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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION WITNEY

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 14 APRIL, 2021

AT 2.00PM

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THE COMMISSIONER: Mr Neil.

MR NEIL: Thank you, Commissioner. Dr Ahmed, I just want to ask you about some evidence you gave yesterday, it's 795 line 8, Commissioner.

THE COMMISSIONER: Thank you.

10

MR NEIL: That you knew about his history, that would be Mr Sidoti, that he ran this function centre, "And I think I'd, I think I'd even attended a possible fundraiser there at some stage, yeah." Would such a fundraiser have been a Liberal Party fundraising event?---I would imagine so, yeah.

What's your best recollection of, if you have a recollection, as to about when that occurred?---It would have been some time ago, like, we're talking more like 2012, 2011/12, that sort of time.

20 Thank you. And was the fundraiser for a local government campaign, can you recall?---I wouldn't have thought so, no, but it might have been for his state, state campaign, or I can't remember.

All right. Was it well-attended?---Yeah, I believe so, yeah.

All right. Would there be dozens of hundreds of people, how would you put it?---Yeah, approaching 100, 100, 200, yeah, I would say.

30 All right. Thank you. Now, would it be correct that you and other councillors such as Councillor Megna, Cestar and McCaffrey, had some discussions about whether or not Mr Sidoti had some, his family had some properties in the, firstly the Five Dock Town Centre area?---If we did I don't remember them.

All right. But is it the type of matter that you could possibly have discussed with other councillors?---Possibly, but I don't remember ever explicitly discussing it.

40 Now, could the witness – so I'll just ask you this. Did you – you gave some evidence yesterday at 796, Commissioner, line 20 - - -

THE COMMISSIONER: Yes, thank you.

MR NEIL: - - - that you were, you said you attended, "It was either, whether it was a formal Chamber of Commerce meeting or not it was as you know some kind of meeting involving representatives of the Chamber of Commerce." Do you have a recollection of having some meeting, whether

formal or otherwise, with representatives of the local Chamber of Commerce?---I believe so, yes.

And would that have been – are you able to put any time on it?---How long the meeting went?

No, about when it happened. Firstly, were you a councillor at the time?
---Yes, I was.

10 Thank you. And was the – can you recall the names of any of the persons who were representatives of the Chamber of Commerce?---No, I can't.

Does the name of a Mr Haron cause any recollection in your mind?---It's unfamiliar, but he may well have been there, yeah.

Now, you've given some evidence that you thought that Mr Sidoti at some time considered that you may have not been as supportive of business interests in the Five Dock area as you might otherwise have been. Do you recall that?---Yeah, I think the way I worded it was, the way I interpreted
20 his advocacy is that we could act more strongly for some commercial interests, yeah.

And was the purpose of your meeting with members of the, or representatives of the Chamber of Commerce to hear their views on matters relating to development in the Five Dock area?---Yes.

And do you recall attending a meeting with some representatives of the Chamber of Commerce at which Mr Sidoti was present at the introductory stage but then left and did not be part of the meeting?---That's possible,
30 yeah, that is possible. Yes.

Can you recall whether you attended together with any other councillors?
---I know they were invited but I can't remember who, or anybody else turned up. Possibly only Councillor Megna may have been there.

Amongst the persons invited that you said you knew of, did that include Councillor McCaffrey?---It's possible, but I can't remember her there, but it's possible, yep.

40 Did it include Councillor Cestar?---I don't think she was there.

But do you understand she was invited?---Yes, yes, yes.

Thank you. And was one purpose of the meeting to provide councillors with feedback from the business community?---Yes.

And were the representatives of the Chamber of Commerce seeking, amongst other things, some additional floor space ratio and heights in

certain areas?---I would say it was more – they certainly weren't seeking or, you know, suggesting any particular decisions but I remember it being a bit of a, almost an educational (not transcribable) that you needed a certain level before things became profitable in terms of floor space ratio or heights or something along those lines, yeah.

Thank you. And do you recall if there was any discussion about the interests of shopkeepers in the local government area?---I would imagine so. Yeah, I mean, but I can't remember specifically but it, it would make, I
10 would certainly expect something like that at a Chamber of Commerce type discussion.

Thank you. And discussion about the interests of small business people in the area?---Yes, absolutely.

And is one of the policies on which the Liberal Party has traditionally campaigned at various levels of government, is support of small business?
---Yes.

20 And is the classic small business the shopkeeper?---Yes.

And would it be correct to say that as a councillor, you took your duties seriously?---Yes,

And if you had some constituents who were not in favour of development but other constituents or organisations within the community who favoured development, did you see it as your task to carefully consider the different views and try to reach a decision that balanced the interests of the different sections of the constituents in the community?---Yes.
30

And indeed to have simply preferred one view of a set of constituents over the view of others would not have been appropriate, do you agree?---Yes.

Now, was the question of the extension of the town centre one that was a major issue in the Five Dock and Canada Bay local government area?---I would call it significant, yes.

Thank you. And you said you have met Mr Sidoti I think at a bakehouse place and I think the diary note suggests around about 18 October, 2015.
40 Can you recall anything about that meeting?---To be frank I, I, I had, whether, maybe it was an attempt at a meeting. I can't absolutely confirm. I thought we met at the bakehouse.

All right.---But I, I wouldn't say it's a, it's a crystal clear memory.

Now, did you understand that as far as the area on the west side of Waterview Street bounded by Barnstaple Road and Second Avenue that

there had been a Studio GL proposal that had amongst other things addressed questions relating to that area?---Yes.

Did you understand that at some time there had been council staff consideration of the proposal and some exhibition?---I would imagine so, yes.

10 And did you understand that at some time the Studio GL proposals in terms of height had in fact, and other controls, had in fact been pared back?---I can't remember that clearly but I accept that.

And did you come to understand also that an organisation called MG Planning had provided some input to the council and council staff?---That sounds familiar, yes.

And you understood, did you not, that there were a number of exhibitions and the matter came back to council on a number of occasions. Correct? ---Yes.

20 In your time as a councillor, and if you can't say please tell us if you can't say, but had you become aware that significant issues could often result in a number of exhibitions and a number of occasions when the issue would come back before council?---Yes.

And this could span months or years. Is that right?---Yes.

30 Now, can we take it that as I think you've said you never said to Mr Sidoti that you wanted him to stop making any representations to you about the Five Dock Town Centre. Correct?---No, no.

And when you say at times he was a bit theatrical, is it the fact that you didn't take some of his statements as always being something that you fully deliberated on but rather you pass them onto the council. Is that right? ---That's right.

Or the staff.---That's correct.

40 And did you make it clear to Mr Sidoti that your position was that you took what one might call a layered approach to decision-making, you would listen to council officers, Liberal and Labor councillors, consult, such information as you had, attend workshops, form your own independent views on the decisions you had to make?---Yes.

And would it be – could the witness be shown page 356, Commissioner.

THE COMMISSIONER: Yes. 356.

MR NEIL: This is an email of 7 April, 2014, 9.02pm, from Mr Sidoti to councillors. Do you see where he says he would like to organise a meeting, do you see that?---Yes.

Then he makes some statements but then he says this, "Please be well informed on this subject and challenge the thoughts of the staff." Do you see that?---Yes.

10 And did you consider it your duty to be well informed on the subject?
---Yes.

And did you take steps to inform yourself on the subject?---Yes.

And it would be, even though representations had been made a number of times, the mere number of representations would not dissuade you from, if those representations were in accordance with the process, would not dissuade you from pursuing such representations with the staff, correct?
---No.

20 Nor with other councillors, correct?---No.

Nor considering them, correct?---Correct.

And indeed, even if in substance a decision had been made to not rezone the Waterview west, Barnstaple through to Second Avenue area, even if such a decision had been made, if further information was available, you would consider it important as part of your duties to consider that information, would you not?---Yes.

30 And alike, if there had been an adoption of option 2, if there was some further information about it, would you also consider it your duty to consider that information?---Yes.

And would you or not, I will invite you to agree with the proposition, that mere repetition would not be a valid reason, if the repetition was open on the process, to simply disregard it?---That's correct.

40 Now, would it be the case that at no time did you or Mr Sidoti get your heads together to do anything improper?---I, I, that was certainly my experience, anyway.

And would it be the case that you did not dishonestly or partially exercise any of your official functions?---I, I certainly hope not. No, I don't believe so.

Thank you. Would it be the case that Mr Sidoti did not in any way intimidate you?---No, I didn't feel intimidated.

Thank you. And that as far as you were concerned, he did not subject you to any undue pressure, would you agree with that?---I certainly felt that there was a degree – I thought he went a little bit over the top but I still, I had sympathy with it and I didn't, I certainly didn't feel like I had to do anything specific on his account, no.

And you certainly didn't feel any need to ask him to desist, correct?---No, I didn't directly, no.

10

Thank you. Now, did throughout 2016/2017 until your time finished as a councillor, did you maintain good relations with Mr Sidoti?---Yeah, I thought so. Yeah, yes, I did.

Did you maintain any sort of relationship with him after you left the council?---Yes, I did.

20

Good relationship?---I would say so, yeah. I was, if I can clarify, I, I became the, the P&C president of the Drummoyne Public School. So we retained, to some extent, we retained I guess what you call it a community or political relationship. You know, he helped in a variety of tasks there and I sought his advice on matters related to that, be it education grants or playground, various things that might have overlapped with state government. So yeah, we, we retained a, a good relationship and I also sought his advice at the time of, sort of, federal preselection as well.

And were you interested in a federal preselection at some time?---Well, yes, yes, I was, yes.

30

In your observation was Mr Sidoti a competent and dedicated state member of parliament?---From what I could see, I'd had many interactions with him and seen him, you know, interacting with the locals and he certainly had a great rapport with the locals and in my dealings later too I thought he was a strong advocate, so yeah, in, in the vast majority of our dealings I, I found him to be competent and, you know, committed.

Now, I just want to ask you one specific matter about preselection which I didn't deal with earlier. Could I ask, Commissioner, if the witness could be shown page 1501.

40

THE COMMISSIONER: Yes.

MR NEIL: Now, and could this – can you read that handwritten page?
---Yeah, I think well enough, yeah, well enough.

As I understand it, it's some handwriting of Councillor Cestar on the results of the preselection. If you assume those figures, do we see that as to position 1, you received one vote. Do you see that?---Yeah.

As to position 2, you received nought. Do you see that?---Yeah.

Position 3, nought. Correct?---Yeah.

Position 4 you received four votes.---Yeah.

10 But do we see that it would appear that different candidates obtained support from different preselectors, if we look at for example number 2, Ms Di Pasqua and Ms McCaffrey got 11 and nine votes respectively. Do you see that?---Yeah, yeah.

And number 3 position Ms McCaffrey and Mr Yap got nine and 13 respectively. Do you see that?---Yeah.

Ms McCaffrey got 18 in position 4. Do you see that?---Yes.

20 And for position 1, Councillor Megna got overwhelming approval, he got 20. Do you see that?---Yes.

To your understanding was Ms McCaffrey popular with, amongst other persons, preselectors of the Concord branch?---Yes.

Was Ms Di Pasqua popular with members of her branch?---To be honest, certainly at that time I wouldn't say I had like, clear knowledge of that, but she was certainly an active member, as was her family, but, but certainly, yeah, I would say popular.

30 Was Mr Yap a member of one of the Drummoyne branches, not being the one of which Ms Pasqua was a member?---Possibly.

All right. Thank you.---Yeah.

But it would not be unusual if a member of a branch putting him or herself forward for preselection, got support from members of the branch.---Yes.

Yes, those are my questions, thank you, Commissioner.

40 THE COMMISSIONER: Yes, thank you, Mr Neil. Mr Ranken, anything further?

MR RANKEN: No, I don't have any questions arising from that examination.

THE COMMISSIONER: Okay. Thank you for your attendance, Dr Ahmed. You are excused.---Thanks.

Thank you. Yes.

MR RANKEN: Commissioner, the next witness is Antonio Zaccagnini.

THE COMMISSIONER: Good afternoon, Mr Zaccagnini.

MR ZACCAGNINI: How are you?

THE COMMISSIONER: Do you take an oath or an affirmation?

10 MR ZACCAGNINI: Oath.

THE COMMISSIONER: Thank you. I'll ask you to take the Bible and stand, if you wouldn't mind. My associate will administer the oath.

THE COMMISSIONER: Yes, thank you. Mr Zaccagnini, you appear here in answer to a summons. You are not legally represented here?---No.

10 Under the Independent Commission Against Corruption Act, a witness may object to answering questions. The function of objecting is to attract the provisions of the Independent Commission Against Corruption Act whereby evidence given under objection or documents or items tendered through the witness cannot be used against that witness in any other proceedings, with one exception, and that is if a witness commits an offence under the Independent Commission Against Corruption Act, such as perjury, for example, then the evidence could be used in those limited cases. But otherwise it offers the protection that I've referred to. The witness, whether he receives a declaration based on an objection, that all the evidence is given under objection, still must answer the questions truthfully, of course, or produce any item or document. I can make a declaration that all answers given by you or all items or documents produced are then treated as all
20 subject to objection. The provisions of the Act then operate in the manner I've indicated.---Yes.

Having given you that explanation, it's a matter for you, but do you wish to object to the evidence in accordance with the provisions of the Act or not?
---Yes.

You indicated yes, you do?---No.

30 Oh, I'm sorry. No, you don't?---Sorry, I don't, didn't understand that.

I'm sorry, you don't wish to object to the questions asked, is that your position?---No, I don't object.

You don't? You are entitled to if you wish. That's all I'm emphasising.
---Okay, yep.

You understand what I'm saying?---Yes.

40 If at any stage and in the event you wish to change your position on that and say you do want to object to any questions, you just indicate that to me, would you?---Okay.

And then we'll deal with it. Thank you, Mr Zaccagnini. Yes, now Counsel Assisting Mr Ranken is going to ask you some questions.

MR RANKEN: Thank you, Commissioner. What is your full name?
---Antonio Zaccagnini.

THE COMMISSIONER: Could you just spell that for the record, your surname.---Z-a-c-c-a-g-n-i-n-i.

Thank you.

MR RANKEN: And what is your occupation?---Accountant.

For how long have you practised as an accountant?---33 years.

10 And do you practice as part of a partnership?---I do.

And what is the name of the partnership in which you practice?---Business & Taxation Concepts.

Is that - - -?---BTC.

BTC.---Correct.

20 And from where does your partnership conduct its business?---147 Northumberland Street, Liverpool.

That's the suburb of Liverpool, is that correct?---Correct.

And have you always been a part of BTC? Has it always been the one partnership that you've worked with as an accountant?---Yes.

But is this the case, that it hasn't always been known as BTC.---No, over the years it's had numerous changes of names and partners.

30 And what are the previous names that you can recall that the partnership had?---Galluzzo Fedele Zaccagnini, Galluzzo & Partners.

Thank you. And what sort of accounting services does the partnership offer?---We do, basically we deal with small business, statutory requirements, tax returns, financial accountants, most kind of things business-related.

And do you know John Sidoti?---I do.

40 And how do you know John Sidoti?---He's a client of the firm. A client of mine.

And how were you introduced to Mr Sidoti, Mr John Sidoti?---Well, we acted for the parents for, the firm's acted for the parents for over 40-odd years so it was just a natural progression.

And have you acted for Mr Sidoti's parents?---I do.

And that is Catherine and Richard Sidoti, is that right?---Correct.

And so is it the case that you have always been the partner or the accountant at the partnership with responsibility for the Sidoti family's financial affairs, is that correct?---No, they were there before my time.

They were there before your time?---Yeah, absolutely.

10 But upon you taking up a position with the partnership, either as an employee or as a partner, did you take on their work, as it were?---I did.

And have you continued to be their accountant since you did that?
---Correct, yes.

And from when did you first start acting for Richard and Catherine Sidoti?
---Oh, it would be close to 30 years.

20 Would that mean, so going back to the early 1990s or even before?---Early 1990s, it would be.

Early 1990s. And in terms of the kinds of accounting services you actually have provided to Richard and Catherine Sidoti, what did they involve?
---Mainly annual financial accounts, tax returns, providing for banks, cash flows, things like that.

Have you also been involved with the setting up of various trust structures?
---Yes.

30 And has that also included being involved in the setting up of companies that might act as corporate trustees of trusts and the like?---Yes.

And have you performed similar functions in respect of Mr John Sidoti?
---Yes.

In respect of Mr John Sidoti, have you provided taxation services?---Yes.

So annual taxation, personal income tax, is that correct?---Correct, yes.

40 And have you also provided services associated with the setting up of various trust structures and if necessary corporate structures that would be part of those sorts of trusts?---Yes.

And do you also know Mr Sidoti's, that is Mr John Sidoti's, wife, Sandra?
---I do.

And do you have any responsibility for her financial affairs?---Same. I do her annual tax returns, yes.

So you do the annual tax returns for each of Catherine and Richard Sidoti, correct?---Correct.

And you also do the personal tax returns of each of Sandra Sidoti and Mr John Sidoti, correct?---Correct.

10 And do you also attend to the financial returns and tax returns of the corporate entities that might act as trustees of some of the trust structures that you have assisted them with setting up, that is both Richard and Catherine Sidoti and John and Sandra Sidoti, is that right?---Correct.

Now, can I ask you then about some of these trust structures and corporate entities that you have had some involvement with assisting either Richard and Catherine Sidoti or John and Sandra Sidoti to establish?---Yes.

Firstly, you are familiar with a company by the name of Deveme Pty Ltd, which is D-e-v-e-m-e, correct?---Yes.

20 Did you have some involvement in the establishment of that company, or assisting Richard and Catherine Sidoti to establish that company?---Yes.

And what was the idea or the driver behind the establishment of Deveme Pty Ltd?---The main objective was to act as trustee for the family trust, the Sidoti Family Trust.

And was Deveme Pty Ltd in fact first registered as a company in 1988?---It was about then, yes.

30 And so were you involved in that, setting it up at the time?---Not the original one, no. That already set up when I was there.

So, Deveme Pty Ltd was a company that already existed before you started dealing with Catherine and Richard Sidoti, correct?---Yes, correct.

But did you come to learn the purpose for which Deveme Pty Ltd initially had been set up?---Not initially, no.

40 But you said you were involved with the setting up of a family trust, is that right?---I was, I was there that time, yeah.

And is that family trust the Sidoti Family Trust?---Correct.

So did you draw up or assist to draw up the deed of settlement in respect of that trust?---We would have ordered that, yes.

And when you say you would have ordered that, do you mean you would have got in contact with some solicitors to draw that up, correct?---The solicitors would have done that, yes, correct.

And what was the reason behind setting up a family trust? Was it associated with any business at all or - - -?---At the outset it was a purchase of 120 Great North Road and the business that was within that building, the function centre.

So, was there already existing at the time you establish or assisted to establish the Sidoti Family Trust a business as a going concern at 120 Great North Road?---Prior to?

10

Yes, prior to that.---Yes. It was known as Castel D'oro.

And was that business being run to your knowledge by Catherine and Richard Sidoti?---No, they, they, sorry, I - - -

Were they, was this - - -?---They purchased, they purchased the business.

So was that in about 1992?---Early nineties, yes.

20

So they approached you because they wished to purchase this business that was being run at 120 Great North Road. Is that correct?---Correct.

And as part of the purchase of the business, were they purchasing the real estate itself, that is the property at 120 Great North Road?---Correct, property and business.

And they discussed with you the best way to go about setting up a structure through which that could be done.---Correct.

30

Is that the situation?---That's right.

And did you give them some advice as to what might be an appropriate structure?---Yes.

And you ultimately settled upon or they settled upon having a trust structure in terms of a family trust. Correct?---Correct.

40

And what benefits did the prospect of a family trust structure provide for Richard and Catherine Sidoti in this context?---Oh, more for asset protection and flexibility within a family trust scenario and discretion of, discretionary powers within the trust.

And so the kind of trust that would be established would be a discretionary trust?---Correct.

And initially Deveme or Deveme Pty Ltd was nominated as the trustee of that trust. Is that correct?---Correct.

And you understood that at that time the shareholders and directors of Deveme Pty Ltd were Richard and Catherine Sidoti. Is that right?---Correct, that's right.

And have they continued to be the directors and shareholders of that company since it was first established?---Yes.

And no one else has been a director or shareholder of those companies?
---No, no.

10

And has Deveme Pty Ltd continued to be the trustee of the Sidoti Family Trust since that trust was established?---Yes.

Now, you told us that one of the things that the Sidoti Family Trust was designed for was to hold the property, 120 Great North Road. Is that correct?---Yes.

And so does that mean that when 120 Great North Road was purchased, it was purchased in the name of Deveme Pty Ltd?---Correct.

20

So Deveme Pty Ltd became the holder of the legal title to the property.
---Correct, as trustee, yeah.

As trustee for the Sidoti Family Trust.---Correct.

Is that right?---Yes.

And was there also established in 1992 another form of trust structure known as the Deveme Pty Ltd Superannuation Fund?---Yes.

30

And what was the purpose behind the establishment of the Deveme Pty Ltd Superannuation Fund?---To make contributions for the employees of the trust, being the family.

And by contributions do you mean in terms of compulsory superannuation and the like?---Correct, yes.

And what property was it envisaged that the Deveme Pty Ltd Superannuation Fund would have within it, just the contributions?

40

---Correct, yes.

And was Deveme Pty Ltd the trustee, named as the trustee of that superannuation plan?---Yes.

So Deveme Pty Ltd was trustee both of the Sidoti Family Trust and the Deveme Pty Ltd Superannuation Fund from sometime in 1992.---Correct, yes.

Does that accord with your recollection of the - - -?---That's right.

- - - of the matters? And just dealing with those two trust structures, as far as the Sidoti Family Trust is concerned, that provided for, as in the deed of settlement for that trust provided for a definition of who would be the general beneficiaries. Correct?---Correct.

10 And did those general beneficiaries include Richard Sidoti and Catherine Sidoti?---I think the trustee would probably name the general beneficiaries as Richard and Catherine.

Yes. And did it also include certain persons who are related to Richard and Catherine Sidoti?---It would, yes.

And they included children and spouses of any children. Correct?---Yes, correct.

20 So that perhaps not in 1992 but – well, certainly in 1992 that would have included John Sidoti, correct?---Correct.

And upon John Sidoti marrying Sandra, she then fell within the definition of a general beneficiary for the purposes of the Sidoti Family Trust, correct? ---Correct, yes.

And they were married sometime later in the 1990s, to your recollection or you don't - - -?---I'm not sure, no.

30 And as far as the Deveme Pty Ltd Superannuation Fund was concerned, did that work in a slightly different way in that one needed to be a member of the fund?---Correct.

And in order to be a member of the fund, it was necessary to be employed by Deveme Pty Ltd, is that right?---Well, not necessarily employed by Deveme Pty Ltd, but the four members were John, Sandra, Richard and Catherine.

They were the four members of the superannuation.---Correct.

40 And were they members from the time the superannuation fund was first commenced?---I think they were, yes.

Now, in terms of taking instructions in relation to the setting up of these structures, do those instructions come from any particular member of the Sidoti family?---Mrs Sidoti.

Mrs Sidoti.---Yes.

So when you say Mrs Sidoti, are you referring to Mrs Catherine Sidoti?
---Correct, yes.

And I'm dealing just with early 1990s.---Yes.

And the Sidoti Family Trust and the superannuation fund. And did Mrs Sidoti also provide you – was she the person who provided you with instructions in relation to such matters as the purchase by Deveme Pty Ltd of the property at 120 Great North Road and the business that was associated with that?---Yes, correct.

And if I was to suggest that Deveme Pty Ltd purchased 120 Great North Road in November of 1992, would you agree with that as a - - -?---Sounds about right, yes.

Sounds about right. Now, just dealing, then, if I could, briefly, with the superannuation fund, Deveme Pty Ltd Superannuation Fund.---Ah hmm.

As you've told us, Deveme Pty Ltd was the original trustee, but did there come a time when it was necessary to change the structure somewhat insofar as who was the trustee of the superannuation fund?---Correct.

And what was it that brought about that change?---It was legislative change that all members of a fund had to be trustees, and all trustees had to be members of the fund.

And was that changed in about the year 2000 or thereabouts?---Early 2000s I think it was, yep.

And so were steps taken to remove Deveme Pty Ltd from being the trustee of the superannuation fund and replace it with each of Richard Sidoti, Catherine Sidoti, John Sidoti and Sandra Sidoti?---Correct.

And in order to do that, was it necessary to have some formal recording of the appointment, or the removal of the existing trustee and the appointment of the other trustees?---Yes, that's right, correct.

And was it necessary to obviously obtain the consent of the incoming trustees to their appointment as such, is that correct?---Yes. Correct.

And would that have required you to provide some advice to the incoming trustees as to what it was, in fact, that they were taking on by agreeing to be a trustee?---Correct.

And I take it this is an area that you're well familiar with in terms of these kinds of structures.---Ah hmm. Yes.

And you most likely have a fairly common practice, as it were, in relation to the kind of advice you would provide to persons who were being appointed as trustees of a superannuation fund, correct?---Correct.

And what are the kinds of things that you make sure to tell incoming trustees about their responsibilities and their rights and obligations?---Oh, the responsibilities for a super fund is basically, the fund is established purely for retirement purposes.

10 THE COMMISSIONER: Sorry, say that again? Sorry, what was the first part?---The fund is established for retirement purposes and that any activity within that fund is purely for the benefit of the fund and its members.

MR RANKEN: Do you advise such persons that whilst they have legal title to the property, as it were, of the fund, that they can only exercise such rights or powers for the benefit of the members of the fund?---Correct.

20 So they are aware then, made aware by you that they do have a power to deal with assets of the fund, correct?---Generally, yes.

Generally. But any such power is subject to the overriding obligation to do so with the interests of the members of the superannuation fund in mind? ---And per the trust, per the deed.

And subject to the conditions of the deed?---Correct.

30 And what about in respect of the reporting of the financial and the taxation reporting requirements. Do you provide advice to the trustees about such matters at the time of their appointment?---Well, we prepare those, yes. We prepare those for the trustees, on the request from the trustees.

On an annual basis, is that correct?---Annually, yes, correct.

And then you provide those to the trusts, do you?---Correct, yes.

And do you go through them with each of the trustees?---Well, no necessarily all of the trustees, no. Whoever's available at the time, yeah.

40 In the case of, let's deal firstly in the case of the Staff Superannuation Fund, would you go through the annual tax returns and financial statements with Mrs Sidoti, that is Mrs Catherine Sidoti?---Yes, correct.

Would you go through them with Mr Richard Sidoti?---Yes.

Would you go through them with Mr John Sidoti?---No always, no.

And was there any particular reason why not always?---Oh, he's always – well, if he was available he would be there but otherwise, he was, he was normally fairly busy so he wouldn't be there.

And what about Sandra Sidoti?---Mostly she would be there, yeah.

And so would this all take place at a particular location?---Normally at Mrs Sidoti's house, yeah.

10 When you say Mr Sidoti's house, are you again referring to Mrs Catherine Sidoti?---Catherine, yes. Correct.

Were most of your in-person interactions with the Sidoti family – be it Catherine Sidoti or John or Sandra, or Richard for that matter – at Mrs Catherine Sidoti's house?---Yes.

20 Did you, at least prior to 2008 – and we'll come to the reason why I mention 2008 in due course – but prior to 2008, did you on occasion have meetings with members of the Sidoti family at 120 Great North Road?---Yes.

And were those meetings generally in relation to matters relating to their taxation affairs and the Deveme Pty Ltd Superannuation Fund and/or the Sidoti Family Trust?---Correct.

Now, if we could stay briefly with the superannuation fund, is it the case that Richard and Catherine Sidoti and John and Sandra Sidoti remained as trustees of the Deveme Pty Ltd Staff Superannuation Fund up to and including a date in April of 2019?---Sounds about right, yes.

30 And were there steps to make a particular change to the membership of the fund and the constitution of the trustees at that time?---Yes.

And what was the change?---John and Sandra elected to roll their benefit out of the fund.

THE COMMISSIONER: Sorry, say it again? I didn't hear you.---Yeah, John and Sandra elected to roll their benefits out of the fund into a retail fund.

40 MR RANKEN: Into a retain fund?---Correct.

You mean a fund that's not self-managed, is that what you mean by a retain fund?---Correct, yes.

But was there something particular that prompted the decision to have that done at that time?---It was requested by John and Sandra.

They approached you to request that that occur?---Correct.

And did they also – so the fact that they were asking to be rolled out of the Staff Superannuation Fund, did that of itself necessitate their removal as trustees from the superannuation fund as well?---Correct.

And so steps were taken then in April of 2019 to roll over their benefits into a retail fund, correct?---Yes, correct.

And to remove them as trustees.---Correct.

10

And from that time on, were Richard Sidoti and Catherine Sidoti the sole trustees and members of the Deveme Pty Ltd Superannuation Fund?---Yes, correct.

I want to deal, if I might, briefly with the property at 120 Great North Road, which you told us was purchased in 1992 by Deveme Pty Ltd but as part of, as the trustee for Sidoti Family Trust, correct?---Correct.

20

And, now, was there an occasion when the ownership of 120 Great North Road was transferred from Deveme Pty Ltd into the names of Catherine Sidoti, Richard Sidoti, John Sidoti and Sandra Sidoti as trustees of the Deveme Pty Ltd Staff Superannuation Fund?---Yes.

But was that done by way of a purchase in that there was a transfer of funds?---There was a transfer, yes.

And I think the purchase price was some \$2 million, is that correct?
---Sounds about right, yes, that's right.

30

And so does that mean that then effectively Deveme Pty Ltd had within it, held on trust for the Sidoti Family Trust, a quantity of funds of cash in the amount of \$2 million?---Correct.

And the legal title to 120 Great North Road was thereafter registered in the names of Catherine Sidoti, Richard Sidoti, John Sidoti and Sandra Sidoti, but as trustees of the Deveme Pty Ltd Staff Superannuation Fund, correct?
---Correct, that's right.

40

Now, in order to facilitate that purchase, it would have been necessary for the trustees, as the purchasers, each of the trustees, to sign the contract for the sale and the transfer of the property, would you agree?---I'm not sure if all the trustees did.

I wonder if we could bring up in the disclosure brief page 2118. Can you see that's the front page of a contract for the sale of land?---Yep.

And can you see that the contract date is 13 November of 2007?---Yes, yep.

There's a purchase price of \$2 million, correct?---Correct, yep.

And can you see there appear to be some four signatures for the purchasers?---Yes.

And there is a witness of signature as well, do you see that?---Yes, that's right.

10 And can you see that the vendor is named as Deveme Pty Ltd as trustee of the Sidoti Family Trust, correct?---Yes, yes.

And the purchasers are named as Catherine Sidoti, Richard Sidoti, John Sidoti and Sandra Sidoti as trustees of the Deveme Pty Ltd Staff Superannuation Fund, do you see that?---Yes.

And if we could then go to 2185 in that same brief. This is the transfer for that transaction, would you agree?---Yes.

20 And it's dated 13 November, 2007.---Yep.

And can you see that there are four signatures in respect of the – sorry, I withdraw that. In respect of the transferees. Do you see where it says “signature of transferee” on the right, the bottom-right corner?---Yes.

And you can see that each of Catherine Sidoti and Richard Sidoti have executed on behalf of the vendor as the directors of Deveme Pty Ltd?---Yes.

30 So, I mean, are you able to identify, from your knowledge of your dealings with Mr Sidoti, are you able to identify his signature?---I see Catherine and Richard's.

But you can't identify as to who of the remaining signatures - - -?---No.

- - - that are either Sandra or John's?---No. No.

But it's likely that one or other of those signatures is, or those signatures are their signatures, but which one is which, you just can't say?---No. I, I, I think I'd recognise it, but, yeah, I'd recognise Richard and Catherine's.

40 And so from that time on – that is, at least from 13 November of 2007 – the case is that Catherine Sidoti, Richard Sidoti, John Sidoti and Sandra Sidoti were the registered proprietors of 120 Great North Road, albeit that they held that title as trustees of the Deveme Pty Ltd Superannuation Fund? ---Correct.

And it's the case, is it not, that that meant that if there was to be any lease that was executed in respect of the property – for example, to let that out to

anybody – or indeed to sell the property, they would each need to execute the relevant paperwork in their capacity as trustees?---I would think so, yes.

And that stemmed from the fact that they were the persons who had the legal interest in the land, albeit wholly for the benefit of the members of the superannuation fund.---Correct.

10 And that continued, did it not, up until the point at which John Sidoti and Sandra Sidoti elected to roll their superannuation benefits out of the Deveme Pty Ltd Superannuation Fund and into a retail superannuation fund, correct?---That’s right, yes.

And it was only at that point that their names ceased to be on the title to the property at 120 Great North Road, is that correct?---Correct.

20 So I wonder if we could bring up page 2186 within the disclosure brief. Now, can you see that this is a transfer to reflect the transfer of the property from Catherine Sidoti, Richard Sidoti, John Sidoti and Sandra Sidoti to Richard Sidoti and Catherine Sidoti?---Yes.

If we could go to 2187, which is the next page. Just – sorry, perhaps I need to go back to the previous page. Can you see under the transferee there’s a reference to consideration?---Yes.

And it simply says, “Without monetary consideration and a change in manner of holding,” is that right?---Correct.

30 And so that meant that there was no money that changed hands. It was just to reflect the change of trustees.---That’s right.

So the property at 120 Great North Road continued to be held as part of the assets of the Deveme Pty Ltd Superannuation Fund, notwithstanding John and Sandra Sidoti’s removal from both being trustees and members of that fund.---That’s right, yes.

And how was then the rollover of their benefits under the fund, how was that effected? Was that done through some monetary transfer?---Correct, yes.

40 I take it then, obviously, 120 Great North Road is not the only asset of the Deveme Pty Ltd Superannuation Fund.---As in real estate, yes.

It’s the only real estate asset, but it must have bank accounts as well. ---Correct, yes.

With funds reflecting the - - -?---The income generated.

The income generated, yes.---Yeah.

And it is the income principally generated from the leasing of 120 Great North Road.---Correct.

Now, I just want to deal with Deveme Pty Ltd and some other aspects of a property that it held as trustee or holds as trustee of the Sidoti Family Trust. ---Yeah.

10 Now, in 2002 did Deveme Pty Ltd purchase a property at 13 Andrew Street, West Ryde?---Yes.

And was that purchased by Deveme Pty Ltd in its capacity as the trustee - - -?---Yes.

- - - of the Sidoti Family Trust?---Yes.

And did Deveme Pty Ltd hold onto that property until 2016, sometime in 2016?---Something like that, yes.

20 And at that time was the property sold for an amount of \$6,860,000? ---It would have been something like that, yes.

Perhaps if we could bring up page 2220. Sorry, I've given the wrong number. Page 2200. Can you see the transfer, that's the transfer?---Yes.

And it's from Catherine Sidoti and Richard Sidoti were the transferrers and the transferee was a Jignesh Kumar Shah.---Ah hmm. Yes.

30 Do you see that? And can you see that the consideration is identified a little further up the page as being \$6,860,000?---Correct, yes.

And do you recall how the sale moneys, or the proceeds of sale I should say, were dealt with in an accounting for the trust? Were they just put in as a receipt or was there a distribution made?---It would have been recorded as a receipt and then distributions of the profits at year end, yes, of the capital gain.

Of the capital gain.---Correct.

40 And would those have been, those distributions of the capital gain would have been made in order to ensure the amount of capital gain that was taxable was minimised. Is that right?---Well, distributed in the most tax-effective manner, yes.

Yes. And what does that mean, how does one do that as an accountant? ---Well, we try and minimise the rates, the tax rates that people pay on potential capital gains.

And does that mean that if there is, for example, a beneficiary under the trust who is not gainfully employed in the sense of receiving income from employment, that they might get a distribution - - -?---Correct. Yes.

- - - that's greater than other members of the, or beneficiaries under the trust who do receive income.---Correct, that's right.

10 Thank you. I want to ask about another property at 122 Great North Road in Five Dock. That was a property that was directly next door or immediately next door to 120 Great North Road.---That's right, yes.

And was that purchased by Deveme Pty Ltd as trustee of the Sidoti Family Trust on or about 1 May, 2015?---It may have been the date, yeah, that sounds about right.

If we could go to page 2348. That's the contract for the sale of the land. Do you see that?---The purchase or the sale?

20 Well, it's the sale of land from – sorry. The purchase by Deveme Pty Ltd but it's a contract for sale of land.---Yep.

In respect of 120 Great North Road with a completion date of 1 May of 2015. Do you see that?---Yes.

And Deveme Pty Ltd is identified as the purchaser but in its capacity as trustee of the Sidoti Family Trust.---Correct.

30 And then in 2017, did Deveme Pty Ltd purchase a property at 124 Great North Road, Five Dock as well?---Yes, yes.

And again, in its capacity as trustee of the Sidoti Family Trust?---Correct.

And that meant that Deveme Pty Ltd, as at 1 December, 2017, held the properties of 124 and 122 Great North Road, Five Dock, correct?---That's right, correct.

It was the registered proprietor of each of those properties, correct? ---Correct.

40 And in addition, 120 Great North Road was, at least as at December 2017, was registered in the name of Richard, Catherine, John and Sandra Sidoti? ---Correct.

And in their capacity as trustees of the superannuation fund?---That's right, yes.

THE COMMISSIONER: Were you consulted or involved in the acquisition of those additional properties, 122 and 124 Great North Road?---No.

MR RANKEN: So, your firm didn't have any – all your firm came to be aware of it was by reason of the fact that that then had to be something that was accounted for when dealing with the taxation affairs and financial statements of the company, correct?---That's right. Correct.

And in relation to the - - -

10 THE COMMISSIONER: Just on that, I'm sorry to interrupt. Did you understand whether there was a particular purpose in the acquisition of 122 and 124 Great North Road by the - - -?---No.

I'm sorry, Mr Ranken, I interrupted you.

MR RANKEN: That's quite all right, Commissioner. I want to move onto a different trust and different company. In 2014, were you involved in the creation of a trust by the name of the Anderlis Investment Trust?---Yes.

20 And how did that come about in the sense that who approached you in order to provide you with instructions about setting up the Anderlis Pty Ltd Investment Trust?---Mrs Sidoti, Catherine.

Catherine Sidoti?---Correct.

And if you have a recollection of this, please tell us, did she just give you a telephone call or did she call by her office?---Normally it would be a telephone call, yeah,

30 And did she tell you what the purpose of setting up the Anderlis Pty Ltd Investment Trust was?---Oh, initially it was a trust that her daughter was going to use and didn't use and on the purchase of the property we utilised that trust.

THE COMMISSIONER: Did you come to understand what the purpose of the establishment of the trust was or what it was used?---No, just for investment purposes.

40 MR RANKEN: Can I ask you this then? So we're clear, did Mrs Sidoti initially tell you that she wanted you to set up an investment trust that would be for the benefit, or to be used by, her daughter?---Correct.

And did she indicate to you at that time what the initial trust property would be?---No.

Did you have any understanding as to what the initial trust - - -?---No, no.

I mean, in order to set up a trust there needs to be some asset that is held by the trust, correct?---Not necessarily.

Does it not?---No.

So you can just set up a company, but don't you need - - -?---Yep. In that case, see, I think Lisa – 'cause I, I don't, we don't act for Lisa. We set up the trust that she was going to use for her own purposes. For what that was, I don't know.

10 But did you take any instructions from Lisa? And by Lisa you're referring to Lisa Andersen, is that right?---Correct, yes.

Who was Mrs Catherine and Mr Richard Sidoti's daughter.---Correct.

And John Sidoti's sister.---Correct.

You didn't take instructions from her?---No.

20 In relation to the setting up of the investment trust and the structure, did you have any contact with her?---Not in my recollection, no.

What about in terms of the establishment of a corporate trustee for the trust? Did you have any involvement with her in respect of that?---I would have, I would have got details, obviously. But whether I got them from Mrs Sidoti or Lisa, I can't recall.

Was this the position, though, that in order to set up the investment trust – that is, the Anderlis Pty Ltd Investment Trust – it was necessary to actually establish the company Anderlis Pty Ltd?---Correct.

30 And that was a company that you had some involvement in setting up, is that the case?---We did, yes.

And was that first registered on 15 September, 2014?---May have been then, yep.

Could I just bring up page 620 in the disclosure brief. Can you see, you recognise this as an ASIC current and historical extract?---Yes.

40 Do you see that, for Anderlis Pty Ltd? Can you see that?---Yes.

And do you see that it was first registered on 15 September, 2014, see that? ---Yes.

And if we could go to page 621. Can you see that under Previous Directors it says that a Lisa Andersen was, and her appointment was on 15 September, 2014?---Yes. Yes.

And she ceased being a director a little over a month later on 21 October, 2014. Do you see that?---Yes.

And do you also see that she is named as a previous secretary with the same appointment and cessation dates?---Yes.

And from 21 October, 2014, as far as her directorship of the company, she ceased being a director, but each of Richard Sidoti and Catherine Sidoti became directors at that point in time. Do you see that?---Yes.

10

And do you know the reason why it was that that change occurred? That having set up this company to be the corporate trustee for an investment trust that you understood was to be used by Lisa Andersen, that there was a change to who would be the directors of that trust?---Correct.

Do you know the reason why?---Well, Mr and Mrs Sidoti were going to utilise the trust.

Instead of their - - -?---Daughter, correct.

20

And in addition we can see that Mrs Sidoti replaced Lisa Andersen as being the secretary on 21 October, 2014. Do you see that?---Yes.

And turning, if we could go over to page 622, the same changes were effectively reflected in the shareholding of the company.---Yes.

And do you say that what caused the change in the ownership and directorship of Anderlis Pty Ltd in October 2014 was because Mr and Mrs Sidoti – that is, Mr and Mrs Catherine and Richard Sidoti – decided that they would use the trust for some other purpose?---Correct.

30

And was that purpose in order to purchase a property?---Yes.

At that time they already had Deveme Pty Ltd as a company, correct? ---Correct.

And was there any reason why they could not simply use Deveme Pty Ltd? ---No.

40

Are there particular benefits of having properties held in different company names?---Not really, no.

Not really?---They're both trusts.

And just in relation to the Anderlis Investment Trust, I wonder if we could bring up page 739. That's the deed of settlement to establish the Anderlis Investment Trust. Do you see that?---Yes.

That's been drawn up by Munro Lawyers, but is this the case, that that was upon instructions from yourselves?---Correct.

10 You arranged for Munro Lawyers to draw up the deed of settlement for the trust. If we could go to the next page, there's the contents of the trust deed. And then going to page, the next page as well, and the next page. When we look at this page, we see that the deed of settlement is made on, and it says 15 September, 2015. Now, I took you to, previously to the establishment of Anderlis Pty Ltd in terms of its registration as a company, which was 15 September, 2014. On the face of this document, it would appear that the deed setting up the trust was actually not done until a year to the day afterwards. Is that correct or is there something wrong with the - - -?---No, there's an error there.

There's an error.---Which was corrected.

And is the error in that the - it's a clerical error, is it?---It was clerical error which was corrected.

20 It was subsequently corrected?---Correct.

And so the correct position is, is that the date of this deed of settlement was in fact 15 September of 2014?---Correct.

That was the date on which it was actually established.---Correct.

Which was the same date as the registration of Anderlis Pty Ltd.---Correct.

30 Because that was the whole purpose, wasn't it? To set up the company in order for it to be the corporate trustee of the Anderlis Investment Trust. ---Correct, that's right.

40 And just staying with the Anderlis Investment Trust, if we go to the beneficiaries, the general beneficiaries, which are defined in item 2 of the schedule, which is at page 764. Do you see that it provides, in paragraph A, that "The general beneficiaries are Richard Sidoti and Catherine Sidoti and the persons related to Richard Sidoti and Catherine Sidoti as follows, namely," and relevantly it includes children and remote descendants of such children, do you see that?---Yes.

And it also includes spouses of any of the foregoing?---Yes.

Now, that effectively reflects the same kind of definition of general beneficiary as there is under the Sidoti Family Trust?---Correct, yes.

And so in a sense the beneficiaries under this trust are no different to that under the Sidoti Family Trust.---Correct.

That would also, when one looks at this deed, and accepting that the date should properly read 15 December, 2014, that suggests that in fact, from its inception, the Anderlis Investment Trust was not established as a vehicle for investments of Lisa Andersen, but rather of Mr and Mrs Sidoti.---Well, Mr and Mrs Sidoti would control it, yes.

They would control it?---Correct.

10 But the beneficiaries were, for example, the beneficiaries weren't limited to Lisa Andersen, correct?---No. No, but would capture Lisa as well.

But it would capture Lisa.---Correct.

She was also captured within the general beneficiaries definition in the Sidoti Family Trust as well, correct?---Correct, yes, yes.

So there didn't really seem to be much difference - - -?---No.

20 - - - or any real reason behind the setting up of this separate investment trust, correct?---No. Not at all.

And I think you've told us or given us evidence to the effect that it was only later that there was a change in terms of what the purpose of the investment trust was as far as purchasing property.---Correct.

And so you came to learn or did you have some involvement in the circumstances in which Anderlis Pty Ltd, as trustee of the Anderlis Investment Trust, purchased a property at 2 Second Avenue, Five Dock, in 2014?---No.

30 No. Okay.---No.

But you must have come to learn of that fact?---Correct.

And how was it that you came to learn of the fact that the property had been purchased by Anderlis Pty Ltd?---Well, the mere fact that we set the trust up and the purpose Mrs Sidoti wanted to use it. So she asked if she could use it to purchase that property. I said, "Yep, that's fine."

40 I wonder if we could bring up page 2345. Can you see that that's the transfer for the property relating to the purchased by Anderlis Pty Ltd? ---Yes.

And it specifies a purchase price of, or a consideration of \$1.3 million? ---Yes.

And Anderlis Pty Ltd is identified as the transferee. Can you see that the date of that transfer was 13 October, 2014?---Yes.

So that is actually, the date of transfer was less than a month after the establishment of the Anderlis Pty Ltd Investment Trust, correct?---Correct.

Could we go back to 2337? This is the contract for the purchase of the property by Anderlis Pty Ltd as trustee for the Anderlis Investment Trust relating to the purchase of 2 Second Avenue. Do you accept that?---Yes.

10 And can you see that the contract date is 15 September of 2014?---Yes.

And 15 September, 2014, is the same date on which Anderlis Pty Ltd was registered as a company, correct?---Yes.

And the same date that the Anderlis Investment Trust was established by that deed, correct?---Correct.

20 So it would seem apparent from this, putting all of those documents together, that the original reason for setting up the Anderlis Investment Trust and Anderlis Pty Ltd was to facilitate the purchase of this property, would it not?---Oh, I can't say that, no.

Well, wouldn't it follow by the fact that all of these things happened on the very one day?---It would, it would suggest, it would suggest that but I, I can't confirm that.

30 Well, one thing you could confirm though is that it could not be the case that the investment trust and the company were set up with a certain purpose in mind and then at later date there was a decision made to in fact use it to purchase the property 2 Second Avenue?---It seems like that.

Obviously Mr Zaccagnini, you didn't have any involvement yourself in the circumstances of the purchase of the property by Anderlis Pty Ltd. Your involvement was limited to the establishment of the trust and the registration of the company, correct?---Correct.

40 Now, that means then, does it not, that if we go – going back to the date of completion of the purchase by Deveme Pty Ltd, of 120 Great North Road in December of 2017, that by that date, specifically 1 December, 2015, the Sidoti family, through various corporate structures and trusts, owned a total of four properties within a very close area in Five Dock, correct?---Correct, yes.

Three of those properties in fact were immediately adjacent to each other? ---Yes.

And the other property that was held by Anderlis Pty Ltd, did you understand that to adjoin 120 Great North Road at its rear, near its rear, to diagonally to it?---No.

But you did know that it was within the same block?---I knew it was within
- - -

The same block?---Yeah, it was within proximity, yes.

10 THE COMMISSIONER: And in general terms did you become aware as to whether those acquisitions as it were around or contiguous to 120 Great North Road were part of a plan or strategy of some kind?---Not that I was aware of, no.

MR RANKEN: Did the Sidoti family – whether it be Catherine Sidoti, Richard Sidoti, John Sidoti or Sandra Sidoti for that matter – ever discuss with you the possibility of development opportunities and how they might structure their affairs in order to facilitate such development opportunities - - -?---No, no.

20 - - - in respect of these properties?---No. I realised the acquisitions were there but we never got to any discussions along those lines.

Are those sorts of matters the kinds of matters, though, that you from time to time do provide advice to clients about, setting up structures in order to develop properties that have already been acquired?---Oh, once it gets closer to a development point, yes, we do a lot of that, yeah.

So as far as you're concerned, at least as far as you're aware, things never got to the point where any members of the Sidoti family approached your firm for advice about - - -?---No.

30 - - - setting up structures to facilitate development of the properties?
---No, definitely not.

Can I now ask you about another trust and company. Are you familiar with a company by the name of Betternow Pty Ltd?---Yes.

And were you involved in any way in the establishment and registration of that company?---Yes.

40 And what was your involvement in having that registered or established?
---We created it, yeah, we established it.

And who asked you to establish it?---That's a trustee of John and Sandra's family trust.

But initially though the company was first registered in 1998 with Richard Sidoti and Catherine Sidoti listed as the shareholders. Is that correct?
---Correct, yes.

And had they asked you to set that up at the time?---That's right, which was basically a shelf company for a number of years.

And so it remained as a shelf company for what purpose, just to have in case they wanted to use it in some way, is that right?---I think it was originally set up, I don't recall exactly why, but we didn't end up using it, it was sitting there and so we utilised it as a trustee.

10 And did that come about sometime in 2014?---It may have been about then, yeah.

And in terms of using Betternow Pty Ltd as a trustee?---Correct.

So what happened, if you could let us know, you were approached by who to use it as a trustee?---As a trustee of?

Well, it was a shelf company, you told us it was a shelf company. Correct? ---Correct.

20 And then at some stage there was a decision to use it to be a trustee, presumably for some form of trust. Correct?---Correct, for, for JAFS Investment Trust.

And was that a trust that was established effectively by John and Sandra Sidoti?---Correct, yes.

And to be in a sense their own family trust.---Yes, correct.

30 Investment trust. Is that right?---Yes, that's right.

And the general beneficiaries of the JAFS investment trust, were they John Sidoti and Sandra Sidoti and persons related to them such as children, spouses and the like? Similar definition as those other trusts?---Correct. That's right, yes.

And again were Munro's Lawyers engaged by yourselves to draw up the settlement deed?---Yes.

40 And in terms of the date, is it the case you don't have an independent recollection at the moment as to exactly when it was established?---No.

I wonder if we could bring up page 783. That's the first page. It names you as the settlor.---Yes.

With Betternow Pty Ltd being the trustee. If we could then go to page 786. The date of settlement is 15 July, 2014. Do you see that?---Yes.

So does that now refresh your memory that that was the date on which it was established?---Yes.

And John Sidoti and Sandra Sidoti are both general beneficiaries of that trust, that investment trust. And turning to the trustee Betternow Pty Ltd, I wonder if we could bring up page 632. This is from the – we might need to go back a previous page, I apologise. That's the first page of the historical company search for Betternow Pty Ltd.---Ah hmm.

10 And we can see that it was first registered in 1998, on 9 April, 1998. Do you see that?---Yes.

And then if we could go to page, the page I initially indicated, which was 632, I think. You can see the previous directors are identified as Catherine and Richard Sidoti and there's also a Peter David Johnson.---Yes.

But certainly from 15 July of 2014, being the same date on which the JAFS Investment Trust was established, each of John and Sandra Sidoti became the directors of Betternow Pty Ltd, correct?---Correct.

20

And just going to page 633. Down the bottom you've got the shareholder interests, but if we could go over then to page 634, we can see that John and Sandra Sidoti were the sole shareholders of that company, correct?---Correct.

And does Betternow Pty Ltd hold any property, to your knowledge?---No.

No, it doesn't?---It doesn't.

30 Okay. Now I want to move on to a slightly different topic, and that is in respect of the preparation of individual personal tax returns for members of the Sidoti family.---Ah hmm.

Now, is it the case that – I want to focus really, principally, on John and Sandra Sidoti.---Yes.

I take it that you would prepare their personal tax returns separately to the personal tax returns of Richard and Catherine Sidoti, correct?---Yes.

40 And in respect of each of John and Sandra, would you do that essentially together, in terms of at the same time you'd do theirs and then you'd meet with them to go through their tax returns?---I'd normally do the whole family at once.

Oh, you'd do the whole family.---Yes.

So you would actually do Catherine, John and Richard - - -?---Yeah, absolutely, yes.

- - - at the same time?---Yes.

And in respect of John and Sandra's tax returns, and perhaps if we could just focus on the period from 2011.---Yes.

2011, focusing from 2011 because that was the year that John Sidoti was elected to parliament, is that correct?---Yes.

10 And from that time, has it generally been the case that Mr John Sidoti's tax returns themselves were fairly straightforward because his only source of income was being recorded as his parliamentary income?---Correct.

His income as a member of parliament, correct?---That's right, correct.

But is it the case that he was required to include on his tax returns details of his wife's income?---Correct.

20 Sandra didn't have any income by way of gainful employment, is that correct?---Correct.

The only income that Sandra Sidoti had – I'm just dealing with the period, say, from 2011 up to 2019 – was the only income that was to be recorded in respect of Sandra Sidoti distributions from the discretionary trusts?
---Correct.

And in particular, were they distributions really only from the Sidoti Family Trust or were there other distributions that she received?---No, it would have been Sidoti Family Trust.

30 Just Sidoti Family Trust?---Correct.

And was your practice to prepare the various documentation and then to arrange to have a meeting with members of the Sidoti family to go through them?---Correct, yes.

And to identify what the source of income and what the various figures meant, is that right?---Correct, yes.

40 So that they understood what it was that they were signing, ultimately, because they had to sign the returns, correct?---Correct. They weren't always all present, though. Like, from 2011, like you said.

Yes.---It was becoming difficult to nail John down, so normally Sandra would be there, and she'd take those tax returns home and get them signed and send them back.

So on those occasions, again, it was your practice to go to the house of Catherine and Richard Sidoti, correct?---Yes. Correct.

And, what, would Sandra come over as well?---Yes.

If John was available, he would come?---Yes.

But there were occasions when he didn't.---Correct.

10 But were there also occasions where he did come in that period from 2011?
---Not many, but yes. Yes.

I appreciate there may not have been many, but between 2011 - - -?---Yes.

- - - and 2019, we would have had - - -?---Correct.

- - - 2011, which is just after he got elected, possibly.---Yes.

20 He was elected in March 2011. Perhaps I need to ask you this. Was there a
general time of the year that you went, you did this work and went over to
the Sidoti family? Was it March or was it October?---Oh, just varied year
on year, but normally tax returns all have to be lodged by 15 May.

That's 15 May if they're being prepared by an accountant, correct?
---Correct.

30 And so can we take it, then, that it was most likely or would usually be in
the first part of the year that you would get the material finalised so that you
could go over to the Sidoti family and go through the material with them?
---It could happen, yeah, that time of the year. Not necessarily always the
same time of the year, yeah.

Well, I'm just trying to work out what your general practice was when it
came to dealing with the Sidoti family's tax affairs. Was it generally within
the first half of each year that you did it?---Generally, yes.

40 And there were, whilst between 2011 and 2017, there would have been –
sorry, 2019 – you would have done this on eight occasions at least.
---Correct.

That is, attended the Sidoti family house to go through the relevant tax
affairs with them.---Yes.

And you would go through not only their personal tax affairs but also the
affairs of the relevant trustee companies, correct?---Correct.

In the case of the JAFS Investment Trust, were there financial statements
that ever had to be prepared?---Yes, yes.

Because there were assets that the investment trust - - -?---Investments.

It didn't own properties, but did it have other investments?---Yes.

And were they, in what kind of form were those investments?---Investment in a unit trust.

So there was an investment in a unit trust.---Yes.

10

And did that unit trust itself own some properties?---I believe so, yes.

So there was, in a sense, an indirect holding of property because - - -?
---Correct.

And the JAFS Investment Trust received income from that unit trust, is that right?---Not sure if it's received income as yet. I need to have a look at that.

20

So what sort of things would you need to attend to, then, in relation to preparing the tax returns for the JAFS Investment Trust?---In relation to the other trusts, obviously tax returns prepared for that other unit trust.

Now, and would you go through, then, with the Sidoti family the information that was recorded in the financial statements of the trustee companies regarding the distributions that were made to various beneficiaries in the year?---Yes.

Is that right?---Yes.

30

And that was necessary, was it not, both so they understood what they were signing when they – that is, particularly Richard and Catherine Sidoti – when they were signing off on the financial statements of the trustee company, correct?---Yes, especially in that period. It was basically just rental and interest income. So it wasn't real difficult.

But in relation to John and Sandra, there were distributions, weren't there, that were made from time to time to Sandra Sidoti.---Correct.

40

And those distributions would have to be dealt with in her personal tax return?---That's right.

And would also need to be recorded on John's tax return?---Yes, normally, yes.

So he would need to be, you would need to make him aware of the fact of the income that Sandra was receiving from the discretionary trust distributions?---I wouldn't necessarily have to make him aware of it. I, it would be included in his tax return.

So it would be on the documentation that he would ultimately have to read and sign?---Correct.

Well, he needs to sign it to acknowledge that he's read it?---To sign, Whether he, whether he reads it or not, I mean, I can't tell you but, yeah.

But if he was present on any occasion when you were over there, you would go through his tax returns with him, correct?---Correct.

10

And so you would, on at least those occasions, be satisfied that you had taken him to any information that related to Sandra's income that had been received from Sandra?---Well, Sandra would be there. So going through Sandra's return, you would know what she was earning.

But also going through his return with him, he would know as well, correct, insofar that his returns referred to it?---Referred, well, in reference to his income, yes.

20

Now, I just want to take you to some of those returns. Just before I do so though, just in relation to each of John and Sandra, obviously I've been speaking so far and I've been asking you questions about the period from the time he was first election to parliament. That prior to his election to the New South Wales Parliament, was it the case that Mr John Sidoti also received distributions from time to time from the Sidoti Family Trust? ---Yes.

So, he and Sandra had both received distributions that were reflected in their tax returns prior to 2011?---Yes.

30

And it was only after 2011 that Mr John Sidoti ceased to have any distributions to him being reflected in his tax return?---Correct.

Did it mean that, in a sense, that there was any increase in the amount of the distributions that Sandra might have received following his election to parliament?---No, necessarily, no.

40

And the particular distributions that were made, how were they generally recorded on the financial statements? Were they simply by way of a transfer of funds into a person's bank account or was there some other way it was recorded for accounting purposes?---No, normally it was just journaled, journaled to a loan account.

And a loan account, would that be effectively, what, that the money was being loaned to the beneficiary or the other way around?---Well, the beneficiary would have a right to that money at a point in time, yeah. Basically a beneficiary loan account.

But even though it's recorded as a journal entry, reflecting a beneficiary loan account, it was still required to be recorded on the beneficiary's personal tax returns, correct?---Correct, yes.

And taking into account as income that might be taxable for the particular financial year?---Yes, correct.

10 So, I wonder if we can then go to page 827 in the disclosure brief. Do you see, that's the profit and loss statement for the Sidoti Family Trust or Deveme Pty Ltd as the trustee for the Sidoti Family Trust. Do you see that?---Yes.

And it records some beneficiary distributions, including an amount of 22,000 in each of the years of 2013 and 2014 to Sandra Sidoti, correct? ---Yes.

And that's income that would then be reflected in her tax returns?---Yes, correct.

20 And would also be noted in Mr John Sidoti's tax returns, is that right? ---Correct.

And then if we could - - -

THE COMMISSIONER: Sorry, there were distributions in those two years to Sandra - - -?---Yes.

- - - in the amount of 22,000 each year.---Correct.

30 And were there similar distributions to John, did you say, or - - -?---No, no, not to John.

He did not, no.---No.

MR RANKEN: But if you were going through the tax returns for each of John and Sandra with them, you would have had to identify that this is where this income has come from and that's why that item is recorded in the - - -?---On Sandra's tax return, yes.

40 On Sandra's tax return.---Yes.

Yes. But also if was appearing on John's tax return you'd have to explain it to him that the reason why that's there is because - - -?---Well, on John's tax return it only formed part of an information section so it doesn't form part of the crux of the tax return.

Yes.---Right. So it's hidden in one of the 28 pages of the tax return.

And are you saying that you wouldn't necessarily direct his attention to that?---No, no, not at all.

Right. Okay. And is that partly because it's really mainly relevant to Sandra's tax returns, as far as you were concerned?---Correct.

10 Now, can we then go to page 893. These are the notes to the financial statement for the year ended 30 June, 2016. And there are some unpaid trust distributions that are recorded there, including in respect of Sandra Sidoti, two amounts, there's an amount of \$22,000 in 2015. Do you see that?---Yes.

And then in 2016 there's a significant amount of 720,000. Correct? ---Correct.

Now, that 720,000, does that reflect a part of the proceeds of sale of the property from 13 Andrew Street, West Ryde?---That's right.

20 And that distribution was to minimise the amount of capital gains tax that would be payable. Is that right?---Correct.

But does that mean that for Sandra Sidoti's tax return in 2016 it was necessary to account for that \$720,000 or - - -?---Yes.

And she would have had to pay some personal income tax in respect of that amount. Is that right?---Correct.

30 And that's quite a significant amount of money to be paying tax on, correct? ---It is.

Even if it is minimising the amount of capital gains tax. Correct?---Correct.

And do you have a recollection of going through Sandra Sidoti's tax return in 2016 and I think having to explain that to her?---I'd say normally would, like, I normally would, yes.

40 When you say "normally would, like, you normally" – you're only going off your - - -?---Every year we'd go through that's the income, that's where it's come from, that's the tax payable, yeah.

I think what you might be saying is that you don't have an independent recollection of doing it on this occasion.---No.

But it's likely that you did because that was your usual practice. Is that the position?---Correct.

Now, I want to move to a different topic, and that is in terms of any advice that you may have given to Mr Sidoti in respect of his obligations when he

first entered parliament. Did you have any conversations with him about what positions he held as trustees or directors of companies and what might need to be disclosed to parliament - - -?---No.

- - - given that he was now becoming a member of the parliament.---No.

No. Did he approach you for any such advice?---No.

10 Has he ever approached you for advice about things that he might need to disclose or whether or not he's the owner of particular properties, anything of that nature?---I don't think, I don't think he, he wouldn't, well, the only property he owned was his house, really.

But apart from that, he's never, but - - -?---No.

Sorry, I wasn't asking what properties he owned, I was just asking whether or not he - - -?---No.

20 No. Because of course in 2011, he was one of the registered proprietors of 120 Great North Road, correct?---In his capacity as trustee, yes.

Certainly in his capacity as trustee. But he was on the title of the property, correct?---On title, yeah.

And did he ever ask you about that, for example?---No.

Whether or not that was a matter that he ought to disclose to parliament? ---No. I don't think he believe he owned it.

30 That's an assumption that you're making, is that correct?---It is.

You didn't have any conversations with him - - -?---No.

- - - about what his understanding was as far as - - -?---No.

Is that the position?---Yes.

40 Are you saying that – did you ever at any time advise him that he didn't own that property?---No.

Just one moment. Yes, thank you. They're my only questions of Mr Zaccagnini.

THE COMMISSIONER: Yes, thank you. Mr Neil, do you have any questions?

MR NEIL: Yes, thank you, Commissioner.

THE COMMISSIONER: Yes.

MR NEIL: Mr Zaccagnini, is it the case that there can be occasions where distributions are shown but are not actually physically transferred?

---Correct.

And don't appear in anyone's bank account?---That's right.

- 10 In Mr Sidoti's situation as a beneficiary of any superannuation fund, bearing in mind that he is, I understand now, 51 years of age, is any benefit shown as being his entitlement only available to him at some time in the future, either if he reaches a pension age or if he gets some sort of exemption from the superannuation trustees for special circumstances such as hardship?
---Correct. You have to meet a condition of release.

Thank you. And what is the age for condition of release in terms of pension age?---It depends on the year that you were born but normally it's about, you could start to access it at about 60 years of age.

20

All right. Thank you. Thank you, Commissioner.

THE COMMISSIONER: Thank you, Mr Neil. Anything arising?

MR RANKEN: No, Commissioner.

THE COMMISSIONER: Well, thank you very much for your attendance here today.---No.

- 30 You're excused. Thank you.---Thank you.

THE WITNESS EXCUSED

[4.03pm]

THE COMMISSIONER: Nothing else?

MR RANKEN: No, not for this afternoon, noting the time, Commissioner. We will commence with the evidence of Mr Daniel tomorrow morning.

40

THE COMMISSIONER: Very well. I'll adjourn until 10 o'clock tomorrow.

AT 4.03PM THE MATTER WAS ADJOURNED ACCORDINGLY

[4.03pm]