Scheme visa." Was that your understanding of the arrangement?---Correct.

So you were aware that these employment arrangements or this employment arrangement was being put in place in order that the nominated person could pursue a visa?---Correct.

And the extent of the training services that you were to provide, your understanding was, was adaptation to Australian culture?---Yes.

40 If we can just scroll down a bit in that document. The last paragraph, "Training period. Training starts when the applicant arrives in Australia. Duration varies from one month to three months, depending on training progress." So the extent of your obligation to train or employ the individual was from one month to three months, and you were to be paid \$50,000 in training fees. Were there further conditions that aren't captured in this agreement for training?---Nope, no.

Was there an arrangement that you would be, as with Ms Song, remunerated for any wages that you paid to the applicant?---That was probably spoken about, yes.

So was it your understanding in relation to Shuanghui Zong, that if they had in fact turned up, you would have paid them a salary?---Yes.

And you would be reimbursed for that salary.---Yes, correct.

10 THE COMMISSIONER: Did you pay a salary even though this person didn't turn up?---No. No, we didn't. No.

MR BROWN: You were paid in accordance with the fee schedule set out in that document, weren't you?---Correct.

What did you do with the \$48,000, the last payment?

THE COMMISSIONER: So you were paid \$50,000, were you?---Yes.

20 In what form?---Cash.

And did you see that in one sum or in accordance with the - - -?---In accordance with the agreement.

So two lots of \$1,000 and then \$48,000?---Correct.

\$50,000 in cash.---Yes.

30 MR BROWN: And what did you do with the cash?---I put it in my safe.

THE COMMISSIONER: They never trained – is it a woman or a man? ---I'm not even sure.

Whoever Shuanghui Zong is, you never met this person?---No.

Never provided any training?---No. We received a letter from Maggie to say that the person – I think it was a woman – her mother was ill and she couldn't come.

40 MR BROWN: If I could bring up the volume 19, page 203, which is part of Exhibit 187. Do you recognise that document, Mr Duffy?---Yes, I do.

What's that document?---It's supposed to reflect a receipt.

And is that a receipt in relation to the \$48,000 cash you received as the final payment of that agreement?---Correct. Yes.

And there's a reference to "nil bal" underneath the 48,000, spelt n-i-l b-a-l. What's your understanding?---Oh, that there's no more money due would be my understanding.

And that's signed by you.---Yes.

And who's the second signature?---Oh, looks very similar to the signature on the training contract, so I guess it's Maggie's.

10 Do you recall this receipt being prepared?---I, yeah, I, pretty sure I remember, yeah, yep.

It was a pretty significant event, being handed \$48,000 in cash.---Yeah, it was pretty intimidating.

How was the cash packaged?---It was in every pocket she had. She had a big jacket on, and every spare pocket she had, she'd pull out cash.

20 THE COMMISSIONER: Did Ms Wang give you this money in Wagga or some other place?---It was in Wagga.

And did she tell you that Ms or Mr Zong had obtained his or her visa?---No, we received a letter – oh, no, no, she didn't, no.

MR BROWN: If we can bring up page 205.

THE COMMISSIONER: That's already part of an exhibit, isn't it, Mr Brown?

30 MR BROWN: It is part of an exhibit, thank you, Commissioner.

THE COMMISSIONER: Thank you.

MR BROWN: While that's being brought up, whereabouts in Wagga?---At my work.

At your work, at Great Southern Electrical?---No, that was at D&M Electrical at the time. So it was on a Saturday morning. We, she must have flown down for the, for the Saturday, I - - -

40

Were you expecting her?---I was expecting her, yes.

Were you expecting \$48,000 in cash?---Oh, yes. Yeah. I must have been. But it was still quite uncomfortable.

THE COMMISSIONER: Still quite what?---Uncomfortable.

MR BROWN: Did you have some concerns about receiving that amount of money in cash?---Oh, well, I asked her whether I could give her an invoice, and she sort of brushed that question.

At the time you signed that training agreement, did you have some concerns about the legitimacy of this arrangement?---Not really, because my motive was to try and get someone to, to help us with, do some business in China, because it had worked before with Susan, and that's what, what we, what we wanted to get out of it.

10

But you understood that these were applicants for visas, didn't you?

---Correct, yeah.

The proposal was to effectively pay them out of their own money, correct?

---Yes.

Which wouldn't really be a true employment relationship, would it?---No, it's not a correct employment relationship, no.

20

If people want to work as volunteers, they can work as volunteers, can't they?---Mmm.

There's no reason to have someone pay money across to an employer in order that it be paid back.---No. That's, yeah. I, that part is strange, yes.

Well, it's more than strange. It could only really be intended to create a charade for some purpose.---Yeah.

30

In this case, it was in connection with a visa application. Correct?

---Correct, mmm.

Did that cause you some concerns at the time?---I suppose I felt uncomfortable about it, yes.

Did you feel more concerned when Maggie Wang turned up with 48,000 in cash?---Yes.

40

So by that stage at least did you have some serious concerns about the legitimacy of this immigration scheme?---I suppose I did, but I didn't know the magnitude of it.

THE COMMISSIONER: Well, let's just take this one step at a time, Mr Duffy. You signed a training contract under which you were entitled to three tranches of payment, two of \$1,000 each, and the third of \$48,000, which was due when the trainee received his or her visa.---Mmm.

You were told that the applicant isn't coming for the training?---(No Audible Reply)

You have to answer yes or no, you can't just nod, Mr Duffy, it has to be recorded.---Yes.

So you were told this applicant isn't coming, and yet Ms Wang pays you the first two tranches of \$1,000 each?---Yes.

10 And then she turns up on a Saturday morning with her coat pockets stuffed with what I gather you ultimately counted was \$48,000?---Yes.

She didn't tell you one way or the other whether Mr or Ms Zong had got a visa?---No, I don't recall that.

So, as far as you were aware at that stage, no step of the training contract had been performed by either you in terms of providing the training or by the applicant for the visa in terms of appearing to be trained.---Correct.

20 So prima facie, you were not entitled to receive any fund under that training contract.---Correct.

And yet you received \$50,000.---Mmm. Yes.

Did you say anything to Ms Wang in respect of the circumstances not entitling you in effect to that money?---Well, as I said, I was quite uncomfortable about it. I wanted to give it back to her but she wouldn't take it.

So on that day, did you ask her to take it back?---Yes.

30 And she refused?---Oh, well, she said, "I can't take it back, I can't, I, it's got nowhere to go."

What did you understand her to mean by that?---I don't know.

MR BROWN: You'd been introduced to Maggie Wang by Daryl Maguire?
---Yes.

Did you ever discuss this immigration with Mr Maguire?---No.

40 Even after you had some concerns, you didn't think to raise them with Mr Maguire?---Look, I didn't know – I obviously knew Daryl and Maggie were friends but I didn't know that, I didn't really know that Daryl was involved in this.

If we just go back to that text message, back at volume 23, page 130.

THE COMMISSIONER: Before we do that, can I just ask one more question of Mr Duffy?

MR BROWN: Yes, Commissioner.

THE COMMISSIONER: Whose idea was the handwritten receipt that we've been shown?---It was Maggie's.

It was her idea?---Yes.

Sorry, Mr Brown.

10

MR BROWN: Volume 23, page 130. And again these aren't your messages. Item 63, please. Scroll up. Mr Maguire certainly seems to have communicated to Maggie Wang that he had spoken to you, that you understood what she, Maggie, would want and that you already had a staff member on a similar scheme. You did have a staff member on a similar scheme, didn't you?---That was Susan, yes.

Susan Song?---Yes.

20

So does that refresh your memory that you may have had a conversation with Mr Maguire about the immigration arrangements?---I honestly don't remember talking to Daryl about – when was that, January, 2013.

It's 2013, so it's well before – this is early January of 2013. So it's well before you actually proceeded with any of the placements. Try and cast your mind back to when this issue first arose.---Look, I, I recall going to Daryl's office and talking to him about a range of things, so quite possibly there could have been a conversation about that. Daryl could have said to me, "Oh, you met, you met Maggie a couple of months ago. This is what she does. Are you interested?"

30

But you don't have any specific recollections as you sit there - - -?---I don't. I'm sorry, no, I don't.

Can we move to volume 19, page 205. Now, you may not have seen this document before, Mr Duffy, but it's an application for an employer nomination for a permanent appointment. So this was a document that was submitted in relation to Shuanghui Zong's visa.---Yep.

40

And you'll note the business organisation details there nominate Jodegan Pty Ltd, trading name D&M Electrical. So that's your company?---Yes.

If we can scroll down to the next page. See, "Contact person details," around the middle of the page?---Yes.

And you're listed as the contact person?---Yep.

If we can skip down two pages, the position is senior management accountant. Did you have a need for a senior management accountant within your business?---No.

And there's a base salary at about point 7 of the document of \$190,000. Did you have any employees earning that kind of money?---No, no.

10 So those figures are really just, that's just a made up figure, isn't it?---Well, I'm guessing that's the figure that a senior management accountant would be paid. I'm not - - -

In Wagga?---It's a, yeah, I doubt it.

THE COMMISSIONER: But had this person actually turned up - - -?---No.

No, no - - -?---Sorry, sorry.

Let me finish the question, Mr Duffy.---I jumped the gun.

20 Had this person actually turned up, my understanding, from your evidence, is you would have paid – and I assume there was an employment contract which had the same remuneration in it – you would have paid the person wages commensurate with that amount and been reimbursed for the wages you paid.---That's my understanding, yeah.

So you would not have been out of pocket.---Correct.

30 MR BROWN: Was that figure ever discussed with you? Were you aware that there was going to be that kind of remuneration figure?---It wasn't discussed with me, but, yes, I was aware. I looked at the documents and I was aware and felt the figures were very exorbitant.

But as the Commissioner's indicated, you weren't too concerned about the figures because you weren't going to be paying it anyway, is that right? ---Well, no, because I would have seen some documents before I knew the person wasn't coming. Oh, sorry, because, yeah, I understand what you mean, because I was being reimbursed, yeah. So I didn't, didn't - - -

40 THE COMMISSIONER: There's no skin off your nose.---That's right. Didn't really mean anything to me.

MR BROWN: And you'll see at the second-last line in the document, there's a field, "Will the business/organisation be paying the nominated person's salary?" Answer, "Yes." That wasn't really the arrangement that was in place, was it?---No.

If we can scroll down two further pages, to page 210. You can see there that the applicant is Shuanghui Zong. That's who this document relates to.

And if we can just scroll down to the final page of the document, page 211, you'll see a series of, about halfway down the page, ENS/RSMS declarations, the first of which is a warning, "Giving false or misleading information is a serious offence." Then there's a series of declarations including the second one, "Will provide full-time employment for the visa applicant for at least two years." That was not the arrangement, was it?
---No.

10 Go to page 214, which is a separate document. Do you recognise that document, Mr Duffy?---I do, yes.

Did you draft that document?---No, I didn't.

Was that document sent to you?---Correct.

THE COMMISSIONER: By whom?---Maggie Wang.

MR BROWN: And if you just look at the second-last paragraph.

20 THE COMMISSIONER: Can we enlarge it a bit, please, Mr Grainger? Thank you.

THE WITNESS: Thank you.

MR BROWN: After the comma, "Recruiting a full-time senior management accountant has been listed to our company's schedule." Was that a true comment?---We still had aspirations of a sustainable energy, so, no, not really a true comment, no.

30 Did you need a full-time senior management accountant in the company?
---No, we already had one.

And if we go down to the following page, page 215 in the bundle. And you can see the document bears your signature and dated 24 February, 2014. Did you sign that document?---Yes, I did.

40 You did. And that, that final paragraph, "We believe that it will help the company become more organised, more efficient and more effective if we can have Ms Zong join us. We are expecting an exciting future with Ms Zong's joining." Does that reflect your attitude?---That's not, that's not something I would say, no.

THE COMMISSIONER: Did you understand this document was to be submitted to immigration authorities as part of the process of assessing whether or not to grant Ms Zong a visa?---Yes.

MR BROWN: And that document is at least misleading in a number of respects, isn't it, Mr Duffy?---It is, yes.

And if we go to page 216 of the documents, if we just scroll down, the second-last paragraph, "The role of senior management accountant in our company," senior management accountant job description by D&M Electrical Communications, says, "Similar duties to the ones described above." Did you have a senior management accountant job description by D&M Electrical Communications?---I don't know if we were that sophisticated at the time, but we did have an accountant working for us, yes.

10 And if we just scroll down to the next page, "The nominated employee will work 38 hours per week and an annual salary of 190,000 is above the average salary rate." And that's signed by you.---Yes.

So this document was submitted to Immigration?---As far as I'm aware, yes.

You signed it with the expectation that it would be submitted to Immigration authorities?---Correct.

20 And it was representing to Immigration authorities that Ms Zong would be working full-time and would be being paid a very healthy salary.---Correct.

And if we can finally in relation to Ms Zong just go to page 220. Do you recognise that document, Mr Duffy?---I do, yes.

Did you draft that document?---No.

Who provided that document to you?---Maggie.

30 Is that via email?---I'm not sure.

Can we just scroll down. Again Ms Zong's employment at paragraph 1.2, "Will be full-time and it the position is senior management accountant." And again that was not an accurate description of the arrangements, was it, Mr Duffy?---No.

If we just scroll down to the bottom of that document. Again signed by you and dated 31 January, 2014. Do you recall signing that document, Mr Duffy?---Yes, yeah.

40 I'll now move on to the second of the - - -

THE COMMISSIONER: Can I just ask some questions, Mr Brown, before we leave this?

MR BROWN: Yes, Commissioner.

THE COMMISSIONER: The document which you provided to the Commission this morning, or this afternoon rather, Mr Duffy, which has been marked Exhibit 184.---Yes.

When did you prepare it?---In the last few weeks.

And did you prepare it from records you hold?---Correct.

10 Mr Grainger, do you think – thank you for bringing that up. So in relation to Ms Zong, it appears that a year, according to this, a year after the training agreement was signed and just over a year I think after the employment agreement, Ms Zong either sent you or Ms Wang a letter saying she couldn't come because her mother was ill.---Yes.

And then you've inserted, "Invoiced Maggie."---Yeah, but that didn't happen then, that happened this year.

20 So that part of that document is not correct?---Oh, well, I only put it there so I could tie it in with that, that person, but yeah, it didn't, I didn't invoice it until this year.

No. Nor, as I understand your evidence today, did you bank the balance of the cash she gave you.---Not until this year, no.

So you put it in the safe when you received it?---Yes.

And do I take it from these dates you received it in or about February 2015, the \$48,000?---Yes.

30 And then as I understand you out that \$48,000 into your safe?---Yes.

And did you spend any of it?---I did.

And do you say this year you finally banked all of the - - -?---I banked it this year, yeah.

- - - all or some of that cash, whatever was left over after you - - -?---Some of it, yes.

40 And how much was left when you banked it?---28,000 or something.

28,000?---Something like that.

Why did you finally decide to bank it?---Well, I did ask Maggie originally, "Can I invoice you?" And she sort of didn't really answer the question, so I didn't, but then it was always playing over in my mind, should I invoice her or not.

Well, even though you didn't invoice her, she did give you a receipt?
---Correct, but it's not a tax invoice with GST or anything.

Oh, no. So you kept the money in the safe and spend approximately \$20,000 of it over the five years until earlier this year?---Yep.

And as I think you have answered my question why you finally decided to bank it, \$28,000?---I suppose it was playing on my conscience.

10 Have it in your safe?---Ah hmm.

How did you think your conscience would be assuaged by putting it in the bank?---Well, because I was declaring the income.

And did you declare – well, I don't know if you put in last financial year's tax return – is it your intention to put that amount in your tax return?

---Yeah. It's the invoiced, so it will be part of our income.

20 So have you now prepared an invoice for that?---Yes.

And put that in your business records?---Yes.

For \$50,000 or \$28,000?---No, for \$50,000.

Have you got a copy of that invoice here today?---I do.

Can you produce that, please? Or I direct you to produce it.

30 MR BROWN: While that's happening, Mr Duffy, have you got any other documents that are relevant to this investigation that you haven't yet produced?---I don't believe so, no.

You've previously produced documents to this Commission, correct?

---Correct. I thought the invoice was produced.

THE COMMISSIONER: I thought you said you prepared it earlier this year. You have been here since 19 February, 2019, as I understand.---Yeah. But I did, Paul did ask me to send the documents up.

40 MR BROWN: Was that subsequent to your appearance here in February of 2019?---Yes. I believe so, yes.

THE COMMISSIONER: Well, perhaps while your legal representatives are looking for it, and just not to interrupt the process of your examination, because time is ticking on. We might continue with your examination and see if we can locate that invoice.

MR BROWN: Commissioner, there's just some steps being taken to assist in identifying the document a little bit faster. So if that can be done quickly then we can resume the examination.

THE COMMISSIONER: Remember social distancing.

MR BROWN: It's after 4 o'clock.

10 THE COMMISSIONER: I don't think that makes a difference, Mr Brown. We'll do our best to locate that, Mr Duffy, and we'll just keep going.

MR BROWN: If we can now move on to the second of the applicants, Zhen Liao. According to your schedule, Mr Duffy, this placement didn't end up going ahead.---No.

No visa was ever granted and so you weren't paid the full amount that would have been owing under the training agreement, is that correct?
---Correct.

20 We'll bring that training agreement up now, that's at page 257. While that's happening, Commissioner, I tender the second bundle in relation to the applicant Zhen Liao, which is volume 19, page 256 to 341.

THE COMMISSIONER: That will be Exhibit 188.

#EXH-188 – ZHEN LIAO IMMIGRATION BUNDLE

30 MR BROWN: Have you got that document, Mr Duffy?---Yes, I do.

It appears to be in – parties are different, in terms of who the applicant is, but the terms appear to be the same as in respect of Shuanghui Zong.
---Correct.

So it's a trainee fee of \$50,000?---Correct.

40 It's again for the purposes of getting an Employer Nomination Scheme visa, in paragraph 1?---Correct.

And it's the same payment schedule of two tranches of \$1,000 and then a final tranche of \$48,000 if the visa's granted, and if we just scroll down, same training period as well.---Yes.

Three months, so your understanding was that you were under no obligation to retain the employee after a three-month period, is that correct?---Correct.

THE COMMISSIONER: So when was this – you’ve got it undated in your document. Do you recall Mr Liao was proposed as a trainee?---I don’t, no, but it would be in, it would be in some of the documents.

MR BROWN: We’ll get to the date or dates that may assist in the documents, Commissioner.

THE COMMISSIONER: I’m sorry, yes. Thank you, Mr Brown.

10 MR BROWN: If we scroll down to the next page, 258, it’s headed List of Documents. Is that your handwriting on that page, Mr Duffy?---No, it’s not.

No. But looking at that page, are they kinds of documents that you had to prepare - - -?---It looks like it, yes.

- - - for the purposes of the applications, or this application?---Yes.

Did you yourself prepare any of those documents?---No, I didn’t.

20 Did you provide information to anybody in order that those documents be prepared?---We would have prepared the documents internally, yes.

So your company - - -?---Yes.

- - - did prepare some of these documents?---Yeah. Yes, correct.

We might just proceed through some of the further documents. If we go to page 259, which is the next page, that document’s headed Contract of Employment for Mr Zhen Liao. Did you prepare or cause employees of
30 your company to prepare that document, Mr Duffy?---I don’t believe so, no.

Did you provide any information to Maggie Wang in order for that kind of document to be prepared?---No, there’s nothing on there that, or on that, on that page at least, that she wouldn’t, wouldn’t have known.

What was the process? So there’s an agreement for training signed?---Yes.

And under that agreement, you’re to assist in the preparation of documents to advance the application, correct?---Correct. Yep.
40

Who started the preparation of those documents? Did you initially start drafting documents yourself, or were you provided with drafts of documents?---No, the, the documents were drafted by Maggie, and then she would ask for, for the relevant details.

THE COMMISSIONER: And is this on, what, your business’s letterhead at the time, in 2015?---Correct, yes. Yes.

So you provided her with at least a copy of a blank letterhead?---Of the letterhead, yep.

MR BROWN: So we can see from that the parties to the agreement are your company, which was D&M Electrical in relation to this placement?
---Yes.

10 And Mr Zhen Liao. And if we look at clause 1.2, the arrangement is “Employment on a full-time basis for three years, ongoing.” And the position is “senior financial investment manager”. Was it your understanding that you would be employing Mr Zhen Liao for three years in that role?---Based on the contract, there was no obligation to, but, I mean, it could have been the case that we, if things had worked out, we could have employed him for three years.

THE COMMISSIONER: Like with Ms Song. You employed her for longer than the original period.---Correct.

20 MR BROWN: But did you actually have a need, in D&M Electrical, for a senior financial investment manager?---No, but there would have been attributes in the CV that we were interested.

Well, if we scroll down. The following page, 260. Under clause 4, the remuneration of \$190,000 per year. Would you have been interested in keeping Mr Zhen Liao on for a period of three years at \$190,000 per year?
---Definitely not.

30 THE COMMISSIONER: Particularly when it seems there might have been a possibility of you having two of these people at one time. Would that have been possible? Because, as I understand - - -?---I don't - - -

- - - the timing, this was in the pipeline very soon after Ms Zong's went into the pipeline. Is that - - -?---No, it was very soon after Ms Zong's letter saying she wasn't coming.

Oh, I see. After that fell over.---Yes.

40 I see. Thank you.---And, like, can I just say that, at this stage, Maggie was badgering me to do this. Like, I remember her meeting me at the airport saying, “Are you interested in this person?”

Meeting her by chance or by an arranged meeting?---No, coming to the airport and meeting me after I'd been to Sydney for the day.

Oh, coming to the airport in Sydney?---Yeah.

And asking you to take another person?---Yeah.

MR BROWN: Had you communicated with her prior to running into her at the airport? Had you messaged her or spoken to her on the phone?---About, about what, sorry?

THE COMMISSIONER: You being at the airport.

MR BROWN: You being at the airport.---Oh, she would have known I was at – yeah, obviously she knew I was at the airport, yeah.

10 THE COMMISSIONER: How would she have known that?---I, I probably told her, I'd say.

So were you in regular communication with her?---We used to have lunch quite a bit, yes.

In Sydney, Wagga or both?---Wagga.

MR BROWN: If we go now to page 263 of volume 19.

20 THE COMMISSIONER: Mr Brown, I think we should ask you how long you think you'll be with Mr Duffy. I'm just conscious there are staff, apart from anything else, who may have commitments.

MR BROWN: Yes, I'm aware, Commissioner. There is still quite a bit, quite a bit of ground to cover, Commissioner. I can be quick through the documents but then there's still some issues to be dealt with even after that stage.

30 THE COMMISSIONER: Mr Duffy, I gather you're not returning to Wagga till tomorrow morning, is that correct?---Correct.

What time?---Quarter to 10.00.

How many flights are there to Wagga on a Friday?---Usually there's a few, but I believe tomorrow there may be two. One in the morning and one in the afternoon, I believe.

40 Let's just see how far we can go, Mr Brown.---I really need – oh. Doesn't matter.

You really need to be back in Wagga tomorrow morning?---Oh, tomorrow at some stage, yes.

MR BROWN: There's an email up on the screen in front of you, Mr Duffy. If you look at about point 3 of the document, it's from you, sent to Maggie Wang. Just have a read of that, Mr Duffy. Is that accurate, Mr Duffy, now that you've had a read of it?---Yeah. I think it is. I think what I said before may have been incorrect.

Well, we looked at Ms Song's employment agreement earlier, and it specified a salary of a little over \$16,000, didn't it?---Yes.

In relation to that last paragraph? And you've said here, "When she first started her salary was \$50,000."---Hmm.

10 What was the basis for saying that?---I don't know. The only thing I can think of is Maggie's said it had to be \$50,000 for the visa application maybe.

Well, if we scroll down to the following page we can see that the email sent to you from Maggie was in response to a request from Immigration authorities.---Sorry, what was the question?

Have a read of that second page to yourself, Mr Duffy.---Okay.

20 So that email makes it clear that information is being sought by Immigration authorities. Correct?---Correct, yes.

And then if we scroll back up to your email, do you accept that it was never the case that Ms Song was to be paid a salary of \$50,000?---That she was never to be paid \$50,000?

That was never the proposal?---Yeah, I, I, I believe it was \$16,000 part, \$16,000 part-time.

30 And the first sentence of that email that you've sent specifying employment between 17 December, 2012 and 22 of November, 2013, are you sure that's accurate?---I am, because we employed, I remember this, we were driving to, Susan and I were driving to go and have a look at a job in Bairnsdale and I asked her about her visa and she said, "Yeah, yeah, I've got the visa." So then the employment contract changed 'cause we were no longer required to pay what, what the agreement was. So she was definitely employed for that period of time.

40 Commissioner, I make an application for the section 112 declaration made on 19 February, 2019 be lifted in a limited respect in response to, in relation to the questions I'm about to ask this witness.

THE COMMISSIONER: I thought I'd lifted it entirely.

MR BROWN: Only in relation to the dates and the occurrence of it.

THE COMMISSIONER: Yes. Well, I revoke the section 112 order made in respect of Mr Duffy's compulsory examination on 19 February, 2019, in respect of the questions Mr Brown's about to ask.

VARIATION TO SUPPRESSION ORDER: THE SECTION 112 ORDER MADE IN RESPECT OF MR DUFFY'S COMPULSORY EXAMINATION ON 19 FEBRUARY, 2019 IS REVOKED IN RESPECT OF THE QUESTIONS OF COUNSEL ASSISTING

MR BROWN: Mr Duffy, you were asked when you gave evidence before this Commission on 19 February, 2019, how long Ms Song had been employed, and your answer was, "I believe it was for about three months."
10 ---Yes.

Is that the case?---No. After that I sent Paul an email saying that it was for a close to a 12-month period.

Okay. So as you sit there now your best recollection is that she was employed for a 12-month period?---Correct.

Now, you have in your schedule having travelled to China with Susan Song
20 in May of 2013.---Mmm.

Was she still employed with you then, in May of 2013?---Yes, she was.

And for how long after that did she remain employed by you?---I think until November 2013.

If we can go to page 282 of volume 19. You'll see this is an email from Maggie Wang to you dated 13 March, 2015. And if we scroll down to page 283, we'll see the attached document. Do you recognise that document, Mr
30 Duffy?---No, I, I don't.

You don't recall having seen a document like that before?---I don't specifically remember seeing this document. That's not to say, not to say I haven't seen it.

THE COMMISSIONER: Does it contain some of the information I think you sent Ms Wang on the previous email we were looking at?---Yeah, organisational charts, financials, yes.

40 And the period Ms Song was employed and when she left?---Yes.

MR BROWN: If we scroll down to page 284, there's a series of bullet points there specifying the major tasks and duties of senior financial investment manager. They include, "Contact existing and potential customers, business partners and investors, especially from China, to estimate current financial plan and future business development and management." Did your business have a need for that at the time?---It was, I wouldn't say specifically that, no, but we were canvassing for – at that

stage we were looking at sustainable energy generators and I thought that China was a good place to look for the actual piece of equipment and maybe potential investors.

What I'm really getting at, Mr Duffy, is if you have a read of those four bullet points, your business didn't really need an employee to fulfil that role?---No. As I said, we already had someone, yeah. Apart from bullet point 1, but the rest of it, no.

- 10 And if we just scroll back up to page 283, at the top, you can see that that – a little bit further up, please – you can see that that document is addressed to the Department of Immigration and Border Protection. So had you seen this document you would have been well aware that it was intended to be used in an application for a visa, is that correct?---Correct, yep.

THE COMMISSIONER: And you knew you provided the information in that email to respond to a request from the Department?---Yes, correct. To the questions, yes, correct.

- 20 MR BROWN: And if we just go to page 285, we see – this is a separate document – it's an email from you to Ms Wang on 13 March, 2015, which is the same date as the earlier email. "Hi Maggie. Looks good. Well done." So does that refresh your memory that you did see that document, Mr Duffy?

THE COMMISSIONER: Why don't you scroll down, Mr Brown? There's an email below from Ms Wang. Attaching the draft response, apparently.

- 30 MR BROWN: Yes, if we scroll down, you can see the email that we looked at shortly before.---Yeah. I, yeah, oh, I must have seen the document.

And if we can go to page 318 of the bundle, we'll just quickly go through this document. Again, you've seen a document like this before, when we went through Shuanghui Zong.---Correct.

The business/organisation is yours, D&M Electrical.---Yep.

- 40 And if we scroll down, page 319, again, you're listed as the contact person, Mr Duffy. Down to page 321, again, the position is senior financial investment manager, and a base rate of pay of 190,000. You see that at the bottom of the page?---Mmm.

And again, "Will the business/organisation be paying the nominated person's salary?" "Yes."---Yes.

All of those details are misleading aren't they, Mr Duffy?---Correct.

And indeed, in terms of whether or not the organisation would be paying the person's salary, it's false. It's not true.---No, it's not.

And if we just scroll down to page 325, we'll see again the declarations at about point 5 on the page. Sorry, at about point 2 on the page, the applicants declare that they will provide full-time employment for the visa applicant for at least two years, "Yes." Again, that was not the arrangement with respect to Mr Zong, was it?---Correct.

10 Now, this application was refused, is that right?---Yes.

And so you were only paid the \$1,000, being the first tranche of the - - -?
---As far as I can recall, yes.

Commissioner, I'm about to move on to the next applicant, which will take a little bit of time.

THE COMMISSIONER: Have we located that invoice yet?

20 MR KIRBY: Commissioner.

THE COMMISSIONER: Yes, Mr Kirby.

MR KIRBY: I can't find it. I wonder if Mr Duffy might be able to interrogate his files more efficiently than I have. I actually don't recall seeing it myself in the documents that I was - - -

THE COMMISSIONER: Thank you, Mr Kirby. I think we should really keep going. I mean I think it may be necessary to recall Mr Duffy on
30 another occasion if necessary to pursue that.

MR KIRBY: May it please.

THE COMMISSIONER: Unless Mr Grainger thinks he can find it, but I think we should, having regard to the time, keep going.

THE WITNESS: Excuse me.

40 MR ROBERTSON: Can I just assist in terms of timing because I've had some inquiries made in the meantime.

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: Inquiries have been made as to an alternative flight for the witness at 11.50am tomorrow. What I would propose is that Mr Duffy continue at 9.30am if that's convenient to the Commission, which will give us an hour or - - -

THE COMMISSIONER: Assuming he can get a seat on this Wagga flight.
Have we - - -

MR ROBERTSON: I think inquiries have been made and I can see nodding
behind me for that reason, so that will give us a clear hour tomorrow.

THE COMMISSIONER: So should we try to go till 5 o'clock now or - - -

10 MR ROBERTSON: I'm suggesting we proceed on the assumption that
there's an hour available tomorrow and I'm largely in Mr Brown's hands as
to, given the hour available or slightly, very slightly longer than an hour,
whether we should continue now.

THE COMMISSIONER: How long do you think you'll be? I'm sorry to
interrupt, Mr Robertson.

MR ROBERTSON: Don't apologise.

20 THE COMMISSIONER: How much longer do you think you'll be, Mr
Brown?

MR BROWN: Well, I think I can make it as streamlined as possible
overnight in order to get it done within an hour in the morning,
Commissioner.

THE COMMISSIONER: Very well. I'm afraid we've taken your travel
arrangements out of your hands bit, Mr Duffy, but - - -?---Oh, well.

30 - - - at least you'll get back to Wagga by about, I don't know, 1 o'clock.
---1 o'clock. That's fine. Thank you.

Okay.---I can produce an invoice. I'll just have to print another copy.

Well, as your legal representative's said and is probably the case, you're
probably more familiar with your papers than they are, so - - -?---Or even if
I haven't got a copy, which I'm sure I had, I can print a copy out and have it
sent out.

40 Yes. One way or the other, should you locate it, could you please forward it
to Ms Clifton or have your legal representatives forward it to Ms Clifton as
soon as possible, preferably before 9.30 tomorrow morning?---Certainly.
Okay.

Very well. The Commissioner will adjourn until 9.30 tomorrow morning.

THE WITNESS STOOD DOWN

[4.30pm]

AT 4.30PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.30pm]