

E12/2107/0821PUB02924
01/05/2014

CREDO/SPICER
pp 02924-03011

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION CREDO AND SPICER

Reference: Operation E12/2107/0821

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 1 MAY, 2014

AT 10.04AM

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

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

THE COMMISSIONER: Yes, Mr Watson.

MR WATSON: Just a couple of matters of housekeeping. Although it may have been foreshadowed that we were going to call Mrs Tennille Koelma today, we won't be doing that and she will not be called till Monday. Although we had foreshadowed tomorrow that we may call Mr Palmer, Troy Palmer, and Mr David Sharpe, we've decided that the book is already full, if we just stick with Mr Williams, Holly Hughes and Karen McNamara

10

THE COMMISSIONER: Yes.

MR WATSON: So Mr Palmer and Mr Sharpe will go over to Monday as well.

THE COMMISSIONER: Thank you.

MR WATSON: Thank you. Mr O'Mahoney will take the next witness.

20

MR O'MAHONEY: Commissioner, I call Mr John Caputo.

THE COMMISSIONER: Yes, Mr Caputo, if you could come forward please. Mr Kerkyasharian, you appear for Mr Caputo?

MR KERKYASHARIAN: With your leave, Commissioner, yes.

THE COMMISSIONER: Thank you. Yes, that leave is granted. You've explained to Mr Caputo the effect of an order under section 38?

30

MR KERKYASHARIAN: I have and he seeks one.

THE COMMISSIONER: Thank you. Mr Caputo, do you appreciate that the order under section 38 protects you from the use of your answers in civil and criminal proceedings against you but it does not protect you in the event that you give false or misleading evidence before the Commission?

MR CAPUTO: Yes.

40

THE COMMISSIONER: 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 this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

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

THE COMMISSIONER: Do you wish to be sworn or affirmed,
Mr Caputo?

MR CAPUTO: Sworn, please.

THE COMMISSIONER: Could he be sworn please.

20

MR O'MAHONEY: Mr Caputo, what is your full name?---John Caputo.

Just for the record I understand your full name is John Gennaro Domenico Caputo?---Oh, that's right, yeah, John Gennaro Domenico Caputo, yeah.

10 I was hoping you'd know that better than me but I understand, sir, you're both a valuer and a company director?---That's right.

And that you are also a real estate agent?---Yes.

And you work in latter capacity up on the Northern Beaches?---That's right.

Of Sydney. You are the vice president of the Manly State Electorate or SEC?---Vice President, Vice President, yes.

20 And you're President of the Allambie branch of the Liberal Party?---Yes, Allambie Brookvale branch.

Allambie Brookvale branch of the Liberal Party?---That's right.

You - we've got some evidence that there's a connection between you and Mr Tim Trumbull?---Ah hmm.

Is that correct?---Yes.

30 If I could show the witness a bundle of documents, Commissioner. I have some copies.

THE COMMISSIONER: Thank you.

MR O'MAHONEY: Sir, if I could ask you to turn to page 3976 of this bundle.

MR HENSKENS: I'm sorry to interrupt my learned friend, Commissioner, but could the bundle of documents be identified?

40 MR O'MAHONEY: It's, it's - - -

THE COMMISSIONER: It's a bundle from page 3961 through to 3980.

MR O'MAHONEY: And I'll tender this bundle.

MR HENSKENS: Could I ask, sorry, Commissioner, have these documents previously been made available?

MR O'MAHONEY: They haven't, Commissioner, I was just about to tender them.

THE COMMISSIONER: Yes, thank you.

MR O'MAHONEY: I seek to tender this bundle, Commissioner.

THE COMMISSIONER: Yes, the bundle comprising pages 3961 to 3980 inclusive is Exhibit S39.

10

#EXHIBIT S39 - BUNDLE OF DOCUMENTS – EMAIL TRAILS FROM SKILLED ACCOUNTING TO JOHN CAPUTO (3961-3980)

MR O'MAHONEY: Sir, if I could ask you to have a look at page 3976 I think that that's up on the screen - - -?---Yes.

- - - as well for those following?---Yeah, I've got that, yeah, ah hmm.

20

This is an email from an employee at Taxback Australian, you understand that to be where Mr Trumbull worked?---Yes, that's right.

And it's to various internal email addresses at that company?---Ah hmm.

If I could just take you to the last couple of lines before the sign-off, "Thanks, kind regards" - - -?---Yes.

30

- - - and it's, the email's entitled "Telephone training" and it appears to be an email setting out some instructions for people within the office as to how to answer the phone, do you accept that?---Ah, no, I don't.

Well, "When answering the phone, particularly if it is for Tim, you need to make sure that you get all the details of who that person is and what they want."?---Oh, let me have a look at it. Let me read it again.

40

No, no, I appreciate that?---"If it's John Caputo (not transcribable) a member of the family Tim will always usually want to take this call unless he is busy." Oh, look, I'm not sure why - I don't know anything about that.

Okay. Well, it appears to be internal instructions with Mr Trumbull's workplace as to how the phone is to be answered but I just draw your attention to the last paragraph. "If it's John Caputo, Simon Williams, Lynn or a member of his family Tim will always usually want to take this call unless he is busy."?---Yeah, well, I don't know anything about that.

No. But I just, I just draw that to your attention - - -?---I understand what you're saying, yeah, I understand, yeah.

- - - provided by way of background. In that context it must be the case that you and Mr Trumbull had something of a close relationship?---I met Mr Trumbull through the Liberal Party um, we are friends, mutual friends for the Liberal Party.

And did you, I mean friends a broad church, sir, did you become quite close with Mr Trumbull courtesy of that acquaintance?

10 ---Um, I wouldn't say close, no. We have coffee every now and then, we've had lunch.

THE COMMISSIONER: Do your families spend time together?---I beg your pardon?

Do your families spend time together?---I've been to dinner with Mr Trumbull and my wife and his wife, yes.

20 MR O'MAHONEY: Okay. Cast your mind back to 2011 to the best of your recollection how often were you in contact in any way with Mr Trumbull?---Well to be honest with you I don't remember but I would - - -

Well that's - - -?---Maybe every, we've had coffees and we've had, I didn't know him that well because I only met him around towards the end of 2010 um, through the Liberal Party.

Mr Caputo, I'm not going to hold you to a number of minutes spent with Mr Trumbull in 2011 but broadly speaking was it once a week, was it once a day, was it twice a day, was it once a month?---Maybe once a month.

30 Once a month. And is it the case that from time to time Mr Trumbull made donations to the Liberal Party?---Yes.

And is it the case that in 2011 he made it clear to you that he wanted to make some donations to the Liberal Party?---Yes.

What were the circumstances in which he made that clear to you?---Right. He, he rang me up and he said to me that he wanted to donate to the Liberal Party.

40 Stopping there, is this early in 2011?---I think so, yes.

Yes?---Yes, yes.

Go on, what were the circumstances?---Um, he rang me up and said that he wanted to donate to the Liberal Party and um, he asked me who to make the cheques out to and I said Liberal Party Australia New South Wales Division and he said that when he was ready would come to my office and um, give the cheques.

Did he tell you why specifically he wanted to make a donation to the Liberal Party?---Yes, he said he wanted to get rid of this Labor Socialist Party.

I was going to ask you did he use the word socialist?---Yes, he did.

But he did, true to form he did and the, did he say to you how the, how he would like those cheques to be used to that end?---No, he didn't.

10 And he foreshadowed you said in that phone call that he was, he would drop off the, the cheques or come to you with a donation, is that what occurred?
---Yes.

And is it the case that he came to your office in Dee Why to achieve that?
---Yes.

And can you tell us what happened, he came to your office in Dee Why what, armed with some cheques?---Yes, look I can't remember exactly but I think he, he came in, I think he might have rang me up came in and gave me
20 the cheques, yes.

And was that on one occasion, sir?---Um, he – on two occasions.

On two occasions. Both in - - -?---He gave me another lot later on.

Say that again?---He gave me another lot of donations at another time.

Does this accord with your recollection that in February 2011 he came and presented you with on 17 February a number of cheques?---Look, I think
30 it's right, yeah.

And one of those cheques was in his name one was in his wife's name, one was in the name of a company skilled that he controlled, and another few cheques were in the name of employees that worked for him?---That's right, yes.

And that on 16 March does this accord with your recollection, a number of other cheques were delivered by him - - -?---Yes.

40 - - - to you?---Yes.

Now were there any conversations that occurred upon, between you and him on delivering those cheques to your office?---Um, not really, no, he just said he wanted, again he said he wanted to get rid of the Labor Party Federal and State.

Well it's clear we understand what he desired but did he say anything about how these cheques were going to achieve that or what they were in aid of?

---Oh no, he just said that it would help the Liberal Party and I made sure that I told him that when, what he, when he rang me the second time I made sure that he, I, I made sure that he would, the cheques would be made out to the Australian Liberal Party, Liberal Party of Australia New South Wales division, I made that very clear.

Now something that must have struck you about these cheques was that they were as I have already indicated they were drawn by different people - - -?
---Ah hmm.

10

- - - and did you make any effort to get to know who the drawers of these cheques were?---No, only his wife and, and him.

So you didn't know for example who the employees were that had drawn these cheques?---No, I went to his office once and I think I might have said hello to one of the employees but I don't, didn't know them, no.

20

And is, is it the case that anything was done on your part at all to ensure that the people making out those cheques were not prohibited donors?---No, I told Mr Trumbull that developers could not donate um, hoteliers and poker machine companies, I made, I made that clear to him.

Okay. You made that clear to him - - -?---Yes.

- - - but I'm assuming the cheques what - and if the answer's nothing - - -?
---On what, sorry, what was that, sorry?

30

What steps did you take to ensure that the cheques that had been made up by people you didn't know were not made out by prohibited donors?---Well I didn't know, I didn't do anything about that.

Okay. And did Mr Trumbull say anything to you about, about how it came to be that he was handing you multiple cheques?---No.

Were you here yesterday, sir, when Mr Trumbull gave his evidence?---I was here.

40

And did you hear the evidence that was given about really the scheme that he devised?---I, I heard that, yes.

A fairly basis scheme you'd accept?---I heard that.

And you can see the, the risks that arises, sir, when a gentleman comes to you with a bunch of cheques and hands them to you and no effort is made to understand whether or not they're from prohibited donors or, or how they came to be, you can see the risk is that one individual might want to make a donation of \$20,000 but it barred from doing so, an easy way to do it is just

to get five compliant staff members and, and have them all write cheques for smaller amounts?---Yeah.

There's nothing scientific about that?---No.

Did you on hearing that evidence yesterday how did it make you feel?--- Well, I wasn't aware of that so I, I didn't, I didn't, I didn't know that such schemes were, were around.

10 Did Mr Trumbull speak to you at the time of giving you the cheques and say something along the lines of listen I want to give an amount that is beyond the legal limit what I'm going to do is have a few staff members put pen to paper and we'll get a cheques together?---No, he didn't.

Didn't say anything along those lines at all?---No, not at all.

And on receiving the cheques, Mr Caputo, what did you do with them?
---Right. What we normally do is we sent them to our treasurer or we send them to head office and that's what we done with the cheques.

20

You say you, you ordinarily would send them to the treasurer or to head office?---That's right.

Okay. Well what we know about these cheques is, Mr Caputo, these cheques ended up in the hands of Mr Christopher Hartcher I think - - -

Well sorry, I take that back. These cheques we know were ultimately banked in, in a law firm, the trust account of a law firm Hartcher Reid. Is it the case that you presented these cheques at some point or gave them to Mr Christopher Hartcher?---No, I didn't give them, give them to Christopher Hartcher but as you, um, Mr Hartcher, excuse me, did ring me at some stage and um, he said he needed funding for the Central Coast and three cheques from Mr Trumbull went to Mr Hartcher's office.

30

Okay. And roughly to the best of your recollection when was that phone call made?---Look I, I cannot recall, I don't remember that.

But assuming you got these cheques in February and March of 2011 was it soon after receiving these cheques?---To be, to be honest with you I can't, I can't recall, don't remember.

40

THE COMMISSIONER: Mr, sorry, Mr Caputo, could I just clarify, you said that you would ordinarily send cheques that were made out to the Liberal Party to head office?---Liberal Party head office, yes.

Yes. Whereabouts in Sydney?---In William Street.

In?---William Street, Sydney, yes.

In William Street. And, and would you normally do that by putting them in the mail?---Yes.

So that would be something that you would have done by way of general practise within a week of receiving the cheques?---Within, within a week yeah, something like that, yeah.

10 So does that assist you to determine that the phone call from Mr Hartcher was probably in the space of about a week after the cheques were delivered?---Look, as I said I can't recall the phone call exactly when it was.

MR O'MAHONEY: You can't recall the phone call exactly when it was - - -?---No.

- - - but we must assume probably within 2011?---Yes.

20 Well let's think about it, it had to have been between you receiving the cheques and the cheques making their way to the Hartcher Reid trust account, do you accept that?---Well I would say, yes.

And as best you can recollect, sir, and no-one's expecting you to recall word for word or holding you to a word for word recall of that conversation, what did Mr Hartcher say and what did you say to him?---Mr Hartcher said that he needed, the Central Coast needed funds and he asked me whether I was able to assist and I said I think I can and I did.

30 And what did he say about the need for funds on the Central Coast?---Um, from memory I think he said that for the campaigns.

Did he say that the campaigns were cash strapped?---Oh, he didn't say that, no, no.

Did he indicate there was a specific need for funds?---No. I don't recall.

And in response to that were you able to say, good news, I've got some cheques in the bottom drawer?---Well, I said to him, I said I was able to assist him, yes.

40 And courtesy of the fact that you had these cheques that you'd been given by Mr Trumbull?---Yes.

Mr Caputo, we've got some information that indicates that these cheques, we've got some information indicating that these cheques were earmarked for the support of Chris Hartcher at a much earlier stage, i.e. at the point of drawing. Were you aware of that, did Mr Trumbull say anything to you? ---No.

Well, tell us this, Mr Caputo. When you look at these cheques, they're made out to the New South Wales Liberal Party. Do you accept that? Yes. Oh, of course.

And you've spoken earlier about what the usual practice would be, about how they'd be treated?---Yes.

10 It appears here there's been a diversion from the usual practice, you have to accept that?---Well, no, it's not unusual, sometimes some seats require money so it has happened that we have given money to other seats.

There's a lot of questions coming from those few words, Mr Caputo. Who is we?---Well, you know, I'm talking, I'm talking about the Liberal Party, the, the conference, my conference.

Mr Caputo, moments ago you said the usual practice was for cheques made out to the Liberal Party to be sent to the treasurer or to headquarters? ---That's right, yes.

20 Here you've outlined a situation- - -?---But on occasions we- - -

If I could finish, Mr Caputo?---Sorry.

You've outlined a situation where an individual member has called you, said he needed support, and cheques made out to the Liberal Party have been sent to him?---Yes.

30 I'm just wanting you to accept, sir, that's a diversion from what you said was the ordinary practice?---Yeah, yes.

Do you accept that?---Yes, I do, yeah. But no, no, I want to say that um, it has happened in the past that if conferences, other conferences need, require funding, that we, it's happened before.

Okay. Could you just to the best of your recollection tell us some stories about where it's happened before?---Um, look, I can't recall.

40 Oh, come on, sir, just one example. If it's, if it's not that uncommon an occurrence, what campaign, what member?---Look, I do not recall.

Was it in respect of the State election in 2011?---Yes, it could have been, but I can't, can't recall.

And who else, who was another member or another branch that called up and said we need support, direct support?---Well, we had, we had calls from all branches, all, all conferences that wanted funds. Um, ah, Parramatta, all those, all those ah, ah, conferences.

Again you said “We had calls.” Who’s the we, who’s receiving these calls?
---Well, look, I’m, I’m talking about Liberal, Liberal Party, my conference.

You’re talking about- -?---Because I was the president at that time.

You’re talking about the Manly conference?---Yes.

10 And did you get permission from the Manly conference to act in this way, to
send the funds off elsewhere in the state?---Look, I, from memory I think I
might have rang the treasurer and maybe one of the guys on the committee
and asked them whether it was okay and ah, they, they had no problems.

Who was the treasurer of the Manly SEC?---Phil Young.

Say that again?---Phil, Phil Young.

And who were the members of the committee you might have run it by?
---Um, could have been Walter Villatora from memory.

20 Okay. And it seems that this wasn’t a one-off, that i.e. the sending of
money to assist Mr Hartcher, you’ve had a few more minutes to think about
it. Just give us another example of someone else who requested fund?
---Um, there was a fundraiser ah, and we had ah, for the Central Coast and
there were other funds going to there which I saw on the screen yesterday
and I also saw there was certain cheques that went also, I think it was three
or four, I can’t remember.

30 If you have a look at that bundle of documents in front of you- -?---Ah
hmm.

- - -there is in there at page 3972, this is a document, it looks like a flyer or a
brochure, and in red at the top it says, “John Caputo, President of the Manly
Conference Liberal Party of Australia New South Wales Division invites
you to a dinner with special guests, the Honourable Chris Hartcher, Shadow
Special Minister”- -?---What number’s that, sorry, what, what- - -

3972. It’s on the screen, Mr Caputo?---Oh, yeah, yeah, yeah.

40 Just, it just looks to be an invitation, but it’s you as President of the Manly
SEC- -?---That’s right.

- - -making an invitation to a dinner with these special guests who were Mr
Chris Hartcher and the Honourable Greg Smith. Do you see that?---That’s
right, yes.

To be held at the Sheraton On The Park?---That’s right.

The date, 24 March, 2011?---Yep.

Dress, lounge suit. And down the bottom it looks like you're the, the person, the go-to person for the making of cheques?---That's right.

Now, you said moments ago that there was another occasion where some moneys, some cheques were sent up to support the Central Coast?---That would have been this one here.

And this one here?---Yeah.

10

Now, just about that, how many people roughly attended this dinner, Mr Caputo?---Ah, probably about 12 or 15 people.

And what would they have paid per head?---Um, some paid 500, some paid 900, some paid 1,000.

So roughly, and I know you haven't got a calculator in front of you, but what was the total take from this event?---Um, look, I can't remember exactly but could have been five, eight, 10,000, something like that.

20

Okay. Was this, it was a success?---It was good, yeah.

And is it the case that the money raised, that eight to 10,000, obviously there would have been some expenses with the booking and so forth- -?---Yeah.

- - -room hire, but is it the case that those moneys were sent up to the Central Coast?---Ah, some was, some of the money was, it was done through head office actually.

30

Okay?---We sent, we sent some cheques directly, I think some cheques that came after the event we sent to the Central Coast.

Okay. Roughly what amount was sent to the Central Coast?---Look, I can't remember exactly, five, five or 6,000, something like that.

And I've got to ask you again, you said, "We sent some cheque, roughly five or 6,000 to the Central Coast." Who is the we?---Yeah, well, um, I shouldn't say we, I sent them.

40

Okay?---Yeah.

You're speaking about yourself in the plural?---Yes.

But you also seem to be talking about getting permission from headquarters, from the Liberal Party head office, you've said that a couple of times. Who were you speaking to at the Liberal Party head office?---Um, what, sorry, can you repeat the question?

In response to a line of questions about the moneys, the cheques that were sent up to the Central Coast, you said words to the effect that you ran it by, it was done through head office?---It wasn't head office, no, it was my conference, like my committee of the conference, not, not head office.

Okay. So did you get permission from the head office of the Liberal Party to send funds raised from this function to the Central Coast?---(No Audible Reply)

- 10 Surely you would have had to run it by them?---No, I, no, because this, this function was for the Central Coast, so, so it wasn't ah, we didn't, Central Coast, the head office knew about this function.

But again, consistent with the cheques that we've been discussing earlier, those made out by Mr Trumbull and his cohort, on this page it indicates the cheques were to be payable to the Liberal Party of Australia New South Wales Division?---That's right, yes.

- 20 Surely you have to get permission from the New South Wales Division to have cheques made out to it- -?---No, but that fundraiser was for the Central Coast so they knew about that.

So they knew about that. Who knew about that?---Ah, the deputy director of the, of the State Liberal Party.

And who was that at the time, sir?---Look, I can't recall exactly. There have been so many changes I can't think of his name.

- 30 Okay, well, just cast your mind back. Who was, who was the person who would have been aware of that and signed off on that?---I don't think he had to sign off but I can't, I can't think of his name.

Who else would you have spoken to about this arrangement, i.e. cheques made out to the Liberal Party of Australia New South Wales Division being sent to the Central Coast, who else at Liberal Party head office?---Just the, just the deputy director.

Of finance?---Yeah.

- 40 Was it a gentleman by the name of Simon McInnes?---Oh, look, I'm not sure whether I spoke to him, I could have spoken to him but it was someone which is the deputy director and I think Simon McInnes is the financial director.

And can you picture the man as you're sitting there today?---Sorry?

The person we're talking about whose name you can't recall, can you picture him?---Um, look, I've, I've met him a couple of times, yeah, but I mean I, I just can't think of his name.

And paint a picture for us as best you can, what does he look like, how old was he?---Probably about 40 years of age.

And anything about his appearance that struck you?---No.

10 Just a normal-looking guy?---Yes.

Who happened to be the deputy director of finance?---No, no, no, deputy director of the Liberal Party.

Deputy director of the Liberal Party?---Well, he's, he's the deputy, they have a general manager and he's the second-in-charge.

Well, I just want to be clear about this because we obviously might need to speak to this person?---Ah hmm.
20

But we're talking about someone who was the deputy director of the Liberal Party as at March 2011?---Yes.

And what did he say about this idea of sending cheques made out to the Liberal Party of Australia New South Wales Division to the Central Coast? ---This was a fundraiser in particular for the Central Coast.

No, that's not an answer to my question, sir?---Yeah, yeah. I mean I'm not sure, look, I don't know what he said, I don't know what he said, but this,
30 this- - -

But did he say don't do it?---But this, this - I beg your pardon?

Did he say don't do it?---Sorry?

Did he say whatever you do don't do that?---No, no, no, no.

Did he say please do it?---No, he didn't say that at all, no.

40 Well, what did he say?---I, I can't recall what he said.

MR KERKYASHARIAN: Can I, can I object here, Commissioner? I don't think that this witness has said that that conversation has occurred. I don't think he said that - - -

THE COMMISSIONER: He said, he said he spoke to someone who he described as the Deputy Director other Liberal Party as at March 2011.

MR KERKYASHARIAN: I accept that, Commissioner, but I don't think he said I asked him specifically about speaking to - - -

THE COMMISSIONER: Well, no, I know, I know he hasn't given evidence of what the conversation is but that's what the questions are directed to.

10 MR KERKYASHARIAN: Well, I just - it seems to be that they're presupposing that that part of the conversation's occurred without putting that to him.

THE COMMISSIONER: But he'd have to have spoken to somebody in English words. I think what we're trying to get at is what was said more or less but can we, can we just move on.

20 Mr Caputo, we're not expecting you to remember word for word what was said but you had a conversation with someone about the destination of these cheques that were written out for the purpose of this dinner. What, what was the effect of the conversation?---Look, as I said, I, I - Commissioner, I can't recall exactly what happened but this, this fundraiser was, was made for the Central Coast and, you know, that - I can't say much more than that.

MR O'MAHONEY: Okay. Well, can you just tell us, sir, looking at this page, 3972, what is it, just take us to the text on that page that would make someone attending this dinner realise that this was a function that in your own words was always for the Central Coast?---The - on the night of the, on the night of the ah - - -

30 No, if you wouldn't mind, is there something on the page that indicates that? ---No, there isn't.

Could I take you to another document in that bundle at page 3978, Mr Caputo. This is an email exchange and you'll see that it starts as always with an email at the bottom, it looks to be a pro forma type email from you sent to Mr Trumbull on 23 December, 2011 wishing him and the family a Merry Christmas and good health for the New Year?---That's right.

You see that?---Yeah, yeah.

40 And then you've got a response that certainly isn't pro forma. "Dear John and Leticia, wow, John, what a wonderful year it's been in 2011. You are an endless ball of energy in your endeavours to help so many others." Do you see that?---(No Audible Reply)

This is Mr Trumbull celebrating your work in 2011. He then makes some mention of the Manly Lifesaving Club, do you see that, thanking you for your support?---Yes, I do that, yeah.

And then - and by the way, did you know, did you have a connection with Mr Trumbull through that lifesaving club?---No.

Are you involved in any lifesaving club?---No.

But I think I have a recollection that Mr Trumbull was incredibly passionate about the, the state of the, the - I think the clubhouse at Manly, is that right? ---Yes, he was, yes.

10 Particularly I think he had a problem with the men's changing room?---He had a problem with - yes, yes, yes.

If I could then take you to the, the paragraph beneath that where it says, "Congratulations on your appointment as chairman fundraising of the National Conference of the Liberal Party," you see that?---Yes.

20 What was that role, Mr Caputo?---Well, that's word, that wording's wrong, it's not the, not the right wording. Um, I'm the chairman of the ah, Warringah Federal Conference, chairman, chairman of the ah, fundraising committee of the Warringah Conference.

And who were your main points of contact at that time in 2011 at the State HQ, the head office of the Liberal Party?---Well, I have spoken to Simon McInnes a few times but ah, the, the, the second, the guy that um, ah, that I spoke to was the deputy um, the deputy of - - -

The Deputy Director?---Director, that's right.

30 But you've spoken to Mr McInnes. Would you have ever spoken to Mr Nicolaou, do you know Mr Nicolaou?---Yes, I do know him.

How well do you know him?---Oh, I know him but I don't know, I've never spoken to him about ah, this sort of stuff, no.

Out of interest why not? He would have been, he was, he was certainly central to the Liberal Party's fundraising efforts wasn't he?---Yes.

40 And why was it that you never spoke to him about this sort of stuff, ie, fundraising?---Well, I had, I had nothing to do with the - he was in charge of the Millennium Forum I believed and ah, I had nothing to do with that.

So it wasn't the case that you would interact with him given his back story in fundraising?---No, not at all.

In respect of your fundraisers?---Not at all.

Now you mentioned that the reason we looked at this, the flyer for this other dinner that resulted in cheques - - -?---Yes.

- - - I think you said six to \$8,000 in cheques - - -?---Something like that, yes, yeah.

- - - being sent to the Central Coast, I was asking you some other examples of the normal practice being diverted from - - -?---Yeah.

10 - - - can you think of any other examples of that practice being diverted from?---No, I can't but as I said this, this fundraiser was done for, for the Central Coast. On the night of the, on the night of the dinner that we had ah, the, the ah, people that attended um, it was mentioned that it was for the Central Coast.

Okay. But, but were cheques ever sent? You can't maybe recall a specific other incident of the normal process not being followed but were cheques ever sent to a region outside of the Central Coast, to the south or to the west?---Not, I can't recall.

20 When you say that you sent six to \$8,000 to the Central Coast could you flesh that out a little bit. How did you go about doing that?---The money was banked, was sent to the head office and there were some cheques, I think which we received after that were sent to ah, the Central Coast.

Could you just lean forward a bit, it was hard to hear the answer?---Yeah, sure, sure.

Okay. There's a few steps there. You said the money was sent to head office?---Yeah.

30 Who did you send it to at head office?---It was sent to the, to the director and the Treasurer I would say.

And who were those two persons?---Ah, I think it was Simon McInnes from memory, yeah.

Okay. And was Mr Sinodinos the Treasurer at that time?---I'm not sure, I don't remember. It was, I know that he was the Treasurer at some stage.

40 Did you speak to Mr Sinodinos about your fundraisers?---No.

Never?---No.

Even if he was the Treasurer?---No, why would I have to speak to him for?

Well, I thought you just said you sent the cheques to the Treasurer and the director?---No, no, no, the director, the Director of Finance.

And you said the Treasurer?---Oh, I do apologise, that's, that's not right.

Well, have you said, have you taken that back because I mentioned Mr Sinodinos?---No, no, no, it's nothing to do with the Treasurer, it was the Director of Finance. Mr, Mr Sinodinos wouldn't deal with money, it would be the Director of Finance.

Sorry, did you just say Mr Sinodinos wouldn't deal with money?---Well, he doesn't receive - - -

10 Wasn't he the Treasurer?---Yeah, but he doesn't receive the money, it goes to head office.

Okay. But (a) he was the Treasurer and (b) moments ago you said in response to who did you send the cheques to you said that the director and the Treasurer?---No, no, I do apologise, that, that - I made a mistake.

Okay. Well - - -?---Just that it would have been the finance director.

20 You, you say that the cheques were sent to Liberal Party HQ?---That's right.

And then what happened?---They, they would have been sent, that money would have been credited to the ah, Central Coast ah, conferences and they, they would ah, then send them - they would credit them to the Central, Central Coast Conferences, yes.

Mr Caputo, that strikes me as a pretty vague answer. Let's talk about what did happen not what would have happened. You know the money, you say six to \$8,000 ended up on the Central Coast?---Something like that, yeah.

30 Okay. We're not holding you to the exact dollar figure, sir - - -?---Yeah.

- - - but I want to understand how it came to be that that occurred?---Yeah, the money that I received - - -

The money from the Liberal Party headquarters - - -?---Ah hmm.

- - - did you have a discussion with Liberal Party HQ along the lines of this money has to go to the Central Coast?---Yes, I did (not transcribable) yes.

40 Okay. Now who was that discussion with?---Yeah, I think it was with the Deputy Director.

The man with, with no face or name?---Yeah, yeah, I can't think of his name.

Was he tall or short?---Um, I'm not actually - I think he would have been about ah, just in between I suppose.

I don't want to offend him but was he chubby?---No.

Was he a gregarious sort of guy?---Look, I'm not sure, I didn't know him that well.

You're obviously incredibly well connected with the Liberal Party, is that right?---Yeah, yes, I am.

10 Well, is it the case that you could ascertain the name of that man within 10 minutes if we gave you a phone and a little bit of time to yourself?---(No Audible Reply)

Could you work out in the box if we gave you 10 minutes now to work out who this person is?---(No Audible Reply)

If we gave you a telephone, I've never done this before but my, my leader's saying give you phone, could you make a couple of calls and work out who the name of this person is?

20 MR KERKYASHARIAN: I object to that.

MR O'MAHONEY: Well, on what basis?

MR KERKYASHARIAN: Well, how does he know who's going to pick up the phone or that anyone's going to pick up the phone?

30 THE COMMISSIONER: Well, I don't know but he could, he could ring somebody in the Liberal Party who keeps records of who the officeholders were in 2011 I would have thought.

MR KERKYASHARIAN: Well, I would have thought the Commission can do that, I mean - - -

MR O'MAHONEY: Well, do you want me to make the calls for you?
---Well, look, look, the thing is if, if you ring Liberal Party headquarters they'll tell you who the Deputy was in 2011. I mean I don't really know, why, why this is relevant.

40 Mr Caputo - - -?---I don't understand what you're saying.

Well, Mr Caputo, your barrister's concerned about who's going to pick up the phone and I could screen the call for you but I'm saying we've seen evidence that you're incredibly well connected within the Liberal Party, you've been involved in fundraisers, we've got an email here congratulating you on becoming a chairman of a fundraising entity. You've forgotten the name, sir, of someone who is quite important to this investigation and I'm saying in the context of your connections you could be able to work out who that person was within minutes. Is that the case?

---Look - - -

Yes or no?---I can, I can make some phone calls there's not a problem but I think if you want to um, you can, you can check out – it's not a problem to um, find out from Liberal Party headquarters who the deputy director was.

THE COMMISSIONER: Mr, Mr Caputo, can I clarify something, you said, you said it was the deputy director of the Liberal Party as at March 2011 - -
-?---Yeah.

10

- - - is that deputy director of the State branch?---State branch, State branch, yes, State.

All right. So it's the deputy director of the State branch of the Liberal Party in March 2011?---That's right, yes.

And, and then in answer to some questions further you said that you sent the, the cheques from the fundraising dinner to the director of finance, was that also the State branch?---State, yes.

20

Isn't that right?---Yes.

And then you said that the cheques were credited to the Central Coast conference, is that what you said?---That's right, yes.

Do you mean to say that it was the director of finance who took that step namely to credit the cheques to the Central Coast conference?---Well he would have done that, yes.

30

When you say he would have done that why would he do that, is that because you gave him some kind of instruction?---Well the money that we raised for that function was for the Central Coast campaign.

Well did you, is what you told him that they - - -?---Yes, yes.

- - - they were to be credited in that way?---Yes, that's right.

40

And then do you say that, that all of those cheques came back to you or only one cheque came back to you or - - -?---Some, some, some cheques came later on and the ones that I, I received later I sent to the Central Coast.

No. But I thought you were indicating that after the director of finance credited the money to the Central Coast conference some of that money came back to you?---No, no, no, no, definitely not, no, no.

All right. Well we better clarify that 'cause - - -

MR O'MAHONEY: Yeah. There's a few things I'd like to clarify, Mr Caputo?---Yeah.

I mean just thinking out loud, you can't send a cheque to the Central Coast, I mean that'd be like sending a cheque to Penrith. Who was the cheque sent to, these cheques?---It was sent to the, Chris Hartcher's office.

Okay. Addressed to Chris Hartcher?---Look I can't - - -

10 Well who else would you have addressed it to?---I would say so, yes, I think so.

Now so you had a conversation. Now is the person you had a conversation with, we might be able to save you a phone calls and we might be able to stop you having this evidence stood over, was the person without a name thus far a Mr Richard Shields?---Yes.

Okay?---Sorry, I couldn't, couldn't remember the name, yeah, that's it.

20 And apologies to Mr Shields for the non descript - - -?---Sorry.

- - - reflections on his appearance. But, but can I say this you had this conversation with Mr Shields and you said to him the cheques need to go to Mr Hartcher's office?---No, no, I - - -

MR KERKYASHARIAN: Commissioner, can I – this, this - - -

THE COMMISSIONER: Well we're trying to find out what was said.

30 MR KERKYASHARIAN: I understand that.

THE COMMISSIONER: There's no objectionable aspect to the question.

MR KERKYASHARIAN: Well, Commissioner, which cheques? He's given evidence - - -

THE COMMISSIONER: Well that's what we're trying to find out.

40 MR KERKYASHARIAN: Well I'm sorry, Commissioner, he - - -

THE COMMISSIONER: I'm sorry, we don't know because we haven't had any clear indication of whether there was one or more and where they were sent and to whom they were made out.

MR KERKYASHARIAN: Well can I suggest perhaps that that's the better inquiry because he's already given evidence that some of the cheques went to head office and others went to the branch and it's being asked as if all of it went to the same place - - -

THE COMMISSIONER: Well I'm glad you understand the evidence because I don't. Now can we, can we ask Counsel Assisting just to get on with the questions so that we do get to the bottom of it. Thank you.

MR O'MAHONEY: Mr Caputo, just to back step a couple of steps for the assistance of your Counsel you've indicated that we're talking about this fundraiser that was held at the Wentworth Hotel?---Yes.

10 It raised maybe - - -?---No, that the Sheraton Hotel.

Sheraton Hotel. It raised maybe \$10,000?---Whatever, yeah.

You say six to eight approximately - - -?---Yeah.

- - - was sent to the Central Coast. We're talking about those cheques aren't we?---Those cheques, you're talking about - I said seven or 8000 we raised altogether on the night. Right.

20 Yes?---That's what I said. And some of the cheques that we received later on we sent, I sent, not we, I sent for the Central Coast to Mr Hartcher's office.

I want to be clear about this, are the cheques we're talking about the cheques in respect of the dinner that we've been talking about?---Yes.

So it's some of those cheques?---Yes.

30 Okay. And I just want you to understand, you spoke to Mr Shields - - -?
---Yes.

- - - and you indicated to him that those cheques, correct me if I'm wrong were to be sent to Mr Hartcher's office?---No, I didn't, no.

40 Well what was said in that phone call?---No. In, in the phone call when I, when I spoke to him as I recall I mentioned that we had this fundraiser or even I think I spoke to him before that, we're having a fundraiser for the Central Coast conferences and that, that, the money from the fundraiser would go, that money would go to the Central Coast. The money that, those cheques that I received after at dinner I sent directly to the Central Coast so the conference would bank them.

Okay. So correct me if I'm wrong, that wasn't as clear to me as it perhaps could have been but some cheques were received at the time the dinner - - -?
?---Yes.

- - - went ahead?---Ah hmm.

You received them?---Yes.

What did you do with them?---I think, I think, I'm not 100 per cent sure but I think we might have given them to Mr Hartcher.

Okay. How did that come about?---Because that fundraiser was for the Central Coast.

10 No. How did it come about, how did the text get from you to Mr Hartcher?
---I think I would have given to him on the night or after, I can't, I can't recall that.

Just handing over cheques at the end of the dinner , is that, is that what your recollection is?---Well it can, it can be done, it was, that dinner was for the Central Coast there's nothing wrong with that.

I'm just trying to understand logistically - - -?---And it was, the cheques were made out to the Liberal Party Australia New South Wales division.

20 THE COMMISSIONER: Mr Caputo, look I have to say I am completely in the dark here. There was a fundraising dinner and the cheques that were made out to the Liberal Party of Australia were collected at the dinner were they?---Yes, some were, some - - -

Some were?---Yes.

Well you - - -?---And some people paid afterwards.

30 All right. So let's just deal with the cheques that were handed over at the dinner?---Ah hmm.

They were made out to the Liberal Party of Australia - - -?---Yes.

- - - New South Wales division?---Yes.

Were those cheques – how many of them were there, six, seven, eight?---I can't, I cannot remember.

40 Were there a number of them?---Yes.

Were those cheques the physical cheques sent to the director of finance in William Street, Sydney?---(No Audible Reply)

Were they or were they not?---No, they weren't.

Well I could have sworn that about five minutes you said that you sent to the director of finance those cheques which were credited to the Central

Coast conference and then some of them were returned to you, I thought that's what you said?---No, no, no, no, no.

All right. Well let's start again?---Okay.

Did you send those cheques to the director of finance in William Street at all?---Yes, some cheques went to the, some, some of those cheques went straight to head office to the state office.

10 All right, well just stop there?---Yes.

Some of those cheques?---Yes.

Some of which cheques? The cheques you received on the night - - -?
---From the dinner, from the, from the dinner.

Well am I speaking a foreign language? I just thought - - -?---Sorry, I do apologise. The cheques, the cheques that were received on the night um, I believe that we gave some to Mr Hartcher to, for the conference and - - -

20

No, no, no, please, focus on the question?---Okay.

We don't really want to be here for the rest of the day?---Okay.

You received a number of cheques from the dinner?---Yes.

Did you send some or all of those cheques to the director of finance in William Street?---No. We - - -

30 So you sent no cheques to the director of finance?---Yes. Some of the cheques that arrived after we sent to - - -

All right. So let's go back. So none of the cheques that you received at the dinner were sent on to the director of finance, none of them?---No.

What did you do with those cheques? Did you send them to Mr Hartcher?
---The cheques we received on the night I believe were given to Mr Hartcher.

40 All right. They were given straight to Mr Hartcher?---Yes.

Now after the dinner you received some more cheques - - -?---Yes.

- - - for people who didn't pay at the dinner?---Yes.

And did you send those cheques to the director of finance in William Street?---Yes, some went to the director of finance and some went to Mr Hartcher.

So of the cheques that were received at the dinner they all went to Mr Hartcher and then the cheques that came in later - - -?---To the best of memory, I can't remember exactly but I think that's, that's the case.

And then the cheques that came in later some of them went to Mr Hartcher and some of them went to the Liberal Party State office in - - -?---That's right, yes.

10 Right.

MR O'MAHONEY: You indicated before, Mr Caputo, when I was questioning you about the cheques given to Mr Hartcher at the end of the dinner, nothing unusual about that you said?---No, there wasn't, yeah.

Okay. Have you been involved in organising a number of fundraisers?---I have, yeah. I mean I have - yeah, I have.

20 I would assume a lot given your pedigree and background, I mean this would have been one of many dinners you've organised is that - - -?---I've organised it, yes.

And you say it's not unusual to hand the cheques over like that at the end of the night. Have you done that with Mr Hartcher previously?---No.

Have you organised a fundraiser for Mr Hartcher previously?---Um, yes, I have.

30 And why did you not hand him cheques at the end of that night? When was that by the way?---Um, around 2011, um, maybe February, something like - - -

February 2011. What was the- - -?---Possibly December, something like that, yes.

What was the occasion?---It was a fundraiser for, again for the Central Coast.

40 That's clear, but give us a little bit by way of detail. Was it a dinner, was it a lunch?---It was a dinner.

Was it a dance?---Yeah, dinner.

It was a dinner?---Yes.

And where was it?---Um, at the Sheraton.

At the Sheraton?---Yes.

And how many people attended that dinner?---Probably 10, 12.

And what was the sort of price of entry?---Um, between 500 and 1,000.

How much was raised?---Um, I can't remember exactly, maybe 5,000, 6,000.

10 And how was the, how were the spoils of that dinner divvied up, was, was some money again sent to the Central Coast?---I think that money was all sent to the head office from memory.

All sent to the head office. But we know that some of the money that is sent to head office has found its way to the Central Coast, was it the case that that's what occurred- - -?---I think so, yes.

- - -in respect of that dinner?---I think so.

20 Well, just casting your mind back, what conversations did you have with head office in respect of that dinner?---I don't recall.

You don't recall who you spoke to?---I think I spoke to again the deputy director, Mr Shields.

Mr Shields?---Yeah, but look, I can't recall exactly, yeah.

And you said that, what, the money needed to go up to Mr, he was guest of honour at the dinner- - -?---To the Central, Central Coast, yes.

30 And who else, what other politicians have you organised fundraising dinners or lunches or events for?---When was this?

Oh, let's just think around the time of the 2011 election?---Mike Baird, as a, he's, he's actually the ah, Member for the (not transcribable) conference ah, what else um- - -

40 Well, in respect of Mr Baird would you have ever, after a fundraising event, have handed him cheques that were raised in that night?---No, no, we had our treasurer and he, he handled all the money, our treasurer in the conference.

What did you say, he earned all the money?---I said no, he- - -

THE COMMISSIONER: He handled all the money.

MR O'MAHONEY: He handled all the money?---Handled all the money, the treasurer, yes.

Okay, but I thought you gave evidence earlier that Mr Hartcher was handed some cheques at the end of a dinner?---Yes, because the treasurer of the conference wasn't there, of the Central Coast conference, so he would have, Mr Hartcher would have given those to, to his treasurer at the, of the Central Coast.

Sorry, that's as clear as mud to me, Mr Caputo. Did you say that normally the treasurer would handle the money but he wasn't at the dinner that Mr Hartcher was in attendance at?---That's right, yes.

10

So what, you handed him the cheques?---Yes, I did, I gave them to Mr Hartcher and then- - -

Did he say thank you?---Oh, I don't remember what he said.

Was there any conversation around the handing over of the cheques?
---No, I can't remember, can't recall.

Did he indicate what he was going to do with the cheques?---Um, they, they were going to, they were going to go in the, in the ah, Central Coast conference.

20

Did you have a particular passion, Mr Caputo, for campaigning on the Central Coast?---No.

Why so much money-raising for the Central Coast?---Well, Mr Hartcher asked me to ah, he, they needed money for the Central Coast, there were some marginal seats there or seats that I wanted to win and he asked me whether I would assist and I said I would.

30

There were marginal seats all over the state, weren't there?---Oh, yes, sure.

And Mr Hartcher asked you for particular support in respect of the Central Coast?---Yes.

How well did you know Mr Hartcher?---Um, I, well, I've met him through the Liberal Party and I knew him quite well.

How long have you known him for?---Um, 15 years maybe.

40

And when did you first meet him?---Um, probably at a Liberal fundraiser 15 years ago.

And did you become friends on the back of that political acquaintance?
---Yes, we became friends, yes.

How often as at 2011 would you have been in touch with him?---Oh, I'm not actually sure, you know.

No, again- - -?---Three or four times, maybe five times, I really don't know.

What, three or four or five times in the year?---You said in the election, during that election.

No. In 2011 were you in touch with Mr Hartcher once a week, once a day, once a month, twice an hour?---Maybe once a month.

10 Okay. Once a month. And the – you mentioned before that you'd been involved in other fundraisers for politicians, what other politicians have you raised funds for?---(No Audible Reply)

Again let's focus in on this March 2011 election?---Yeah, sure. Um, I don't think there was any others, no, I thought there was, but no, there isn't.

Okay. You did say however, sir, before there's nothing unusual about handing cheques over to the guest of honour at the end of a fundraising dinner?---That's right.

20

That suggests you've done it before, you know it's been done before. Could you just give us some examples of, of when that's occurred?---I, I can't, don't recall.

But hold on – is that a serious answer?---Yeah.

No, no, sorry?---Yeah.

30 Mr Caputo, 10 minutes ago you said it's not unusual. That squarely suggests- - -?---What, what, what is wrong- - -

No, let me finish, Mr Caputo?---What is wrong with giving- - -

Let me finish?--- - - -a cheque- - -

Mr Caputo?--- - - -made out to the Liberal Party of Australia to a Member of Parliament- - -

40 Mr Caputo, whether you think there's something wrong with it or not is frankly of no relevance right now?---Okay.

The fact that you're saying that suggests you're done it. You don't think there's anything wrong?---No, I haven't done, I don't recall that I've done it before.

Well, you've accepted that you've done it, Mr Caputo?---Well, I, I, I, I withdraw that.

What do you mean?---Well, I, look, I, I just can't recall that I've done it before. I um- - -

Sorry, Mr Caputo, you've squarely given evidence that you handed over cheques to Mr Hartcher- - -?---Yes, I have, yes.

- - -at the end of- - -?---I did.

10 Well, 30 seconds ago you just said I withdraw that?---No, no, no, no, not that, other, other, you said other, other members, other members.

Well, no, Mr Caputo, that's where we're going, we're not there yet?---You said other occasions.

Let's just- - -?---That's what you said, you said other occasions.

Mr Caputo, Mr Caputo, you said there was nothing unusual about doing that. Do you accept that?---Yes.

20 About handing cheques over?---Yes, I do.

That squarely suggests to anyone that you've done it before, that you know it's commonplace?---No, I haven't done it before.

Well, what makes you say it's not unusual?---What is wrong with giving a Member of Parliament- - -

No, answer the question?--- - - -a cheque?

30 I'm not asking you whether it's wrong or right, sir. What makes you say it's unusual, it's not unusual?---Well, that's my opinion.

Based on what?---I don't have to base it on anything, that is my opinion, that if you give a cheque to a Member of Parliament made out to the Australia Liberal Party of Australia, you would think that it would go to the right place, the right conference and the right bank account.

40 Unfortunately, sir, it was a bit more specific than that. You said there was nothing unusual about cheques being handed- - -?---Well, I- - -

- - -to the guest of honour at a dinner- - -?---My wording, my wording probably wasn't the right way of - I shouldn't have worded it that way.

- - -at the end of the night. You said there was nothing unusual about that. I'm just asking you for another example of a dinner- - -?---I, I haven't got another example 'cause I don't, I don't know another example, no.

Okay. Well, speaking more broadly, when else can you think of where cheques were written to the Liberal Party New South Wales Division and didn't end up there but were sent to a specific campaign or a specific region?---Sorry, can you repeat that question again?

What other examples can you think of where cheques that were made out to the New South Wales Liberal Party Division- - -?---Yes.

10 - - -were sent to a region or a specific campaign?---I can't think of an example.

THE COMMISSIONER: Mr Caputo, I take it that the Honourable Greg Smith didn't get any of the cheques that night?---No, because it was a campaign for the Central Coast.

20 Can I just ask you this. You said earlier that it was mentioned that the dinner was fundraiser for the Central Coast. Was there some announcement made or was that something that just occurred through- - -?---Yes, no, no, we, yeah, we- - -

- - -conversation at the table?---No, we made a, yeah, I made an announcement.

You made an announcement?---Yes, yes.

MR O'MAHONEY: Was there an announcement along the lines of, ladies and gentlemen, at the end of this dinner tonight I'm going to be handing certain cheques to Mr Hartcher?---No.

30 Well, it sounds a bit like a fraud, doesn't it, Mr Caputo?---No.

Well, cheques are being made out to the New South Wales Division of the Liberal Party and you're saying that you've got no problem with those cheques being handed over to a specific Member of Parliament at the end of the dinner, but the cheques weren't made out to Mr Hartcher or his campaign?---No, but the cheques would be banked in a conference um, and they were made out to the Liberal Party of Australia so they would have been banked in the ah, in, in the conference bank account.

40 But let's just, I mean I'm just – pretend I'm an average punter who's in attendance at this dinner – well, I'm not that average, I've spent 500 bucks to get there?---Yep.

But I've written a cheque to the New South Wales Division of the Liberal Party?---Yep.

And I find out years later that that cheque was put in the pocket of Mr Hartcher later that night. I mean you could imagine someone might not be

very happy to hear that?---It wasn't, didn't go in his pocket, he would have given it to his conference.

In his wallet?---Oh- - -

Well, I mean where was it put?---Oh, look, I don't know where it was put, I mean I don't, I don't think that question's relevant.

10 Well, you said it wasn't in his pocket, it sounded like you know, you knew exactly where he put it. No, could you answer my question?---Can I say that- - -

How would someone know- - -?---Can I say- - -

- - -the cheque was going to go to Mr Hartcher, it was made out to the- - - ?---It doesn't- - -

20 - - -New South Wales Division?---The people that were there that night, there was an announcement made that that money, that money would go to the Liberal Party of Australia New South Wales Division and would be, would, would, would be going for the campaign for the Central Coast. Right. So if I gave, if we gave, if I gave Mr Hartcher the cheques, I would presume they would- - -

But, sir- - -?--- - - -presume they would be banked in the conference of the Central Coast bank account, Liberal Party Division.

30 Well, guess what, sir, that's exactly what didn't happen. It appears that money didn't go to the New South Wales Liberal Party?---Well, which money?

The money that was raised?---Oh, that's not true.

Okay. Well - - -?---I don't think its right. I mean, you know.

Okay. Well, let's talk about - - -?---Well, tell me which money - can I, can I ask you a question? Which money are you talking about?

40 It's an old fashioned system, I'll ask the questions, you answer them, Mr Caputo. Can I ask - - -?---Well, can you clarify that?

Yeah, I will. Let's talk about the money that was, the cheques that you were given by Mr Trumbull?---Yes.

Do you recall those cheques?---Yes, that's - - -

Okay. Again - - -?---I'm pleased that we're going back to that.

Okay, I'm pleased you're happy about that, sir. We're talking about those cheques. They were like the cheques from this dinner made out to the New South Wales division of the Liberal Party, correct?---Yes, yes.

Yet they ended up on the Central Coast?---Yes.

In Mr Hartcher's office - - -?---Yes, I believe so.

- - - addressed to Mr Hartcher?---Yeah, yeah.

10

Now we know those cheques far from going to the New South Wales division of the Liberal Party ended up in the trust account, sir, of a law firm on the Central Coast Hartcher Reid?---Yes.

But not only that, they were then transacted further, sir, I mean they're pretty well-travelled cheques aren't they? They're exhausted by the time they get there?---Looks that way, yeah.

20

It looks like they were then used as payment in respect of IT services to a company known as Mickey Tech?---Ah hmm.

Well, that's exactly what didn't happen, that this money arrived at the New South Wales division of the Liberal Party?

MR KERKYASHARIAN: Well, I object to that. We're talking about two different sums of money. We're talking about the dinner before and now we're talking about the - - -

30

THE COMMISSIONER: That's precisely right, we are talking about a different sum of money.

MR O'MAHONEY: There's no doubt about that, Commissioner.

THE COMMISSIONER: And the witness understands that, the witness said he was happy that we were returning to the subject of the cheques that came from Mr Trumbull so go on.

40

MR O'MAHONEY: Do you accept that's exactly what didn't happen, that the money - you said earlier you took comfort in the fact that the money went to the New South Wales division of the Liberal Party. Here although the cheques were made out to that entity well, gee, they were, they ended up at a place far removed from that didn't they?---That's right, from the evidence I've seen, yes.

And you seem fairly relaxed about that. I mean - - -?---Well, I, I saw the evidence yesterday and I've seen the evidence that you've given already and I - it's obvious that that's what's happened, yes.

But, but I mean how can you be nonchalant about that? That's fraud isn't it?---I beg your pardon, sorry?

That is a fraud?---Well, yeah, it's not, I'm not - I wasn't aware of that ah, ah - that was happening at all, I had no idea. The money as I said was made out to the Liberal Party and I would have presumed it would have gone to the Liberal Party.

10 But let's just look at those Trumbull cheques. There's a fraud going on at the drawing end at the level of Mr Trumbull and his staff, do you accept that?---Ah hmm. Well, I, I accept what happened yesterday, what, the evidence that he gave, yes.

Was that - do you think that was a fraud, what was going on at that - - -?
---Well, yeah, yeah, it wasn't, wasn't right, yeah.

Okay. And at the final end with all funkiness around the, the deposit into the Hartcher Reid trust account - - -?---Ah hmm.

20 - - - the Mickey Tech, there was a fraud going on at that end as well, wasn't there?---Well, it appears that way, yes.

And you were in the middle of it in the sense that you were the conduit?
---Well, the, the cheques that went to the Hartcher Reid whatever had nothing to do with me. I mean, I wasn't aware of anything like that.

Did Mr Hartcher ever say anything to you along the lines of there's this law firm I know on the Central Coast and god it knows how to deposit cheques well - - -?---No.

30 - - - and I'm going to end up putting the cheques in - - -?---No.
- - - through there?---No.

Did he ever mention a company called Mickey Tech?---No.

Okay. The reason I took you to those - - -?---I never heard of Mickey Tech because I - only through the papers, I've never - - -

40 The reason I took you to those two frauds a moment ago, sir, and I said you were the conduit, not in the sense that you were involved in either of them really, you could have been the innocent victim of both, we don't know, but the reason I took you to both of those was you were nonchalant about the fact that you were in the middle of it. I mean how does it make you feel to find out that, that you received these cheques fraudulently, you handed them over to a Member of Parliament who was arguably even more fraudulent with them, how do you feel about that?---Well, ah, I - as I said I wasn't

aware that that was - yeah, of course, it's not a good look at all, it's very bad.

That's it?---Well, yeah, I'm not, I'm not happy at all.

Have you - is it something that you've taken up at all with Mr Trumbull?
---No.

10 Have you received any cheques from Mr Trumbull since these cheques?
---No.

Have you given any cheques to Mr Hartcher since the election of March 2011?---No. Um, yes, ah, those, those cheques um, when did they go, I'm not actually sure when, when those cheques went to him um, there would, there would have been cheques to, after the election, yes.

Well, what other arrangements did you have with Mr Hartcher vis-à-vis fundraising?---Well, what do you mean by that, sir?

20 Well, in the history of your relationship with Mr Hartcher what else have you done to assist him as a fundraiser?---Nothing else.

Nothing?---No, those two, those, those two fundraisers there.

They're the only two events?---Yes.

At that second dinner we were talking about moments ago - - -?---Yes.

30 - - - or at either dinner were there, was there a raffle?---No.

Was there, were there any other means of fundraising?---No.

No silent auction?---No.

And can I ask you this, courtesy of your connections within the Liberal Party and your pretty esteemed back story as a fundraiser for it, you must have been aware of the Free Enterprise Foundation?---No, I was not.

40 Never been aware of that?---Never.

When did you first become aware of it, sir?---In ah, ah, when I saw it in the paper.

Is that right?---Yes.

So this huge donor, I mean we've been talking about today, sir, events that occurred in 2011, you accept that?---Yes.

As at that time and the years prior this was one of the largest donors to the Liberal Party in New South Wales, it was also a huge Federal donor to the Liberal Party, do you accept that?---Well, it looks that way, I, I don't think - as I said I don't know anything about it, never heard of it except through the papers.

How often were you talking to head office about fundraising in 2011?---Ah, I'm not sure, maybe a couple of times a month, I'm not really sure.

10 Who were you speaking to mainly?---Um, Mr Shields.

And when you became chairman of this fundraising entity in 2011 do you say that you never were made aware of the Free Enterprise Foundation?
---That's right.

And on becoming aware of it have you made any inquiries about it?---No, I only heard about it recently, through the papers.

The last few weeks?---Yes.

20

So, but that's what I find curious. You know, you are a very serious fundraiser for the Liberal Party, you've been so for some time and you suddenly discover that at the time you've been raising funds there's someone out there donating these huge sums of money to the Liberal Party. Wouldn't you on the back of becoming aware of that just made some inquiries with some colleagues?---I've only done it through the Warringah Conference, the Warringah Conference, I am, I am the chairman of the Warringah Conference ah, chairman of the fundraising committee, not the Liberal Party of Australia, New South Wales Division so it's just the local Conference of Warringah so ah, that's had nothing to do with me and I - - -

30

THE COMMISSIONER: Mr - - -?--- - - - and I said I'd never heard of it before.

Mr Caputo, can I just ask you something? Given your occupation as a fundraiser within the Warringah Conference - - -?---Yes.

- - - you would I assume have had some interaction with Federal Members in that area such as the current Prime Minister?---Yes.

40

And he's a Federal Liberal Party politician?---Yes.

And despite all of those contacts no one has ever referred you to the, to the, the FEF, the - - -?---The what, sorry?

- - - foundation that Mr - - -

MR O'MAHONEY: Free Enterprise Foundation.

THE COMMISSIONER: The Free Enterprise Foundation?---No, I never heard of it, never, never heard of it.

MR O'MAHONEY: And on hearing of it just not interested, didn't want to find anything out about it?---No, I think it's very serious, no, I mean, I was listening to the, to the ah, hearing yesterday and, yeah, it's unbelievable - - -

10 Well, there's no doubt it's very serious but - - -?--- - - - what's happened, very serious.

- - - not serious enough to make you want to call a colleague and say, well, what's going on, I've never heard of this entity, what's the story with it? ---I mean, it's got nothing to do with me, it's got nothing to do with the, our Conference.

But you're a fundraiser for the Liberal Party, sir?---Yes, that's right.

20 Well, it's not a great reflection of anyone doing that?---It's only, it's only, when did it come out? A few weeks ago in the papers.

That's right. Well, how long does it take to make a phone call? Mr Caputo - - -?---Oh, that, look that question is unfair, I mean, I, I - - -

I'm just curious as to why you haven't made any inquiry as to this entity? ---Where would I make the inquiry? I mean, it's got nothing to do with me or our Conference, this is something with head office you're talking about.

30 Mr Caputo, could I take you to a document, if the witness could please be shown Exhibit S8 at page 2419. If I could get you to look at page 2419 and you'll see there's a deposit slip from Westpac Bank on that page?---2419. Yes, I can see that.

Now you'll see that on that page, that's a deposit slip for a number of cheques - - - ?---Yes.

- - - and at least one of the cheques is on the pages over.---Ah hmm.

40 We've got some information that a cheque was banked by a staffer or four cheques were banked by a staffer in Mr Spence's office on 2 December 2012, I want you to accept that and that amongst those cheques were a cheque that had been drawn by Mr Tim Trumbull, we've been talking about today.---Ah hmm, yep.

Have you been able, did you act as a conduit between we'll call it a Trumbull cheque and Mr Spence?---No.

THE COMMISSIONER: It was 2 December, 2011.

MR O'MAHONEY: 2 December, 2011, yes Commissioner.

THE COMMISSIONER: Thank you.

MR O'MAHONEY: So you've never been, you've never presented any, done any fund raising for Mr Spence?---No, it was done for the Central Coast, what we've done was for the Central Coast, not for Mr Spence in particular, no.

10

But you were, it sounds like Mr Trumbull was making donations through you, is that correct?---I mentioned to you the cheques that he gave me and yes.

Did he ever mention to you that he was giving cheques to the Liberal Party through anyone else?---No.

But as it is, you don't know anything about any cheques that were banked by Mr Spence or his office?---Well, no I don't.

20

Did Mr Spence ever approach you for some support?---No.

Did any other Central Coast member of parliament or would be member of parliament approach you for support?---Mr Hartcher asked me for support for the Central Coast yes.

He did, but anyone else, Mr Webber?---No, I don't recall, no.

Did you ever raise any money for Mr Webber?---No, it was all done for the Central Coast.

30

Do you know the Mustaca family?---Yes, I do.

How do you know them?---Friends.

And good friends?---Yes.

How long have you known them for?---Long time.

40 And is Mr Anthony Mustaca a member of that family?---Yes.

Is he your main point of contact with that family?---Yes.

What does that, what does he do?---He's an investor.

Investor in what?---In real estate.

In real estate?---Yes.

Whereabouts?---In the Willoughby area I think.

In the Willoughby area?---Yes.

And have you received some donations from the Liberal Party from him?
---Yes.

10 How often would he provide a donation to you?---Um, probably, what in
the, 2011 are you talking about?

Well start generally?---Generally, um, may be three or four times.

Ever or a year?---No, well, not a year, no, no.

Okay. Three or four times?---He's been to some of the dinners that I've had
in the Manly conference that sort of stuff.

20 And generally, when he's provided you with a donation, what's the amount
been?---Um, well, may \$900 to \$1,000 something like that.

And do you recall him giving you any donations in the lead up to the March
2011 election?---Yes.

Roughly, what amounts?---Um, around \$1,000, \$900 something like that
yeah.

30 And just briefly, outline for us the circumstances in which those donations
were given?---Well, he was at one of those dinners.

He attended the dinners?---Yes.

And what, he gave you a cheque for those dinners?---I think so yeah, I think
he did, yeah, yeah.

40 And can you recall what you did with the Mustaca cheques?---No, I don't
actually um, I could have sent it, I might have sent it to the Central Coast I
really don't know because that money was for the Central Coast so I could
have - - -

So again, when you say you might have sent it to the Central Coast that's a
big region with a lot of residents and a few members or aspiring members,
can you recall what - - -?---It would have been sent to Mr Hartcher's office.

Mr Hartcher's office?---Yes.

If I told you that it appears that those cheques ultimately made their way to Mr Spence's campaign, is that a surprise to you?---Um, no, I don't think so because those cheques were made for the Central Coast.

So was this the case that Mr Hartcher was saying to you in respect of the cheques that he received from you, I'll look after it, I'll make sure that they're allocated to the different members?---No, no, I don't think he said that, those - - -

10 What did he say?---That the, when he asked me to do those fundraisers they were for the Central Coast seats so it would have been Spence, whatever, two or three of them, three or four seats or whatever there are, it would have been for all those seats.

Did you ever follow up with him what was done with the money?---No I didn't.

You didn't spoke to him about how's going up there, how it's being deployed?---No.

20

Who got it?---No.

Do you recall there being a delay, we'll just quickly go back to the Trumbull cheques, there was a big delay in banking those cheques, do you remember?---Yes.

And I think Mr Trumbull might have made inquiries with you about why it had been so long, I gave you the cheques in March, it's now September and they haven't been banked?---That's right, yes.

30

What did you do in respect of those inquiries?---Um, I can't recall to be honest with you.

You presumably would have followed up?---Well, as I said to you before, when we get the cheques, they would go out fairly quickly within a few weeks.

But they hadn't been banked, we know they weren't banked for many months?---I don't know why, I've really got no idea why.

40

But you are on notice that they hadn't and presumably you followed up, you made some inquiries, did you call Mr Hartcher?---No, I didn't.

Who would have called?---I didn't call anybody.

You just sat on the inquiry?---Yes, I, I, I'm not sure whether - - -

Why wouldn't you, you've got a donor, who clearly you want to keep in the good books.---Yes.

He's made a donation and he's called you and he said, I made these cheques in March, they haven't been banked, would you mind, we need them to be banked - - -?---Look, I don't recall the conversation with Mr Trumbull.

MR PARISI: Can I just make an objection.

10 THE COMMISSIONER: Just a moment, yes.

MR PARISI: Mr Trumbull's evidence yesterday was not inquiring that he had knowledge that they had not been banked - - -

THE COMMISSIONER: No, no, his inquiry was to the issue - - -

MR PARISI: - - - when they were banked.

20 THE COMMISSIONER: Yes, as to the, as to when they were banked so that his employees could receive receipts for taxation purposes as I understand it.

MR PARISI: That's correct. The question is, that he was inquiring as to when they were being banked not inquiring as to why had they not been banked.

THE COMMISSIONER: Well, it might be a distinction without a difference but we'll go on.

30 MR PARISI: Thank you.

THE COMMISSIONER: Thank you.

MR O'MAHONEY: It's an inquiry, he said to you that these cheques were provided in March and they haven't yet been banked?---I don't recall him saying that to me but he could have said that to me.

40 I thought moments ago you accepted he did put through this follow up inquiry about why the cheques hadn't been banked?---I don't recall that he did.

But you did a minute ago, sir?---No, no, no, I don't think so.

So you don't recall any conversation with Mr Trumbull?---I don't recall the conversation, I've seen the I've seen the stuff, I've seen information that the staff have - - -

So when you said moments ago you just sat on the inquiry, you don't think you followed it up with anyone - - -?---Look, I just don't recall.

You were just speculating, you were pretending that the inquiry had been made.---I don't recall.

Can I ask one final question, have you ever raised funds from a Mr Nick Scali?---Yes, oh sorry, have I, have I, has he been at any of my functions?

10 Has he been a donor through you to the Liberal Party?---He's been to the -- yes he has. He's been to a dinner or two dinners I think yes.

The dinners we've been talking about?---Yes.

And how much did he donate?---Look I can't remember, it would have been \$1,000 may be \$900, probably \$1,000 I think it was.

Do you know Mr Scali well?---Yes I do.

20 Is he a good friend?---Yes, he's a good friend.

Has he provided any other donations to you?---No.

To the Liberal Party through you?---No, only, only - - -

We'll call them the Scali cheques, do you know what happened to them?--- Well I see, I presume these are the, these one's that you're talking about, they were the Scali cheques, they would have been from the dinner.

30 And so in other words, the Scali cheques, are you understand it, ended up on the Central Coast?---Yes, it looks that way yes.

And did you ever speak to, did you ever speak to Mr Hartcher about what was done with those cheques?---No.

You have no knowledge of those cheques being used in the context of Mr Spence's campaign?---No, oh, I know that they would have been used for the Central Coast campaign but that's about it.

40 No further questions Commissioner.

THE COMMISSIONER: Anyone have any questions of Mr Caputo? No, anything arising Mr Kerkyasharian?

MR KERKYASHARIAN: Briefly Commissioner.

Mr Caputo, you were shown -- you were shown, can I have 3972 put up. You were shown page 3972, I don't know what document, this is the John

Caputo President of the Manly Conference Invitation, it was in the bundle that was handed to you?---Oh yes, I've got that here.

And you were asked in relation to that Mr Caputo whether there was anything on that that would suggest that these funds or this dinner had any relationship with the Central Coast – it's the case that Mr Hartcher at the time was a prominent member from the Central Coast?---Yes.

10 And if you have look at that document it says there, in fact, that he was the Shadow Minister for the Central Coast?---That's right.

It also says at the bottom of that document, please make cheques payable to the Liberal Party of Australia New South Wales Division, can you see that at the bottom?---Yes, that's right, yes.

To your recollection, is that in fact where the cheques were made out to ?
---Yes.

20 What about the one's from Mr Trumbull were they made out to there as well?---Yes, they were.

And up until you found out otherwise in the course of this investigation and so on, did you think that cheques deposited – cheques that were written out to the Liberal Party did you think that they could be deposited anywhere other than an account run by the Liberal Party?---No, I did not, I was shocked that could happen.

30 Did you can you see that a solicitor had the ability to do this?---No, I didn't, I wasn't aware of that, I thought the cheques would have had to be banked in a
- - -

And so is it the case then to your mind wherever you'd sent the cheques assuming they were kept in the Liberal Party - - -?---Yes.

- - - they would not have been taken outside that, is that right?---That's right.

Thank you, Commissioner.

40 THE COMMISSIONER: No other questions for Mr Caputo?

MR O'MAHONEY: Nothing arising.

THE COMMISSIONER: Nothing arising. Thank you, Mr Caputo, you may step down, you're excused.

THE WITNESS EXCUSED

[11.20am]

THE COMMISSIONER: Yes, Mr Watson.

MR WATSON: I call Mr Iwan Sunito. Just while he's coming forward, Commissioner, I think it's probably recognised that ICAC's been a witness to great moments and some moments of history I just wonder whether that was the first time ever that a questioner has used the word funkiness in a question in a Commission of inquiry but anyway. Come forward, Mr Sunito.

10 THE COMMISSIONER: Mr Neal, you appear for Mr Sunito?

MR NEAL: I do, Commissioner, and I've explained to him section 38.

THE COMMISSIONER: Thank you very much.

MR NEAL: Thank you.

THE COMMISSIONER: Mr Sunito, you appreciate do you that the order that I make under section 38 protects you from the use of your answers in
20 civil or criminal proceedings against you but it doesn't protect you if it should be found that have given false or misleading evidence before the Commission. You understand that?

MR SUNITO: Yes, Commissioner, yeah.

THE COMMISSIONER: 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 this witness during the course of the witness's evidence at this public inquiry are to be regarded as
30 having been given or produced on objection and accordingly there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

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

THE COMMISSIONER: Do you wish to be sworn or affirmed, Mr Sunito?

MR SUNITO: Sworn, Commissioner, yeah.

THE COMMISSIONER: Thank you. Can he be sworn please.

THE COMMISSIONER: Just take a seat?---Thank you.

MR WATSON: Are you Iwan Sunito?---Yes, Mr Watson.

10 And you were Director of the company Crown Consortium Pty Limited?
---Yes.

That's a member of a group of companies which are loosely called the
Crown Group?---Yes, sir.

And there's for an example another related company Crown International
Holdings Pty Limited?---Yes, sir.

20 And one of the aspects of business of the Crown Group is property
development?---Yes.

And do you know Tim Koelma?---No, sir.

Have you ever met him?---I could not – no.

Have you ever received a telephone call from him?---No.

Have you ever received a, a text message?---No.

30 Or an email?---No.

And going back to the old days of fax, I'm guessing you're going to say
no?---No, no.

Have you ever heard of the business Eightbyfive?---I only know about that
name when the ICAC approaches our office inquiring about the company
called Eightbyfive around 22 April 2013 while I was in the State, yeah.

40 Well can I put it this way, to the best of your knowledge have you or any of
your companies ever sought the services of Eightbyfive?---I have no
recollection of that, sir.

Now do you know this chap Ray Carter?---Yes.

You have met him a few times?---Yes.

And has he solicited from you donations for the Liberal Party?---Um, not
directly from me because he knows that I'm a properly developer I can
recollect that but he might have asked for um, in the past of um, a function

to be organised where he wants or to introduce Chris to the community leaders and business leaders.

Introduce Chris meaning Chris Hartcher?---Chris Hartcher, yeah.

And community leaders and business leaders are people with whom you are familiar who you could introduce - - -?---That's right. And in particular that is the ethnic groups.

10 Could Mr Sunito be shown Exhibit S7, Commissioner. Would you open this up, Mr Sunito, at page 2011, 2-0-1-1. Do you see that invoice, it's from the business Eightbyfive and addressed to Crown Consortium?---Yes.

Do you see that? Do you know or are you able to explain how this came to pass that Eightbyfive would be issuing an invoice to Crown Consortium?
---Um, I do not have any recollection of that, sir.

And you'll see there that Eightbyfive is saying that they are offering market and commercial research. I don't want to get you boasting but your
20 businesses are pretty big aren't they, Mr Sunito, that employ a lot of people?---Um, yes, sir.

And you do have very extensive marketing?---Yes.

And I mean, look I've seen the advertisements myself in the papers and things like that. You do have marketing organisations already - - -?---Yes.

- - - that you retain. Can you think of any reason why Crown Consortium would be retaining a marketing company based in Terrigal?---I don't have
30 any recollection of that, sir.

If we look over the page at 2012 we've got the cheque butt for this payment, you'll see it there?---Yes.

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

Is that your handwriting?---No.

And if we even go further to page 2014 you'll see there that there's a, an
40 image we've been able to capture from your books of your company - - -?
---Yes.

- - - which refers to this Eightbyfive. Can you shed any light on this?---Um, it says that the creditor code is Eightbyfive and um, the address of the PO Box 3618 Erina and then um, um, what else um, Australia, um - - -

Do you think that this may have been something that you were asked to do by Ray Carter to - - -?---I, ah hmm.

To, to pay this bill as it were this invoice?---I have no recollection of this, um, I was made aware of this Eightbyfive around at April 2013 and when I was made aware of that and I asked my staff to do searches about this company and that's when we discovered about this 2200 at the same time that my staff also produced the document or from Sydney Morning Herald that triggers an alarm for us um, because of allegedly of this um, the use of this company that might be actually possibly is giving it to a Liberal Party that we were, because we knew by 2009 we are not allowed, we are
10 prohibited donors that are not allowed to give donation to the State parties at all so I've asked my staff and I, I could not, I don't have any recollection about this.

Well I'll just show you something else which is intriguing us?---Yes.

If you look at that page 2011 and if you look at the invoice issued by Eightbyfive you'll see at the foot of the page that the cheque is to be posted to a particular post office box address in Erina. Do you see that?---Yes.

20 And somebody's crossed it out and put in a replacement box. We've traced that box. Would you turn to page 2019. You'll see that Eightbyfive's invoice was actually asking that the account be sent to a PO Box which was held in the name of Chris Hartcher MP. Can you shed any light on that?---I, I – in what way, sir?
We'd like to know why Mr Hartcher was receiving cheques for Eightbyfive but do you know?---I don't.

All right. Well you mentioned something before about your staff having a look for things. Could you turn to page 2016. We, we did ask your staff to
30 look for us to see whether they could ascertain any work or services provided by Eightbyfive. You're aware of that?---Yes, sir.

And you'll see at page - - -?---I have given that instruction to my staff, yeah.

Yes. And you'll see in paragraph 3 that the response given on behalf of the Crown Group of companies was that after having conducted an extensive search they were unable to locate any documents evidencing work performed by Eightbyfive or Tim Koelma. Do you stand by that?---Yes, sir.

40 Now you did mention also earlier in your evidence something about Ray Carter, and functions and the like. Could you open up this same volume at page 1995?---1000?

1995, 1995. I'm just going to show you some- - -?---Yes.

- - -contact between you, Ray Carter and Chris Hartcher?---Yes.

You do know Chris Hartcher as well as Ray Carter?---Yes, I do, yeah.

And I mean there for example is an invitation which you've issued to Chris Hartcher and Ray Carter for the Chinese New Year. I'm not suggesting there's anything inappropriate about that, I wanted to show it to you by way of background. But you recall that, do you?---Um, I myself had some -- 'cause I do recall functions where Chris was attending in this ethnic community dinner, yeah.

10 Well, if we have a look at page 2000 we can see a further communication.
At page 2000- - -?---Yes.

- - -the bottom of the page has got an email from you to Mr Carter in which you refer to your father being ill?---Yes, my dad was um, going to have to have a bypass in that month.

20 And Mr Carter responded commiserating with your father's ill-health and then he said this in the first paragraph, "Due to the changes in electoral funding I am unable to do a function in the way I spoke to you about after 31 December." Do you see that?---Yes, sir.

Now, he goes on to say that people would be supportive of a change of Government and then he goes on to say this, and these are the words we're intrigued by. "In view of attending a function they may consider a Clayton's-type function, that is the function you have without a function." Do you see that?---Yes.

Do you know what he's referring to there?---No, sir.

30 It's something that was on an advertisement years ago, "The drink you're having when you're not having a drink." You haven't heard about that?
---No, no.

What it means is that it's something that you do when you're not doing the real thing, if you know what I mean. Do you understand me?---(No Audible Reply)

40 Did he ever explain to you what he meant by the Clayton's function?
---I, look, I couldn't remember this because at that time my mind was actually with dad and that's, I think it, yeah, I think it looks like in the same, my respond to him is I'm um, dad is sick um- - -

So you may have been distracted and you- - -?---Well, I don't read every email that I receive but in particular time of this my dad was needing my attention more than functions of this kind, yeah.

Look, I've got to be honest with you. If you go up the top of the page- - -?
---Yes.

--you do delegate the responsibility to another gentleman, Mr Benjamin Chow?---Yes.

And that's consistent. But we're intrigued by these words because he's talking about holding a function which is something different to what it truly appears to be. Did he explain to you at all what he meant by doing this? What sort of function did he want you to have?---I don't know, sir.

10 And then it goes on and he says when he's referring to these people, "they" and "their"-- -?---Ah hmm.

--he says, "The amount would be to their discretion and directed to the Free Enterprise Foundation." Do you know what he meant by that?
---Are you referring to the Free Enterprise Foundation, Mr Watson?

Well, the fact of people who were at the function would be making a donation which would be directed to the Free Enterprise Foundation. Do you know what me meant by any of that?---I- - -

20 For example, did you know about the Free Enterprise Foundation?
---I do know about the Free Enterprise Foundation but I don't have any recollection about this memo that he has.

All right. Well, I think it's the case that there was some contact between Benjamin Chow and Mr Hartcher's office. We've seen that if you look at page 2004. Do you see that?---Yes, sir.

30 And then if I take you forward, you look at page 2006 through to 2012, you can flick through pages which show telephone contact and, and email contact between you and Mr Hartcher's office?---Is that page 2006 to- - -

2006 and then if you turn over and- - -?---Yes.

--look at the next page there's an email?---Yes.

And then at 2008 there's telephone contact and at 2009- - -?---Yeah.

40 --there's an email in respect of telephone contact and 2010 is a record that we produce?---Ah hmm.

All I'm showing you is, is that there was contact between you and Mr Hartcher or his office during that period, that's January 2011?---Yes.

Which culminated at page 2011, the, the invoice. Do you think that invoice, now looking at it, which wound up in Mr Hartcher's office, had something to do a request from Mr Hartcher's office?---Could you say that question again, sir?

Well, just looking at it, I mean we've - -?---Yes.

- - -got to talk about probabilities here. There's a lot of contact between you and Mr Hartcher's office and then when we look at page 2011 there's an invoice which is being addressed to a PO box- -?---Ah hmm.

- - -which is Mr Hartcher's office?---Yes.

Do you- - -

10

MR NEAL: Could I just object to the use of the word a lot of contact.

MR WATSON: Well, I'll withdraw that. There's contact between you, Mr Sunito, and Mr Hartcher and Mr Hartcher's office including Mr Carter during January and early February 2011. I've shown you that. Do you see that?---I, okay, yes, yes, yeah.

20

And what I'm trying to build up to is this, is that at page 2011 on 15 February of that year, Eightbyfive is invoicing one of your companies and the money's going back to Mr Hartcher's office. Do you think you must have had a conversation with somebody in Mr Hartcher's office which led to the issue of this invoice?---Well, this is something that is confusing to us because how could an invoice from Eightbyfive arrive into our office and um, I, yeah.

30

Well, I mean when you say confusing, you must have thought about it, isn't the sheer probability that this all came about through some request made by Mr Hartcher or his, somebody in his office?---I think what we thought is after reading the article um, Mr Watson, is that, that there seems to be a probability of that connection, from the article of the newspaper that we were, I was supply um, but how it comes to our office from Eightbyfive is a mystery to me and I just don't have any recollection of signing this cheque, but I knew that if I thought that it's going to paying, according to what I read in the newspaper, to the Liberal Party or the State Liberal Party then we would have not signed it because - but I think it's just like we thought we could probably have been misled.

40

Do you remember that on an earlier occasion ICAC asked you to come in and asked you some questions?---Yes, sir.

And there was a much better-looking barrister with a lot more hair, Mr Gormly, asking you questions. Remember him?---Yes, sir, yeah.

And I'm not suggesting anything you said today is inconsistent with what you've told Mr Gormly, but on that occasion you, you told him the truth, didn't you?---Yes, sir.

Commissioner, I want to tender an extract from Mr Sunito's compulsory examination. It could – I don't need Mr Sunito to look at it, but it could, could I have a relief of the suppression order in respect of that?

THE COMMISSIONER: Yes. The suppression order that was made on 27 August, 2013 is lifted to the extent of the extracts produced in the document from pages 408 through to 426 and will be Exhibit S40.

10 **THE SUPPRESSION ORDER THAT WAS MADE ON 27 AUGUST, 2013 IS LIFTED TO THE EXTENT OF THE EXTRACTS PRODUCED IN THE DOCUMENT FROM PAGES 408 THROUGH TO 426**

#EXHIBIT S40 - EXCERPTS FROM TRANSCRIPT (408-426) OF COMPULSORY EXAMINATION HELD ON 27 AUGUST 2013 WITH IWAN SUNITO

20

MR WATSON: I just want to make it clear I'm not suggesting there's any inconsistency between what's there and here.

Could you close that volume up, Mr Sunito, and could the witness be shown Exhibit S29?---Thank you.

Mr Sunito- - -?---Yes.

- - -would you open up this volume to page 3832, that's 3832?---3832, yeah.

30

Now what this is is an email which we've been able to recover which at the top of the page you've sent to Paul Nicolaou, you know Mr Nicolaou?
---Yes, sir, yeah.

And he's from the Liberal Party?---Yes, sir.

And you'll see that at the bottom of the page you'll see that Mr Nicolaou is asking you to send a cheque payable to the Free Enterprise Foundation to arrange for you to have a table of 10 for a dinner at Le Montage with Tony
40 Abbott, do you see that?---Yes, sir, yeah.

Now obviously it was some kind of fundraising occasion?---Yes.

And you'll see there that it's, the date on it is August 2010 and then we can track down a little more about this. If you go to page 3834, 3834, we've been able to obtain a cheque which was sent by you to Chris Fung. Did I say a cheque? I'm sorry, I'll start again. An email sent by you, Mr Sunito, to Chris Fung and who's Chris Fung?---Chris Fung is my former CFO.

CFO?---Yeah.

And this is organising a \$10,000 cheque for the Free Enterprise Foundation?
---Yes.

And if we look for example at page 3836 we can see the cheque itself?
---Yes, sir, yeah.

10 And that's probably your signature I guess?---And my business partner.

And then at 3837 we can see the cheque butt?---Yes, sir, yeah.

Earlier on I asked you something about the Free Enterprise Foundation and you said that you had known of it?---Yes.

What did Mr Nicolaou tell you it was?---My recollection it is a Federal um, um, body and therefore it is not part of the New South Wales um, restriction.

20

I think you prefaced that by saying that was your understanding but you had to get that somewhere. Who told you that?---If - look, all my, my best recollection would have been coming from Paul Nicolaou.

Is he the only person that you spoke to about the Free Enterprise Foundation, about its workings?---I can't remember, sir.

30 There was also a reference to the Free Enterprise Foundation in the correspondence between you and Mr Carter. Did you ever talk to Mr Carter about the Free Enterprise Foundation and what it did?---No, not that I can remember, sir, no.

Around about the time that these donations were being made was around about the time that you were seeking on behalf of your company approval grants in respect of the major development up at Top Ryde, is that so?

---Um, let me just - are you referring to the August 2010 or - - -

Yes, it's in mid 2010 that that project was on the books. Was that right?

---Um, well, I think we haven't bought that job yet, sir.

40

All right?---We bought it I think about October 2010 and we bought it with a DA approve and two buildings ready to go with almost 85 to 90 per cent presales um, so there is, there is an approval in place of LEP um, yeah.

Well, what - after the election, after the State Election in March 2011 you did continue to have contact with Mr Hartcher?---I - yes, yes, yeah um - - -

If I get you to close that volume up I - - -?---Yes.

- - - I'll show it to you. Could the witness be shown Exhibit S7. I've shown you this volume before, it's just some other documents. If you would open it up at 2030, that's 2030. It's just some simple references to telephone contact, there's your mobile phone with Chris Hartcher, if you look at page 2031 you'll see that there's a note, a meeting request made by you, do you see that?---Is that - I'm not sure if that's actually coming from me, sir.

10 Yes, that's not coming from you but it's very clear that the meeting request is one between Mr Hartcher and you, Mr Sunito?---Yeah, is that 2031?

Yes?---Yes.

That's a - you'll see your name there, a meeting request and what it is is that the fellow who's then working for Mr Hartcher is his advisor Tim Koelma.

MR NEAL: I object, the witness said he was looking at 2031.

20 MR WATSON: 2031?---Yes.

THE COMMISSIONER: Yes?---Yes, with Tim Koelma, yeah.

And your name is there and it's a meeting request. What was that about? What could Mr - - -

MR NEAL: It's not, his name's not on 2031 as a meeting request, his name's on it but not as a meeting request.

30 MR WATSON: Oh, Mr Neal.

If you've - I'll take it step by step. If you look at page 2030 there's a request for a phone call for Mr Hartcher to call you. In the way that we've seen only about 2,000 of these things in the last few weeks, the Minister's diary is kept by staff and they put in these matters for requests for meetings and the like and then there's a follow up on it that you can see at 2032 where something is being sent through to Ray Carter from the Crown Group and it's about the Top Ryde development?---Yes.

40 Do you see that?---Yes, sir, yeah.

MR NEAL: Commissioner, I would object, whatever may be noticed on documents in the last few weeks my friend's talking about one can't find a meeting request on these documents.

THE COMMISSIONER: But there was a heading that said "Meeting request" on the previous page.

MR WATSON: It's right at the top of the page.

THE COMMISSIONER: Right at the top of the page.

MR NEAL: Oh, right.

THE COMMISSIONER: Can we go back to it? That - yes, that one, sorry, could I have it reduced it again so that the heading can be seen. Yes, that one, "Meeting request from Tim Koelma".

10 MR NEAL: "To Tim Koelma."

THE COMMISSIONER: Yes, "To Tim Koelma" and this is being done with respect to the Minister's earlier diary entry, is that the position, Mr Watson?

MR WATSON: Yes, and I - - -

THE COMMISSIONER: All right. Well, we'll move along.

20 MR WATSON: - - - I'm pretty confident that we'll get some evidence. At 2032 there's the document which is sent on to Ray Carter who works for Mr Hartcher and it refers to the Top Ryde development. What's all that about, Mr Sunito?---Um, you mean why is the document saying or - - -

Well, you did have, still have contact with Mr Hartcher didn't you?---Ah, well, this is um - - -

After the election?---This is coming from my marketing division - - -

30 Right?--- - - - and it's a typical EDM, electronic distribution mail, that we send to all our database.

Well, why was it being sent to Ray Carter of all people? Was he interested in a buying a home unit at Top Ryde?---Well, have like 10 to 15,000 database - - -

All right. So just - - -?--- - - - and these are regular things that we send to everybody.

40 This one seems to have been sent to two people, one was Ray Carter and the other person was at Crown itself, I mean that's extremely odd if you're marketing it to your own people?---No, I think it's probably because they always want to make sure that it actually sent properly, sir.

All right. Well, just, just for a moment - - -?---Sorry, let me - - -

- - - you're not suggesting are you, Mr Sunito, that this particular document was being sent to potential purchasers or something are you?---To everyone in our database.

To everyone? It's an article in the Financial Review, why would that be being sent to people?---Um, what often we do is that when we have an article from the newspaper we reproduce them into our EDM and then we sent it to um, our database from time to time, sir.

10 All right. All right. Thank you, Mr Sunito, that's all.

THE COMMISSIONER: Any questions of Mr Sunito? Yes.

MR NAYLOR: Mr Sunito, my name is Naylor and I appear for Tim Koelma. Just a few questions, sir, if I may?---Yeah, certainly, yeah.

20 Sir, you've been shown an invoice issued by Eightbyfive to Crown Consortium dated 15 February, 2011 and Counsel Assisting has asked you some questions about that. Could I suggest to you, sir that some short time prior to that date, prior to 15 February, 2011 you were in fact introduced to Mr Koelma by Ray Carter?---I don't have any recollection, sir.

And the purpose of Mr Carter introducing you to Mr Koelma was because you wanted some information about Part 3A of the Environmental Planning and Assessment Act?---I don't have any recollection of that meeting or that um, inquiry.

30 And in fact can I suggest to you, sir, that you did in fact speak with Mr Koelma about that subject matter?---I have no recollection, sir.

And part of the context of that discussion was concerns with the approach that was then being taken by the then Government and what the approach might be by the Liberal Government if they succeeded in gaining Government to Part 3A?---I don't have any recollection.

Sir, you would not necessarily be aware would you if Mr Koelma had further discussions or engagements with other persons in the Crown Consortium Group about this issue?---Could you repeat that question, sir.

40 Sir, if Mr Koelma had discussions with other people in your Crown Consortium Group you wouldn't necessarily be aware of that?---True, yeah.

No further questions, thank you, Commissioner.

THE COMMISSIONER: Mr Sunito, could I just ask you - - -?---Yes, Commissioner.

- - - in response to the questions that were just put you indicated that you had no recollection of those conversations or of meeting Mr Koelma, do you appreciate that saying that you have no recollection simply asserts a lack of memory. Are you saying that you have no memory or are you saying that those events that were put to you did not occur?---I think to the best of my recollection that meeting, it just can't register in my mind, Commissioner.

All right. Does anyone have any questions of Mr Sunito? No.

10 MR WATSON: No, but I think before Mr Sunito, oh, sorry.

THE COMMISSIONER: Mr Neal, do you wish to ask any questions?

MR NEAL: Yes, thank you, Commissioner.

The – you would have – have you seen the extracts of transcript of your previous evidence? Oh well I don't think it was shown to you but do you remember you were asked some questions there about Part 3A?---Yes.

20 In your business as of 2010 or 11 were you familiar with Part 3A?---Yes.

And to the extent that you've given some answers in the previous inquiry did they represent some of your views about Part 3A?---Yes.

Did you have extensive knowledge from your experience in property development of Part 3A and some good features about it in your opinion and some not so good features?---Yes.

30 Did you have any need to seek the advice of a member of a staff of a politician on the Central Coast about Part 3A?---No, sir.

Now could you just look at these documents, I want to show you the documents we sent to my learned friend as instructed a day or so ago. Thank you. You've mentioned that in April 2013 you were contacted by the ICAC you were in America does that document enclose a, a letter or an email from your office about some inquires and a newspaper article from the Herald?---Yes.

40 Yes. And, and did you read those at the time you received them?---Yes.

Could I tender those or asked my learned friend?

MR WATSON: I'll tender those.

MR NEAL: Thank you.

THE COMMISSIONER: Yes. Exhibit S41.

#EXHIBIT S41 - EMAIL DATED 22 AUGUST 2013 FROM CAMERON CHAMPION TO PAUL SATHIO, TESTING AND ATTACHING A SYDNEY MORNING HERALD ARTICLE DATED MAY 17 2012 ENTITLED HARTCHER MAN HAD LOBBYING WEBSITE

10 MR NEAL: And when you said earlier that you had some concerns when you read those articles and you were concerned about possibly being misled it is your position that if the 2200 cheque was used to go to, to be sent to the Liberal Party you'd been deceived?---Yes.

Now could I ask you to look at this, go back to the volume Exhibit 29. Do you have that with you?---No.

Could you look at, does that have a page 3834 that my learned friend took you to?---Yes.

20 Now going a little earlier than that just back to 3832 do you see that there seems to be as I understand it an email from Mr Nicolaou to you at 7.52pm on 4 August 2010. Do you see that?---Um, on 3832?

Yes?---On 17 August?

No. 4 August. He seems to - - -?---Oh 4 August, yes, sir.

- - - be sending you an email?---Yeah.

30 Now as I understand it the email incorporates this letter that's underneath or is on the lower part at page 3832 from Mr Nicolaou to you, do you see that?---Yes.

Where he's saying "Great to speak to you tonight"?---Yes.

"As discussed please make your cheque payable to the Free Enterprise Foundation." Do you see that?---Yes.

Now this is the \$10,000 correct?---Yes.

40

On which there's a signature of you and your business partner/director, is that so?---Yes.

And incidentally on the \$2200 are both of your signatures on that?---Yes.

Right. Now can we take it that from what we read on this where he says, "As discussed please make your cheque payable to the Free Enterprise

Foundation” by that evening on 4 August you’d agreed to make this payment to that foundation, is that right?---Yes.

And is it your position you thought the money was to go to the Federal Liberals?---Well yes, because my understanding is Free Enterprise Foundation is a Federal body and my understanding is that this is a function for the Federal Election that’s coming about one or two weeks after.

10 In fact the public record will show that the election was due to be held and was held on Saturday 21 August 2010 Federal Election, correct?---Yes, yeah.

And Mr Nicolaou is saying to you in this letter in addition he’d like to give you a table of ten for the dinner on Tuesday 17 August at Le Montage with Tony Abbott, correct?---Yes.

Was this all part of the campaign for the Federal Election?---Yes. This is a big campaign like 1000 people (not transcribable)

20 Did you go to the dinner?---Yes, I did, yeah.

And was it to support Mr Abbott and his Federal campaign?---Yes, it is a Federal function, yeah.

Yes. And he further says to you, “Further I will also give you four places for election night at the Four Seasons Hotel.” Was that to go to a function to be held on the night of the Federal election?---Yes, sir, yeah.

30 Did you get to that?---I – we, my and my wife decided not to go.

All right. And could I just ask you to look at this document which has been sent. What is that document please?---This suggests that the, the 51 is a company name, 51 according to my account is the CMGT.

And that’s the company that signed the cheque?---Yes. And 10 is the number of cheques.

40 The cheque number?---And it’s a payment to Free Enterprise Foundation and it says that it’s \$10,000 dinner with Tony Abbott at Le Montage.

Right. All to do with the Federal campaign, correct?---Yes.

I’d ask if my friend could tender that.

MR WATSON: I’ll tender that as well.

THE COMMISSIONER: Exhibit S42.

**#EXHIBIT S42 - PAYMENT REPORT FROM CROWN
INTERNATIONAL HOLDINGS GROUP DATED 29 APRIL 2014**

MR NEAL: As of either 2010 or 2011 or any time did you seek to obtain any favours from Mr Hartcher?---No, sir.

10 Did you need any favours from him?---No.

Did you get any favours from him?---No.

Thank you.

THE COMMISSIONER: Nothing arising?

MR WATSON: Nothing arising. And I wonder if Mr Sunito – so, sorry. I think I’m told I should take Mr Sunito to page 1301. This is really good because I’m on a mystery tour here, Mr Sunito, and I’ll find out what this is about at the same time. It’s in Exhibit S5. Yes. I’m grateful?---Did you say what page is that, Mr Watson?

It’s page 1301?---Okay. 1300.

It’s lucky I get the support I get Commissioner, Mr Sunito, you’ll see that this is a letter from the Millennium Forum, it’s signed by Paul Nicolaou and it’s addressed to the gentleman at the Free Enterprise Foundation, do you see that?---Yes, I am.

30 Now, it refers to your cheque for \$10,000 and even if you turn over the page you’ll see that it is there again.---Yes.

And you’ll see that Mr Nicolaou says this, I’ll quote it, “Iwan Sunito would like the trustees to consider donating his contribution to the Liberal Party of Australia New South Wales Division.” Do you see that?---Yes.

Did you ask for that?---No.

40 Do you know where Mr Nicolaou could have got that information from, for example, is there anybody else in Crown International Holdings who could have given that instruction apart from you, using your name?---I wouldn’t think that anyone that I speak to.

I’m not, if I go forward to page 1,304 you’ll see the - - -?---Yes.

- - - letter you got back, do you remember getting that back from the fellow at the Free Enterprise Foundation may be you did, may be you don’t?---I don’t remember that sir.

Thanks Mr Sunito.

THE COMMISSIONER: Thank you Mr Sunito, you may step down, you're excused.

THE WITNESS EXCUSED

[12.01PM]

10

MR WATSON: Thank you. Could I call John Robert Stevens.

THE COMMISSIONER: Yes, just come forward Mr Stevens. Mr Bodor, you appear for Mr Stevens?

MR BODOR: I do Commissioner.

THE COMMISSIONER: Have you explained the Section 38 order to him?

20

MR BODOR: I have Commissioner.

THE COMMISSIONER: Thank you.

MR BODOR: He wishes to avail himself of it.

THE COMMISSIONER: Thank you. Mr Stevens, you understand that the order that I can make under Section 38 protects you from the use of your answers in Civil and Criminal proceedings against you but it doesn't protect you if it should be found that you've given false or misleading evidence to the Commissioner, do you understand that?

30

MR STEVENS: I understand.

THE COMMISSIONER: 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 this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

40

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 THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN

**GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY
THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION
IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR
DOCUMENT OR THING PRODUCED**

THE COMMISSIONER: Do you wish to be sworn or affirmed Mr Stevens?

10 MR STEVENS: Sworn.

THE COMMISSIONER: Can he be sworn please.

MR WATSON: Are you John Robert Stevens?---Yes.

And Mr Stevens, are you the owner of a group of companies called the Stevens Group?---Yes.

10 And the Stevens Group are involved in the property industry?---Yes.

And they're involved in a variety of aspects of the property industry including acting as investors in property?---Yes.

And developers of property?---Yes.

And even undertaking under the guidance building work?---Yes.

20 And apart from the Stevens Group itself, there's also an aspect of your business which is a partnerships with another group of Central Coast companies called the Brand Group?---Yes.

I think the Brand family have been in real estate and property on the Central Coast for a long time?---Yes.

And the Brand Group run a very similar style of business in their own way to the business of the Steven's Group?---Similar.

30 And one of the companies through which you conduct your business is a company called Printban, P-r-i-n-t-b-a-n Pty Limited?---Yes.

And the business of Printban in particular is it conducts the Lisarow Shopping Centre?---Yes.

That was a shopping centre which Printban had itself developed?---Yes we did.

40 And in more recent years it's been managing it, for example, just leasing the areas within it to retail tenants?---The Brand Group lease the centre, sorry, it's a lease shopping centre, yes.

And your day to day work, the Stevens Group, you're based in Erina aren't you?---Correct.

And is that, there's a group of shops there called the Fountain Plaza, do you know that one?---Yes, yes.

That's where Mr Hartcher has his electorate office?---Yeah I know Fountain Plaza.

Where is your office, is it in Fountain Plaza?---No, it's not - - -

Could you speak into the microphone much, much, much more louder, you're softly spoken.---Okay, yes, my I've got another office further up in Erina called High Point.

And is that far from Fountain Plaza?---Approximately a kilometre.

10 Right. And now I want you to have a look at this document, could the witness be shown Exhibit S5, would you open this up at page 1,528 15 28. I should have asked you this about Printban before, Printban is actually a company used as a joint venture vehicle between the Stevens Group and the Brand Group, is that right?---That's correct.

And the people over at the Brand Group who you deal with include Tim Gunasinghe?---Tim Gunasinghe, yes.

Gunasinghe.---Gunasinghe, yes.

20

Apologise to Mr Gunasinghe. So Mr Stevens, if you look at that page 1,528 you'll see your signature on a \$10,000 cheque.---Yes.

And Tim Gunasinghe is the other signatory, is that right?---That's right.

And it's drawn on the account of Printban Pty Limited?---Yes.

And it's drawn in favour of Free Enterprise Foundation?---That's correct.

30 What we're trying to get to in this inquiry Mr Stevens is to find out is how that came to be, how it came to pass that this donation was to the Free Enterprise Foundation?---How the donation made, um, Printban day to day is handled the Brand Group and as far as the donation to Free Enterprise it was a, a it was a donation that was put forward to me - - -

By whom?---By Tim Gunasinghe as a manager of our group that he thought that there project or the donation had merit and on that basis we supported it.

40 So the only contact with it you had, you say, is Tim Gunasinghe?---Tim is, I'd never heard of Free Enterprise and had to look it up, Free Enterprise Foundation recently when I was questioned about it.

Well, what does it, when Mr Gunasinghe came to you, what did you understand, did you understand that this was a payment for services or some sort of fee?---No, I didn't think it was.

You thought it was a donation?---That's right.

You can always give your money to the Blind Dogs or the Salvo, what did the Free Enterprise Foundation do?---I donate to a lot of groups - - -

Yes, but what did the Free Enterprise Foundation do?---I didn't really know what Free Enterprise Group did.

It \$10,000 that's not chicken feed?---No it's not.

10 And you said that Tim Gunasinghe sold it a way that it was a suitable donation to make, was it because it provides meals for starving children?--- Not to my knowledge, I thought it was for a group that were going to, a group that was going to raise business issues that were going to lead – I really wasn't aware what it was, what it was for as far as a day to day activity or what they were going to do.

Well, Mr Gunasinghe must have told you something which would have persuaded you that it was a good idea to put your signature on a \$10,000 cheque?---I believe that Tim was approached by other business people that
20 he thought that the idea of supporting issues that were within our community - - -

Well, he must have told you who those other people were?---I thought they were Central Coast business people.

No, don't think things, surely if you're about to sign a \$10,000 cheque you must have asked one or two questions such as, well who was it who brought this up? I mean, you must have asked something like that?---I would have asked were other people getting involved but no, I wouldn't have gone
30 deeply into the issue.

Really, you're telling us all the truth?---Yes.

Remember you came down here and you gave an interview before?---(not transcribable)

Do you remember that? No, sorry, they went to you?---That's correct.

The ICAC people went to you?---That's correct.
40

Do you remember you were silly enough to agree to allow it to be taped? ---Yes.

When you allowed it to be taped you allowed it to be taped because you knew it may be used in evidence, didn't you?---Yes.

Did you tell the ICAC people the truth or were you telling them fibs, Mr Stevens?---I told the truth.

You told them the truth, did you? Well, did you tell them that, a slightly different story?---I don't believe so.

Well, I'll just – if you give me a moment – I didn't think I'd have to do this, Mr Stevens, but I'll just try and help you. Do you remember telling them for example that at one stage you joined Greenpeace?---Yeah.

10 Do you remember that? Do you remember telling them that?---Yes.

Telling them things about going to occasions when Malcolm Turnbull had spoken and Bob Hawke had spoken?---Yeah.

Told them all that sort of history. And the you spoke about Printban, about how you came to sign the cheque to the Free Enterprise Foundation. Do you remember that?---We, they spoke about it, they told me it was the Free Enterprise ah, when they ah, I had to look up the cheque and I think I told them that as well.

20 Well, do you remember an investigator, Darren Curd, was there talking to you?---Yes, he was.

And he asked you this question. “Well, you said to me earlier on the phone that you'd had a meeting with Ray Carter and Chris Hartcher.” Do you remember him asking you that question?---Yes.

30 Do you remember you answered it?---I answered that it ah, I met a lot of them, I don't believe I've had meetings with um, ah, Chris Hartcher and ah, Ray Carter that have been asked of me to attend.

All right. So you did know those two chaps?---Yes, I do.

And you've known them for some years?---I've known of them for some years.

40 And you had spoken to them in the context where the two of them are trying to, the way that you put it was to “expouse”, e-x-p-o-u-s-e, that they were “expousing” the fact that the Government had to change and the Liberal Party was firing up and we needed a new State Government. Remember you told Mr Curd all of that?---Ah, the intent at the time ah, is, was that it wouldn't matter if it- - -

No, do you remember telling- - -?---It wouldn't matter if it was Liberal or Labor.

- - -Mr Curd that? It's a yes or a no?---(No Audible Reply)

Do you remember telling him that?---Yes.

Well, do you remember this. In the context of the cheque, Mr Curd asked you, "So who actually came up with this, this organisation or a payment of that amount?"---Sorry, could you, you- - -

Do you remember he asked you that?---Ah, no, not at the moment.

Well, he asked you, "Did Chris Hartcher or Ray Carter ask you to put in the money?"---Could have.

10

Would you have given him a truthful answer?---Yes.

Did you tell him that you thought they'd be the ones who were agitating, pushing you towards supporting the foundation? I can read to you your actual words, but that's the substance of it?---I, I, I would have ah, well, in, in retrospect and having found out what it was about, yes.

So I just want to get at the truth, I don't really need these things like retrospect?---Mmm.

20

What's the truth, did Ray Carter or Chris Hartcher speak to you about donating to the Free Enterprise Foundation or not?---No.

They didn't?---No.

Is there some reason why you told Mr Curd differently?---I don't believe I did.

30

Well, I've just read to you, I'll read to you your words. This is the question. "So did Chris Hartcher or Ray Carter ask you to put in any money, like was that discussed with them at all?" Answer, "They, they certainly would have been the – I would think that they'd be, agitated would be the right word, they'd be – they would have been the people pushing towards the support for the foundation. I couldn't even told you who it was written out to so" et cetera, et cetera. Why did you say that?---I, I don't ah, believe I, I haven't had meetings with them, I haven't had ah- - -

No, I didn't ask you that. Why did you say that to Mr Curd if it was false, were you lying to him deliberately?---No.

40

Well, then why did you say it to Mr Curd, were you just having fun and games on the day?---I probably thought it was the situation on the day but I don't know that to be the fact.

What, you knew something then that you don't know now? It's like the Ark of the Covenant, can't find it any more. Is it something like that?---No.

Come on, let's be serious. Why did you tell Mr Curd something on that day?---I spoke to Mr Curd openly about what I thought the situation was on the day, same as I'm doing now.

THE COMMISSIONER: Mr Stevens?---Yeah.

Could I just ask you something because I'm a bit confused?---Yeah.

10 I thought that you had acknowledged at some point in the context of the interview that you had with the ICAC investigators previously that you had had a conversation with Mr Carter and Mr Hartcher about the need for the State Government to change. Did you have a conversation with them to that effect or not?---If I'd have had that conversation it would have been out at social functions when I've listened to them- - -

No, sorry, it's a fairly straightforward question?---No, I have not.

Did you have a conversation with them about that subject or not?

---Ah, yes.

20

And you just said a moment ago that if you had a conversation to that effect it may have been at some social function or other?---That's correct.

Do I take it that you had the conversation with both of them together, they were in each other's company?---No, I very seldom have met Chris and very seldom have met Ray so just would have seen them at- - -

All right. So let's go back a step?---Yep.

30 If you didn't have the conversation with both of them at the same time- - -?
---No.

- - -did you have separate conversations with Mr Carter and Mr Hartcher to that effect?---I, I don't believe that I've really had conversations. I've had, if I've met them at social functions and what my purpose was on that day was to say that I've seen – it wouldn't matter if it was Liberal or it was Labor – I've seen both sides of politics say that the other side shouldn't be um, ah, we could do it better.

40 Sorry, I thought about two minutes ago you acknowledged to me that you did have conversations with Mr Carter and/or Mr Hartcher about the need for the State Government to change?---(No Audible Reply)

You did or you didn't have those conversations?---I didn't have detailed ah, I didn't have conversations, detailed conversations with Mr- - -

Well, no, forget about whether they're detailed, did you have conversations with either of them to that effect?---(No Audible Reply)

It's pretty simple?---Um, yes, I've heard them speak on it, but I haven't had detailed- - -

10 No one's criticising you for your political allegiances, Mr Stevens, you either had those conversations or you didn't?---I did not have um, conversations with Mr Hartcher or Mr um, Carter in reference to um, details of change in Government and things like that. No, I've heard them speak and I've heard them speak in front of other people and they've stated that ah, everything needs to change ah, that the State Government needed to change, sure I heard all that.

All right. Well, was it on the basis of those statements or general pronouncements that you decided that you would donate \$10,000 to the Free Enterprise Foundation?---No, it was not.

20 Well, I'm just struggling with what you thought the Free Enterprise Foundation did?---I didn't know what the Free Enterprise Foundation was. I've signed a cheque, sure, and there's a ah, an amount that's gone to ah, that group but ah, I thought it was um, ah, the way it was spoken to me that they were a group of ah, that were going to ah, bring up issues at the Central Coast, bring up- - -

What kind of issues?---Oh, ah, needs of the Central Coast um- - -

30 What, you thought it was some kind of lobby group that was centred around the interests of the Central Coast business community?---I certainly didn't believe it was the Liberal Party or anything that ah, was ah, the moneys were going, being channelled- - -

Well, forget about what you thought it wasn't?---Yep.

Did you think it was some kind of lobby group that was centred around - - -?---Yes, I did.

- - -the interests of the Central Coast business community?---Business, yes. Ah hmm.

40 And where did you get that impression from?---Um, my discussions with ah, Tim and um, ah, just what I'd heard and generally round ah- - -

And that was the only inquiry you ever made?---Yes, it was.

MR WATSON: And so how many times during an average day would you sign \$10,000 cheques to an organisation which you though in very vague terms might be doing something good for the Central Coast?---I wouldn't, wouldn't, wouldn't- - -

Why wouldn't you do that, why wouldn't you be writing them out all day if that's what you truly believed was a worthwhile repository for your money? ---We, as I said earlier ah, donate to a number of causes but I don't do it as a normal ah, course of my day.

So this is exceptional, was it?---It was unusual.

Unusual. And what you tell us is that, oh, I just thought it was just a bunch of lobbyists who- - -?---No, it was something- - -

10

- - -were doing something for the Central Coast of a non-specific fashion, that sort of thing?---It was something that was supported by my business partners.

Thanks, thanks, Mr Stevens. That's the evidence of Mr Stevens.

THE COMMISSIONER: Any questions of Mr Stevens from any other counsel? Any questions, Mr Bodor?

20 MR BODOR: No.

THE COMMISSIONER: Yes, thank you, Mr Stevens, you can step down, you're excused.

THE WITNESS EXCUSED

[12.20pm]

MR WATSON: Could I call Tim - - -

30

THE COMMISSIONER: Oh, Mr Watson, I'm sorry. I'm just wondering whether you want to tender the transcript of the interview that Mr Stevens had?

MR WATSON: Oh, sorry, I will, I will, I'll tender that. I've got a copy of it here. I should make a copy available to my learned friend but I'm afraid I didn't realise for a moment that Mr Stevens would - was, was going to say that. Can I do it after lunch when I've had copies made?

40 THE COMMISSIONER: Yes, thank you.

MR WATSON: I'll call Tim Gunasinghe, Gunasinghe.

MR BODOR: Commissioner, I also seek to appear for him. I don't perceive any conflict.

THE COMMISSIONER: Thank you, Mr Bodor, that leave is granted and I take it you've given him the same information about section 38?

MR BODOR: I have, I have - - -

THE COMMISSIONER: Thank you.

MR BODOR: - - - advised him of section 38 and section 37.

10 THE COMMISSIONER: Mr Gunasinghe, the order that I am able to make under section 38 protects you from the use of your answers against you in civil in criminal proceedings but does not protect you if it should be found that you've given false or misleading evidence before the Commission, you understand that?

MR GUNASINGHE: Yes.

20 THE COMMISSIONER: 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 this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

30 **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 THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Do you wish to be sworn or affirmed?

40 MR GUNASINGHE: Sworn, thank you.

MR WATSON: Is your name Timothy Johann Gunasinghe?---Yes, Gunasinghe.

And you're involved in businesses which are in the property market?---Yes.

10 Including a group of companies called the Brand Group?---Yes.

And one of those companies is called Commercialhq?---Yes.

Another one is Mistlake Investments Pty Limited, another one is Printban Pty Limited?---Yes.

And Printban is in joint venture as we've heard with Mr Stevens and the - or a company in the Stevens Group?---Yes.

20 Where is your business located, is it based in Erina?---Yes, it is.

And it's in a building called Platinum, is that right?---That's right.

And where is that in respect of the Erina Fountain Plaza?---About 50 metres away.

Its right next door is it?---Yes.

30 And could the witness be shown Exhibit S5. Would you open that up at page 1528, 1528?---Yes.

You'll see there that it is a cheque signed or co-signed by you for \$10,000 drawn on Printban in favour of the Free Enterprise Foundation?---Yes.

Can you explain how that came about?---The, the cheque?

Yes?---Yes. We were, I was approached by a consultant we've used in the, over the years, over the last 10 years to, to support a, this, well, it wasn't a foundation, he said it was a lobby group for businesses.

40 Name?---Doug Sneddon.

Doug Sneddon?---Yes.

I can't believe this, Mr Gunasinghe, I cannot believe you're going to go down this line. No harm will come to you if you admit that you were approached by Tim Koelma?---I wasn't approached by Tim Koelma.

Is there any reason why you would have lied to the ICAC investigators about that?---No, I didn't lie to ICAC.

You didn't lie to ICAC?---No, at the time I - they had a 15 minute, between two meetings and they came into office and I, I hadn't had the time to think about what happened.

THE COMMISSIONER: Mr Gunasinghe, can I just ask you to pause here and think carefully?---Yes.

10

A moment ago I asked you if you understood what the limits of the section 38 order was?---Mmm, mmm.

Did you understand what the limits were?---Yes.

Well, let me just refresh your memory?---Mmm.

20 The order does not protect you if it is found that you have given false or misleading evidence before this Commission. It means that your answers can be used to prosecute for the offence of giving false or misleading evidence and it carries a gaol term. Now do you understand that?
---Absolutely.

All right. On you go, Mr Watson.

MR WATSON: Well, do you want to rethink your evidence? There's a good opportunity to get out of it now?---Well - - -

30 Because we're offering you a chance. If you want to stop now I've got another witness I can call - - -?---Yeah.

- - - and you can have a word with your barrister and while you go he can read to you the parts I've just marked in green in the statement that you gave to ICAC?---Okay.

So could this just be deferred for a moment and I'll call another witness.

40 THE COMMISSIONER: You can stand down, Mr Gunasinghe?---Yeah, okay, thank you.

MR WATSON: And leave the room so you can have a good chat.

THE WITNESS WITHDREW

[12.26pm]

MR WATSON: I'll call Peter Hesky in the meanwhile.

THE COMMISSIONER: Mr Hesky, just take a step. Yes.

MR ENGLISH: English, may it please the Commission.

THE COMMISSIONER: Thank you, Mr English. You, you have leave already I take it to appear for Mr Hesky?

10 MR ENGLISH: I did in relation to Mr Maggiotto which is a separate witness and I have satisfied myself there is no conflict in relation to those two.

THE COMMISSIONER: Right, thank you.

MR ENGLISH: I've explained section 38 - - -

THE COMMISSIONER: Thank you.

MR ENGLISH: - - - to Mr Hesky and he'll take an oath, your Honour.

20 THE COMMISSIONER: All right. Thank you. Mr Hesky, can I just again for your benefit make sure you understand the limits of an order under section 38 of the Act. The order protects you from the use of your answers against you in civil or criminal proceedings but it does not protect you should it be found that you've given false or misleading evidence before the Commission. You understand that?

MR HESKY: I do.

30 THE COMMISSIONER: 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 this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

40 **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 THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Would you like to be sworn or affirmed,
Mr Hesky?

MR HESKY: Sworn.

MR WATSON: Are you Peter Herman Hesky?---I am.

And your business is that of an investor?---Yes.

You've been investing in a number of different kinds of businesses?---Oh - -
-

10

Is that right?---Yeah.

I mean there have been pubs and there have been all sorts of things, haven't there?---Well, pubs and ah, an ah, retail.

And what about Big Country Development Pty Limited, you're a director or owner of that business?---I am.

20

And what does it do?---That's what it does.

And what is that?---Property investor.

Property investor?---Yeah.

Now could Mr Hesky be shown Exhibit S5. Would you open this up, Mr Hesky, to page 1309. Now it's going to be hard to find because this one is numbered on the side but you'll get there I'm sure. It's up on the screen in front of you on its side if that's easier?---Yeah.

30

But its pretty simple stuff, that's your signature on a Big Country Development cheque made out to the Free Enterprise Foundation, do you see that?---Yes.

Now all I want to get from you is how did that come about?---Ah, it came about because some time in the middle of 2010 someone told me about them, I talked to a few people about the organisation.

Well, who spoke to you about it?---I don't remember.

40

Oh, Mr Hesky, really, I mean you can't remember who spoke to you about the Free Enterprise Foundation?---No.

Well, who did you then speak to about it?---I checked it out, I spoke to I don't know who and ah, I think I Googled it as well.

Yeah, well, that's great so you said you heard about it from somebody you can't remember - - -?---Yeah.

- - - and then you spoke about it with somebody you can't remember, that's helpful evidence - - -?---I asked, I asked - - -

- - - thanks, Mr Hesky?--- - - - around about it and, and basically I - - -

But who did you ask, names?---I don't remember.

10 Well what, was it the local fruitier? What sort of person would you ask about the Free Enterprise Foundation? You wouldn't go to the bottle shop and say could I have a bottle of Rose and tell me about the Free Enterprise Foundation, would you ?---No.

Well who you were asking, what sort of person?---I just asked around like - - -

Well what do you mean around? I mean it could not possibly have been in the local bottle shop, it must have been somebody who you would have expected would have heard of the organisation?---(No Audible Reply)

20 Well okay, you don't seem to be able to answer that. Can you answer this did you go to a school?---Yes.

Tell me were there any people in your class at school who became politicians?---Yes.

Oh really. Who was that?---Nick Greiner, Chris Hartcher.

30 Right. Do you think you might have spoken to Chris Hartcher about the Free Enterprise Foundation?---No.

No. How can you be so sure of that? You before couldn't recall even down to the vague occupational details of the person to whom you spoke. Why are you so certain it couldn't be Hartcher?---Well because I heard about them in the middle of 2010 and in 30 or 40 years I've spoken to Chris maybe four or five times and had lunch with him two or three included.

Have a look at page 1308?---Yeah.

40 It doesn't look as though you gave the cheque directly to the Free Enterprise Foundation after hearing about it. Why not?---Well I thought I mailed it to them. This, this letter here - - -

What, sorry, you thought you mailed it to the Free Enterprise Foundation? ---I thought, I thought it was mailed to them.

Oh really?---Yeah.

You thought you mailed it to them. What, it got lost in the mail and went to the Millennium Forum?---Well I - - -

Did it?---(No Audible Reply)

That's a wild coincidence?---I don't know how it got there.

You don't know how it got there?---No, no.

10 Well just tell me this what did you find out as a result of your Googling about the Free Enterprise Foundation?---Well from, from what I found was that they're independent Canberra based organisation that supports small business, anti red tape, anti Green - - -

Anti reds?---Anti red tape.

THE COMMISSIONER: Anti Green I think he said, anti Green.

THE WITNESS: And anti Greens.

20

MR WATSON: Anti Greens?---Yeah.

What, people who, who, you mean in the political party sense?---Yes.

Not the vegetables?---No.

The – so where did you get that from? Did they have a website?---Well I think I looked it up in the, on, on the computer, I don't know.

30 Did you, did they have a website?---I didn't Google the website.

What did you Google?---Just the – when I heard about them I wanted to make sure that they were legit and - - -

THE COMMISSIONER: Yes. But what, what, what words did you insert in the search function?

MR WATSON: Tapped in something?---Yeah,. The, what is it?

40 THE COMMISSIONER: Free Enterprise Foundation?---The Free Enterprise Foundation.

MR WATSON: And what did you find, where did you get this information?---Who told me about it?

No, no, no, no. When you Googled it because you can be rest assured, Mr Hesky, other people have Googled it - - -?---Yeah.

- - - and you don't get the information that you just listed?---Yes, you do.

All you'll get - - -?---You get - - -

You'll get is complaints made by New South Wales politician on the Labor side that the Free Enterprise Foundation is a front for the Liberal Party?---I saw that more recently and they, I saw at the bottom that the Liberal Party denied it in that article but - - -

10 THE COMMISSIONER: Well, sorry, Mr, I'm sorry. Can I just ask you though, Mr Hesky, when you undertook this Google exercise you said that was in mid 2010 did you?---Yeah.

And, and so something in the nature of - - -?---I think it, I think what came up was things like their returns or something corporate affairs or something like that.

What do you mean their returns? You mean the Federal, the Free Enterprise Foundation?---The Free Enterprise Foundation, yeah.

20

Well but, but normally when you type in a term like Free Enterprise Foundation - - -?---Yeah.

- - - under a search function - - -?---Yeah.

- - - you'll get a series of entries down the page won't you?---Yes, yes.

Which correspond with the words you've inserted - - -?---Yes.

30 - - - and you click on those - - -?---Yeah.

- - - and it opens up various websites?---Yes.

Did the information that you received come from a website that looked like a Free Enterprise Foundation website?---I believe so.

Did it have a banner a Free Enterprise Foundation?---No, no, no, no, it was stories about them or - - -

40 Stories about them?---Yeah.

What, media stories or advertising material or promotional material?---I don't remember.

And so this material, this vague material you thought oh well no doubt I'll just bung out a cheque for \$9,900 to them?---Um, it wasn't quite like that.

What do you mean it wasn't quite like that? I thought the cheque was for \$9,900?---Yeah.

Wasn't it?---Yes.

10 So what, what have I said which is wrong?---Well I was, at the time I was, I've been a Member of the Liberal Party for many years since 1974 and I was upset with them for losing the '07 State Election which I contributed a bit of money too and I was very upset that what was going on at the time in um, in Federally where Labor had won with three independents and the Greens and so I was looking for somewhere to send the money that might stop that Federally.

Well that's just silly isn't it? That's just a silly thing to do. You've sent it off to this Free Enterprise Foundation for all you know they're associated with the Nazi Party?---Well I was, in my investigations - - -

20 I mean if you're going to donate money to the Liberal Party why don't you write Liberal Party on the cheque, Mr Hesky?---Why?

Yeah.

MR ENGLISH: I object, I object to that. I think the evidence was that he didn't want to do that.

THE COMMISSIONER: Well that's exactly right he didn't want to do that.

30 MR WATSON: So how were you going to stop these socialists getting back into New South Wales by sending off \$9,900?---I wasn't I was trying to mess up the Federally, the Greens and the, and the Labor Party and the three Independents.

Well that was a silly think to do because the election was only, the Federal election had only been held three months before you wrote out your cheque isn't that right?---Yes.

40 So what you're just putting money in a bank for three years time, is that right?---From my investigations or from my discussions or my ideas I thought that they would help.

Well let's just have a look at this page 1308 and try and get to the bottom of it?---Yeah.

You're saying that you're terribly impressed by what you'd read about the Free Enterprise Foundation and obviously fortified by what you heard by the fellow in the bottle shop, you decided to send them a cheque for \$9,900, is that right?---Yeah.

How did it end up in the hands of the Millennium Forum?---I wish I knew.

You wish you knew?---Yeah.

Are you saying Australia Post is in on it are they?---I don't know.

Could they be? Is that what you're thinking?---I don't know.

10 Well you know we've got to come up with some answers here. Have you got any suggestion at all? Was somebody do you think at that stage stealing your mail?---I have no idea.

And just when we read it if you have a look there it says that could you send a receipt to Peter Hesky of Big Country Developments at an address. Do you see that?---Yes.

Who was stealing your identity and giving it to the Liberal Party?---I don't -- this is the first time I saw this was when it arrived with the summons this letter, I have no idea how this came about.

20 Well I just want to know how the Millennium Forum got your name, your company name and your address, how did they do that?---I don't know.

It's an evil organisation isn't it?---I don't know.

You must have been shocked when you saw this, when you saw it with the summons?---Sorry, with the summons? Well - - -

You say, you say that you saw it?---Since - - -

30 You must have been shocked?---By the time the summons came I knew who they were.

Well you must have been shocked when you saw this letter with the summons?---I was very surprised.

Well what did you do to the get to the bottom of it, what have you done? ---Nothing.

40 Well that seems odd doesn't it?---\$9,900 of your money has somehow been floated out of your mail and into the hands of the Millennium Forum. Why didn't you ring them? Their phone number's on the page?---What, this two days ago.

What?---Two days ago?

All right, yeah. Why didn't you ring them?---I read about it in the paper, in the last two or three days.

Let's see what this letter from the Millennium Forum also does. Do you see that it's signed by a fellow Paul Nicolaou?---Yes.

Do you know him?---No.

Ever met him?---No.

Ever spoken to him?---No.

10 Ever spoken to anybody at the Millennium Forum?---Not that I know.

It says here and Mr Nicolaou's writing this, they, meaning you Mr Hesky, you would like the trustees to consider donation their contribution to the Liberal Party of Australia New South Wales Division?---Never told anyone that.

Never told anybody that?---No.

20 You didn't want the money to go to the Liberal Party?---I wanted it to go to the Free Enterprise Foundation.

Well, answer my question, did you or did you not want your money to go to the Liberal Party?---Well, if it ended up there I wouldn't be all upset but I imagine it was Federal.

Did you or did you not want your money to go to the Liberal Party?

MR ENGLISH: I think he just answered that question respectfully.

30 MR WATSON: I don't think he did.

THE COMMISSIONER: No, no, he didn't answer the question, I thought he said earlier he didn't want it to go to the Liberal Party because he was upset with them for losing the election.---That's right.

MR WATSON: But now you've said you wouldn't be upset if the money wound up in their pockets, what is it Mr Hesky or is truth for you a flexible concept a fluid concept?---No.

40 Well what is it? Did you or did you not want your money to end up in the pockets of the Liberal Party?---I did not know they'd end up in the pockets of the Liberal Party.

It's not an answer to my question, this is my fourth go at it. Did you or did you not want your money to end up in the pockets of the Liberal Party?---
(No audible reply)

Well, it looks like it's time for lunch and we'll give you another hour to think about it Mr Hesky if you like, what's the delay? It's a pretty simple question?---I didn't direct the money to go to the Liberal Party.

THE COMMISSIONER: That's not the question.---No.

MR WATSON: Five. This is the fifth go at it. Did you or did you not want your money to end up in the pockets of the Liberal Party?---Well I thought, if the Free Enterprise Foundation thought that some of it was worthwhile
10 sending there I imagine it would go there but I don't know.

THE COMMISSIONER: It's still not an answer to the question.

MR WATSON: I've given up.

THE COMMISSIONER: Tell me this Mr Hesky, did you ever get a receipt for the money that you gave?---Yes, I did.

To the Free Enterprise Foundation?---Yes, I did.
20

And did it come to the address at 9 Dickson Street Artarmon?---There's a typo, it's 7 Dickson.

All right. So it did come to your address Dickson Street Artarmon?---Yes, yes.

And did it come to that address shortly after you had written and sent the cheque away?---Yes.

30 So that would have been in December 2010?---Yes.

And who was the receipt from?

MR WATSON: Commissioner, it's at page 1,311 if you wish to look at it.

THE WITNESS: From the Free Enterprise Foundation.

THE COMMISSIONER: All right. Can I just ask you one other thing though because this is important, the address, whether it be 7 or 9 Dickson
40 Street Artarmon, is that a business address or a private address?---Business.

It's a business address?---Yes.

Thank you.

MR WATSON: Ever met Tim Koelma?---No.

Ray Carter?---Yes.

How do you know Ray Carter?---Through the Liberal Party I donated when Chris Hartcher first ran, I donated some money to the Liberal Party or to his campaign and then from that time on or 07 he would get Ray Carter to come and see me.

So how many times have you met with Ray Carter, just a guess, or best guess?---Two to three.

10 And so when Ray Carter would come to see you, what was it for?---He'd ring up first and ask if he could get a donation this year and we'd make a time.

And so when you say he would ring - - -?---Yes.

- - - it would be Carter who rang or would it be Hartcher who rang you?---Carter.

20 And so, and he would come to see you where, in Sydney?---In my office in Sydney.

And did you give money?---In 07 I gave them money.

What happened in the build up to the 2011 Election, are you saying that Mr Carter forgot to call you?---No, he rang me middle/late 10 and I told him that I wasn't too happy about donating this year and or that year 2010 the Liberals, State Liberals and he said something like, he'd come and see me.

30 He'd come and see you?---Yes.

Did he do that?---Yes, a couple of months later I think in December.

December 2010.---Yes.

And what did he say to you?---He said that I should reconsider and give them some money, and I didn't change my mind.

40 Do you see a coincidence between the fact that this cheque of yours is in the hands of the Liberal Party in December 2010 and a visit from Mr Carter coinciding with that time?---Um - - -

Do you think the events are related?---I don't remember.

That's not what I'm asking, I mean, just thinking about it now, Mr Carter comes to see you in December 2010 to ask you for money for the Liberal Party correct?---Yes.

We've got open in front of us, you and me, at page, of the folder which shows on 6 December 2010 the Liberal Party had a donation from you in their hands.---Yes.

Now did, are you saying that's just a coincidence that at the same time that Mr Carter is seeing you and asking you for a donation for the Liberal Party that the Liberal Party gets a donation from you?---I don't know how this happened.

- 10 Well, doesn't it, if you think about it now and there's limits, I appreciate to your memory, but doesn't it suggest to you that it was Mr Carter who asked you to make out the cheque to the Free Enterprise Foundation?---I don't remember.

You don't remember?---No.

What does that mean, it could have been Mr Carter and the fact has now slipped your mind?---I don't remember.

- 20 I don't think you can dismiss that question as easily as that, could it be that Mr Carter did ask you to make the donation to the Free Enterprise Foundation but between December 2010 and today that fact has slipped your mind?---I don't remember.

That's not an answer to the question. Are you saying you don't remember my question, I'm not asking you about your memory, I'm asking you about whether Mr Carter could have asked you to make the donation to the Free Enterprise Foundation and you did it, could that have happened?---I don't remember.

- 30 Sorry?---I don't remember.

I'm not asking you whether you remember, could it be the case that Mr Carter when he came to see you in December 2010 was the person that - - - ?---Could it be the case?

Yes.---It could have.

- 40 Thinking about it now it's very likely to be the case given the timing, Mr Carter sees you in December 2010, you write out a cheque in 2010?---Well, the only thing wrong with that is that I had some time to look up and know who they are, he did not come to me and say write this cheque out to these people because I knew about them for a month or two before.

All right. Well, we've got evidence, you see, of Mr Carter forwarding cheques from time to time from a variety of people forwarding them onto the Free Enterprise Foundation – I withdraw that. We've got evidence, you see, of Mr Carter collecting cheques from donors, people like you, then

sending them along to the Millennium Forum to Paul Nicolaou and asking that they be sent onto the Free Enterprise Foundation, do you know anything about that?---Only what I've read in the paper in the last few days.

Could that be the case of what happened with your cheque?---I don't know what happened to my cheque and I don't understand this thing with the Millennium Foundation at all.

All right. Well, I think that's enough. That's the evidence of Mr Hesky.

10

THE COMMISSIONER: Mr Hesky, you indicated earlier in your evidence that you wrote this cheque to the Free Enterprise Foundation after you'd done the Google search and you sent it off - -?---I asked around, I don't know if I Googled it but I know I did ask some people who they were and confirmed that they actually existed and were independent in Canberra.

So you did, you didn't do the Google search or you did do the Google search?---I presume I did.

20 You presume you did?---Yes.

Anyway, you said that you wrote the cheque and you sent it off to them?---Yes.

Well, does that mean you put the cheque in the envelope and you got an address somewhere for the Free Enterprise Foundation and you mailed it?---That's what I thought had happened until I saw this letter.

30 All right. Well then, let me come back to that, you appreciate do you, that when someone says I don't remember, they're not asserting categorically that it didn't happen they're just asserting that they now presently don't have a memory of it, you understand that don't you?---Yes.

So are you saying that given your lack of memory it is quite possible that you did give Mr Carter the cheque that was made out to the Free Enterprise Foundation and that that's the way that it found, that is the method by which it found its way to- -?---I wouldn't call it quite possible.

40 You wouldn't?---No.

Well, what would you say?---A maybe.

Well, it's possible then?---Possible, but not, not quite, 'cause- - -

Well, you see, one has to explain, or I assume you are trying to explain how the cheque that you wrote got to the Millennium Forum?---I had no knowledge that that was going to happen.

Well, I'm not asking- -?---No, in other words, no one told me, oh, if you sent a cheque to the Free Enterprise it goes via Millennium. I never knew that.

No, Mr Hesky, all I'm doing is suggesting to you that if you don't have a memory of physically putting that cheque into an envelope- -?---Ah hmm.

- - -and posting it off- -?---Ah hmm.

10 - - -to an address for the Free Enterprise Foundation- -?---Yes.

- - -if you don't have a specific memory of that, what I'm suggesting to you is that the way that it found its way to the Millennium Forum was because Mr Carter or someone else took it and place it there?---That's possible.

Right. Does anyone want to ask any questions of Mr Hesky? No. Anything, Mr English?

MR ENGLISH: No, Commissioner.

20

THE COMMISSIONER: Anything arising?

MR WATSON: Nothing.

THE COMMISSIONER: Thank you, Mr Hesky, you may step down, you are excused.

THE WITNESS EXCUSED

[12.51pm]

30

THE COMMISSIONER: I'll take the luncheon adjournment.

MR WATSON: Commissioner, just before we rise?

THE COMMISSIONER: Yes.

MR WATSON: I'm sorry, I must have got something completely wrong earlier. Mrs Koelma is here and she has young children and I'm going to interpose her as soon as we start.

40

THE COMMISSIONER: Well, is she anticipated to be a lengthy witness because- - -

MR WATSON: No.

THE COMMISSIONER: No?

MR WATSON: No.

THE COMMISSIONER: Is there perhaps a prospect of dealing with her in the next 10 to 15 minutes?

MR WATSON: No, they're actually not in the courtroom I believe.

THE COMMISSIONER: All right. No, that's all right. I understand. All right. She has to be brought here. All right. Well, then as I said we'll adjourn and we'll resume at quarter to 2.00. Thank you.

LUNCHEON ADJOURNMENT

[12.52pm]