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PUBLIC
HEARING

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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 1.50PM

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 – or Mr O’Mahoney.

MR O’MAHONEY: Commissioner, I call Ms Tennille Koelma.

THE COMMISSIONER: Yes.

MR OATES: If the Commission pleases, my name is Oates. I appear for Ms Koelma.

10 THE COMMISSIONER: Yes, Mr Oates.

MR OATES: I seek your authorisation to represent her.

THE COMMISSIONER: Yes, leave is granted. Thank you.

MR OATES: And she’ll take a section 41 declaration also if you please, Commissioner and be affirmed.

20 THE COMMISSIONER: Thank you. Yes, thank you. Come forward, please, Ms Koelma, and just take a seat.

Ms Koelma, are you aware that the order that I am able to make under section 38 of the Act protects you insofar as your answers cannot be used against you in civil or criminal proceedings but it doesn’t protect you if it should be found that you’ve given false or misleading evidence to the Commission. You understand that?

MS KOELMA: Yes.

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: Yes, can the witness be affirmed, please.

MR O'MAHONEY: Your full name is Tennille Sarah Koelma?---Correct.

And what's your current occupation, Ms Koelma?---Um, I am a secondary high school teacher.

And what do you teach?---Um, English Drama.

10

And you've been – I think you're a teacher by training?---Yes.

And you've taught I think English Drama and Geography, is that right, over the years?---Um, multiple subjects, yes.

And have you recently returned to full-time work?---No.

When did you return to full-time work as a teacher?---Um, I'm not currently working full-time. I have three children under 5.

20

Okay. So just to be clear, at the moment you're working part-time as a teacher?---Casually.

Casually as a teacher. When did you last work full-time as a teacher? ---Um, 2009.

And your husband is – or I should ask in terms of your academic background. Did you study, was it Arts and- -?---A Bachelor of Teaching in Arts with Honours.

30

Okay. And your husband is Mr Tim Koelma?---Yes.

And you met him I think at school and, and ended up- -?---He was at a different school but we were both school-aged.

And I want to ask you some questions about an entity Eightbyfive. I presume you've heard of it?---Yes.

Could you tell us how you came first to know of this entity, Eightbyfive? ---My husband began that business in 2009.

40

And before – or did you ever do any work for Eightbyfive?---Um, only basic accounts um, I've done the taxes for the business.

Well, I should ask this to start with. Have you ever been an employee of Eightbyfive?---Can you explain that?

Have you ever been a staff member of Eightbyfive?---Other than paying its accounts um, phone bills and doing taxes, that's the only work that I did.

So is the answer to that question no?---(No Audible Reply)

THE COMMISSIONER: In other words, did you draw a salary from the business at all?---I drew a management fee.

MR O'MAHONEY: And what was that management fee?---\$40,000.

10

And were you given a title or a role in respect of which that management fee was paid?---No.

THE COMMISSIONER: Was that per annum, Ms Koelma?---That was from the year 2011 and 2012 which is after we did our taxes.

So that, that only happened over one financial year, did it?---I believe so.

MR O'MAHONEY: And you, you – I think you said – do you recall speaking to ICAC previously?---Yes.

20

And do you recall being questioned by Mr Gormly on, on a - - ?---Yes.

- - -on an occasion here at ICAC? Do you remember saying to him that the extent of your involvement with Eightbyfive was really along the lines of just editing documents?---No.

If I could maybe read out to you in fairness an answer you gave to a question. And, Commissioner, I seek relief. This was in the course of a CE that was conducted on 28 June, 2013?

30

THE COMMISSIONER: Yes.

MR O'MAHONEY: This was the day that I was referring to.

THE COMMISSIONER: Yes. The suppression order made in respect of a compulsory examination on 28 June, 2013 is lifted insofar as it is revealed by the- - -

40

**THE SUPPRESSION ORDER MADE IN RESPECT OF A
COMPULSORY EXAMINATION ON 28 JUNE 2013 IS LIFTED**

MR O'MAHONEY: If I could just- - -

THE COMMISSIONER: - - -following questions. Yes, Mr O'Mahoney?

MR O'MAHONEY: Thank you, Commissioner. If I could just refer you to an extract from the dialogue that occurred on this occasion. Question, "What, what is it exactly, how does it operate?" It being Eightbyfive. You answered, "It was my husband's personal company, the name that he used, and that's, yeah, that's all I know about it really, I don't know much at all." Another question, "Have you ever drawn a wage from it?" And your answer was, "No." Are you saying now, Ms Koelma, that that answer was incorrect?---I'm saying that that has changed since then because we hadn't done our taxes at that point, so that has had to change.

10

So as at 28 June of last year, you hadn't drawn a wage from Eightbyfive but are you saying you have subsequently?---Subsequently we have looked at our taxes and had those finalised, yes.

I don't understand that, Ms Koelma, and correct me if I'm missing something, but how, the relevant period here was in the lead-up to the 2011 election. How was it that you only realised after June of 2013 that you were drawing a wage from Eightbyfive?---That's a matter you'll have to point out to my accountant, I'm not sure of the facts.

20

Well, I hope I never get a chance to meet him. But, but, Mr Koelma- - -? ---Miss, Mrs.

Sorry, Ms Koelma, could I ask this. If I'd met you in the middle of say 2010 or early 2011 and asked you whether you were being paid by Eightbyfive I presume the answer would have been no?---Correct.

30

So something's happened for tax reasons since the middle of last year that's, that's changed that answer?---I'm not exactly sure of the circumstances but that's what I believe.

Okay. If I could just refer to another question and answer that was given on this date of 28 June, 2013. "Have you any – have you ever done any business for it?" Again it being Eightbyfive. That was the question. The answer, "Only in the matter of when my husband would ask me for advice pertaining to my experience with English writing, so if he was writing, drawing up any correspondence, he would ask me how to phrase certain words and things like that, so in some ways yes, but not, not anything more than that."?---That's correct.

40

Was that answer truthful?---Yes.

So the extent of your involvement in Eightbyfive really was in- - -?---As an editor, I would say.

As an editor?---Yes.

You helped with the correspondence?---Yes.

And no doubt in doing that you drew upon your training and experience as an English teacher- - -?---Yes.

- - -and a user of the English language. Is it the case – and I should say as well you were asked some more specific questions about whether you performed any other functions at Eightbyfive by Mr Gormly and you were asked, “Have you done any of the bookkeeping?”---Yes.

10 And you said, “No.” “Have you done any invoicing?” You said, “No.” “Any sort of thing like that?” You said, “No.”?---That’s correct.

“Filing?” You said, “No.” And I just want to be clear, is that the case, you haven’t done any of those things for Eightbyfive?---Only recently.

Only recently?---Yes.

And is that in respect of the tax affairs that you’ve just mentioned?
---Correct.

20

So is this the case, Ms Koelma, that Eightbyfive was a little bit behind with its tax and- - -?---Correct.

- - -and matters have been attended to recently and- - -?---Yes.

- - -and you’ve put the shoulder to the wheel, so to speak, and given in a hand. But as of 2010/2011 you had no involvement in Eightbyfive beyond the odd little bit of editing?---Correct.

30 Did you have – do you remember when the ICAC investigators came to your place?---Yes.

And where were you living then?---Um, in Hornsby.

And had you had an incident in the lead-up to that time – or roughly when was that, Ms Koelma?---Ah, that was when I was pregnant with my third child, that would have been 2013 I believe, around January or February I think.

40 Had your house been affected by a flood in that- - -?---Not that house, but the house before that.

In Terrigal?---Yes.

And when was the flood?---Um, prior to us moving, that would have been May or June.

We've got some information from your husband initially that the house or the garage had been affected by a flood and then later he said no, it wasn't a flood, it was a leak in the roof?---Yes, a leak in the roof.

Is that what you're referring to, is it?---Yes.

And I think that claimed a bike?---Yes, it claimed a lot of different things.

10 It must have been an aggressive leak?---Yes, it was not only the garage, it was also the lounge room.

And I don't think I – just one second, Ms Koelma.

THE COMMISSIONER: Does that, does that mean that the, that this water damage occurred in about mid 2012?---I believe it was earlier than that. I believe we moved in 2011, so I believe it was actually June or a little bit earlier than June in 2011.

20 MR O'MAHONEY: No further questions, Commissioner. Thank you, Ms Koelma.

THE COMMISSIONER: Any questions of Ms Koelma? No. Mr Oates, nothing arising?

MR OATES: No, thank you.

THE COMMISSIONER: No. Thank you, Ms Koelma. You may step down. You are excused.

30

THE WITNESS EXCUSED

[1.58pm]

MR WATSON: I call Alan Hayes. Mr Hayes. Mr Hayes is unrepresented.

THE COMMISSIONER: Thank you.

MR WATSON: And I'm afraid I was derelict.

40 THE COMMISSIONER: That's all right.

MR WATSON: I did not take him through section 38.

THE COMMISSIONER: We'll get there. Come, come forward, Mr Hayes. Mr Hayes, just let me explain something to you. As a witness before this Commission you are required to answer all questions. You do not have the option of refusing to answer a question. Do you understand that?

MR HAYES: I understand.

THE COMMISSIONER: You have to answer questions even though they might incriminate you or tend to incriminate you. However, because you are required to answer questions I am in a position to make an order under a section of the Act that effectively means that the answers that you give cannot be used against you in civil and criminal proceedings at some later time, but the order does not protect you from the use of your answers against you if it should be found you've given false or misleading evidence to the Commission. Do you understand that?

MR HAYES: Yes, I do.

THE COMMISSIONER: Do you wish to make, sorry, do you wish to take advantage of such an order?

MR HAYES: I guess, yeah.

THE COMMISSIONER: It's a matter for you.

MR HAYES: Yes.

THE COMMISSIONER: All right. 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

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

MR HAYES: I'll affirmed, affirmed.

THE COMMISSIONER: Affirmed, thank you.

MR WATSON: What is your full name?---Alan Bruce Hayes.

And, Mr Hayes, what do you do?---I am a publisher of two local community newspapers and I'm also the author of many, many books.

10 And what is the local community in which you're publishing those newspapers?---Wyong Shire.

And is it about the whole of the shire or a specific part of it?---Well there's two publications one deals with the rural area and one deals with the urban area so it covers stories to do with the whole of the shire.

And apart from that you spent a life writing?---Yes, I have.

And written widely on the subject of I'll get it greenie things, is that fair enough?---It's a natural health, natural alternative sustainability.

20 Yeah. Sustainability and the like and you used to write a column in the Sunday Telegraph?---Saturday Telegraph of 15 years on sustainability but I actually write a newspaper column that's published around the world.

And you've written many books over time?---Yes, I have.

How many?---37.

And, Mr Hayes, you've got a place up in the Dooralong Valley?---Yes, I have.

30

And you like it up there the way it is?---It's very, very nice up there, it's very tranquil and um, it's a nice place to live, a nice part of the world.

I think you've been one of the local organisers trying to prevent coalmining extending into that valley and local areas?---Well we've been fighting to prevent the Wallarah Two Coal Project from going ahead mainly because the water catchment valleys are the major water drinking resource for the entire Central Coast region more than 300,000 people.

40 Well hold on you don't have to sell us on the proposition today?---That's all right.

But that leads into this you're also involved with an organisation called the Australian Coal Alliance?---That's correct.

And despite its title it's nothing to do in favour of coal it's rather if you had your way you prevent the new mines being opened in particular areas?

---Well only on the central coast I mean our focus is really on that one project.

And the Wallarah Two Mine has been a real controversy up there for some time?---Oh, that it has.

10 And as a part of your work with the Australian Coal Alliance did you solicit commitments from local politicians?---Well what we did very early in the peace probably 2006 we approached the Liberal Party or we spoke to Chris Hartcher because previously we'd been fighting to stop coal seam gas there and the Liberal Party were very keen to help the community to prevent that from going ahead and they'd expressed the same concern in regards to this mine as well so they came onboard with the fight and made certain commitments to the community, one was that they committed themselves in writing on a number of occasions.

20 To oppose Wallarah Two?---to oppose Wallarah Two that under their, under a Liberal National Government they would not allow coal mining in the water catchment valleys.

Well, well so you'd spoken to Mr Hartcher. Did you attempt to extract any promises from other candidates in the lead up to the 2011 election?---Well it wasn't really difficult to do because the Liberal Party, Barry O'Farrell himself stood up at a rally which was organised at the behest of the Liberal Party at Woodbury Park on the Central Coast and made a commitment no ifs no buts a guarantee that there would be no mining in the water catchment valleys.

30 I think that I've seen that photograph from that occasion in the paper where - - -?---No, that photograph was taken probably in the beginning of February 2011 not long before the election.

Right. That's the one with the red T-shirts?---That's the one, yes.

40 But the – so as having got promises from the Liberal Party did the Australian Coal Alliance support as it were financially the Liberal Party? ---Well no, we didn't support them financially but we did agree, well some of our members agreed to go to a dinner that was being held as a fundraiser for Darren Webber.

Now this is what I wanted to ask you about Darren Webber was of course the candidate for the seat of Wyong?---That's correct.

And he had a campaign manager?---Yes.

Did you meet the campaign manager?---Yes, I met her in Darren Webber's office that was Karen McNamara.

And so she was acting as campaign manager for Darren Webber for the seat of Wyong when you met her?---That's right.

And did you talk to her about funding matters?---Well I was actually dropping in copies of one of my publications into Darren Webber's office because he had requested that they be left there because at that particular I was running a number of stories which were obviously favourable to the Liberal Party Ms McNamara asked me and this would have been around about I guess the beginning of October 2010 if any of our members would
10 be attending Darren Webber's fundraising dinner in November I said well I don't know but I said what I can do is arrange for our secretary to send out an email to each of those members and I asked her how much it would cost and she said \$100 and I said well if any of them are interested they can then send their money off and book the appropriate seats for the dinner.

And did she respond to that?---Yeah, she asked me if the Coal Alliance could collect the money and then make out a cheque for the total amount to Darren Webber's campaign.

20 And so she requested that the cheque be made out to Darren Webber's campaign - - -?---Or Darren Webber.

To actually Darren Webber the person?---Yes.

Did she explain why she wanted that?---I didn't really think about it because I just sort of was under the impression that because he was running election campaign that candidates when they run for election they would obviously have an election fund or a campaign fund where any monies for dinners or things like that would go to so it really didn't ring any alarm bells with me.
30

Well you left from there and did you contact the secretary of the ACA?---Yes, I did and she sent out an email to all our members. In the beginning of November 2010 when I dropped the next edition of the publication in there and that would have been the week prior to the week that the dinner was being held.

Now just pausing, when you're dropping off back at Darren Webber's campaign office?---At his campaign office.

40 Rightio, okay. What happened?---Karen McNamara asked me was anybody coming to the dinner and I said well there's, we have about 14 and she said we'll look we need a cheque prior to the dinner. Now that was on a Wednesday because I had dropped the magazines there and I called around at our treasurer's place at night who lives in the Dooralong Valley at Jilliby on the way home and I said they need a cheque can you make out the cheque as requested to Darren Webber and drop it in. He obviously became a little, well he didn't feel comfortable with that so he wrote out the cheque to the Liberal Party and then dropped it around there the following Tuesday.

And did anything happen as a result of that?---In 2012, in March 2012 I received a letter which from the Electoral Funding Authority and they referred to a previous letter which I didn't receive threatening to fine the Australian Coal Alliance \$22,000 for not making an electoral donation declaration and I rang up Ms Suzanne Young from that, from that office and said to her we did not make an electoral donation we were just collecting money on behalf of our Members for a dinner and on forwarding that money to the, to the Liberal Party. I spoke to my solicitor and had a discussion
10 with it about him and he said well no, just tell them that that's the way it is and I then wrote a letter at the end of March to Ms Young and in that letter I said to her that if she has an issue with that she's best to take it up with the Liberal Party 'cause we did not make a donation.

And did you take this up at all with Ms McNamara?---No, I didn't.

Since that issue developed do you know of other fundraising issues which happened in and around those seats up there in the Central Coast?---Only what I've recently become aware of because of the media.
20

Well as a result of that were you able to get your hands on some information?---Yes, I was just recently because of a news story that's going to air on the ABC I was sent a copy of some information which had the gross receipts for the Darren Webber fundraising dinner that had Barry O'Farrell listed as being the guest speaker.

We know that there was a fundraising dinner where Barry O'Farrell was the guest speaking and it happened on 12 November 2010, was that the dinner to which you referred where there were 14 people from the ACA?---That's
30 correct.

So you were there that night?---I was there that night.

Were you the only 14 people there?---No, there would have been more than 100 people - - -

And it was \$100 a ticket?---At \$100 a ticket.

And where was it held?---At Kooindah Waters.
40

And that is a club or a pub or a restaurant?---It's a, I guess you'd call like a golfing restaurant club, one of those one's where they sell residential golf premises.

So it's a nice place?---It's a nice place.

So it's \$100 a head and there's over 100 people there?---Yes.

And so there would have been some money made I suppose on ticket sales, were there other fund raising activities?---Well, yes, they had raffles being held there. I think there was one raffle that was football jersey from recollection which I think they probably raised about \$1,000 in that raffle.

And so there were a few raffles of that kind?---Yes, there was.

So there was a bit of money being spent on raffle tickets?---That's right, it was mainly sporting - - -

10

Crazy mad gambling Liberal Party people, you see.---I really don't know about that.

Was there a silent auction or an auction or anything like that?---I don't recall, there could have been but I really don't recall.

20

Well, we've got a record that it appears that Mr Webber's campaign declared that the funds raised that night between the 100 or more guests after all the raffles all of that was \$1,100. Given the money that you saw changing hands, does that sound realistic?---No, it doesn't sound realistic at all.

That's all I think from Mr Hayes. Thanks Mr Hayes.---Thank you.

Just if you wait for a second, I'm not sure there will be, there might be some questions.

MR STEIRN: Commissioner, my name is Steirn.

30

THE COMMISSIONER: Yes, Mr Steirn.

MR STEIRN: I understand I've been given leave. (not transcribable) to represent at the hearing was Ms Karen McNamara.

THE COMMISSIONER: Yes, Mr Steirn, you want to ask some questions?

MR STEIRN: I do.

40

THE COMMISSIONER: Yes.

MR STEIRN: Mr Hayes, as you just heard, I appear for Ms Karen McNamara, do you understand that?---Yes, yes.

And you've told the inquiry that you first spoke to Karen McNamara in relation to the fund raising some, was it two months before the actual dinner?---I believe it was probably aroundabout the beginning of October.

And you said you met her because you were dropping in a publication I think you said, is that right?---I was dropping a, yes, that's correct.

And would you tell the inquiry the address that you went to in relation when you first spoke to Ms McNamara?---It was Darren Webber's campaign office and it was on the Pacific Highway at Wyong.

10 And what sort of place was it, a shop front, a home or a commercial premises?---Well, I guess it was, it would have been used as a shop front previously, there were other shops in the complex.

And are you able to give a date for this?---Well, my publications publish in the first full week of each month, they're a monthly publication so it would have been in the first full week of October, what the actual day was I don't know but it would have, it would have been sometime during that week.

And can you give us a date of the fundraising dinner?---It was on 12 November.

20 And on how many occasions did you visit the campaign headquarters of Mr Webber prior to the fundraising dinner?---Exactly I wouldn't know, I remember on one other occasion when I dropped in some publications because I was doing that each month, I was asked if they could have some of our (not transcribable) not cold call flutes to put in the premises which I dropped back the following week. Even after the fundraising dinner I still kept going there each month to drop the publications in.

30 At this stage, I'm only interested at the times you visited before the fundraising dinner, do you understand?---Yes.

From what you've told the inquiry that must have been at least on two occasions?---It was at least two occasions, probably even three.

All right. Are you saying that on each occasion you spoke to Mrs McNamara?---No, I spoke to her on the first occasion and then just prior to the dinner when I dropped in the publications then I spoke with Ms McNamara.

40 All right. And just give us again, how the topic came up about the payment?---Well, she asked me whether any of the Australian Coal Alliance Members would be going to Darren Webber's fundraising dinner.

Well you told her at that stage you did not know I think?---Well, I said I don't know whether anyone would be attending that all I could do was have an email sent out to all our members then if anyone was interested they could then advise that they were going and pay the money.

And prior to that, you've said the Australian Coal Alliance had been in existence at least since 2006 or even before that?---No, it came into existence in 2006, prior to that it was a different organisation when we were fighting the coal seam gas but it was the same community members.

And doing the best you can now, who was in government both State and Federal as at 2006?---Labor would have been in State and John Howard would have been the Premier, sorry, The Prime Minister of Australia, so it would have been a Liberal Government.

10

And did you see your role as convenor at least, and you chose the word if I'm wrong, that it's important to approach the various political interests to get some sort of support for what you were trying to do?---Well, yes, it was important to get their support in trying to protect the water catchment valleys.

20

And did you understand through the knowledge of the world community affairs especially and I'll withdraw that. You said earlier that you wanted a commitment in writing from Mr O'Farrell, the then Premier?---No, what I said was that after the rally that was held in 2009 Barry O'Farrell, then the very next day sent to me an email in which he said, Dear Allan, I especially appreciate the opportunity to reiterate the Liberal Party's opposition to the coal mining proposal and our determination in office to prevent it from going ahead. But previous to that the Liberal Party on Liberal Party that letterhead signed by Chris Hartcher had guaranteed on behalf of Liberal Party that they would not proceed, that they would ban the coal mine, they even said that they will put in legislation if necessary. They even encouraged people to vote for them and these letters were addressed to the community, not to me, because it was the only way that a coal mine could be stopped.

30

And do I take that essentially you were on a learning curve as it were, as at 2009, that it's important to get commitment from the various political parties on the way through to support your interests?---That's correct.

40

And do I take it from that stand point you saw your role to speak with these people and try and understand or get them to understand at least, that they would in fact support you?---Well, I didn't really have to do that because they actually came to us. Chris Hartcher actually came to us in regard to the rally that was held in 2011. I think that the Liberal Party realised that the community campaign to stop this coal mine was fairly strong because at that stage the sitting member for Wyong David Harris, was very much on side with the community and was doing what he could do to persuade his government from approving the coal mine, and in fact, the Labor Government did eventually knock it on the head, the originally proposal.

Apart from the Liberal Party, did you approach or did other political interests approach you to support you?---No, no.

At one stage Mr Craig Thompson was the Federal Member for Dobell?---Oh he did yes.

10 And did he support your cause?---Well, he supported the cause to stop the coal mining in the water catchment valleys, I think most politicians did because it was a very popular cause and whether they did it because they believed they were going to gain votes from it or not, that was a matter for them but they certainly did support the community but I think most of them did it because they also believed that it was appropriate to build a long wall coal mine in the largest drinking water resources for the Central Coast.

Did you in a tangible way either financial or even with your labour, support other political parties on the way through?---No.

For example, do you recall when Mr Craig Thompson was stood down from the Labor Party as a sitting member, do you remember that?---Yes, I do.

20 And he joined the back benchers at that stage.---That's correct.

Can you help us when that date was?---I would not know

THE COMMISSIONER: Isn't that relatively recently though Mr Steirn?

MR STEIRN: Yes, it is, Commissioner. I understand it to be on 29 April, 2012.

30 THE COMMISSIONER: Well, when you - your question was prefaced with, "and on the way through" so I understood that question to be relating to a timeframe leading up to the State Election in 2011. Are we talking about some other time now?

MR STEIRN: Yes, the Commissioner's quite right. I'll withdraw the question at this stage.

THE COMMISSIONER: Yes.

40 MR STEIRN: Did you form a view at any stage, and you tell us when, when the Liberal Party no longer supported your position in relation to the mining?---Well, the only time that I formed that view was probably fairly recently because even during the period after the Liberal Party were elected I had a number of meetings with Chris Hartcher at his office at Terrigal and he always made it quite clear that he was an energy Minister that didn't want a coalmine in the water catchment valleys and that it would not go ahead so myself and the rest of the community still believed that the Liberal Party was going to honour their commitment to the Central Coast community.

Had your group ever financially supported other political parties - - -?---No.
- - - or interests on the way through?---No.

In relation to the election where Mrs McNamara was elected to the seat of Dobell you supported Craig Thomson did you not?---We - - -

THE COMMISSIONER: Are we talking, are we talking the Federal Election?

10

MR STEIRN: The Federal Election, yes.

THE COMMISSIONER: Which Federal Election?

MR STEIRN: The last Federal Election.

THE COMMISSIONER: The last one being 2013.

MR STEIRN: '13, yes?---Yes, we did.

20

And when you say we did, did you, did you support Mr Thomson financially with donations?---No, we didn't support him financially at all.

All right. Had you ever prior to the fundraiser that you attended ever supported any group financially either - - -?---No.

- - - on an individual basis or as part of the Australian Coal Alliance?
---No.

30

Now you said in your evidence that Ms McNamara at the campaign headquarters suggested the amount to be paid by cheque from your group?
---That's correct.

And that meant, did it not, depending on the number that that could have exceeded \$1,000?---That's correct.

Do you understand the significance of \$1,000?---Well, I do now.

40

What do you understand it to be now?---Well, after I received that letter from the Electoral Funding Office I realised that if it was deemed to be a donation then you have to do a declaration.

Right. And when you went to the fundraising dinner that was in effect a formal, a formal affair was it not?---Oh, dinner, not dinner suits but lounge suits.

No, I meant by that the actual dinner itself was a - I'm going to show you a document and could you tell the court if you've seen that before or a - it's a

copy of a document obviously, could you just tell us whether you've seen that document before.

MR WATSON: I'm so sorry, I think that's got to go to me.

MR STEIRN: I'm sorry.

MR WATSON: There is after all a practice direction which makes this very, very, very clear but could I just take a moment, Commissioner? Yes,
10 I've got no objection to that being used.

THE WITNESS: No, I don't think I actually, I have ever seen that.

MR STEIRN: All right. There's no doubt it mentions, it records the dinner that you attended?---That's correct.

And you said that you've made no disclosure at the time, is that correct?
---That's correct.

20 And your position is that you simply did not know that you had to?---Well, as far as we're, we were concerned as a group we had not made a political donation. We, we had been asked to attend the dinner and all we did was collect the money from individual people collecting the dinner and then on-forward it as a lump sum so that issue would not have even arisen.

But didn't you understand consistent with your time in this group, and your knowledge of the world, that the \$100 was in fact a contribution to a campaign?---Well, we realised it was to help raise money for Darren Webber but it was also to pay for a dinner that we were attending and that
30 we were - various members of our group were happy to do that as individuals which is had they paid the money as an individual it would have only been \$100 a head and we were just acting as a go between as the Australian Coal Alliance to collect the money for and on behalf of those people which has all been properly receipted through our organisation and marked as being forwarded on to the Liberal Party for this dinner.

But is it truly the position that you just believed you were being invited to a dinner and nothing else?---Well, we believe we were being invited to a dinner which was to raise money for Darren Webber for his campaign.
40

So it follows from your last answer you didn't expect the dinner to cost \$100 did you?---Well, no, I didn't say that. I realised that a portion of those funds was of course being used for his campaign, we all did that but we were asked how many people from our group would be attended so as previously stated an email went out to those individuals who were interested in coming and because we were asked to collect the money and then on-forward it as a single cheque that's what we did but otherwise those

people would have in the ordinary course of things have sent the money separately.

So you see, if you had sent the money separately and the amount from each person was \$100 that would have been individual contributions of \$100, correct?---I understand that.

Well, below the \$1,000 limit which had to be disclosed.

10 THE COMMISSIONER: Mr Steirn, can I just ask you to pause there. Whatever understanding this witness or the members of the Coal Alliance had I'm, I'm really struggling with whether or not you want to put the witness that Ms McNamara either did or didn't give the instruction that the witness has spoken about because it may well be that he has unwittingly fallen foul of the, of the electoral funding provisions but really I think this is about whether or not Ms McNamara gave him the instruction that he said he'd given. Are you putting that she didn't give him that instruction?

MR STEIRN: I will be.

20

THE COMMISSIONER: Well, can we get to that because this is about putting a positive case, not about undermining the witness in terms of whether or not he understood electoral funding laws.

MR STEIRN: Well, I can do that very quickly, Commissioner.

THE COMMISSIONER: Thank you.

30 MR STEIRN: You see, can I suggest to you that whatever the position was at no stage did Ms McNamara tell you in terms to pay on behalf of the Australian Coal Alliance did she?---She did.

She left it up to you did she not?---No, she did not.

Did you understand then at least that if the amount collected was more than \$1,000 she had a duty to disclose?---No, I did not.

40 Your position is that you first found out that something was amiss from your point of view was in March 2012?---That's correct.

And you found out in what way, by a letter I think?---I received a letter from the electoral funding - well, I didn't but the Australian Coal Alliance received a letter from the Electoral Funding Office.

Has that been tendered, Commissioner, that letter?

THE COMMISSIONER: Not as far as I'm aware.

MR WATSON: No, because it's not relevant.

THE COMMISSIONER: No.

MR WATSON: Like a lot of these questions.

THE COMMISSIONER: I'm sorry, Mr Steirn, no, it hasn't been and I don't think it's in the volumes that have been tendered either.

10 MR STEIRN: All right. And it in a sense reminded you that you had not disclosed?---No, it came as a shock because I didn't realise we had to disclose because as far as myself and the other members of our organisation were concerned we were not making a donation on behalf of our organisation to Darren Webber's campaign. All we were doing was collecting the money from individuals who were attending the dinner and then on-forwarding it as a bulk amount.

All right. You mentioned earlier that there was a - you were liable to a \$22,000 fine?---Well, that was what in the letter that we received.

20

And you must have been aghast when that occurred?---Well, I looked at it and I immediately rang the Electoral Funding Office and explained the situation. The woman there said well, no, you still, you still must complete the declaration forms. I then had a conversation with my solicitor who is my literary agent and discussed it with him and he said no, this is what you need to tell them and I then wrote a letter back in response and said that we wouldn't be completing the declaration because as far as we were concerned as an organisation we had not made a donation to Darren Webber and that they should contact the Liberal Party and take it up with them and I, we
30 heard nothing more about it.

Did you at that stage speak to Ms McNamara?---No, I did not.

When did you raise for the first time that Ms McNamara had spoken to you prior to the dinner?---Well, when Operation Spicer started and all of these coming out it then occurred to me that maybe this was not appropriate behaviour, what she, the way she had approached us in regards to asking if our members should attend the dinner and the payment of those moneys.

40 And did you speak to a reporter about your conversations with Ms McNamara?---Yes, I did.

Who was that?---Andrew Clennell from The Daily Telegraph.

And you've read that article have you not?---Oh, some time ago.

And when you read it did it represent what you told Mr Clennell?---Well, not, not exactly, no.

In what way - - -

THE COMMISSIONER: Does anything ever said to a journalist accurately represent what they're told, Mr Steirn?

MR STEIRN: It'd be a revelation, Commissioner, but - - -

MR WATSON: That will probably be misreported, Commissioner.

10

THE COMMISSIONER: I know, I know, I'll regret saying that but anyway, go on.

MR STEIRN: Yes?---Look, I don't have it in front of me and without reading it again now I, I just do not exactly recall.

So the - - -?---But I, I - when I read it I thought to myself, well, yes, that's typical, it's been adapted to suit whatever the story was that he was writing.

20

When you - you sent a cheque or you took a cheque to Ms McNamara?
---No, I did not. Our treasurer took a cheque to Darren Webber's office the week prior to the dinner.

All right. And as far as you know that was properly receipted by the Liberal Party?---No, actually I asked him that and we actually never received a receipt. Well, as far as I'm aware, I, I asked him that this morning but he didn't recall receiving a receipt.

30

Right. Might this be shown to Counsel Assisting, that document please.
Whilst that's being done, Commissioner, can I tender that invitation to the dinner?

MR WATSON: No, you can't, I'll tender it.

MR STEIRN: Thank you.

THE COMMISSIONER: Yes, the document shown to the witness as an invitation to the dinner will be Exhibit S43.

40

**#EXHIBIT S43 - INVITATION TO WYONG FUNDRAISING
DINNER DATED 12 NOVEMBER 2010**

MR WATSON: I've got no objection to this other document being shown.

MR STEIRN: Mr Hayes, would you look at the first page of that document and the first page only at this stage and just read it to yourself and indicate when you finish reading it?---I've read it.

All right. And do you see that it was received, that it's a receipt from the - - -?---Yes, I can, I can see that.

- - - the Election Funding Authority, you see that?---Yes.

10 And it's dated 9 November, 2010?---Yes.

That's some two days before the dinner, is that correct?---That's correct.

And it records the fact that it was received from the Australian Coal Alliance?---That's correct.

A cheque in the amount of \$1,400?---That's correct.

20 And would you see under the word "Purpose" there - - -?---Yes.

- - - what does that, would you just read that out?---"Fundraising, fundraising dinner."

"Fundraising dinner." So there was no doubt that two days before the dinner the Australian Coal Alliance was aware there was a fundraising dinner if that cheque - - -?---We have, I have never seen a copy of this receipt.

30 You have never received it?---I have never received it.

All right?---I've never seen it.

And - - -

THE COMMISSIONER: Is that a - sorry, is that a receipt from, from whom?

MR STEIRN: I'll come to that.

40 THE WITNESS: I also note that there is no address on this so I don't know what they did with the receipt but we certainly did not receive it.

MR STEIRN: Can I suggest to you if you look at the signature of the official agent, authorised person that is a signature for Karen McNamara? ---Well, I wouldn't know that.

Just accept from me that it is?---Yes.

Now would you turn to the next page.

THE COMMISSIONER: Mr Watson, do you want to tender that document also?

MR WATSON: No, it's irrelevant.

THE COMMISSIONER: Right.

10 MR WATSON: We've slipped well beyond relevance now.

THE COMMISSIONER: Anyway, we have the contents of it. Can we keep going, Mr Steirn?

MR STEIRN: We can.

MR WATSON: We've got two witnesses this afternoon.

20 THE COMMISSIONER: Is there any need to traverse this any further, Mr Steirn, I mean haven't, haven't we got the gist of this witness's evidence a number of times on this issue?

MR STEIRN: I don't know that.

MR WATSON: Well - - -

THE COMMISSIONER: Well, look, you see, Mr Steirn, the problem is this, his evidence only touches on your client in one very specific respect and - - -

30 MR STEIRN: Correct.

THE COMMISSIONER: - - - that's to do with the conversation - - -

MR WATSON: No, Commissioner, to be fair there's the one little thing about the funding.

40 THE COMMISSIONER: All right, all right, I'm sorry, I'll withdraw that but in any event you've put, you've put your client's case in relation to the conversation in October 2010. We know that they did receive a receipt. Is there anything further that you wish to put by way of your instructions?

MR STEIRN: Yes, I do.

THE COMMISSIONER: All right. Well, can we get to that?

MR STEIRN: Right. Would you read out the first sentence on that page I've indicated?---"If you make a political donation or incur electoral

expenditure of \$1,000 or more you must complete and lodge a declaration with the Election Funding Authority in accordance with the Election Funding Disclosures Act 1981.”

I’d ask Counsel Assisting to tender that document, notwithstanding his, his last statement.

MR WATSON: I’m not going to tender it, it’s not relevant.

10 THE COMMISSIONER: It doesn’t matter, Mr Steirn, it’s on the record now.

MR STEIRN: Thank you.

THE COMMISSIONER: Right.

MR STEIRN: Thank you.

20 THE COMMISSIONER: Any other questions of Mr Hayes?

MR FERNAN: Yes, Commissioner. My name is Fernan, I represent Mr Webber.

THE COMMISSIONER: Mr Webber, yes, thank you.

MR FERNAN: Mr Hayes, just very briefly I’ll just clarify you gave evidence that you provided a cheque for \$1,400 in relation to this dinner, is that right?---Well, I didn’t but the Australian Coal Alliance did.

30 Well, you were the person who delivered it?---No, I was not.

It was the treasurer who delivered it?---It was the treasurer.

Did you see, personally see the cheque that had been delivered?---No, I did not.

So you don’t know to whom that cheque was made out to, is that right?

40 ---Yes, I do because our treasurer told me he had concerns about making it payable to Darren Webber because when I saw him on around about 4 November and said that a cheque was required before the dinner and as previously instructed it should be made out to Darren Webber he had issues with that so he wrote the cheque out to the Liberal Party of Australia but I wasn’t aware of that till after the event.

And what’s the name of the treasurer?---Mr Michael Campbell.

Thank you, nothing further.

THE COMMISSIONER: Nothing - oh, yes, sorry.

MR CONDITSIS: Mr Hayes, my name is Conditsis. I represent Mr Christopher Spence. In relation - you gave some evidence a little while ago about a statement Mr O'Farrell made in the lead up to the 2011 election.

MR WATSON: No, no, Commissioner, that can't be brought back into relevance.

10 THE COMMISSIONER: Is this really relevant?

MR CONDITSIS: Well, I was, I was laying the groundwork for some following questions, I'll just get to the question.

THE COMMISSIONER: All right.

MR CONDITSIS: You know Mr Christopher Spence?---Yes, I do.

20 Can you recall how long you've known him?---The first time I met him ah, I think I was introduced to him in Chris Hartcher's office when I had a meeting with myself and others with Chris Hartcher prior to the 2010 election but when that was I don't know.

All right. Is it fair to say you would have had numerous, there were numerous occasions when you had conversations with him in the lead up to the 2011 elections?---Well, no, I never really did. The only time I ever had a conversation was one Saturday morning when he and Mr Webber and Mr Holstein wanted some photographs taken waving the water not coal, water not coal placards but I really didn't have a conversation with him.

30 Is that the conversation when the red T-shirts were worn?---No, this was another occasion, we had core flutes which they were photographed with because the Liberal Party ran their campaign or the State Liberal Party ran their campaign on the Central Coast on the back of the anti-coal fight.

Yes. Certainly it's your understanding in terms of any conversation you had with Mr Christopher Spence that he was against the Wallarah 2 project? ---Well, yes, I assume that.

40 And indeed there was a community Cabinet meeting at the Mingara Club in February 2013 in which you attended, correct?---That's correct.

And you were asked, weren't you, to get as many supporters along as possible in support of rejecting the Wallarah 2 project. Correct?---Well, I was asked if I would um, put a question to Barry O'Farrell but as a matter of course the Australian Coal Alliance would bring as many members as it could to any of these rallies- - -

Yeah, I'm just asking- -?---But I don't recall Mr Spence actually asking me that question.

Whether it was Mr Spence or any other person from the Liberal Party, you were asked, were you not, to get as many members as you could along from the ACL to that meeting?---ACA?

Yes?---Well, I do recall that Darren Webber may have asked that question.

10 Right. And you turned up with five people. Is that right?---Five people?

Five?---There was more than five people there.

In any event, at that – it was clear to you from that meeting that even as at that time, Mr Christopher Spence was still personally against the Wallarah 2 project. Correct?---Well, I can only assume that, I can't – I don't really know, I don't really know that for sure because he never really spoke out about it at that stage.

20 Well, he was there ah- -?---Well, he was there with the rest of ah, with the rest of the Liberal people from the Central Coast.

Is it fair to say this. Whether you actually heard him say the words or not, certainly your impression at the time was that he was against the Wallarah 2 project, even as at that time. Correct?---Well, that's correct.

Yes, thank you.

30 THE COMMISSIONER: Nothing else? Thank you, Mr – nothing arising, Mr Watson?

MR WATSON: No, nothing.

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

THE WITNESS EXCUSED

[2.41pm]

40

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

THE COMMISSIONER: Yes, Mr O'Mahoney.

MR O'MAHONEY: Commissioner, I call Ms Jodi McKay.

MR LEWIS: Commissioner, I seek your authorisation to represent the witness. My name is Lewis.

THE COMMISSIONER: Yes, Mr Lewis.

MR LEWIS: I've explained section 38 to the witness, she understands. She seeks a declaration.

THE COMMISSIONER: Thank you, Mr Lewis.

10 Ms McKay, just take a seat. I just need to ensure that you understand that the order under section 38 of the Act protects you from the use of your answers in civil or criminal proceedings but it does not protect you if it should be found that you've given false or misleading evidence to the Commission. You understand that?

MS McKAY: I do.

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, Ms McKay?

40 MS McKAY: Ah, I'll be affirmed, please.

THE COMMISSIONER: Thank you.

MR O'MAHONEY: Your full name is Jodi McKay?---Jodi Leyanne McKay.

McKay. Sorry, Ms McKay?---They call me McKay as well.

10 I'll favour your pronunciation. Ms McKay, you were – you became a member of the Australian Labor Party in 2006?---I did.

And in 2007 you were elected the Labor Member for Newcastle?---I was.

20 And between 2008 and 2011, Ms McKay, you were, you held various positions including – and add any that I miss out or correct me if I'm wrong, but you were Minister for the Hunter, Minister for Tourism, Minister for Women, Minister for Science and Medical Research?---Ah, Minister for Small Business, Minister for Commerce and Minister Assisting the Health Minister as well on cancer. We had a lot going on in our Government quite obviously and I had a number of portfolios. The Minister for the Hunter role was the one that I kept throughout.

Okay. But in short it sounds like you were a very busy lady during that time?---There was a lot going on in our Government.

And in 2011 you were not re-elected as the Member for Newcastle? ---That's right.

30 Do you recall speaking to some investigators from ICAC earlier this year? ---Ah, I do.

And, Ms McKay, do you recall putting together a statement on the back of those discussions?---I do.

Could I just show the witness a document, please, Commissioner?---Thank you.

40 Ms McKay, this is a statement dated 7 March, 2014. Do you see that? It's 18 pages of text. Is that your signature at the bottom of each of these pages? ---It is.

And is this statement a true and accurate reflection to the best of your ability of answers you had to questions asked by you about the ICAC investigators?---Yes.

If I could, from time to time I'll take you to this statement, Ms McKay, in the interests of saving some time, but I tender this statement, Commissioner.

THE COMMISSIONER: Yes. The statement will be Exhibit S44.

**#EXHIBIT S44 - STATEMENT OF JODI MCKAY DATED 7
MARCH 2014**

10 MR O'MAHONEY: I want to ask you some questions, Ms McKay, about a site that was formerly owned by BHP in Mayfield. Do you know the site that I'm talking about?---I do.

And from what you've said in your statement, it was the case that the New South Wales Government had carriage of developing this site?---It did.

And that a master plan was developed for this site?---It was.

And as I understand it there was a tender process for the rear part of this site that was won by a company called Buildev?---That's right.

20 And that area was about 60 hectares in size?---Yes.

And the proposal which got up was a proposal for light industrial and commercial development?---Yes, there was, it was an Intertrade park so there was ah, I mean that encapsulates what, what was allowed under the tender that Buildev won quite adequately.

And there was another aspect to this site which we might call the front part of the site, which I understand was about 90 hectares in size?---That's right.

30 And that part of the site was given to the Newcastle Port Corporation. Is that right?---It was.

And that part of the site was controlled by the Minister for Ports who at the time was Mr Tripodi?---That's right.

And over time it was the case, was it not, that the Minister for the Hunter was given responsibility for an entity called the Hunter Development Corporation?---That's right.

40 And that – we'll call it the HDC, that had responsibility for overseeing this tender process in respect of the front part of the site?---No, that's not correct. So um, as Minister for Hunter Development Corporation ah, I had ah, carriage for that um, section of the site at the back end.

Okay?---So the front end was actually under the carriage of the Minister for Ports.

Okay. So you've foreshadowed what I was about to ask you. You became Minister for the Hunter I think in September 2008?---Yes.

And you were given carriage at some stage of the Hunter Development Corporation?---Yes.

10 And I think soon after you took over that position of Minister for the Hunter you wrote to the Chair of the HDC. Can you just tell us a little bit about the circumstances that gave rise to that letter?---Yes. So I, when I took over as
um, ah, Minister for the Hunter Development Corporation I wrote to the ah,
the Chair of the HDC and I indicated that all matters to do with that part of
the site um, and specifically Buldev, were to be dealt with by the Hunter
Development Corporation Board and also the Minister for the State Property
Authority. Um, and I did- - -

20 What gave you, what gave rise to you writing that letter?---Yeah, I did that because I thought it was inappropriate for me to be making decisions in regard to that site, particularly when Buldev had indicated an intention to donate to my campaign in 2007, so they had donated \$50,000. I was called
by a journalist in um, I think it was April 2008 and they indicated to me that
there had been a donation that Buldev had disclosed to my campaign – I
knew nothing of that – and it was later found that that was made to the head
office of the ALP. To my knowledge there was nothing unlawful about that
donation. But I felt very strongly about the fact that it was unethical for me
as Minister to be making decisions in regard to that site if I had, if there had
been an intention to donate to my campaign.

30 So in short compass was your thinking, on learning of this donation after you got elected- - ?---Yeah.

- - -I don't really want to have anything to do with this entity, I'd feel somewhat compromised if I play a role?---After I became Minister for the Hunter- - -

For sure?---Well, sorry, after I took over as Hunter Development Corporation because um, it operates a statutory authority, it operated under Ministerial direction and therefore I had the ability to influence decisions in regard to that site and I did not want to do that given Buldev's donation.

40 Could you tell us a little bit about how you became aware of the donation? You said a journalist called you. Did you make some inquiries on the back of that?---So a journalist called me and my understanding is that Buldev had disclosed the donation and indicated that donation was made to me and I, as I said, knew nothing about it so I had contacted the head office of the ALP and I, I asked them, you know, where did this donation go, why isn't, you know, why didn't I know about it, and they indicated that it had been made to head office.

Okay. If I can get you to cast your mind back to the middle of 2009 - - -?---
Yes.

- - - was it the case then that Newcastle Port Corporation had entered into a tender process for that front part of the, the site, the Mayfield site?---Yes, yes.

10 And I think I'm right in saying, Ms McKay, that there was some delay being experienced in relation to that tender project?---Um, there was. I was contacted by Jim Boyle from the Maritime Union toward the end of, it could have been the middle toward the end of 2010 and he expressed to me concern over the delay in announcing the successful tenderer so um, I spoke to the CEO of the Port Corporation he was also very concerned um, and so I made inquiries as to you know why that delay was occurring and I didn't get an answer from the, our treasurer and I should say that that, at that time the Minister for Ports had changed so it was now Eric Roozendaal.

20 Okay. Who was the Treasurer at the time?---That was Eric Roozendaal as well. So my interchange that – perhaps if I just say Treasurer but it is also the Minister for Ports.

Okay. But, but at any rate you, you had, someone had made aware to you that there was this delay and real concern about the delay and you tried to relay that concern to Mr Roozendaal?---Yes.

30 And what was his response to - - -?---Well I didn't speak to him at that stage. I guess what I wanted to do is to find out when it was going to be announced and why was there a delay. So I'd had numerous conversations with Gary Webb there was also someone within the Treasurer's office someone by the name of Sam Crosby and it became, I became increasingly aware that this was being stonewalled and my concern was, I was increasingly concerned about that. This was a positive announcement, it was a \$600 million announcement, it was in line with the Ports growth plan, it had always been Government policy that that container terminal would be approved, and it was delayed and I could get no information on what was going on which is unusual, I'm the Minister for the Hunter I'm the local Member and I couldn't get a thing out of the Treasurer's office on what was going on.

40 And I'm guessing if you couldn't get any information God help your average resident in that part of the world?---And I'm their representative, I mean I, my role is to find out what's going on and I was facing an election in March and if that wasn't going to go ahead then I needed to tell the community about that, I needed to be honest with the community because it had always been Government policy and I didn't want to go to an election where there was no transparency around that so I wanted to know.

And at the time you just couldn't get any explanation?---No.

Did you become aware at some stage around that time of there being in the pipeline a proposal by Buldev to build or develop a coal terminal on that part of the Mayfield site?---Yes, I did. No, sorry, um, that was on the, the HDC part of the site not the Port Corporation part of the site.

10 How did you become aware of this proposal for a coal terminal?---I'm not sure whether I read it in the Newcastle Herald or my advisor told me I'm pretty sure I read it in the Newcastle Herald but I'm, I can't be positive about that. It was one of, one of the, the two.

And what was your response to learning that?---Um, I was um, I was stunned to be honest, it was as I said against Government policy, it didn't comply with the master plan, there'd been a tender process that Buldev had won based on a light industrial commercial and now they were proposing a coal loader, um, it wasn't keeping faith with the community, it was too close to residents, there's, it, it contradicted the Port Corporation's view of where coal loading should occur in the Port and there was just no transparency, I mean this thing just suddenly appeared, you know Nathan Tinkler's a, you
20 know he's a, owns coal mines and now he wants to build a coal terminal on a site that was never ever earmarked for a coal terminal.

And was part of the issue that Buldev had won the back or rear back of the site and to do what they wanted to do with coal they needed the harbour front if you like - - -?---Yes.

30 - - - or the waterfront part of the site?---They needed – with the container terminal um, that would not have allowed them to do what they wanted with the back end of the site. So if they were to progress with the coal loading facility then that container terminal had to stop.

You mentioned the name of Mr Tinkler earlier and I presume you're talking about Nathan Tinkler, how did you become aware of his involvement in Buldev and, and this proposal?---Look I think um, you know again I think I read it in the paper or my advisor told me that Nathan Tinkler was involved in Buldev, um, it was well known, it was, it was published so I, I knew that um, he had an involvement in that company.

40 And is it the case that Buldev at around that time tried to meet with you? ---Yeah, so um, there were approaches made to my office to meet with me to discuss the coal um, the coal loader and I had always said that when I took over HDC I would not meet with them and so I made it very clear that I wouldn't, I wouldn't meet with them.

Did you get pushed back from them in that response?---Um, push back in so much as they, it was mentioned in the Newcastle Herald and they'd indicated that they would want to meet with me and I was very honest about

the fact that they donated to my campaign and I felt very strongly about the inappropriateness of them meeting with me.

Okay. And then at any rate by, if we go forward a little bit to late 2010 early 2011 I think it's the case you had a few meetings with Mr Tinkler at that time, do you recall those meetings?---Yes, I do. So um, so by way of background Nathan Tinkler had taken over the Newcastle Jets, both teams were struggling financially.

10 I think just to be clear he, he'd taken over the Jets which is the soccer team in the A League but he'd also been a big supporter of the Newcastle Knights
- - -?---Yes.

- - - the Rugby League team?---Absolutely. And so once he'd taken over the Jets um, he was very keen to also look at the Knights and I supported that because I'd been involved in Energy Australian Stadium, the Knights were not able to pay their debts, they'd always struggled to get a sponsor and you know here he was providing a really good option for the community and I was not alone in my support, I absolutely um, you know I
20 believed that was the right thing for the community.

Was your thinking along the lines of Newcastle Knights have never been flush with cash, he's a very wealthy guy and if I could bring them together why not?---Well it wasn't me bringing them together, um, you know I wasn't involved in those discussions I was just very vocal in my um, in my support of him being involved.

And where would you meet with Mr Tinkler, was it always in the same place?---So um, over my four years as Member for Newcastle I met with
30 him I think three times to the best of my recollection. In my statement I said two to three, I think it was three, I feel more comfortable saying three, I it was always in his office at the boardwalk, so it was, the building itself was called the Boardwalk, they were meetings that were always at his request, they were meetings that um, usually related to what was going on in the newspaper at the time because there was so much chatter and coverage in regard to the Newcastle Knights so the meetings were really arranged around um, he wanted the meetings in regard to that.

And I think you say in your statement was to the effect that he wasn't
40 backward in coming forward, if he wanted to meet with you you were often requested to meet with him on, on a pretty short notice?---Yeah. Well um, it was usually related to what was in the paper and um, there'd be a phone call I think Ken Edwards the, he was I think the Chairman of Hunter Sports Group or whatever it was called at that time, he called me I know once, I think Nathan called me um, at least once and if I was in the Hunter you know I, his office was up the road and I had no, no qualms about meeting with him. I wanted this to happen, I thought it was a good and positive thing.

And, Ms McKay, now to focus in on what we're really interested here in this inquiry about at the tail end of one of these meetings is it the case that Mr Tinkler raised with you the, the coal loader issue?---Yeah, so, um, he -- we were discussing the Newcastle Knights and the coal loader issue came up and I clearly said to him you know I'm not discussing this issue with you, you know you've got some interest in Buildev and it's inappropriate, so he, he was fine, it shut him down and he had no, nothing further to say, he certainly didn't try to pursue that.

10 And then some time after that or around that time is it the case that Mr Tinkler came to you with an offer for some support?---Yeah, so it's the last meeting that I had with him, um - - -

As best you can recollect, when was the meeting where he, he raise the coal loader issue where you just shut it down?---I don't know.

You don't?---I really am not sure. I know that um, these meetings were held between December and I believe February 16th, so early December and February 16 and um, sorry, what was your question?

20

Well just roughly when that meeting was about the coal loader when he mentioned?---When he raised that?

Yeah?---I don't know. There were three meetings between that period I believe.

30 But in that meaning where he raised the coal loader, I assume he didn't do it out of academic interest, he would have made it clear that he wanted your support I presume, for what he wanted off site?---Well, he wanted to discuss it, it was a \$1 billion proposal and he was going to benefit enormously from that so I can't tell you what was in his head when he raised it but that was certainly, I certainly believed that it was in his interest in raising it.

40 Okay. Sometime later, you say, you can't be quite sure how much longer later but you had another meeting where Mr Tinkle I think offered to support you in your campaign, is that correct?---Yes, so it was the last meeting and it was a meeting about the Newcastle Knights again and it was toward the end of the meeting we were discussing, he was saying how difficult it was going to be for me to win the State Election and that John Tate was going to be very difficult to beat. Now he was the Lord Mayor, he, he was running as an independent.

The Lord Mayor of Newcastle?---Yes. He had also run in 2007 against me I should say as well.

I think he ran as a Liberal candidate as that right in 2007?---No, he ran as an independent.

In 2007, okay.---Yes, yes both times.

I'm sorry I interrupted you but Mr Tinkle said it's going to be hard for you to win, Mr Tate was running against you.---Yes, so um, John Tate's running against you and then there was an offer to donate to my campaign. And I said to him, you can't you're a developer and quite obviously at that point developers were prohibited from donating to campaigns and I said that to him and his immediate reply was, I have hundred of employees and I can get around the rules that way.

10

And what did you understand him to mean by that?---I understood him to mean that he would use his money to give to his employees to donate to my campaign so that he, as a developer, wasn't donating to my campaign. It was pretty clear what he was saying.

20

And did he give you an indication of the amount of money he was prepared to - - -?---No, no, I shut it down, I felt very uncomfortable about it. I was also intrigued because at that point he knew I know he knew that developers weren't allowed to donate because he went straight into, this is how I can get around it. And I was intrigued because I'd never thought about it, I had never considered that you could actually get around the rules that way. So I felt very uncomfortable about that conversation.

Did you also feel that this, in the context of what you said earlier, about him wanting your support for his plans with the Mayfield site and how much money he stood to gain from that, it does sound to me like a bribe, an attempt to bribe you?---It certainly, it certainly felt like that he wanted my support and he was prepared to buy that.

30

Another word for that would be bribe?---Yes.

Now in response to that, you said you felt very uncomfortable.---Yes.

I think I can say this, we at ICAC, you I think you made a complaint to ICAC, is that right?---The events that occurred over that period I reported to the ICAC in 2011, I reported to Police, I reported to the Electoral Commission and I reported to the Electoral Funding Authority.

40

And apart from the bribery issue, there's the issue of the prohibited donor that you mentioned before, that was one thing that troubled you but also it seems that that this scheme of using employees to provide money, did that strike you as a potential attempt to get around the caps that were on individual donors?---Yes, it was, yes.

And at any rate, your opposition to the coal loader was sustained and I think it's fair to say that you had a little bit of support in your position visa vee the coal loader from various organisations locally and I'll just name a few, add any you want to the list but I understand the Board of the Hunter

Development Corporation was against it, the Newcastle Port Corporation was against it.---Yes.

The Mayfield Community Consultation Group was against it as well?---Yes.

10 You, I think, at the request of some residents wrote to the Planning the Minister about the coal loader, is that correct?---Yes, so I was working with the Mayfield Community Consultation Group and they were concerned about some aspects of the container terminal so I wrote to the – at that stage there was a concept plan that had been on exhibition so I, I wrote to the Planning Minister and I asked that that consultation period be extended and that was successful. My job was to get in there and make sure that the residents had the opportunity to have a say on these really important issues.

20 And did you also express the, your concerns about the delay with this tender process with the Treasurer’s office?---Time and time again. This was and I was having numerous conversations with the CEO of the Port Corporation. He was something was very wrong in regard to what was happening in the Treasurer’s office, he knew it, I knew it, and so yes, there were a number of conversations I had an I could get nothing.

Something curious happened at around this time, I think one of the points of contact at the Treasurer’s office was a Mr Sam Crosby, is that right?---Yes. And he was moved aside or he was replaced?---So my understanding is that Sam or that there was approval for the coal loader conveyed to the CEO of the Port Corporation and the very next day it was revoked and I understand that shortly after that Sam Crosby was removed from that office. He also was - - -

30 Sorry, could you say that last - - -?---He was removed from the Treasurer’s office.

After what, immediately after what?---My understanding is that what happened was he conveyed approval for the container terminal to the CEO of the Port Corporation which obviously then had to be ratified by the board of the Port Corporation and the very next day, I understand it was revoked.

Who was replaced by?---Ian MacNamara.

40 Do you know his background at all?---Well, actually no, sorry, Ian MacNamara managed these issues but Ian MacNamara was the, my understanding was, the Hunter Policy Advisor in the Premier’s office.

Am I right in saying that Mr MacNamara had previously worked for Mr Tripodi?---Yes, he was very well connected with Joe Tripodi, Eddie Obeid, Eric Roozendaal.

What makes you say that that he was very well connected with those two?---
You know who's connected to who within the Labor Party.

You might, would you mind just enlightening us?---He had worked for
Eddie Obeid when I first started, he was I think working for Eddie Obeid so
he had worked for Joe Tripodi and now he had a connection to Eric
Roozendaal.

And he was a career staffer, was he, in parliament?---Yes.

10

And he became a bit of a point person for this Mayfield Development?---I
believe so, yes.

20

And is it the case that in February 2011 you had a conversation with the
Treasurer Mr Roozendaal relaying your concern, as best as you can recall,
can you talk us through what was broadly said in that conversation, what
you said and what he said?---Yes, so that day and I don't know why it was
that day that I chose to have this conversation, I finally got onto him and I
said to him I have grave concerns about the delay in announcing the
container terminal, I don't understand why this is occurring. And he said,
you lengthened the consultation process and that has impacted on it. And I
said to him, that is not true because before I did that I checked with the
Planning Minister's office and I checked with the CEO of the Port
Corporation and that would not impact on your ability to sign off on this.
And he went silent and in a low voice he said, haven't you spoken to Tinkle.

30

And what did you understand him to mean by that?---He knew I had had a
conversation with Nathan Tinkle and that made me very uneasy because the
last - - -

Can you explain why that was?---The last conversation I had with Nathan
Tinkle was when he offered to my campaign.

And it was clear in your mind that the Treasurer was aware of that?---Yes.

40

And something happened within hours of that conversation, can you talk us
through that?---Yes, so after I, after that was said he said he'd come back to
me. Within a few hours of that I got a call from a journalist from the
Newcastle Herald who indicated to me that a Treasury document had been
leaked to them which undermined the viability of the container terminal. So
here I was in the morning talk to the Treasurer and then all of it, indicating
that I would not budge on the coal loader and indicating that in the morning
and then a few hours later a Treasury document arrives at the Newcastle
Herald undermining my stance on the container terminal.

It doesn't sound like, by your body language to that, you were too impressed
by that, what was your response?---I rang the CEO of the Port Corporation
and I asked him whether he um, he knew of such a document and the

information contained in that document. He was shocked, he was surprised, he did not know of that document's existence. I then rang, I rang the Treasurer and I - he answered the phone and I said to him do you know, "This document has been given to the Herald, do you know anything about it?" and he denied knowing anything about it and I remember I was standing at the window overlooking the Port of Newcastle, my door was opened and so everyone that was in the Department of Premier and Cabinet, my office, who was there heard this and I said to him, "I will not support what you are doing, I will not be a part of what you are doing."

10

And I take it from the way you've explained the situation you said that in a fairly loud voice?---I said that in a loud and forceful voice because I could not believe that I had a discussion with him in the morning, he knew of Nathan Tinkler's offer and then a document is leaked to the Newcastle Herald undermining my position.

And what did he say in response to, to your protest?---He said, "Don't talk, don't say things like that over the phone."

20 What did you understand him to mean by that?---I think he thought you were listening.

Me?---Possibly not you and possibly not Mr Watson but - - -

I love listening to other people's phone calls, Ms McKay, but it wasn't me. Could I say this at the end of this - - -?---By you I mean ICAC.

Okay?---That was what I, you know, I widely say that.

30 Yeah?---Yeah.

That's what I wanted to understand. So you, you understood him to be meaning and saying that he was worried that someone was tapping the phone - - -?---Yeah, absolutely.

- - - and that we shouldn't be, you and he shouldn't be talking about such issues?---I shouldn't be saying what I was saying.

40 Yeah. And did he say anything other than that?---No, I pretty much hung up on him. I don't think I even said goodbye, I just hung up on him.

And I understand there was a text message sent later in that day, is that correct?---I'm not sure if it was a text message or a phone message but it was, "Can you call me back before we both do something we'll regret."

And what did you - just to be clear that is from the Treasurer, Mr Roozendaal?---Yes.

And what did you understand that message to mean?---It added again to my sense of great unease about what was going on at that time. It was in some ways a subtle threat to me and to be honest it strengthened my resolve in regard to this issue and my opposition to what he and others were doing.

Were you in your mind starting to draw a link between - - -?---Oh, yeah.

- - - the, the way the Treasurer was dealing with this issue with you and conversations you'd had earlier with Mr Tinkler?---Oh, yeah.

10

Can you just flesh that out a little bit for us?---Oh, well, I opposed the coal loader, I won't talk to Buldev, Nathan Tinkler offers to support my campaign, I indicate he's a developer, he tells me he can get around the rules, the Treasurer then asks me whether I've spoken to Nathan Tinkler, within three hours of that a Treasury document is leaked to the Newcastle Herald, the Treasurer then asks me not to talk over the phone about such issues and, you know, it all to me, as I said my, my sense of unease, my, my concern about what was going on within Eric Roozendaal's office and, to do with Buldev and Nathan Tinkler was, was significant.

20

Did you go public with your concerns about what was going on?---I did, I had to provide a response to the Newcastle Herald obviously because they had this document and I accused members or forces within the Government I was a part of of undermining the container terminal.

Do you know a lady by the name of Anne Wills?---Yes.

How do you, what do you know about her, how did you come to meet her? ---Um, Anne Wills was Joe Tripodi's eyes and ears in, in Newcastle, she was Michael Costa's former advisor.

30

Yeah?---Um, she - when I inherited the portfolio from Michael Costa she came to work with me, I did not trust her, I did not want her working with me um, and at that time I believe she was doing consultancy work for Buldev. I think they later claimed it was public relations but, you know, she, she was - - -

Roughly what time are we talking about at the moment, when she was doing this consultancy work?---It was around this time so, so, you know, February/March.

40

Of 2001?---That's my, that's - yes.

And - - -?---And I know that because Buldev actually mentioned that in the paper.

You say you didn't trust her, what was the, the basis for that?---I wouldn't do - certain people within the, the Labor Party, the party I belonged to

wanted and here she was, a member of the Labor Party working for BuildDev and she was renting an office off John Tate the Lord Mayor and she was supporting his campaign and she was a member of the Labor Party.

Well, I wanted to ask you about that. When you say she was renting an office off Mr Tate was that an office that Mr Tate just owned privately?
---Yes, I believe so.

10 And you understood Ms Wills - - -?---Well, sorry, when I say renting she was occupying, I don't know if there was rent paid.

Okay, but she was doing some work from that office?---Yes.

And you understand she was both doing some consulting, consulting work for BuildDev but also getting involved in the, the campaign for the seat?
---Yes, but, you know, in terms of the consultancy work I only know what I read in the paper and, and that was, you know, that, that admitted that um, and I don't know when this was published, that she had done public relations work for them, that she wasn't a lobbyist and therefore didn't need
20 to be on the lobbyist register and um, so whether, you know, consultant, I presume that's what she was.

You say in your statement that not only was she getting involved in the campaign helping Mr Tate but that you say something along the - about her introducing Mr Tate to Mr Tripodi. Tell us a little bit about how you became aware of that?---Yeah. So there were two MPs that told me that Anne Wills and John Tate had been seen at Parliament and that they had met with Joe Tripodi. I text from memory Joe Tripodi and I asked him about that and - - -
30

Just stopping there, I mean to hear that an opponent of yours who's running as an Independent is meeting with a senior elected member of your Party and being introduced to that person by this lady, Ms Wills, who you understood to be working for that person but also very close to Mr Tripodi, that all sounds a bit weird to me. Were you shocked by that?---Well, I believe that John Tate already knew Joe Tripodi. Was I shocked by it? Um, yeah, I, I was even though at that particular time, you know, I had this heightened, this antennae that something not right was going on but yes, I was standing at the Labor candidate and the person who was running against
40 me was meeting with, within someone within the, actually he wasn't in the Cabinet at the time but someone within the Party.

And was that meeting declared, did you check the records?---I had, the Parliament register was checked and ah, ah, there was no sign that they even came into the, into the building.

And I think, Ms McKay, some weeks after that heated conversation that you had with Mr Roozendaal something occurred locally, a pamphlet was

distributed that was ardently opposed to you and your prospects for re-election. If I could show the witness a document, Commissioner, which I'll seek to tender.

THE COMMISSIONER: Thank you.

MR O'MAHONEY: Now this is a document that's titled - - -?---I have two copies.

10 Oh, thanks?---I really don't want two copies of this.

I'm sure you don't want one and I promise - - -?---I don't like seeing it.

I promise it won't be in front of you for very long, Ms McKay, but this document, it's titled "Stop Jodi's trucks in our streets. Do you want container trucks in our streets?"---Yes.

And then there's an open letter to you?---Yes.

20 Now, just looking at this document anyone would think you were running on a pro trucking platform. What, what did this document have to do with you and this campaign?---Yes. Well, I had obviously been supporting the container terminal and this was about undermining my stance in the, in regard to the container terminal and this was about making sure that I didn't win the election.

How did you become aware of this document?---Um, the writs were issued on 5 March, I had one of my branch members who was living in one of the suburbs, I think it was distributed to five suburbs so we're probably talking
30 about 10,000 brochures.

Yeah?---It was a glossy brochure and they called me to say that this had landed in their mailbox and I believe that, that it was distributed, so the writs were issued on the 5th, I believe it was distributed on 5, 6 and 7 of March.

And what was your response to learning of its existence?---Again I couldn't believe what was going on. I was um, yeah, it was just – I keep saying adding to my sense of unease, but it also strengthened my resolve.
40

And how did you react in terms of what you did, I think you made a complaint, did you not?---I made a complaint um, so, so let me take you back. So there had been a conversation with um, the Newcastle Herald and I reported this to the Electoral Commission, the Electoral Funding Authority um, and ah, and um, the police and I got shuffled between them, no one wanted to know anything about this. And the reason I did that is once the writs are issued, these sort of things that are campaign material have to be authorised and authorised means that it has to have the name of the person

who authorises the printing and the name of the printer on the document, and this clearly didn't, so there was no identification at all in terms of who was responsible for it. So um, the Electoral Funding Authority was notified, the Commission was notified and they referred us to the police and the police were great. They, they were, they were wonderful. But this carries a \$250 fine and so the police weren't going to ah, to devote too much resources to a flyer like this. They did make some inquiries, as did the Newcastle Herald, it was traced to a company called Mesh Media in Sydney.

10

Yeah?---It has a Wetherill Park address. The owner there, Vince, I believe indicated that he was paid \$5,000 in cash and ah, to, to print this, to create this brochure and to print it. He then paid a single mother, and I believe she had three children, \$600 to distribute this leaflet in mailboxes around my electorate.

20

If I told you that we've got some pretty good information, Ms McKay, that indicates that there were three people or entities behind this document, and I'll name them. Firstly, we'll call it the Tinkler Group, secondly Ms Ann Wills and thirdly Mr Joe Tripodi. What would you say in response to that? --- (No Audible Reply)

I'm sorry, Ms McKay?---I believed they were behind it but that's the first time I've been told that. I knew they didn't want me in the seat, but that's the first time and I reported this in 2011. This was such a torrid time.

30

I'm sorry to be the bearer of that news?---It's actually, you know what, it's good news because I know now, I do know what they were doing and I suspected it.

Ms McKay, I'm sorry to have upset you. Could I just ask one other question- -?---Yes, of course.

- - -before we conclude, but- -?---I'm sorry to cry.

No, not at all?---You don't want to cry at ICAC.

40

Don't worry about that, Ms McKay. But this is a much happier question? ---Okay, good.

I think you understand the scope of this inquiry and what it's about?---Yeah.

And you've probably had a fair bit of time to reflect on it. And I just, it's an open-ended question. Did – in reflecting on this inquiry and your career as a politician and the events that you've been privy to, have you seen or heard anything else that you think we should be aware of in the context of this investigation?---Um, I have had a conversation with a journalist and um, I

believe they have documents that um, I had that conversation today, I believe they have documents that back up everything that I've said.

Said about what?---I think they were FOI, FOI documents.

When you say documents that back up what you've said- - -?---The delays, what was going on in Eric Roozendaal's office. I haven't seen the documents but- - -

10 Okay. And nothing else, Ms McKay?---I spoke to this journalist some time ago and they were doing a story on Nathan Tinkler and I um, I didn't want to relive it all so I didn't talk to them.

Thank you, Ms McKay. No further questions.

THE WITNESS: And please know you didn't upset me, it wasn't you personally.

MR O'MAHONEY: I was hoping it wasn't.

20

THE WITNESS: You seem like a very nice man.

MR O'MAHONEY: You seem like a- - -

MR WATSON: Wrong.

MR O'MAHONEY: Geoffrey's saying you're wrong about that, but thank you, Ms McKay.

30 THE COMMISSIONER: Ms McKay, can I just ask you, I don't suppose you do know this but do you know where this figure of 1,000 trucks per day 24 hours a day- - -?---No.

- - -365 days a year came from?---No, I don't.

Did that bear any relationship at all to the truck movements around the container terminal?---I had never – no, until um, until I saw this that was the first time I'd hear of those figures.

40 But as far as you knew about the operation of the container terminal, it didn't involve that kind, that kind of truck movement around the container terminal?---No. It involved um, it certainly did involve an increase in truck movement.

Trucks?---But, but no.

Right?---I hadn't seen any modelling to that effect, certainly not.

Right. Does anyone want to ask any questions? Yes.

MR KOOPS: With the Commissioner's leave, my name is Koops, I appear for Mr Nathan Tinkler.

THE COMMISSIONER: Yes, Mr Koops.

MR KOOPS: Ms McKay, you told the Commission that you joined the ALP in 2006?---Yes.

10

And was there any particular reason for that?

THE COMMISSIONER: Well, does anyone ever have a reason for joining a party other than they want to pursue the interests of that party? Can we, can we get to the point, Mr Koops? It's half past 3.00. I don't want to keep this witness any longer than I have to.

MR KOOPS: You were pre-selected to seats to sit for- - -

20

UNIDENTIFIED SPEAKER: Can't hear you.

MR KOOPS: - - - contest the seat, were you, in 2007?---Yes.

And did you go through a process of election fundraising for contesting the seat in 2007?---Ah, possibly, yes, I mean- - -

Do you have any recollection of being involved in fundraising in 2007 for the, to contest the seat of Newcastle?---Um, do I have recollection. You're going to have to elaborate, I'm sorry.

30

Did you talk with anybody in particular about raising funds for your campaign in 2007?---You're going to have to - I don't know, I can't answer that question.

Did you speak to anybody in the Labor Party in Sydney about raising funds for your campaign?---Possibly, yes.

Do you recall whom?---No. I mean at that stage my seat was on fire basically and ah- - -

40

I'm sorry, I didn't hear that, my seat was?---On fire.

What does that mean?---It means that it was an intense election campaign. Um, I don't know if I spoke to anyone. I have no recollection of this, I'm sorry.

You'd had very little involvement in politics prior to running for the seat, had you, in 2007?---Yes.

Did you speak to either Mr Darren Williams or Mr David Sharpe- - -?---No.

- - -in relation to your election in 2007?---No, I don't believe so.

You don't believe so or you have, do you deny that you did or have no recollection?---I have no recollection of speaking to them.

10 When did you first become aware of Mr Williams and Mr Sharpe of the
Buildev company?---Well, when you live in Newcastle they're, they
Buildev company is quite prominent.

Yeah?---Um, so I ah, I would have know it for, for quite a while.

And did you have any meetings or discussions with Mr Williams or Mr Sharp at any time prior to the election in 2007?---I don't recollect that, no.

Do you deny it or you just have no recollection?---I have no recollection of that whatsoever.

20 After the election – sorry, I'll withdraw that. Do you have any recollection of speaking to any other third party or representative of any organisation about raising funds for your 2007 election campaign?---That's a very broad question. I can't answer that question. I don't know.

Did you speak with advisors and organisers about raising funds for your campaign in 2007?---Oh, possibly, I mean it's certainly possible.

30 Well, was it a significant matter to raise funds for your election campaign in 2007?---It's always a significant matter trying to get re-elected.

But you have no recollection of having had any discussions about raising funds for your election campaign in 2007?---It's seven years ago I can't answer that question, I'm sorry, I'm not saying I didn't please know that but I can't answer your question it's very broad.

40 After the election in 2007 you became aware you say that Buildev had made a \$50,000 donation specifically to your election campaign, correct?---I became aware that there had been a donation and the intention was to make that to my election campaign.

Yeah. And who informed you of that?---It was a journalist um, I believe the Greens had um, they done some sort of comparison of my declaration versus, versus um, Buildev's declaration. So my understanding is that Buildev did the right thing but it was a journalist who told me, it was April 2008 it's, it was media coverage.

Yeah. And you say do you that at no time prior to that nobody in the Labor Party or anyone else had told you about a \$50,000 donation to your election campaign in 2007?---No.

You had absolutely no knowledge of it?---That's right.

Did you have any knowledge of any other donors to the Labor Party for your campaign in 2007?---Possibly, I can't remember it's seven years ago.

10 Now in 2009 you say you became aware I think you said of Mr Tinkler's involvement with Buildev?---I believe it was 2009, yes. I certainly knew he was involved with Buildev. It was in the Newcastle Herald it was media - - -

After the election - - -?---Which election?

The 2007 election - - -?---Yes.

20 - - - up until 2009 had you had any meetings or discussions with Mr Williams or Mr Sharpe of Buildev about the development of the old BHP site?---I had no meetings that I can recollect with Mr Sharpe at all. Um, I believe the tender process for the site was um, was made in um, I think it was December 2008 the announcement was made of, of Buildev, um, there was an announcement made and I could quite possibly have spoken to him on that day. The Premier, the Planning Minister was there so I could quite possibly have spoken to him then.

30 Don't recall the discussion?---No, I don't recall what was said, no. I did discuss it with him.

What about Mr Williams? You know Mr Williams?---Yes.
Yeah, okay?---He's a lovely guy, he's very affable, he's always smiling

And you had discussions with Mr Williams?---No. Possibly on that day as I said but I don't recollect a conversation - - -

40 How do you know he's so affable?---Because I'd seen him at functions and I saw him at Parliament one day as well, he was always at Parliament, I saw him at Parliament one day he was sitting outside the Ministerial offices, he was always, he'd always say hello I would say hello to him, I didn't have a problem with saying hello to him, um, he, he was, he was, you know I never found him offensive, I, I thought he was a nice man.

Did you ever discuss with him the coal loader development in relation to the site?---Not after I took over as, definitely not after I took over as um, Minister for Hunter Development Corporation, before that - - -

Which was again in 2008 did you say?---No, I took over as Minister for um, the Hunter in 2000 and, September 2008 and I became the Minister for the Hunter Development Corporation um, some months after that.

And - - -?---And that was when I wrote to the, to the Chair of the Hunter Development Corporation indicating that I would not have anything to do with Buldev post that period so I can categorically tell you that I, I didn't have a conversation post that period. Before that I can't recollect.

10 Were you directly responsible for that area of the site which was in respect of which it was proposed to, there was a proposal for the coal loader or was that another Minister?---Um, it had a complicated arrangement in that it was vested in the Minister for the State Property Authority but I, Hunter Development Corporation had carriage of developing the site and remediating the site and therefore because I was Minister for Hunter Development Corporation it operated under Ministerial direction I had a direct connection to that site.

20 Now the donation that had been made by Buldev in 2007 to fund your election had been made you were aware when Mr Tinkler had no involvement with Buldev?---That's right, that was my understanding.

And so you became aware that he had subsequently become involved with Buldev and the site?---Yes.

Yeah. And you had an interest which related to Mr Tinkler with respect to the sporting clubs - - -?---Yes, so - - -

30 - - - for Jets and the Knights?---That's right, yeah, yeah.

And it's the case isn't it, Ms McKay, that you were very enthusiastic about Mr Tinkler's backing for the night - - -?---Yes.
- - - to gain sponsorship?---Yes.

And one aspect of this which was quite important in your mind was that would provide funding for a significant debt that was still outstanding to the New South Wales Government of which you were a Minister?

40 THE COMMISSIONER: Being the debt that Newcastle Knights owed.

MR KOOPS: Owed in respect of the State.

THE COMMISSIONER: I think this has all been said by the witness already.

THE WITNESS: I was very supportive of finding a solution to the Newcastle Knights debt issues and it wasn't just related to the Energy

Australia Stadium it was the fact that they always struggled with a sponsor as I said previously and it was a much loved team in Newcastle.

MR KOOPS: And it's the case isn't it that you actually sought out Mr Tinkler in relation to his providing sponsorship for the Knights, you contacted him on occasion about that?---No, no.

10 Are you quite sure about that?---I had no, um, I did not approach him about the Knights at all I had um, you know Nathan Tinkler's interest in buying the Knights had been longstanding um, I certainly did not um, did not approach him about that. You know he had, he had approached, my understanding was he had approached Steve Burraston maybe even you know well before I started talking to him about it and um, so, no.

So you have no recollection of calling Mr Tinkler to discuss that question?

20 THE COMMISSIONER: Well, no, sorry, Mr Koops, that's very unfair. She didn't say that there weren't occasions when she had discussions with him what she said was that she did not seek him out which was a response to your first question.

MR KOOPS: Yes, Commissioner, my question just then was so, so you did not call him to pursue those discussions.

THE COMMISSIONER: No, you didn't say that you said - - -

MR KOOPS: I'm sorry.

30 THE COMMISSIONER: - - - you said you didn't, you don't recall having any discussions with him about the subject, she obviously did.

MR KOOPS: No, I'm sorry then I misspoke.

Ms McKay, I'm sorry. You don't recall ever contacting him or calling him yourself to further discussions with him in relation to his support for the Knights?---I can't ever recollect calling Nathan Tinkler.

40 Now you've given evidence about a couple of meetings that you recall having with Mr Tinkler in relation to matters about which you've given evidence?---Yes.

And you recall three you say?---I can recall three, yes, there may have been um, more than that but I, I definitely have a recollection of three separate meetings.

Now you'd said that you had previously rebuffed attempts by representatives of Buldev to see you or to discuss with you?---Yes.

And who had those approaches been made by prior to your meetings with Mr Tinkler?---So who from - - -

Buildev --- - - - Buildev had requested the meetings? Um - - -

To discuss with you the issue of the coal loader?---I don't know, um, no-one contacted me directly they would have contacted my office or the Hunter Development Corporation so um, I can't tell you who would have done that. It would be easy to find out because you could ask my staff but I don't, I
10 can't answer your question I'm sorry.

And so you met I think you said in 2010 and 2011 with Mr Tinkler. Now do you recall at one of those meetings Mr Paul Harragon attending as well?
---Yes.

For the purposes of - - -?---I said in my statement I believed that he attended.

Yeah. And do you believe or is it your recollection that Mr Harragon was in
20 attendance when Mr Tinkler as you say raised an issue of the coal loader?
---I can't say that that was at that meeting.

What about the last meeting about which you gave evidence, in which you said Mr Tinkler made a proposal to you to support your election campaign for 2011 - - -?---Yes.

- - - and at counsel's suggestion you indicated that that might be a bribe, was Mr Harragon present at that meeting?---No, it was just Nathan Tinkler and me.
30

So Mr Harragon was only in attendance when those issues were not discussed, is that right?---I, I just said to you I can't recollect that.

Recall?---I can tell you that the coal loader was raised with me and when I indicated I wouldn't talk about that he, he didn't, he respected that and I can tell you that he made an offer to my campaign which I declined.

Yes, I'm going to ask you about that in a minute. Just in relation to the first meeting where you say Mr Tinkler raised with you the question of the coal loader do you recall where that meeting taking place at - was it at
40 Mr Tinkler's office?---Yes.

And do you recall, can you tell us the words you say Mr Tinkler said to you on that occasion in relation to the coal loader?---No, I can't recollect.

You were aware I take it that in 2009 there had been legislation about property developers?---Yes, of course.

Did you consider Mr Tinkler to be a property developer?---Yes, I did.

Yeah. I take it that you were aware that Mr Tinkler was under no doubt that you were strongly opposed to the coal loader development?---I think everybody was.

Everybody was, it was as clear as it could possibly be?---Yes.

10 I want to suggest to you, Ms McKay, that at that meeting in which you say Mr Tinkler raised the issue of the coal loader that in fact Mr Tinkler never raised with you the issue of the coal loader?---That's not true.

And I want to suggest to you - - -

THE COMMISSIONER: Is that at any of the three meetings, Mr Koops?

MR KOOPS: Yes, I'm going to continue.

20 THE COMMISSIONER: Go on.

MR KOOPS: And indeed, Mr Tinkler did not raise at any of the meetings the issue of the coal loader with you?---Sorry, can I go back?

Yes?---So you said - your first question related to, to that first meeting. I think you said two separate things so could you clarify what you mean?

Yes. You say - I'll make it simple?---Thank you.

30 You say you had - - -?---I'd appreciate that.

You say you had three meetings with Mr Tinkler?---I said that I can remember three separate meetings.

Yes. And at one of these meetings Mr Harragon attended, is that not right? ---Yes, Ken Edwards, Ken Edwards was also there.

40 But you recall that Mr Harragon was not present at any of the meetings where you discussed with Mr Tinkler, when you say Mr Tinkler raised the issue of the coal loader or a political donation in your campaign?---Paul Harragon was - Nathan Tinkler and I were the only people that were in the room when he offered to support my campaign. When he raised the issue of the coal loader I am not sure if, if there was someone else in the room at the time. I shut it down, I didn't want to talk to him about it.

You remember shutting it down, do you remember that? You remember the discussion?---Yes.

You remember him raising the question of the coal loader?---Yes.

Mr Harragon you recall was not at that meeting?---No, I've just said that to you.

All right. I want to put to you that at that meeting Mr Tinkler did not raise the issue of the coal loader?---You're going - I'm sorry, you're going around in circles.

10 THE COMMISSIONER: This is rather confusing, Mr Koops, because you see I understand the witness to have said that Paul Harragon was at one of the meetings that she recalls although she can't say that the meeting at which Mr Harragon attended was the one where the coal loader was discussed?---Yes.

MR KOOPS: All right.

20 THE COMMISSIONER: Right. So - but you see, if you want to put the proposition that at no stage whether Mr Harragon was there or not did Mr Tinkler raise the coal loader then why can't we just put that proposition to the witness?

MR KOOPS: Well, we can. I was seeking to see whether the witness was prepared to eliminate Mr Harragon from any of the meetings where these particularly controversial issues were raised?---I can absolutely remove Mr Harragon from the conversation where Nathan Tinkler offered to donate to my campaign.

All right. That's the last meeting?---Yes.

30 All right. I want to put to you, Ms McKay, that Mr Tinkler never raised with you at any of these meetings the issue of the coal loader development? ---I don't agree with you.

I also want to put to you Ms McKay, that Mr Tinkler did not raise with you at that last meeting as you allege a political, a, a donation to your election campaign to be made by him or interests associated with him?---I will - - -

40 What do you say to that?---I will never forget that conversation. I don't agree with you.

Are you able to tell us the words that Mr Tinkler used when he suggested to you making a donation to your re-election campaign in 2011?---Again, he said, he wanted to donate to my campaign, I said, you know, words to the effect of you can't, you're a property developer. He said I have hundreds of employees and I can get around the rules that way.

I want to put to you, Ms McKay, that Mr Tinkler did not say to you words to the effect as you've just said I have hundreds of employees and can get around the rules that way?---Again, I will never forget that conversation.

You were asked some questions by counsel earlier in relation to that being a bribe, do you recall that?---Yes.

You, you didn't refer in your statement to a view about it being a bribe did you?---No.

10

And you gave evidence that you subsequently reported matters associated with this to relevant authorities including ICAC in 2011?---Yes.

Was that before or after the election results in 2011?---Um, I reported the issue around, I reported to the Electoral Commission, the police and the Electoral Funding Authority to my best recollection before the election and I, I reported to ICAC after the election.

20

Righto. And when did you say that the meeting took place, the last meeting where you say Mr Tinkler made a offer to you to provide funding?---It was before February 16th.

Yes. And so the election took place in March was it, yeah, you were defeated and you reported the matter of Mr Tinkler's alleged offer to you to ICAC after the election, is that correct?---Yes.

30

Yeah. And I understand from your evidence today that prior to the suggestion being made by counsel about who was responsible for putting out the flyer that you believed amongst others that the Tinkler interests were involved in that?---I felt that they wanted me out of the seat because I wouldn't do what they wanted me to do.

Who's they?---Nathan Tinkler, Buldev um, Eric Roozendaal, Joe Tripodi, they couldn't control me and they didn't want me in the seat.

And you, I think you said in your statement that the distribution of that flyer had an impact on your re-election?---Yes.

40

Do you say that was why you weren't re-elected?---No, I said it was an impact. It's very different, I'm sorry. I belonged to a very unpopular Government - - -

Yes?--- - - - but I absolutely believed - - -

I wasn't going to say it?---Sorry?

That's all right?---I absolutely believed that this impacted on my, my election. I had to re-doorknock houses, I had to defend my stance in the

community, I had to take phone calls from unhappy residents, I had to - it went on and on so yes, I absolutely believe that this impacted on my re-election chances as it was intended to do.

And I take it that you were extremely angry and held a fair amount of animus towards Mr Tinkler as a result of that did you?--I have never felt anger toward him.

10 THE COMMISSIONER: Why don't we cut to the chase, Mr Koops? Why don't you just put to the witness that she fabricated this complaint to ICAC because of her disappointment and anger over the loss of the seat?

MR KOOPS: I don't need to put that proposition to the witness.

THE COMMISSIONER: Well - - -

20 MR KOOPS: The proposition I put to you is that you have not told this Commission, been truthful with this Commission in relation to the allegations that you've made against Mr Tinkler in the meetings you've referred to?--I reported this to the ICAC before any of these issues arose, before any hearing in regard to the Liberal Party or the Labor Party. I reported this to ICAC back in 2011, three years ago so I reject what you just said.

Nothing further.

THE COMMISSIONER: Any other questions of Ms McKay? Anything arising?

30 MR LEWIS: Nothing, nothing arising.

THE COMMISSIONER: Mr O'Mahoney?

MR O'MAHONEY: No, Commissioner.

THE COMMISSIONER: Thank you, Ms McKay. You may step down. You are excused.

40 THE WITNESS: Thank you.

THE WITNESS EXCUSED

[3.50pm]

MR WATSON: Thank you. Could I call, recall Mr Gunasinghe.

THE COMMISSIONER: Could I just confirm whether or not this is to be tendered, the pamphlet?

MR WATSON: The pamphlet.

MR O'MAHONEY: It is, sorry, Commissioner, I would seek to tender that document, please.

THE COMMISSIONER: Yes. Exhibit S45.

#EXHIBIT S45 - LETTER TO JODI MCKAY

10

MR WATSON: Yes. Mr Gunasinghe the section 38 order that I made earlier today continues to apply, as does your obligation to tell the truth- - -? ---Yes.

- - -according to the promise that you have made.

<TIMOTHY JOHANN GUNASINGHE, on former oath [3.51pm]

THE COMMISSIONER: Yes, Mr Watson.

MR WATSON: Just excuse me. Well, Mr Gunasinghe, why don't we just start all over again?---Yes, that's fine.

What's your full name?---Timothy Gunasinghe.

10

Now, you tell me how it came about that you made a cheque or signed a cheque to the Free Enterprise Foundation?---How do you mean?

What do you mean?---Can you please explain?

All right. We'll start completely again. We'll go back and could the witness be shown Exhibit S5. Would you open that up at page 1528?
---Yes.

20

Do you see that there's a signature on that page which is yours?
---Absolutely, yes.

And you see that it's a cheque made out to the Free Enterprise Foundation for \$10,000?---Yes.

Well, I'm asking you how, how did it come about that you signed a cheque to the Free Enterprise Foundation for \$10,000?---I was approached to support this foundation.

30

By whom?---Um, well, when the cheque was delivered I was approached by Mr Tim Koelma I believe. He came to our office to collect the cheque.

Right. Well, sorry, somebody coming to collect it is quite a different thing. I'm asking how you came to sign it?---Okay. Um, a consultant we use, Mr Sneddon- - -

Okay. Stop there. Play the tape. This is a tape of a conversation you had with ICAC investigators.

40

AUDIO RECORDING PLAYED [3.53pm]

MR WATSON: That'll do?---Okay, yes.

Now, could you tell the Commissioner, should the Commissioner find that you were lying to the investigator at ICAC when you said what you just

said?---No, I was trying to recall at the time. We had a 20-minute meeting and I believe- - -

No, that's enough, that's okay. Well, I'm going to put to you that you're lying now through your teeth, Mr Gunasinghe, just to save a bit of time? ---I'm not.

I tender a transcript of that conversation. Just put the formalities to you.

10

**#EXHIBIT 46 - RECORD OF INTERVIEW OF TIM GUNASINGHE
DATED WEDNESDAY 16 APRIL 2014**

You were approached by Tim Koelma, asked to give money to the Free Enterprise Foundation because that way it could disguise the fact you were property developers and otherwise prohibited to donate and you agreed to do so. Do you accept that?---Well- - -

20 Just say yes or no. We'll just get this over quickly?

MR BODOR: Well, I, I object to the question in that form. There's about five questions in there.

THE COMMISSIONER: All right. Well, let's break it, okay, let's break it down.

MR WATSON: All right.

30 THE COMMISSIONER: Put them one proposition at a time.

MR WATSON: Just trying to save a bit of time, we're all busy people. I want to put these propositions to you about the Free Enterprise Foundation. You wrote out a cheque to that organisation, didn't you?---Yes.

You did that because you were approached by Tim Koelma who told you about the Free Enterprise Foundation. Is that right?---The cheque was written out before Tim Koelma came to approach me.

40 You don't have to tell your story, we're not going to believe it anyway. Just say yes or no?---Well- - -

We'll just get this over, the formalities, you see, Mr Gunasinghe?---The cheque was written out.

All right. Okay. That must mean that what you told the investigator, Mr Curd, was false, mustn't it?---It was four, it was four years ago, I was trying to recall in a 20-minute period what- - -

THE COMMISSIONER: Mr Gunasinghe, can I just point out to you that the investigator actually asked you a very open-ended question in relation to whether or not you knew Tom Koelma?---Yes.

And you replied, "Yes."?---Yes.

10 And then you went on to volunteer that, "Mr Koelma came to us and said, 'We're raising money for the Free Enterprise Foundation.' This was in December 2010, they know their rules. We looked at it and said, 'We'll support you.'" And Mr Koelma had said to you that they were a lobby group and you knew that if it was for election purposes it would ring alarm bells?---Yes.

Now, you volunteered all of that, didn't you?---Yes, absolutely.

That was what was on the tape, wasn't it?---Yes.

20 You weren't asked leading questions, were you?---No.

Well, what- -?---But I was trying to think it through at the time.

Well, it didn't sound like you were thinking it through, it sounded like you had a pretty clear recollection of what happened?---No, I was, I was thinking it though.

What, so you just made all of that up on the run, did you?---No, no, because the gentleman was asking me questions and- - -

30 No, answer my question. Did you make all of that up on the run?---No, I was trying to recall.

Well, where, where in that excerpt that was just played did you say, hang on a minute, I can't really remember, let me think about it?---Well, I was, I was under pressure at the time because, and I was trying to recall to give this gentleman information.

40 It's an insult, Mr Gunasinghe, it's an insult to this Commission for you to sit there and maintain with a straight face that that was all done under pressure. Anyway, I've said what I've said. Go on, Mr Watson.

Look Mr Gunasinghe, we won't bother going through this sham but I do want to show you something else, if you'd open up that volume at page 1,527.---Yes.

Do you see that there is a letter signed by a gentleman Paul Nicolaou from the Millennium Forum?---Yes.

How did your Free Enterprise cheque get to the Millennium Forum Mr Gunasinghe?---I don't know.

And tell me this Mr Gunasinghe, do you see there that Mr Nicolaou is saying that they, that's you, Mr Gunasinghe, you would like the trustees to consider donating the contribution to the Liberal Party of Australia New South Wales Division, is that right, is that what you'd indicated?---No.

10 Well, what was the Free Enterprise Foundation, Mr Gunasinghe?---I was told it was a lobby group for business.

Lobbying out of Central Coast?---It was out of Canberra to support local business and help - - -

Supporting local business in Canberra, so you must be an altruist, sitting up there in Erina and thinking of pour dollars in the pockets of somebody in Belconnen, what a good man, it just sounds silly doesn't it? So you're supporting Canberra businesses, that's what you're now telling us?

20 MR BODOR: I object, I object Commissioner, the space preceding the last question is really unnecessary and unhelpful to you.

THE COMMISSIONER: Well, I'm not finding this particular helpful, but anyway, go on.

MR WATSON: Well look, are you, were you setting out to spend your money to support businesses in Canberra were you?---No.

30 Well, why were you sending your money to Canberra?---Well, the, what was the foundation called?

You're the donor, you're the bloke who's given them the money, I've never given them a penny?---The Free Enterprise Foundation.

Why are you sending your money to Canberra?---I was, I was told this is a lobby group to help businesses - - -

40 But sorry, if they're in Canberra, they're going to support businesses in Canberra aren't they?---I'm not too sure.

Well, didn't you think, oh golly before I blow ten grand, I better find out where they're spending their money, they could have been spending it in Afghanistan?---I'm not too sure.

Oh.---I'm not too sure, we did donate the cheque to the Free Enterprise Foundation.

Well, what did you think when you found out about this fact that your cheque had gone to the Millennium Forum, the Liberal Party of Australia?
---Well, I was only told and given this, I wasn't even given a copy of the Millennium Forum, I was told about it when the investigator came to see me, he showed me this.

That's the fellow that put you under pressure.---He showed me this.

Is it?---Yes, he tabled it.

10

That's the fellow you're talking about who put you under extreme pressure, we've heard that on there, I'll have a word with him later.---I think it's Darren Curd.

Have a look at page 1,321, 13 21.---Won't be a moment.

Do you see at the foot of page 1,321 a cheque made out by Mistlake Investments Pty Limited?---Yes.

20 What is that company?---That is a company of ours.

Yes, and what does it do?---It's a, well we're land holders and developers.

And who signed it, somebody Brand?---Phillip Brand.

All right. And he's one of your partners in the business?---Yes.

Well, how do you explain this, he seems to have been, one of your partners in the business donating to the Free Enterprise Foundation in September
30 2010, how do you explain that?---I wasn't aware of that cheque, I was aware of the other cheque.

But you're a partner in the business, is he just blowing a grand without you knowing about it, is he?---I wasn't aware of that cheque.

Well, you must have spoken to him since you were shown this document?--- Since I was shown this?

Yes.---Well, I was shown this at the, when the investigator so - - -
40

Sure. But you must have spoken to Mr Brand since then to find out what he knew about it?---I haven't in fact.

Really? Why not?---Mr Brand's been in Bali and he's - - -

All right. That's a good excuse, I'll accept that part of your evidence and leave it unchallenged Mr Gunasinghe. As for the rest, we'll see. Thank you.

THE COMMISSIONER: Does anyone want to ask Mr Gunasinghe any questions. Yes Mr Naylor.

MR NAYLOR: Commissioner, I'm unable at the present time to make a decision about whether I need to ask Mr Gunasinghe any questions, I need an opportunity to obtain instructions. The evidence that has been adduced this afternoon comes as something of a surprise to me.

10 THE COMMISSIONER: Well, I'm sure it does but I mean, your client must have known one way or the other whether he had any conversations with Mr Gunasinghe.

MR NAYLOR: Commissioner, I have conferred with my client but I haven't obtained any instructions in respect of the evidence that has been adduced this afternoon and I need an opportunity to do so.

THE COMMISSIONER: Can he be recalled?

20 MR WATSON: No, we don't want to do that Commissioner, here's a phone and we'll take a five minute adjournment it shouldn't take too long.

THE COMMISSIONER: I would rather deal with this witness today, we've got a very, very difficult schedule and there are witnesses who are being put back because we can't get through them.

MR NAYLOR: I appreciate that Commissioner, I'm just informing you as to what my position is.

30 THE COMMISSIONER: Other than Mr Naylor, is there anyone else who wants to ask Mr Gunasinghe any questions at this point? Well apart from you Mr Bodor, I take it you won't be very long?

MR BODOR: I won't.

THE COMMISSIONER: Well, I'll take ten minute adjournment Mr Naylor and you can make an attempt to contact your client.

40 MR NAYLOR: Thank you Commissioner.

SHORT ADJOURNMENT

[4.06PM]

THE COMMISSIONER: Any luck, Mr Naylor?

MR WATSON: I'm so sorry, Commissioner, before we go further I've been told I've made a school boy error and I should do this because it may be necessary for other purposes.

THE COMMISSIONER: Yes.

MR WATSON: Mr Gunasinghe, could you tell us your account, how did it come to pass that you signed the cheque to the Free Enterprise Foundation and give us a full ample account, you go for your life?---Mr Koelma came to collect the cheque from my office, when he came to collect the cheque I asked him about the Free Enterprise Foundation - - -

Sorry. Now you'd already written out the cheque. I'm talking about how did you come to write out a cheque Free Enterprise Foundation \$10,000 and sign it, how did that come about? You mentioned something about Doug Sneddon?---Mr Sneddon who is a consultant of ours asked us if we'd like to donate to his foundation which was a lobbying foundation, since I've worked with Mr Sneddon for over 10 years um, I agreed to and I had the cheque at my office, I spoke to Mr Stevens, okay he, I said we should support this because Mr Sneddon also recommended it and then I had the cheque waiting at our office that's when I spoke to Mr Tim Koelma.

And what were the words that Mr Sneddon used that persuaded you to part with \$10,000?---I can't recall.

No, we don't expect you to remember the precise words but just the spirit or interment of what Mr Sneddon said to you?---I really can't recall. We donate to a lot of, lot of things.

Oh no, please try. Let's just take the time I mean that terrible man Curd placed you under pressure I'd never do that. You just take your time. Tell us what Mr Sneddon said which persuaded to part with \$10,000? ---I really don't recall, sorry. I - we had a conversation I - - -

Well what did he tell you the Free Enterprise Foundation did?---He said it was a lobby group to help cut red tape in Government.

And did he say what issues they lobbied upon?---Well, well planning issues, DA issues, all those sort of issues that, that - - -

Did he say that this related somehow to the Central Coast of New South Wales?---Oh yeah, absolutely.

So what did he tell you about that?---Well he said that you know you should, we, you know to support this fund.

Well no, what did he tell you about the process of lobbying on the Central Coast of New South Wales on planning issues?---Well we didn't go into depth on this.

It's \$10,000 you must have asked him some questions?---No - - -

What did he tell you?---We, we really didn't go into depth.

Well what did he tell you, did he say that this organisation was located?
---Well he didn't say he said this Free Enterprise Foundation I believe we should support it and I've supported it.

10 But he told you, sorry, I withdraw that. You told us you knew it was in Canberra. How did you know that?---From the receipt they sent to us.

All right. So was that the first you knew where it was located?---Yeah, when, when I saw the receipt saying Canberra Free Enterprise Foundation Canberra.

That must have give you a shock to think that there was an organisation lobbying for DAs on the Central Coast which was located in Canberra?
---Well I don't know how they work, you know the funds work.

20

All right. I think that's probably sufficient, Mr Gunasinghe, for our purposes, thank you.

THE COMMISSIONER: You said Mr Sneddon was a consultant - - -?
---Yes.

- - - you have used for many years?---Many years over 10 years.

30 And what kind of consultant was he?---He's a planning consultant.

And given that you've used him over many years were there other occasions where Mr Sneddon said to you I think we should support this cause or that cause let's write out a cheque?---Not that I can recall.

So was this the only time Mr Sneddon ever proposed to you that you should donate \$10,000 to an organisation?---Yes. Well it was five and five, five from our side and five from Stevens side.

40 Well whatever?---Yeah.

But was this the only time that Mr Sneddon had ever said to you that he thought the organisation should donate to this, to, to some cause or other?
---I believe, I believe so, I just can't remember back then.

So you wrote out, so you wrote out a cheque did you to the Free Enterprise Foundation at some stage between speaking to Mr Sneddon and Mr Koelma coming to the office?---Yes.

Yes, Mr Naylor.

MR NAYLOR: Thank you, Commissioner, for that indulgence.

Mr Gunasinghe, my name is Naylor, I appear for Timothy Koelma?---Yes.

Just a few questions, sir. Can I suggest to you, sir, that Mr Koelma had never visited your office whether to collect a cheque or for any other purpose?---Yes, he has.

10

And you've never had a conversation with Mr Koelma have you in relation to fundraising for the Liberal Party?---Mr Koelma came to our office, the conversation was approximately say a minute or around a minute, he came to collect a cheque that Mr Sneddon had organised for some to collect and when I saw it was Mr Koelma I've obviously asked him, asked him the questions.

I want to suggest to you, sir, that you didn't have a conversation with Mr Koelma in respect of the Free Enterprise Foundation?---Well I did.

20

And I want to suggest to you that Mr Koelma never invited you in any way to provide a cheque for the Free Enterprise Foundation?---No, he didn't invite me in any way but he came to collect the cheque.

I want to suggest to you that's not correct?---It's true.

THE COMMISSIONER: Mr Bodor.

MR BODOR: Thank you. Mr Sneddon was a consultant Town Planner as you understood from your relationship?---Yes.

30

Was he the first person you ever heard mention the Freedom, was it Freedom Foundation?---Yes.

Yeah. It was suggested that you never met Mr Koelma. Could you describe him physically seeing we've had some of those descriptions already today? ---Okay. He was quite young, he was in his early 20s, quite chubby sort of, sorry for that, yeah, yeah.

40 And you spent a minute or two talking with him, is that - - -?---Yes, no more.

And we heard a recorded conversation played before the adjournment which you, which was between you and the investigator was the extent of the conversation with you and Mr Koelma that which you, you were recount to the ICAC investigator?---Yes.

And do you remember anything further about any discussion?---No.

Thank you.

MR WATSON: I've just got one thing.

What did you receive, what benefit did - - -?---We have not - - -

- - - Printban Pty Limited receive as a result of making this donation to the Free Enterprise Foundation?---We have not received a benefit.

10 What lobbying have they done on the Central Coast?---That's what I'm, I'm concerned about because when I saw the cheque was transferred to another Millennium Group that's where my concern.

Well hold on. I mean three years has expired since you gave a donation. What have you done in three years in terms of finding out about this lobbying on the Central Coast?---It's not high on my agenda, like we paid the money, I haven't seen anything.

Thank you, Mr Gunasinghe.

20

THE COMMISSIONER: Are you still using Mr Sneddon as a consultant by the way?---Yes.

Have you ever asked him what happened to your \$10,000?---Well this was only brought up a few weeks ago when, when - - -

No, but you just said a moment ago that you never received any lobbying, you never saw any evidence of any lobbying?---No, I haven't.

30 Well did you ever ask Mr Sneddon what happened?---No, I, I haven't thought about it. I, I also donate money to the Chamber of Commerce, the local football team, other, other things on the Central Coast and this, we paid the money and, and honestly I, I haven't - - -

You pay your money you take your chances?---I haven't thought about it.

And tell me what discussions if any did you have with Mr Stevens?

40 ---Stevens, I would to my recollection I would have given John a call, Mr Stevens a call and said Mr Sneddon recommends that we, you know support this lobby group and you know 5000 each, each for each of us and I, I'd, and I asked him to support it.

Did you tell Mr Stevens what Mr Sneddon had told you about what the organisation did?---Yeah, about lobbying Government and Local Government and so just to make the process, cutting red tape and making the process smoother.

Can Mr Gunasinghe be excused from the summons?

MR WATSON: Yes, please.

MR BODOR: May I just following on from those - - -

THE COMMISSIONER: Yes, go on.

MR BODOR: I'll just one.

10 In the order of the size of projects that you are involved in what sort of
capital costs are we talking about, tens of millions or more?---Tens of
millions, yes.

And \$5,000 per head is not, is not a- - -?---No, no.

- - -not a lot in those, in that context?---No, not in that context, no.

Thank you.

20 MR WATSON: It seems like a relatively small sum to go to gaol over,
doesn't it, Mr Gunasinghe?

MR BODOR: Well, I object.

MR WATSON: Oh, sorry, I shouldn't have said that, I withdraw it. But
there's no reason why he shouldn't be excused, Commissioner.

THE COMMISSIONER: All right. Mr Gunasinghe- - -

30 MR BODOR: It wasn't even funny.

THE COMMISSIONER: - - -you're excused, you may step down.

THE WITNESS: Thank you.

MR WATSON: Thanks, Mr Gunasinghe.

THE WITNESS EXCUSED

[4.27pm]

40

MR WATSON: That's the evidence for today, Commissioner.

THE COMMISSIONER: Thank you. Could I just ask, for the benefit of
everyone here, do we know who is being – I know there was some
announcement made this morning, Mr Watson, but do we know who's being
called tomorrow?

MR WATSON: Darren Williams, and I'll call him first. I believe these two witnesses are only available after 2.00pm, Holly Hughes- - -

THE COMMISSIONER: Yes.

MR WATSON: Sorry, I should say this. I believe Holly Hughes is only available after 2.00pm and it seems only fair to call Karen McNamara after Holly Hughes has given evidence.

10 THE COMMISSIONER: Thank you.

MR WATSON: I will try and interpose those two if Mr Williams is taking a long time because it's very clear that Holly Hughes who's got family commitments and comes from Moree, needs to get away.

THE COMMISSIONER: Right. And anyone other than Mr Williams or are we putting the balance of those persons off till next week?

20 MR WATSON: No, they're off till next week. On Monday the plan is to call Mr Palmer and Mr Sharpe and we think between the two of them they could take all day.

THE COMMISSIONER: Thank you.

MR WATSON: But they'll go up on the Website for people who are interested, next week's witnesses, they'll go up tonight.

THE COMMISSIONER: Thank you.

30 All right. Yes. I'll adjourn till 10.00am tomorrow, thank you.

**AT 4.29pm THE MATTER WAS ADJOURNED ACCORDINGLY
[4.29pm]**