

E12/2107/0821PUB04331
15/05/2014

CREDO/SPICER
pp 04331-4398

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION CREDO AND SPICER

Reference: Operation E12/2107/0821

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 15 MAY, 2014

AT 1.47PM

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: Mr Newlinds.

MR NEWLINDS: Thank you, Commissioner.

Sir, my name is Newlinds, I appear for Senator Arthur Sinodinos. Do you understand that?---Sure.

10

You've never met Senator Sinodinos have you?---I've, I may have met him at a Party function or - - -

Right?--- - - - yeah, but not - - -

But no more than to say hello. And what about Mark Neeham, the State Director of the New South Wales branch of the Liberal Party as at March 2012, ever met him?---Yes, I have.

20 All right. As at 2012, March, did you know Mr Neeham well?---Not very well, we had had some interaction at a professional level as part of the campaign.

Did you trust him?---Ah, I - I'm not sure I've ever thought about it in those terms. I, yeah, I had no particular reason to - - -

Well, he was the State Director of the Party with which you were a member?---Yes.

30 He was the State, the State Director of the Party which you supported? ---Yes.

And while we're at it you knew at the time that Arthur Sinodinos was the President of the New South Wales branch of the Liberal Party?---I probably knew that, yes.

40 And you were asked some questions about - well, it was put to you many occasions during the last couple of days that you were lying, do you remember that, remember all those occasions?---I remember some of those, yes.

And in relation to the allegations that were put to you that you were lying on your oath whilst giving your evidence you steadfastly declined to accept the propositions, correct?---Ah hmm.

Yes?---Yes.

Now you do know what a lie is don't you?---Yes.

A lie is when - just to make sure we're talking about the same thing, it's when someone tells something that's not true and at the time they say it they know it's not true, is that your understanding?---Yes.

Right. Now you were asked some questions about the dealings you had with the man from the New South Wales branch of the Liberal Party in March 2012, do you remember those questions?---Ah, yes.

10 And you understood at the time that what was going on was that Matthew Lusted, the person behind LA - I was going to say Confidential but I think it's LA Commercial, had made a complaint to head office of the New South Wales branch, correct?---Oh, I wasn't aware of that.

Right. You understood - well, you said that one of your reasons when asked to explain your dealings with the people at the Liberal Party was that you understood that they had received a, what you called an unsubstantiated complaint, do you remember saying that?---An unsourced and they had provided substantiation, that's correct.

20

Did you understand what the complaint was?---Not specifically, no.

Well, did you understand in general terms?---Not - no, not really.

Right. Did you understand that in general terms what had been suggested was that people who were prohibited donors under the relevant legislation were in fact donating money to the Liberal Party and that that fact was being disguised by Eightbyfive issuing invoices for work that was never done in exchange for the money, did you understand that was the gist of it?---I don't think I understood those specific terms but I understood that there was - not a lot of information was given to me.

30

But you understood the topic was the involvement of Eightbyfive in donations to the Liberal Party?---Ah, yes, in those general terms, yes.

Right. And may we take it that the evidence you've given over the last couple of days as to Eightbyfive's dealings in relation to for example Mr Lusted's company was true, what you told us is the truth?---Yes.

40 And may we take it that that's what you thought the position was back in March 2012?---Well, again, I didn't know that that was what being put to me.

No, don't worry about what's being put, what you thought was going on which as I understand it was that Mr Carter would from time to time refer people to you to get some advice?---Yes.

That's step 1?---Yes.

Step 2 is you would give those people some sort of advice or agree that perhaps in the future you might?---Yes.

Later on Mr Carter would ring you up and tell you if and when you could send an invoice to any one of those people?---Yes.

He would tell you how much the invoice should be?---Ah, on occasion, yes.

10 You would then send the invoice and it would be paid?---Yes.

Right. That's what you say - - -?---Yes.

And that's what you thought was going on as at March 2012?---Yes.

And may we take it that as at March 2012 you didn't think there was anything wrong with that?---That's correct.

20 And did you think that other people might think that that might just be a little bit unusual or that didn't strike you?---At the time no, that, I hadn't done that at that point for 12 months and I never had any reason to think that anybody had any concern about it, including those people that I'd worked for.

But you didn't have any concern about it?---Not at the time, no.

So there's no reason for you to keep it secret from anyone if they asked you about it?---Not particularly, no.

30 All right. Now you understood that the so-called unsubstantiated allegations that had been received by the Liberal Party were trying to be substantiated by the people who were investigating the situation, correct?---Well, I, I wasn't, I don't think I was, I don't think I was aware that it was a formal investigation in that sense.

Well, they were making inquiries about what you described as unsubstantiated allegations?---Ah, yes.

40 Right. And the point of someone inquiring into unsubstantiated allegations is to see whether they can be substantiated or not, correct?---Yes.

And you were in a position if you chose to to explain to the Liberal Party precisely what Eightbyfive had been doing and why it was there was no problem, correct?---Yes, I suppose I - yeah. The - - -

All right. Thank you. Now you did say, I think it was yesterday but it might have been the day before, that in your dealings with the Liberal Party you were a, your first description was a little bit cagey, you remember that?

---Yes.

But later on you agreed with Mr Watson that at least in part you'd lied to the Liberal Party?---Yes, I think it - yeah.

Now can we just pause there. So here we have you lying to senior officials of the Party of which you are a member - - -?---Well, I didn't know who it was that I was speaking to.

10 All right. But by the time Mr Neeham wrote you a letter confirming his understanding of what you had said you understood that the State Director of the Liberal Party was acting on what you had said, correct?---As I explained, that letter went to the wrong address and I didn't get it for some weeks later so I didn't understand what was going on until some weeks later.

All right. So what follows from that is some weeks after 14 March you knew that the State Director of the Liberal Party was operating on the assumption that what you had told the Party was the truth?---Sorry?

20

He was operating on the assumption that what you had told the Party was the truth?---I would imagine so.

All right. But you knew that what you had told the Party was a lie?---Ah, well, at that stage I didn't know what their interpretation of my - - -

30 THE COMMISSIONER: It's not their interpretation, Mr Koelma. You have already agreed that as at the date of that receipt of that letter by you you were of the view that you had nothing wrong and that all you were doing was paying invoices as directed by Mr Carter but you didn't tell them that. What you told them on any view of what you've said in evidence, what you told them was a lie?---No, I didn't - - -

That's what's being put to you?---Sure, but I didn't understand exactly what it was that was being put to me or had been put to me.

40 MR NEWLINDS: Well, what was happening was they were asking you questions and you were answering them, correct?---Yes, but I didn't know what they were asking me questions about.

It doesn't matter, they asked you questions, you understood the questions and you deliberately gave untruthful answers, right?---I - yeah, again, I don't - - -

Yes, the answer's yes isn't it?---Yes, I suppose it's, yeah.

And now lets just look at that. So here we have you as a member of a political party, a Party that you support passionately may we take it?

---Sure.

The Party that Mr Hartcher represented, yes?---Yes.

The Party that Mr Hartcher obviously wanted to win the next election and become a Minister, yes?---Sorry, the, that's - - -

Oh, this is 2012?---Yes, this is - - -

10 And you work in a Minister's office in that Party?---Correct.

And you're lying to senior officials of the same Party?---Well, again, I didn't know exactly who it was that was calling and - - -

But you knew he was from the Party?---He said he was from the Party.

20 But don't worry about that person, you knew that Mr Neeham, the State Director of the Party, was operating on the assumption that what you told the Party was the truth when in fact it was not the truth?---Ah, only later on did I understand that.

Yeah, a couple of weeks after 14 March?---I think it was quite a bit after that but yes.

Now how could that be? Are you a person who tells lies regularly?---Well, no, as I say the, as I said the letter that I got from Mr Neeham, I mean, I certainly wasn't expecting and I, as I say, didn't get it um, and it didn't strike me as an accurate reflection of the discussion that I'd had - - -

30 THE COMMISSIONER: Mr Koelma, all of that is completely unresponsive to the question. Can you put the question again please, Mr Newlinds.

MR NEWLINDS: Yes. Are you a person who lies regularly?---No, sir.

Right. May we take it that the lie you told to the Liberal Party in or around early March 2012 was something out of the ordinary in the usual day to day running of your life?---Sure.

40 Right. You don't normally run around telling people lies, correct?---No.

And you certainly don't ordinarily tell people from the very Party that you passionately support lies do you?---No, sir.

No. And isn't this the case, the reason you lied to the Liberal Party on this occasion was because in fact you knew that you were doing something wrong?---No, sir.

It shows us all that you were acutely conscious that what you were doing was wrong doesn't it?---No, sir, absolutely not, my - - -

And the, and the second thing it shows us, does it not, is that you knew that the senior people with the New South Wales branch of the Liberal Party had no idea what it was that you were up to, correct?---Again I didn't know who from the Liberal Party I was speaking to so - - -

10 Well, you certainly knew that Mr Neeham had no idea what you were up to?
---After - sorry, after the fact?

After - - -?---After that conversations?

Well, at the time he wrote you the letter, at the time you, you answered the questions?---Well - - -

20 THE COMMISSIONER: The proposition is if he's asking the questions he doesn't know the answer therefore he doesn't know what was really going on. Do you agree with that or not?---Sorry, who?

Mr Neeham asking the questions via a representative of his in relation to Eightbyfive?---Well I didn't know that he represented Mr Neeham.

Well forget that. The point is didn't the questions indicate to you that the people posing the questions didn't know what was going on?---Yes, I - - -

30 MR NEWLINDS: And you knew they didn't know what was going on because if you thought they knew what was going on you would have said well what are you talking about, you know what happens out here, Mr Carter refers people, I give them some advice he tell me to send them an invoice and I get paid?---None of that was the substance of the conversation
- - -

MR NAYLOR: Commissioner, I object.

MR NEWLINDS: Sorry?---None of that, sorry.

THE COMMISSIONER: Yes, Mr Naylor.

40 MR NEWLINDS: I withdraw that question.

THE COMMISSIONER: It's - anyway.

MR NAYLOR: I object to the line of questioning, Commissioner, Mr Newlinds represents the interest of Mr Sinodinos not Mr Neeham.

MR NEWLINDS: Who was the President - - -

THE COMMISSIONER: Well no, no, no. Bu the point of the question is that that this is, this is evidence Mr Newlinds wishes to rely upon in order to demonstrate that no-one in the senior ranks of the party new what was occurring with respect to the Eightbyfive invoices, he's entitled to put that.

MR NAYLOR: Yes, if the Commission pleases.

THE WITNESS: And I agree with hat proposition.

10 MR NEWLINDS: You knew that they didn't know what you were up to?
---I didn't know what they didn't know, they didn't put it to me.

THE COMMISSIONER: He didn't know what they didn't know.

MR NEWLINDS: Well you never told them what you were up to did you?
---No, I don't, I don't know who in the senior branches of, well who in the senior ranks of the Liberal Party knew what I did for a living.

20 Would you answer the question, you didn't tell them what you did for a living did you?---Not prior to them, no.

No. And you didn't tell them what Eightbyfive did, did you?---I, I may have told them in general terms but I didn't – no, I didn't tell them specifically but it depends who you you're talking about.

And what you said is the Enterprise did not accept or make political donations during the period of your involvement with Eightbyfive, you said that didn't you?---That's correct.

30 And it follows from that does it not that one, at least one of the questions you were asked was to the effect did Eightbyfive accept or make political donations during the period you were involved with it?---Yeah, that may have been put to me in, yeah, in those terms, yeah.

And you could have said well, no, it doesn't, what it does is I do legitimate work, Mr Carter sources people, he tells me to issue invoices, they pay them, what's wrong with that?---Well again none of that part of the detail was asked for or, or elicited, they asked me if I had accepted or given political donations and I said no.

40 And that's all part of being cagey isn't it only answering the direct question?---Well - - -

Something that you're not particularly good at may I suggest. But on this occasion you chose just to literally answer questions you're asked and not to explain the circumstances that obviously the Liberal Party was interested in. Is that it?---Well it wasn't obvious to me.

Why did you think they wanted to know about Eightbyfive?---I had no idea I asked them.

Well accept you knew that it was to do with whether or not it was involved in accepting or making political donations didn't you?---And I think that was the extent of the questioning.

Right. So that gives you a hint?---And I said that it hadn't.

10 And you also said that you had no longer had any connection with the Enterprise. That was a lie?---I don't believe I said that but - - -

All right. Well when Mr Neeham wrote to you on 14 March why did you not immediately ring him up or write back to him and say listen you got this wrong?---As I said I, I had started to prepare a letter and by that - - -

Oh that's right. Where is that letter by the way?---Sorry?

20 Where is that letter?---I didn't send it to Mr Neeham.

Why not?---Sorry?

Why not?---Because at that stage the EFA had contacted me and - - -

30 And may I ask you this, so what?---Well I'm not sure what confidentiality provisions apply to the EFA but I was, they had contacted me and asked for information so at that point it seemed, it didn't seem particular relevant to answer the Liberal Party's questions because they'd already put their case to the EFA.

All right, thank you very much.

THE COMMISSIONER: Mr Neil.

MR NEIL: Thank you, Commissioner.

Mr Koelma, I represent Mr Iwan Sunito. Do you understand that?---Yes.

40 Now you have given evidence that you spoke to Mr Sunito over the telephone, right?---That's my recollection.

And you said it was not face to face with, correct?---That's my guess.

That's your evidence. And you've also said that you don't think you'd ever met him in person, that's your evidence, correct?---I can't recall meeting in person.

All right. So we can take it that your evidence is you never met Mr Sunito in person, correct?---That's correct.

And you may take it that that's his evidence, he says he never met you in person. Do you understand that?---As I understand it.

Now what I want to suggest to you, Mr Koelma, is that your evidence that you spoke to Mr Sunito over the telephone is a lie. Do you agree or not?---I disagree.

10

You also gave some evidence to the effect that you done some work at the request of Mr Sunito, at one line in your evidence you said it wasn't market research, at another line you said it was market and commercial research. Now I want to suggest to you that your evidence that you did some work at the request of Mr Sunito was a lie. Do you agree or not?---I disagree.

20

You even said in your own evidence at page 4131 line 25 when you were asked what the market was that you were researching, question, "What market was it?" you said, "As far as I can reconstruct it would have been related to property development." Even on your evidence you were reconstructing your evidence weren't you?---As I said I can't recall the specifics.

Why would you reconstruct unless you were reconstructing to your own advantage?---I may have used the wrong word but it's - I can't recall the specifics.

30

If you reconstructed to your own advantage it was searching for whatever would help you in the witness-box, correct?---Sorry, I - - -

Well you were constructing on your word to your own advantage to help you give evidence in the witness-box to assist you. Do you agree?---I'm sorry I - - -

You know what reconstruct means?---Yeah. As I say I may used the wrong word in that particular instance - - -

40

But why, why use the word "reconstruct"? You know what it means don't you?---Yes, um, I mean - - -

Well tell us what it means, what does it mean to you?---I think what I meant was that I was trying - - -

What does reconstruct mean to you, Mr Koelma?---I think what I was suggesting is that - - -

What does reconstruct mean to you?---Will I be allow to finish?

Start answering the question, what does reconstruct mean to you?---To put together.

Put together something about which had no memory, correct?---From fragmented memories, yes.

You came here to seriously give evidence didn't you?---Yes.

10 And one thing you gave in evidence was that Mr Sunito was referred to by Ray, meaning Ray Carter, correct?---That's my understanding, yes.

You've used the phrase at times during your evidence that certain people are introduced to you. You understand that? You've used that phrase haven't you?---Yes.

Would you agree that you understand an introduction to be something face to face?---Not necessarily.

20 How do you get an introduction if you don't meet someone?---Well you can be referred to someone and you introduce yourself based on their recommendation or you introduce yourself based on – I don't agree with the premise that an introduction necessarily is face to face.

If you used the word in evidence refer you meant to convey because you've said you spoken to Mr Sunito on the phone you meant by the word refer to say that you had been referred by Mr Carter to Mr Sunito without meeting Mr Sunito?---Yes.

30 And that's your evidence isn't it?---Yes, yeah.

Yeah. If you'd have meant to say you'd been introduced to Mr Sunito by Mr Carter face to face you would have use the word introduced wouldn't you?---Yeah, I think we're passing words, that's - - -

No, we're not. You would have used that word if that's what you meant wouldn't you?---I'm not sure.

40 Now you have – I just want to ask you this, you said that when you were referred to Mr Sunito by Mr Carter you said in evidence here 4130, you were asked "What did Ray tell you Mr Sunito wanted?" you said "With regard with Mr Sunito specifically I can't recall." Was that an honest answer?---I can't recall specifically.

So you can't recall what it was that Mr Carter put to you that Mr Sunito wanted, correct?---Correct.

You can't recall the purpose of Mr Carter introducing you to Mr – introducing Mr Sunito to you. Correct?---Not specifically, no.

Nothing to do with Part 3A, do you agree?---Sorry?

It had nothing to do with Part 3A, did it?---It may have been.

You'd remember that, wouldn't you?---Not specifically.

10 How can you not specifically remember something as simple as Part 3A?
---I was having dozens of conversations during that period with many
people about Part 3A, it was a significant portion of what was being
discussed.

Look, you said in evidence that you had no – with regard to Mr Sunito
specifically you could not recall what Ray told you that Mr Sunito wanted.
You gave that in evidence, didn't you?---Yes, that sounds- - -

Now, I put to you that it wouldn't have been about Part 3A. You've got no
recollection of any mention of Part 3A have you?---Not specifically, no.

20 If you had a specific recollection you would have told the court about it,
wouldn't you?---Sorry?

It you had a specific recollection you would have told the Commission
about it, wouldn't you?---Yes.

30 Would this be correct, now, I think earlier you said something about Part 3,
and I'll keep this short, you said in evidence that your understanding was
that the Liberal policy was to repeal Part 3A and then have some kind of
inquiry?---A review, yes.

A review. And thereafter something would come out of the review no
doubt?---No doubt.

If they repealed Part 3A and then had a review, what would happen to all
the projects that had been the subject of the repeal?---Ah, I think at the time
the policy was to have them all referred to the Planning and Assessment
Commissions um, and the review would be to effectively build a new
planning system.

40 Mr Koelma, I'm suggesting to you again you did no work for Mr Sunito on
any matter to do with market research or Part 3A or anything else. Do you
agree?---No, that's not my recollection.

In the month leading to the 30th – to the end of March Election in 2011,
between 15 February, your invoice, and that election, if there was going to
be a review later on what could you value add other than to say to anybody
who spoke to you, there's going to be a review one day?---And for the most
part that was what was being discussed.

What, that there might be a review?---That there would be a review.

That's all?---It was more substantial than that obviously.

Was it substantial enough for \$2,000 invoice, tell someone there's a review?
---Well, again I can't recall the specifics of what was discussed.

THE COMMISSIONER: Mr- - -

10

MR NEIL: Again Mr Koelma I'll put to you you're lying. Do you agree?
---No, sir.

Thank you, Commissioner.

THE COMMISSIONER: Mr McGrath?

MR McGRATH: Mr Koelma, my name is McGrath and I act for Dr Kerry Schott and Mr Ronald Quill.

20

Now, you've accepted that the allegations that you made in the anonymous complaint to ICAC were extremely serious allegations, weren't they?
---They were.

Yes. And you knew that one of the consequences of you making those allegations could be that Dr Schott might be required to stand aside from her position as Chief Executive Officer of Sydney Water, didn't you?---I, I'm not sure I would have been conscious of exactly what the impact might be.

30 THE COMMISSIONER: Mr Koelma- - -

MR McGRATH: Well, you thought- - -

THE COMMISSIONER: Just a minute, Mr McGrath. There's a delicious irony in this, Mr Koelma, because for about three weeks I've been hearing regularly from Counsel, including Senior Counsel for your former employer that reputations are being trashed by this inquiry. You cannot be serious, can you, in asserting now that you didn't appreciate what the result of a serious complaint to ICAC might be?---I, I might now but I don't think I would have had that appreciation at the time. I'm not sure that there had been- - -

40

After all your work for Mr Hartcher and your experience in New South Wales Government you did not appreciate that?---I may have had some appreciation but- - -

Well, some appreciation is an appreciation, isn't it?---Sure, and I can, yeah.

Well, Mr McGrath is simply asking you to confirm that you knew when you sent that very serious complaint that the consequence may well be that Dr Schott and Mr Quill would be stood aside?---Again I may not have been aware of that specific consequence but I accept that the consequences- - -

Go on, Mr McGrath.

MR McGRATH: At the very least their reputations would be damaged. You'd agree with that, wouldn't you?---Potentially, yes.

10

Yes. Now, you say in your evidence today that the laugh that you were having with your brother, Eric, was that something so serious could be happening inside Sydney Water as reflected by the allegations that you say Robert had told you. That was the laugh you said you, you were pointing out to your brother?---Yes, in the, yes.

20

Now, you also said to the effect that as a person within the Public Service where allegations of corruption come to your attention you felt duty-bound to have those allegations put to ICAC. That was the effect of your evidence today, wasn't it?---I wasn't a member of the Public Service but I understood that in general terms the, the fairly constant political refrain was that if there were – if you – if somebody was made aware of allegations like that, they should be put to ICAC.

And that, you'd been made aware of that whilst you had been a member of the Public Service, hadn't you?---No, sir.

30

Now, it's the case isn't it that there was absolutely no reason at all for you to have made the complaint to ICAC anonymously, was there?---Ah, well, again it wasn't my complaint.

THE COMMISSIONER: Yes, it was, Mr Koelma, we've got past that. You sent the letter, it was anonymous. Now, answer Mr McGrath's question. There was no reason, was there, for you to send that complain anonymously?---Not specifically.

40

You say that you had had allegations of misconduct by public officials brought to your attention and you felt that you wanted to make those known to ICAC?---Yes.

And in fact in the light of that and how you felt about what you thought public servants – I'll withdraw that. What you felt about allegations coming to the attention of you of corruption by public officials, there was every reason for you actually to make that complaint openly to ICAC, wasn't there?---No, again, the, the information had come from somebody and, and I was helping them put those allegations.

Even though the information had come to you from someone else, as you say, there was still every reason for you to make the allegations openly, wasn't there?---Again that was what I had discussed with him so- - -

In fact you could quite easily have put your name to those allegations, couldn't you?---No, no.

I'm going to put to you that the reason that you did not put your name to it was that you did not want to be connected to the allegations, did you?

10 ---Not, not specifically.

And the reason why you didn't want your name connected to those allegations is that you didn't want the allegations to be seen as connected in any way to the work that you were doing for Australian Water Holdings. That's the case, isn't it?---No, sir, that's, no.

And the other reason why you didn't want to put your name to it is that you did not want those allegations to be connected in any way to Mr Di Girolamo. That's the case, isn't it?---No, sir, they weren't.

20

You were asked some questions by Mr Di Girolamo's Counsel earlier today in which you were asked the extent of Mr Di Girolamo's knowledge of the allegations. Do you recall being asked questions about that?---Yes.

Now, one of the answer that you gave was to the effect that it was only with respect to the matters that Mr Heath Ashton (as said) had written about that you had raised with Mr Di Girolamo. Do you remember saying that?---Ah, yes, I think so.

30 And it was only the matters that were canvassed in the articles written by Mr Ashton (as said) that you had discussed with Mr Di Girolamo. Do you remember saying that?---I, I don't know that it was necessarily just the allegations in the article.

Well, one of the allegations that you had in fact communicated with Mr Di Girolamo on was the issue of the circumstances in which Mr Quill had left the employment of Sydney Water, wasn't it?---Ah, I believe so.

40 Yes. So that was one of the matters, in fact it was the matter numbered 1 in the letter of complaint to ICAC, wasn't it?---Ah, I believe so.

So it's correct to say isn't it it's not just the matters that were dealt with in Mr Ashton's (as said) article that you had discussed with Mr Di Girolamo before you made your letter of complaint to ICAC. That's the case, isn't it? ---As I say, I can't recall but it's possible.

And it's very likely isn't it that the, the matters which were referred to by Mr Di Girolamo in a text message to you about Mr Quill, remember the

reference to the Public Service medal and to the serious cover-up, do you remember that text exchange?---Ah, yes, I do.

And that was the first time that that matter had been raised with you by Mr Di Girolamo, wasn't it?---I'm not sure.

Now, on your evidence did Robert tell you about the allegations concerning Mr Quill?---I, I think he did, yes.

10 Or is it actually the case that Mr Di Girolamo was the one who had told you about the matters concerning Mr Quill?---No, not that I can recall.

Because you would agree, wouldn't you, that the very matter that Mr Di Girolamo sent you a text message on was the very matter contained within the allegations made to ICAC in the letter that you arranged to be sent? ---I'm not sure that they're exactly the same but they – I'm not sure which – that one followed the other or the other way round.

20 Well, can you explain the coincidence of how Mr Di Girolamo would be raising with you a matter concerning Mr Quill's employment at Sydney Water and why Robert would also be doing so?---As I say, if I discussed those things with Robert beforehand and I can't recall whether I spoke to Mr Di Girolamo about those.

Well, it's not the case you can't recall, you would accept wouldn't you that you communicated with Mr Di Girolamo on precisely one of the allegations made in the letter to ICAC which you arranged to be sent?---I may have done so, yes.

30 Now, the only party who stood to gain from Dr Schott being either required to stand aside or in fact having her reputation so damaged she left her position at Sydney Water was Australian Water Holdings. That's correct, isn't it?---Well, no, I - - -

Well, I'll invite you to speculate. What other party could you think of to your knowledge would gain from Dr Schott being required to stand aside from her position as a result of the allegations that you arranged to be made to ICAC?---Um, the Opposition in general.

40 The Opposition in general?---Sure.

Is that a serious answer?---Absolutely.

Could you expand on why it was that you saw the Opposition in general as being advantaged by Dr Kerry Schott being required to stand aside from her position?---If a, if a Public Service agency had been conducting themselves in a manner that was inappropriate or otherwise um- - -

THE COMMISSIONER: Corrupt?---Sure.

THE WITNESS: - - -um, then that would obviously embarrass the Government which would benefit the Opposition.

MR McGRATH: Well, if you thought that the Opposition were going to benefit from an allegation of the sort that you were arranging to be made to ICAC, why isn't it that you arranged for the Opposition to make that complaint to ICAC and have their name associated with it very closely?

10 ---Um, I could have done so. At the time I didn't have any way of substantiating what was, what had been put to me um, except for the first part, and the first part um, had been substantiated by a journalist um, and they would have been um, unsubstantiated allegations and if they had been put by the Opposition they would have needed to be put say under Parliamentary privilege um, and that would have been very public obviously.

Well, the reason why you didn't arrange for the Opposition to make these allegations is because you wanted them made anonymously for the benefit
20 of Australian Water Holdings, didn't you?---No, sir.

And you were well aware, weren't you, that if Dr Schott was removed from her dealings with the money disputes between Australian Water Holdings and Sydney Water, that would be of benefit to Australian Water Holdings, wouldn't it?---I can imagine it might have been but I don't think I had a specific appreciation of that.

Well, did Mr Di Girolamo also explain to you that Australian Water Holdings was looking to enter into a PPP with the Government?---Ah, yes, I
30 think he did at some stage, yes.

And he would have said to you, wouldn't he, that actually that matter of the PPP lay at the very heart of Australian Water Holdings' business case, he would have said that to you, wouldn't he?---No, I don't think he put it in those terms.

So are you saying that he, he didn't bring to your attention the importance of a PPP to Australian Water Holdings?---He- - -

40 Is that your evidence?---He brought it to my attention and I'm sure I understood that it was important but I'm not sure I understood the extent to which it was important.

Well, did he, Mr Di Girolamo, also raise with you that Sydney Water was actually against the concept of a PPP being entered into with Australian Water Holdings?

MR ALEXIS: I object to these questions, Commissioner. It's been some weeks since Credo concluded, my learned friend may have forgotten about this, but the evidence in Credo was I think indeed from the former Premier, Kristina Keneally, that the PPP was dead by August 2010, the complaint to this Commission is date stamped as received on 10 September, 2010. I think in light of that chronology my learned friend out to in fairness point that out to the witness before he wants to- - -

10 THE COMMISSIONER: Well, perhaps it has to do with- - -

MR ALEXIS: If he wants to pursue this any further.

THE COMMISSIONER: Perhaps it has to do with the revival of the proposal in the event that, in the event that the Government of the day changed, but in any event- - -

MR ALEXIS: Sorry, revival?

20 THE COMMISSIONER: I beg your pardon?

MR ALEXIS: Revival of what, Commissioner?

THE COMMISSIONER: Of the PPP in the event that the Government of the day changed. That was a decision taken by Ms Keneally when she was Premier. What Mr McGrath is now putting is what was the motivation behind the complaint. He's entitled to put that to the witness.

30 MR ALEXIS: Well, no doubt he is, but he need to fairly grapple with the chronology- - -

THE COMMISSIONER: Right. Well, I think he, well, I think he- - -

MR ALEXIS: - - -which is against the proposition that's being advanced because- - -

THE COMMISSIONER: Well, I don't know that, I don't know that it is, but anyway, now he is aware of it and it's been pointed out to the witness.

40 MR ALEXIS: If the Commission pleases.

THE COMMISSIONER: So, Mr McGrath, you might want to put the question again.

MR McGRATH: Perhaps I'll put a different question. You understood didn't you that Dr Kerry Schott represented a block to any PPP being entered into with Australian Water Holdings, didn't you?---I'm not sure that I was aware of the specifics of the PPP negotiations at that stage.

I put this proposition to you as well. You thought that anything that damaged Sydney Water was helpful to the notion that the provision of water services should be privatised in New South Wales, didn't you?---Not specifically, no, that wasn't- - -

10 THE COMMISSIONER: Mr Koelma, look, you keep saying, "not specifically." I really don't understand what that means. You either knew it or you didn't know it. The question of the detail to which you knew it is really neither here nor there because so far you've said in answer to Mr McGrath that Mr Di Girolamo told you about the PPP, said nothing about the critical nature of the PPP for the purposes of AWH's future financial benefit and, and now you don't know anything about the extent to which opposition to Sydney Water would assist in having water infrastructure privatised. Essentially you've said all of that?---No, I, I, I didn't really understand the, the last question so- - -

20 All right. Well, let me help you. Did you know that as far as AWH was concerned they were keen to have a proposal advanced that would effectively privatise water infrastructure. Did you know that?---I, no, I don't know that I understood it on those terms.

So this very important service you were providing to AWH did not include knowledge of any of those propositions, any of that feature of AWH's business case. Is that what you're saying?---Yeah, they- - -

It sounds to me like you knew nothing at all about AWH was doing, am I wrong about that?---I wasn't - I didn't have a lot of understanding of what AWH was doing with regard to Sydney Water, no, that's correct.

30 Right.

MR McGRATH: Were you even aware that the only major source of revenue to Australian Water Holdings was that money was coming under a contract with Sydney Water, were you aware of that?---I understood they had a contract with Sydney Water, that was the one that had been negotiated in the '90's but I wasn't aware that it was the only contract.

40 Are you seriously suggesting that you were providing the services under the agreement with Australian Water Holdings that are described in that agreement?---Sorry, what?

Are you seriously suggesting that you were providing the sorts of services described in the services agreement to Australian Water Holdings?---My agreement with - - -

Yes?---Yes.

Are you seriously suggesting you were providing those services?---Yes.

And you knew very little about what Australian Water Holdings was actually doing in its business, that's the effect of the evidence you've just given?---I wasn't aware of the details of the negotiations, I understood there were negotiations that were ongoing but I was never part of the negotiation team and we didn't have in depth conversations about how the negotiations were going.

10 In light of your lack of knowledge about all these things about Australian Water Holdings' operations is it really the case that what you were in fact doing is acting on the instructions of Mr Di Girolamo for any of the work that you were undertaking?---Sorry?

Each of the items of work that you did for Australian Water Holdings was on the instructions of Mr Di Girolamo, that's the case isn't it?---For the most part.

20 You weren't acting on a frolic of your own when you were undertaking that work were you?---It depends which part of the work we're talking about or which - - -

You weren't initiating tasks to be undertaken on behalf of Australian Water Holdings were you?---Ah, no, not really.

And that would include things such as making allegations about serious misconduct on the part of Sydney Water?---As I said they were, that was not something that I undertook on my own.

30 These allegations were brought to your attention by Mr Di Girolamo weren't they?---Ah, no.

Is that answer a serious one?---Yes, sir.

Now just in closing I'd like to ask you this, in your conversations with Mr Di Girolamo what sort of terms did he refer to Dr Kerry Schott in? Were they derogatory type terms?---Not that I can recall.

40 Did you get the impression that Mr Di Girolamo had any respect for Dr Schott?---Ah, I didn't really interpret his impression one way or the other, I, I, I was probably aware that they weren't best friends or that - and I understood that they had, they were in a contractual dispute but I, I wasn't aware that that was personalised or - - -

Did he ever refer to Dr Schott as a bitch?---Not that I can recall.

Nothing further.

THE COMMISSIONER: Yes.

MR FERNAN: Mr Koelma, my name is Fernan, I represent Mr Darren Webber. Sir, you were asked some questions by Counsel Assisting yesterday concerning the various invoices that you received from the company called Webbbson, do you recall that?---Yes.

And you gave some evidence that the invoices that he showed you had been collected on a search warrant of your house.

MR WATSON: Just sorry, I've just heard something.

10

UNIDENTIFIED SPEAKER: (not transcribable)

MR WATSON: Sorry, I may have overreacted, I'm sorry, I'm sorry to interrupt, it wasn't anything that the questioner was doing. Sorry.

THE COMMISSIONER: Yes, Mr Fernan.

MR FERNAN: Can I continue?

20

MR WATSON: Yes.

THE COMMISSIONER: Yes.

MR WATSON: Sorry about that.

THE COMMISSIONER: You might need to start again.

MR FERNAN: I will. Can you recall, sir, that you gave evidence that the invoices that he showed you had been invoices that had been collected from your house, and that was at transcript page 424 line 43?---I believe they were.

30

And collected at your house by, following a search warrant that had been exercised there, is that right?---Ah, yes, sir.

And that was your house at Hornsby, is that correct?---That's correct.

And you gave evidence also that the invoices had been replacement invoices that Mr Webber had provided to you?---Ah, as I recall, yes.

40

And the need for the replacement invoices arose because there had been some water damage at your house that had destroyed the earlier copies, is that right?---Correct, yes.

And the house that suffered the water damage was not the Hornsby house but was the Terrigal house, is that right?---That's correct.

And as I understand it, sir, you had moved into the Hornsby house in about 2011, is that correct?---Ah, yes, that sounds right.

And so the water damage that had occurred and which destroyed the earlier invoices had occurred some time also in 2011 or in 2010, 2011?---Ah, 2011 I think just prior to our, our moving, yes.

And when in 2011 do you recall moving into the Hornsby house, sir?---Ah, I think it was about mid-2011, I'd have to go back and - - -

10

And the purpose for you obtaining the replacement invoices was so that you had a complete set of records for the purposes of preparing your tax returns, is that right?---That's correct, yes.

And so you were clear in your request to Mr Webber to ensure that he provided you with a replacement copy of all the invoices that he had issued to you, is that correct?---Ah, yeah, I think I just asked for replacements, yes.

For all of the invoices that he had issued you?---Ah, yeah, yes, I believe so.

20

As I understand it, sir, that the - the water damage that had been suffered had destroyed all of the invoices as far as you aware that - - -?---As far as I was aware, yes.

- - - had been received from Webbbson. And could Mr Koelma be given Exhibit S13 please. And could I ask, Mr Webber, could you go to - sorry, Mr Koelma, could you go to page 3694. Sir, that was the invoice that Counsel Assisting took you to yesterday, you recall that?---Ah, yes.

30

And if you then look at, sir, at page 3695 through to 3699 you will see that there are six invoices that had been issued during the period 17 May, 2010 to 1 October, 2010?---Ah, yes.

And do you recall, sir, that they were all of the replacement invoices that Mr Webber had provided to you?---Ah, I, I don't recall specifically, I know that he gave me a, a group of invoices.

Well, you're not aware of any other - - -?---No.

40

- - - invoices other than those six that I've just shown to you that, that have been issued by Webbbson, are you?---Ah, sorry, I'm - - -

You're not aware of the existence of any other invoices that have been issued by Webbbson to you or to Eightbyfive other than those six that I've just identified for you?---Ah, I'm not sure. I, I thought there were more than six but those are the ones that I had.

Well, they're the only ones that you're aware have been located and identified from your, from your home, correct?---Yes, they're the only ones that I obviously received copies of.

And sir, can I suggest to you that following the issuing of the invoice in October 2010 and towards the end of 2010 that Mr Webber informed you that he could no longer continue in his relationship with Eightbyfive because he had to dedicate himself fulltime to campaigning for the March election, that's correct isn't it?---Um, I don't - sorry, in 2010?

10

Towards the end of 2010 Mr Webber informed you that he could no longer continue in his consulting arrangement with Eightbyfive because he had to continue with his campaigning on a fulltime basis?---Um, I, I don't recall that specifically.

The payments that you made to Mr Webber in 2010 and in 2011 related only to the invoices that he had issued you with for the purposes of providing consulting services to you, is that correct?---Sorry, again?

20 Remember yesterday you were, you were shown some records of payments that had been made to the company Webbbson or to Mr Webber. Do you recall that?---Yes, I don't recall the - - -

And you gave evidence yesterday that the payments were made in respect of invoices. Do you remember that?---Yes.

And I'm suggesting to you, sir, that the only payments that you made to Mr Webber in fact related to the invoices that he had issued to you in 2010.

30 THE COMMISSIONER: Being the six invoices that - - -

MR FERNAN: Being the six invoices that I've shown to you?---Um, and I understand there were some in 2011 my recollection.

There were some payments in 2011 but there were no, there were no invoices issued in 2011 were there?---I believe there were.

40 I'm suggesting to you, sir, that there were no invoices issued to you in 2011 were there?---Um, no, I think there were at least a couple, I'm - - -

Well you can't recall today can you the existence of any other invoices other than the six that have been shown to you?---Like I said I had invoices that I kept notes on as to payments and my understanding was that that continued until early 2011, um but I don't recall a specific document after that point.

And these are notes that you no longer have, is that right?---Well they were notes on the invoices, yes.

Well notes on these invoices that have been collected from your house?
---No, sorry, as I say these, these are new copies, newer copies.

So you're talking about notes on the copies that had been lost or destroyed,
is that what you're referring to?---On the originals, yes, correct.

Sir, you understood when you received the replacement invoices and also
the original invoices that they only related to the consulting services that Mr
Webber provided to you, correct?---Yes.

10

And you understood that they didn't relate to any form of IT Consulting or
Electro Technology Advice that he, that he was purporting to provide or he
said he had provided?---No, it was, it was advisory service, yes.
And you can't recall today whether or not when you received these invoices
whether you in fact saw, recorded on them that they purported to be for the
provision of IT Consulting or Electro Technology advice, correct?---No, sir,
I can't recall what was on the originals, no.

20

You can't – and if you had seen that it would have been obvious to you I
suggest that what had been recorded was in fact a mistake, correct?---Sure I
put it in those terms, yes.

And if it had been a, if you had observed such a mistake you would have no
doubt requested a replacement invoice recording the correct services and
fact provided?---Yeah, I might have raised that with him if I noticed, yes.

And you can't recall ever raising that with Mr Webber can you?---No, but
then I can't recall what was on the originals.

30

Mr Koelma, can I ask you please to go to page 3539. Sorry. There must be
– I think it's Exhibit S12?---Sorry, so which - - -

Page 3539. And you see, sir, that is a – do you have that?---Sorry, I don't
think I have 3539 in this.

MR WATSON: Something's gone wrong with this.

MR FERNAN: But the schedule of payments.

40

MR WATSON: I've got it.

MR FERNAN: See that's' a schedule, sir, of payments made to the
company Webbbson or to Mr Webber by Eightbyfive?---Yes.

And it records in the debit column you see a number of payments, in fact
paid by Eightbyfive to Webbbson. Do you see that?---Yes.

And the first payment recorded being one on 9 September 2010 for 4,950.
Do you see that?---Yes.

And that represented the one monthly retainer fee that you paid Mr Webber,
correct?---Yes, it would be.

MR WATSON: You're at pages 3539 if people don't have them there is
some copies.

10 MR FERNAN: And there's a further payment of \$9,900 on the 11
November 2010. Do you see that?---Yes.

And that represented two months payments?---Yes, that would be right.

Of Mr Webber's retainer and then there's a further payment withdrawal of
cash that you were taken to yesterday of \$8,000 on 21 January 2011?---Yes.

And you'll see that there's a deposit of \$4,000 at Tuggerah on that same day
to Mr Webber's account?---Yes.

20

And I think, sir, you gave evidence yesterday that to the best of your
recollection you in fact paid Mr Webber before monthly fee of \$4,950 on
that day?---Yes, I imagine so.

And then there's a further payment on the 10 February 2011 of that, of the
\$4,950?---Yes.

And that represents five months worth can I suggest, sir, of retainer
payments to Mr Webber as recorded on that sheet?---Yes, on that sheet, yes.

30

And those payments were made at a time when you had in fact received
payments from your clients or your friends as you've said of Eightbyfive,
correct?---Yes, that would have been, yes.

Because they related to invoices that had been issued to you on a monthly
basis between May and October of 2010, correct?---No, sorry, which - - -

You had been, you had received your first invoice on or about 17 May 2010
hadn't you from Mr Webber?---Yes, I have that in front of me but - - -

40

Well can I ask you to assume that records show that there was an email sent
to you on about that date - - -?---Sure.

- - - 17 May and you've seen the other invoices that are dated on first of
every month from June through to October 2010, correct?---Yes.

And it's fair to assume would you recall that in fact they were provided to you regularly by Mr Webber on a monthly basis?---Yes, during, during that period, yes.

Yes. And but you were unable to pay him on a regular monthly basis were you?---On occasion that's correct.

Well on occasions only when you in fact had received income or money from your friends, correct?---That would accurate, yes.

10

Because without the payment from your friends you weren't in a position to make payments to Mr Webber, correct?---Sure.

And so hence we see on one occasion you've in fact paid two months worth of payments on 11 November 2010?---Yes.

Now you were also asked yesterday by Counsel Assisting about the text message at S9, could Mr Koelma be given Exhibit S9 at 2575. Do you recall being taken to those text messages?---Yes.

20

And, sir, the first was a text message from Mr Webber, "Hey Mr T, anything from our friends yet?"---Ah hmm.

Correct?---Yes.

The concept of "our friends" was the terminology that you used in speaking to Mr Webber to describe your clients. Correct?---Yes.

Or the clients of Eightbyfive?---Correct.

30

You did not specifically – you did not refer to the clients by their actual name, did you, when speaking to Mr Webber?---Ah, in this instance, no.

Well, in any instance, you never spoke to Mr Webber to identify by name the clients that you had. Correct?---I, I can't recall.

I suggest to you sir that the only way in which you referred to them was, was by the, by referring to them as your friends. Correct? Or "Our friends?"---Again I couldn't confirm or I don't have a - -

40

But that's how you commonly referred to them, correct, as your friends?---I, yeah.

Now, did you understand or did you understand what Mr Webber was referring to when he said, "Anything from our friends?"---Ah, I would think I did, yes.

And that was he was asking you had you received any money yet so that he could be paid in relation to his invoices?---Sure.

And, and at that stage you said, no, nothing yet, sorry for the delay, but you're going to follow up. Correct?---Ah, yes.

And you did follow up, did you not, and can I ask Mr Koelma could be given Exhibit S4 at page 1055. Do you have that, sir?---Ah, yes.

10 Page 1055. And you'll see, sir, that's further text messages relating to your phone and I suggest to you, sir, that they represent text messages passing between you and Mr Webber and you say on 5 July, 2010, "Good news from our friends, are you coming in today?" And Mr Webber replied, "I'll be in a little before 12.00, fantastic news." Do you see that?---Yes.

And you were reporting to Mr Webber, were you not, that you had in fact received some payments from your clients and you were now in a position to pay him some money?---That would be accurate, yeah.

20 And that is in fact what occurred, can I suggest, on 5 July. Do you recall that, that you paid him some money on that day?---I, I can't – without anything in front of me I couldn't confirm that, but that's probably true.

Could Mr – do you have Exhibit S13 in front of you?---(No Audible Reply)

Can I ask you, sir – sorry, I may have given you the wrong – 3549, sorry, I've now got confused with what volume it is, I apologise. Sorry, it's Exhibit S12, I apologise. Sorry?---3549, I think I've got, I think I have the right one anyway. No, I've got S13.

30 Do you have that, page 3549 in Exhibit S12?---I think it's S13 but 3549.

Yeah. Well, page 3549 is a document headed Spicer Financial Analysis, Webber Payments, Summary of Other Cash Payments. Do you see that? ---That's what I have, yes.

40 And see that the first entry is a record on 5 July, being the same date as the text message which I took you to showing that you had – there had been a withdrawal of cash by Eightbyfive of \$5,000 and two various deposits of 1,500. Do you see that?---Yes.

And you recall, sir, you were taken to those payments by Counsel Assisting yesterday?---Yes.

And can you recall, sir, whether on 5 July you in fact – I'll take that back. As at 5 July there had been two invoices that had been issued to Eightbyfive or maybe even three, one for May, one for June and one for July?---That's possible.

And do you recall, sir, whether from that \$5,000 you in fact paid Mr Webber \$4,950 or don't you recall?---Do I recall specifically how much I gave him?

Yes?---No.

10 If one assumes that the two sums of \$1,500 that are, that are recorded on that schedule came from the money that you had taken by Eightbyfive, taken from Eightbyfive, then at least that sum would be part of a further monthly payment that you had paid to Mr Webber. Correct?---Yes, I would think so.

And so, and do you have any recollection, sir, in relation to the next payment seen to be withdrawn on 30 July, 2010, whether any part of that \$5,000 had been paid to Mr Webber by you?---Ah, I - it would seem that it was but I - -

20 Well, when you say it would seem that it was, are you saying that because there are payments being deposited into Mr Webber's account on the same date as reflected in that sheet?---Ah, yes, I'm sorry, on the basis of this, yes.

Yeah. But you don't know do you whether what Mr Webber deposited into his account on the same day as you withdrew from Eightbyfive was in fact the same money or part of the same money, you just don't know that. Correct?---Ah, no, no, I wouldn't know that.

30 It's often the case, sir, isn't it, in relation to that point, is that you and Mr Webber often met to discuss matters pursuant to Mr Webber's consultancy agreement at the Fountain Plaza, correct?---Ah, yes, on occasion.

That was outside Mr Hartcher's electoral office. Correct?---Ah, yeah, his office is in Fountain Plaza, yes.

Yes. And in fact during 2010 you were often in Mr Hartcher's office at the same time from time to time, correct?---On, on occasion, yeah.

40 And conveniently located at Fountain Plaza were various branches of various different banks. Correct?---Ah, yes, including mine.

Including yours, which was the, was that Westpac?---No, Commonwealth.

No, Commonwealth Bank. And there's also a Westpac Bank there? ---I think all of the large banks are there, but yeah.

So it was a convenient place for you and Mr Webber to do your regular banking. Correct?---Ah, it was for me, yes.

And do you recall, sir, that often the case that yourself and Mr Webber often took it in turns to go to the bank and do your regular banking- - -?---I'm - -

- - -on the same day?---I'm not sure about that, but it, it would have been possible that we both went to the bank on the same day.

10 So if – I can ask you to assume, sir – no, I withdraw that. You were asked yesterday by Counsel Assisting in relation to the final payment recorded on that sheet 3549 as to whether or not that \$2,000 recorded there had been paid to Mr Webber by you from the moneys that you had withdrawn from Eightbyfive. Correct?---I think I was, yes.

And I think you gave some evidence to the effect that you had withdrawn the \$11,000 because you probably had invoices to pay. Do you recall that? ---Ah, yes.

20 And it follows, sir, that you were only paying money to Mr Webber if there was in fact an outstanding invoice that had to be paid. Correct?---That would be the normal process, yes.

And if there was no outstanding invoice owing to Mr Webber there would have been no basis for you or no reason for you to make any other payment to him. Correct?---Ah, yeah, I'm not sure that I necessarily, yeah, I'm sorry, I'm not sure what you- - -

I'm suggesting to you, sir, that you didn't pay Mr Webber any money other than in relation to an invoice that had been issued to Eightbyfive?---Ah, I, I don't know that I would have paid without an invoice, that's correct.

30 And so if it, if there were no outstanding invoices as at 25 March, 2011 it would follow, sir, that the payment or the deposit of \$2,000 that Mr Webber had apparently received on that day did not come from you, that's correct, isn't it?---I, I'm not sure.

Well, it follows doesn't it, sir, if there no outstanding - - -

MR WATSON: I'm sorry, that's got to be a submission. Can we move on?

40 MR FERNAN: Well, sorry?

MR WATSON: It's a submission.

MR FERNAN: No, it's not a submission with respect because - - -

MR WATSON: Well, what you're doing is asking a witness whether or not he can't give evidence about a matter, I mean that's just pointless. It's been going on for five minutes, it's a waste of time.

UNIDENTIFIED SPEAKER: It's been going on for three days actually.

MR FERNAN: Well, with respect Counsel, Counsel - - -

THE COMMISSIONER: Anyway, Mr Fernan - yes, all right. Can you just put the last series of questions that you need to put because this is all on the documents, all this witness is doing is agreeing on the face of the documents as I've said before.

10 MR FERNAN: Direct, direct questions were put to him in relation to this very payment and it was put to him that this was a payment made by Eightbyfive to my client. I'm entitled with respect to put to him that in fact the opposite case as has in fact often been said put your positive case.

MR WATSON: Well, put it.

THE COMMISSIONER: Yes, well, that's where we're getting but I mean -
- -

20 MR FERNAN: Well, that's what I'm doing.

THE COMMISSIONER: - - - so far the witness is just agreeing with what you have pointed out on documents.

MR FERNAN: Well, with respect, if it's good enough for Counsel Assisting to do the same proposition, it's good enough for me to do the same.

Sir, all I'm putting to you - - -

30 THE COMMISSIONER: I might just point out, Mr Fernan, that insofar as you've been putting these propositions to the witness based on the documents most of what he says is well, I don't specifically recall but he's agreed with you nonetheless. Anyway, go on.

MR FERNAN: Sir, I simply put to you that the payment of \$2,000, you have no recollection, do you, of giving that money to Mr Webber?---That amount specifically?

40 Yes?---No.

Is that no?---No.

Thank you. Nothing further.

THE COMMISSIONER: Mr Trevallion.

MR TREVALLION: Yes, Commissioner, fortunately I have about three questions for the witness.

Mr Koelma, I represent Mr Carter. Now, Mr Carter never worked or acted as an agent for Eightbyfive did he?---Sorry, in what sense?

Well, in any sense?---Well, I, I don't - I wouldn't have used that term but he certainly directed plenty of work to me.

10 Didn't you say yesterday in your evidence that he acted as an agent?---Well, I think it was put to me that that was a term that could be used and I accepted that premise but - - -

And you agreed with it?--- - - - it's not a term that I would use.

He never acted in any sense as an agent for Eightbyfive did he?---Ah, well, he, he recommended work and followed up invoices but I'm not sure, I mean, I wouldn't necessarily use that term.

20 All right. Well, in respect of the invoices when Mr Carter asked you to create invoices on behalf of Eightbyfive for specific persons or entities that was never for political consulting services or commercial advice was it? ---That's not how I understood it.

And in each of those cases you knew that Mr Carter was asking you to provide an invoice to cover a donation from a prohibited donor didn't you? ---No, sir.

30 Thank you, your Honour, ah, Commissioner, that's all the questions I have.

THE COMMISSIONER: Mr Walsh.

MR WALSH: Yes, thank you, Commissioner.

THE COMMISSIONER: Mr Conditis, have you got some questions?

MR CONDITSIS: Yes.

40 THE COMMISSIONER: Yes. Yes, Mr Walsh.

MR WALSH: Thank you, Commissioner.

Mr Koelma, you gave evidence, excuse me, yesterday to Counsel Assisting in respect of a man called Tony Merhi. Do you remember that?---Yes, sir.

And it was your recollection - - -?---Sorry, so I'm not sure who you represent.

I'm sorry, I apologise. I represent Marie Ficarra?---Sorry.

I apologise?---I think I did know that but I'm sorry.

So coming back to Mr Merhi, you gave evidence to the effect at 4155 that you recall telephoning Tony Merhi?---Ah, yes.

Right. Now do you have any recollection as to who gave you Merhi or Mr Merhi's number to ring?---Ah, not specifically, no.

10

Right. When someone referred a client to you, a prospective client, would you make a record or take a note of the person's details such as their name and their telephone number?---The, the name of the prospective client?

Yes, Mr Merhi, if you got a phone call from someone or someone spoke to you and said sir, or Mr Koelma, I've got someone to refer to you, his name's Tony Merhi, you'd, you'd note it down wouldn't you?---That wouldn't be unusual, yeah.

20 And do you have any recollection of who was the person who suggested that you ring Tony Merhi?---No, no specific recollection.

Do you recall whether you were given Mr Merhi's name over the phone or was it someone speaking to you directly?---I don't - it was as I recall not long before the election I was speaking to probably a couple of hundred people a day.

Sure?---So no, I don't have a specific recollection, no.

30 Well, Mr Merhi's evidence was to the effect that on 17 March, 2011 a male person telephoned him with a youngish sort of voice and gave him some particulars I think about a account, BSB number and an account number? ---And I, I think I've accepted that that probably me.

Well, you say it was probably you. Where were you when you spoke to Mr Merhi? Were you in your office or Mr Hartcher's office or where were you?---Ah, I was - if I had to guess I was probably in the campaign office on The Entrance Road.

40 The campaign office?---Yes.

And to your knowledge at that time were any other people working in the office such as Ray Carter?---No, no, Ray worked for Chris Hartcher.

Right. Who else was in the office at that time?---There would have been dozens of people coming and going.

Aaron Henry?---No, he was working for Chris Hartcher.

Right. Now could the witness be shown S7 and in particular I want the witness to be taken or shown the schedule of telephone numbers which I understand is in S7. Now, sir, could you go to 3769, do you see that?
---Sorry, sir, which volume are we looking at?

10 I'll just ask Counsel Assisting or his junior, I'm just after the schedule of phone calls, Charles Perrottet's mobile phone, Timothy Koelma's mobile phone, there's a schedule of calls that were previously made available. If that could be shown to the witness.

THE COMMISSIONER: I'm sorry, I'm not sure what you're referring to, Mr Walsh.

MR WALSH: Commissioner, I'm referring to a schedule of phone calls between Tony Merhi's mobile phone, Marie Ficarra's mobile phone, Mr Koelma's mobile phone, ATM and CPA Project, Charles Perrottet's mobile phone.

20 MR WATSON: It's in volume 17, S17.

MR WALSH: S17, could the witness be given that. Thank you, Mr Watson.

Sir, could you go to 3769 of that bundle. Now these are the outgoing phone calls and records of Charles Perrottet on 17 March, 2011, do you see that?
---Sorry, which number?

30 Page 3769, top right-hand corner. Have you got the right page now?---
3769?

Yeah?---Yeah.

Now I want you to go down to 14.53 and see over to the right-hand side a mobile number 0-4-1-1-9-5-8-7-8-7, have you got that number?---(No Audible Reply)

Do you see that in the right-hand column, number called?---Yes.

40 Right. And underneath that another number 0-4-1-0-8-1-7-4-8-1?---Yes.

Do you see those numbers there?---(No Audible Reply)

Now I want you to accept from me that some time after 17 March, 2011 those numbers have been in effect disconnected, all right?---Yes.

As at the 17 March 2011, Mr Koelma, how many mobile phone numbers had you subscribed to as at that date? In other words did you only have one

mobile phone with one number or you had more than one mobile phone?---
Over what length, over what period?

Well I'm, I'm taking you to the 17 March 2011 around that day just before
the election?---Yes.

You had more than one mobile phone didn't you?---Oh I think I did, yes.

10 Yes. Have you disclosed that to the Commission?---Yes, I think it's on my,
it's on the screen shots of my website, I think they're - - -

Well when, when the warrant was executed by the officers of the
Commission did you have any recollection of how many mobile phones if
any they seized from you?---I don't think they seized any.

No. Did you deliver up your mobile phones for the Commission?---No, I
don't think they asked for them.

20 In respect of any mobile phones that you had since 17 March 2011 have you
caused any numbers to be disconnected and before you give that answer you
can read, you must realise that it's an easy thing to ascertain who the
subscriber was to a mobile phone?---Yeah, between that period and now I
would have had I don't know how, I mean – you mean between 2011 and
now?

See what I'm suggesting to you is that you had more than one mobile phone
at any one time didn't you? That's right isn't it, sir?---Yes, while I was,
yeah, over the course of my, it's not usual for a public servant so - - -

30 I'm not ask you whether it's unusual. How many mobile phones at any one
time would you have, would you have two or three?---Usually two.

Two?---Yes, sir.

40 And why did you have two separate mobile phone numbers?---As I say that
was quite a common thing. When I was working for um, when I was
working for a Shadow Minister I had two phones generally one for email
and one for phone calls and I had a Blackberry when I was working for
Minister and I had a second, I had a Blackberry when I was working for Mr
Hartcher after this point so.

Now can you go over to page 3771.

THE COMMISSIONER: Did the phones have, obviously have separate
subscriber numbers?---Separate mobile numbers?
Yes, obviously?---Yes, yeah.

But you, but you reserved one of them for emails and one of them for phone calls?---No - - -

Is that what you're saying?---When I was working for Mr Hartcher for example I would have had my own private phone and I would have had a departmental phone or a DPC phone and one - - -

10 Well a minute ago when Mr Walsh asked you why you had two mobile phones you said you had one for emails and one for, for calls?---Because at that stage Blackberries were really the only phones that were able to, to use email effectively so they had a Blackberry server. So for the whole time for example that I worked for Fisheries I had a separate Blackberry.

But that's to do with the um, the security of the, the emails that Blackberry uses. Well, all right, never mind it doesn't matter. Go on?---Okay.

20 MR WALSH: I'll come about it at another way, Commissioner, at 3771 this is a schedule of your calls made from your mobile phone [REDACTED] on the 17 March. Do you agree with that? 3771, Mr Koelma?---Yes.

Right. Now as at that date as I've taken to you earlier apart from [REDACTED] did you have another mobile phone with another number?---Yes, I think I did at the time.

What was the number?---I have no idea what the - four years later, um - - -

Are you serious you can't, you've obviously just don't, can't recall the number at this stage?---Not that specific number, no.

30 Did you tell the Commission about that number?---Um, again I understand it's in screenshots on my website and I mean beyond that I would have had possibly a campaign phone and there would have been phone, phone lines that I could have used in any of the campaign offices so.

Well just put aside the campaign offices the other mobile number, don't you understand that this is a schedule of phone calls made from your phone on that day and if you go over the page on 17 March 2011. Do you agree with that?---Yes.

40 Right. And someone such as myself on behalf of the Honourable Marie Ficarra would normally understand that that is the entirety of any phone calls that you made on that day. Would you agree with that?---From that phone, yes.

Yeah. But how would we know, how would I know, how would anybody in this room know about the other mobile telephone number?---Um, sorry, in what - - -

All right. I'll ask you this question, on that day Mr Merhi says that someone rang him and you say you were the one who rang him, his mobile phone number is [REDACTED]. Where on those two pages is there any record of you calling that number?---Um, I can't see a record from this phone to that phone.

So if you didn't use [REDACTED] are you mistaken about ringing Mr Merhi or are you lying about ringing Mr Merhi or did you use another mobile phone?

10

As I said my recollection is that I called him and I called him around that time but I can't, I can't recall the specific day or specific phone, I'm not - - -

You can't remember?---No, nor am I rejecting the premise that it may have been a different day that I spoke to him or, he says it was the 17th.

Well he's very certain that it was the 17th because it caused a bank transfer as you well know to be transferred into your account Eightbyfive. You know that don't you?---Sure.

20

And you say under oath that you spoke to him about services that you could render for him?---I spoke to him and he recalls that it was that day, I don't recall that but I have accepted that that well may be the case.

Look, Mr Koelma, you accept that the money was transferred into your account that afternoon 17 March 2011, right?---I think that's what - - -

You think?---Well I, I don't have the bank schedule in front of me but I think that's what's - - -

30

Well we can get it for you. When you spoke to Mr Merhi that day according to you did you make any notes of his name or who the referral was or did you open a file, what services you could render to him?---As I've said if I kept a note, I, I may have kept a note of his name and number.

But look, sir, he was a client according to you and you were providing consultancy services and I know you've been asked these questions day in and day out but it would be common sense that you would have written down some basic details about him wouldn't you?---And I may well have.

40

You don't have them you destroyed them?---Well no, again, sir, I don't - you're talking about something I may have written on a piece of paper four years ago.

And you say that the services you could have helped him with was something to do with the Part A, is that right of the Act?---Part 3A, sir.

Part 3A, sorry?---Yes, sir.

Now not once in the conversation with Mr Merhi was Marie Ficarra's name mentioned was it, not once?---Not that I can recall, no.

Well you'd remember that if a Member of Parliament's name was mentioned in the context of Mr Merhi?---I suppose, yeah.

Yeah. And it wasn't mentioned at all was it?---Not that I can recall.

10 And the person that spoke to you referring Mr Merhi it was a male wasn't it?---Yeah, again I can't, I can't recall exactly who referred him to me but, yeah, I, I don't recall it.

Well just dealing with the gender - - -?---Sure.

- - - if it had have been a female you would have told the Commission already in your evidence yes, I remember that it was a, it was a female's voice but you didn't say that did you?---No, that would have been less, less common - - -

20

Would have stood out wouldn't it?---It would have been less, less common.

Yeah. And it wasn't a female voice at all was it?---I, I don't think it was.

Charles Perrottet he's a good friend of yours isn't he?---Yes, we, we've worked together since, yes.

2009 you went on a political trip did you not to Taiwan together?---2010.

30 10?---Yes.

What was that trip about?---It was a youth exchange program.

Right. Anything to do with the Liberal Party?---Not specifically, no.

Right. You knew that Charles Perrottet and his brother I think Mr Dominic Perrottet the Minister for Finance now they went to an Opus Dei school in the Hills didn't they, you knew that didn't you?---Oh I, I didn't.

40 You did?---No.

On the trip to Taiwan, did you speak to Charles Perrottet about this Eightbyfive account, you did didn't you?---I would have told him in general terms what I did for work, yes.

Well, what did you tell him you did for work, what sort of work did you do?---I said I was a political consultant, he understood that I was.

No, I didn't ask you what he understood, I'll come to that. What did you tell him about yourself?---I would have, I can't recall specifically but I ah, I would have told him that I was a political consultant and what that meant, yeah.

A political Mr Fix-it?---Sorry.

A political Mr Fix-it, that's what you were?---I'm not sure, I'm not sure I would have used those words but - - -

10

But that's what you did according to you?---In some instances, yeah.

Yes. And you both had common political interests in the Liberal Party?
---We were both members of the Liberal Party, yes.

He was Vice President of the Young Liberals, wasn't he?---He, yes, he may well have been, yes.

20 Yes. Now coming to the state of his knowledge, as far as you're concerned he knew all about what you did, didn't he?---I'm not sure the extent to which he understood what I did, but he was aware, I suppose.

Well, did you speak to him or discuss with him how you got work, how you got clients?---I don't recall discussing that with him, no.

30 Well, wouldn't that have been a topic of interest – well look – how's your business going, are you getting many clients, are you making a quid, how's it all going?---Not that I can recall specifically, we would have talked in general terms, that may have been something that we discussed I'm not suggesting otherwise.

Did you mention Ray Carter to him?---Not that I can recall, but he would have known Ray.

How do you know he knew Ray?---Well, at the time I think he worked for a member of the Upper House and Ray worked for a member of the Lower House and political staffers talk fairly regularly.

40 To your knowledge, was this is Charles Perrottet, was he close to Mr Hartcher?---Politically, yes, I suppose they were, yeah.

You saw him in the Electoral Office from time to time didn't you?---Who, Mr Perrottet?---Yes.

Yes.---Not that I can recall.

Leading up to the Election in 2011 I suggest to you was playing a very active role on the Central Coast in relation to the Flying Squad's, that's right

isn't it?---I don't think the Flying Squad was on the Central Coast all that much.

Is that right, okay. I suggest they were and they were extremely active?---No, we had our own Young Liberals, the Flying Squad was mostly for key seats in Sydney. They would have come up on occasion but it wasn't anywhere like what they were doing in Sydney.

10 At a time before 2011 were you aware that Charles Perrottet had been suspended – as I understand it – from the Liberal Party for putting on YouTube a video about Alex Hawke displaying him as Hitler, do you remember that?---Not specifically, I was – I was aware that there had been a video and I think he - - -

MR WATSON: I knew about that, I mean, that's just ridiculous, dear me.

THE COMMISSIONER: It would have been one of the most - - -

20 MR WALSH: Is there an objection Commissioner?

THE COMMISSIONER: It would have been one of the most outstanding scandals of the last couple of years and you don't know anything about it?---I certainly remember the video but I don't, I don't remember his being suspended in particular.

30 MR WALSH: All right, okay. All right, I'll just move on finally. Before the 2011 Election, Mr Koelma, do you remember that Charles Perrottet and Peter Tudehope, the latter being employed by the Australian Hotelier's Association organised a fund raiser for Dominick Perrottet, do you remember that?---No, I don't think I do.

You don't know that at all?---No, I can't recall that event, no.

All right. Would you agree with me that members or associates of the alcohol industry are prohibited donors?---Yes, I think they are, yes.

40 Did you, did any, did you have any clients of Eightbyfive who were within the Hotel Industry?---Um, I had yeah, Robert Osborne from Patonga Beach Hotel.

Beg your pardon, didn't hear that?---Robert Osborne from Patonga Beach Hotel.

Right. Thank you. And he was a client of yours and you did work for him, you say?---Correct.

Now, leading up to the election, that is in 2011, who, to your knowledge, had any details of the Eightbyfive account, that is the BSB number and the

account number, was it limited to you or did people such as Ray Carter or Charles Perrottet or others know about it?---Only those who would have received my invoices on which it appeared and myself and my wife.

All right. Was there any arrangement whereby members of the Liberal Party were in effect spotters for your business, by that I mean they would try and get your business from time to time?

THE COMMISSIONER: Apart from Mr Hartcher?

10

MR WALSH: Apart from Mr Hartcher.

THE COMMISSIONER: Well, I mean, the witness has already acknowledged that's where his business interests came from.

MR WALSH: All right. Nothing further Commissioner.

THE COMMISSIONER: Mr Conditis.

20 MR CONDITSIS: Mr Koelma, my name's Conditis and I appear for Mr Spence, do you understand that?---Yep.

I've got no interest in asking you any questions you may be pleased to know about AWH or the Tinkler Group or it's entities but I do want to ask you some questions about Gazcorp and your relationship with Mr Spence and matters touching upon those issues. Do you understand that?---Sure.

30 Mr Koelma, over the, I think it's been getting onto three days you've been in the witness box you'd accept that it's a tough gig for you and it has been and is in answering questions about recalling events in conversations some three years or so before?---Absolutely.

And having to do that indeed at times under the forceful questioning by learned Counsel Assisting the Commission, correct?---Sure, he's too bad anyway.

40 And having to do that when the media is largely reporting what is occurring in ICAC and in further circumstances where you've got a room full of lawyers, indeed some of which are Sydney's finest listening attentively to what you're saying, correct?---Well, attentively.

You see, you were asked some questions and I don't know, I can't recall whether it was yesterday or the day before but in relation to Mr Spence and your relationship with him and your knowledge of his background and I think you said something to the effect of, you didn't know much about it and forgive me if I'm paraphrasing incorrectly, but did you accept that was the thrust of what you said?---Sure.

I just want to ask you some questions about that. You met Mr Spence in about 2006 when he was a staffer for David Oldfield in the Upper House of the New South Wales Parliament, correct?---Yes, that sounds right.

And at that time you were working as a staffer to Mr Hartcher?---That's right.

10 And I think you've already said only a little while ago that it's common that staffers for one MP would generally at least know of and perhaps communicate with staffers of other MPs, correct?---Yes, that's not uncommon.

And indeed, correct me if I've got this right or wrong, but your honeymoon, was that in 2006?---Yes, I think so.

And you arranged for Mr Spence at that time to cover for you in the office of Mr Hartcher at the time whilst you were on honeymoon, does that ring a bell?---That sounds right.

20 And presumably you did that because you had confidence in his ability as a staffer?---Sure.

In 2007 would you agree that you mentioned to Mr Spence that you were my words, "kicking around the idea of opening up your own business and working for yourself as a political consultant/government relations"?---In which, sorry, when?

30 In 2007, I'm not suggesting you did it then, I'm suggesting you just merely discussed the potential of you doing it at some point in the future?---Yeah, that's possible, yeah.

And your evidence was that you went down, I think, correct me if I'm wrong, to Ulladulla and that was 2007?---Yes.

THE COMMISSIONER: Apparently it was Goulburn Mr Conditis.---No sorry, I think I've got you the wrong way round again.

40 Well, I said Ulladulla earlier on, you corrected me and said Goulburn?---Because at that stage it was Goulburn, so we went to Ulladulla first and the Goulburn.

There we go.---Apologies.

MR CONDITSIS: Thank you Commissioner. So and in any event, between 2007 and 2009 you had limited or no contact with Mr Spence. Correct? ---That's probably right, yeah.

So then you come back in 2009, you work, and is that when you're working again for Mr Hartcher?---Sorry?

In 2009 when you come back are you working for Mr Hartcher at any stage?
---No, in two thousand and, no, in 2009 I returned to the Central Coast.

And that's when you started Eightbyfive?---Correct.

10 Okay. And you see your, or the consultancy – sorry, I'll withdraw that. You knew didn't you, and I'm talking indeed as at 2007/2008/2009, you knew that Mr Spence when he was working for Mr Oldfield in the Upper House, that he assisted Mr Oldfield in relation to the General Purpose Standing Committee concerning an inquiry into the Orange Grove project that was rejected, you knew he, Mr Spence, had some part to play in that by way of assistance to Mr Oldfield?---I knew he had an understanding of it, I'm not sure I knew about the Committee.

20 Now, and Eightbyfive, just to be clear about it, that's something you set up entirely independent and nothing to do with Mr Spence in terms of its set-up. Correct?---Correct.

Now, you were aware – and I'm coming now to the period of early 2010, Mr Koelma. You were aware as at early 2010 that Mr Spence had a good relationship, if I just put it that way to begin with at least, with the Gazal family?---I was aware of that, yes.

By early two thousand and – when in 2009 did you commence your business, was it early or mid or late?---Early 2009.

30 So by 2010, April, say April 2010 you'd had your business operating for well over a year?---About a year, yes.

Now, what I – I withdraw that. I think you agreed with Counsel Assisting ultimately putting to you the proposition that it was Mr Hartcher that had actually introduced you to the Gazals, to Gazcorp?---Ah, I, I wasn't sure but I, I - - -

40 Well, what I want to suggest to you is that ultimately after – and I'm not going to do the same thing Mr Watson did, but he took you to a number of documents and SMSs and things of that nature and as I understood it, but you correct me if I'm wrong, as I understood it you ultimately agreed with the proposition you were introduced by, to Gazcorp by Mr Hartcher. Correct?---I was introduced to Nabil Junior and Nick by Mr Hartcher, that's correct.

What I want to suggest to you – and, and I'm not criticising you, this is a long time ago?---Sure.

But I want to suggest to you, you were introduced to Nabil Senior by Mr Hartcher, not, not Mr Spence. I'm putting that to you fairly and squarely. Do you agree with that proposition?---I, I honestly can't recall.

And indeed the arrangement that you came to with Gazcorp, that was entered into before any arrangement you entered into with Mr Spence. Correct?---Ah, yeah, yes, sorry.

10 I'll withdraw. I know you've answered it but I think it was a sloppy question. Let me, let me put it a better way hopefully. You entered into a relationship with Gazcorp before you entered into a relationship with Mr Spence. Correct?---Yes.

And I suggest to you, and again I'm not meaning to be critical, but Mr Spence never said to you that he was going to work for Gazcorp. Correct? ---Um, I think he'd accepted that he wasn't going to be, he wasn't going to be able to.

20 Well, I'll come to reasons in a moment, but, and, and questions that were put to you about that, but what I'm simply putting to you is a simple proposition at the moment. Mr Spence never said to you that he, Mr Spence, was going to work directly for Gazcorp or be under their employ or anything of that nature, he never said that to you. Correct?---To be employed by them directly?

Yes?---Ah, no, I'm not sure we ever discussed him being employed by them directly as an employee, no.

30 Well, whether – what I'm getting at is this. You may have had a perception or a view about the potentiality of Mr Spence doing some work for Gazcorp, do you understand?---Yes.

What I'm suggesting to you, he never said that to you, that may be something you have perceived or been told by someone but Mr Spence never told you that. Correct?---Again I don't, I, I don't think he – I don't think we ever discussed him working for them as, as an employee, that's correct.

40 What I'm suggesting to you is a little bit further than that, Mr Koelma, that he- - -?---Sorry, maybe I misunderstood.

That Mr Spence never suggested to you that he would directly do any work, whether as an employee or as a consultant, he would not do any work for Gazcorp. He never said that to you?---We – my recollection is that we had a discussion in early 2010 about the potential for him to start up his own consultancy not dissimilar to mine um, and my recollection is that one of the potential clients that we had discussed at that point was Gazcorp, but I'm not sure.

Can you see there's a very significant difference between you having that sort of a discussion and something he might have had in mind about what he wanted to do and just, and him saying to you, I'm going to do some work for Gazcorp? Do you understand the distinction between a general conversation and something put to you as a matter of fact?---Sure. As I said, I don't think it was ever put to me that he planned to work for Gazcorp, that's correct.

10 Right. And Mr Watson put to you yesterday, and indeed there might have been, it might have come out in an exchange with the Commissioner as well, but ultimately Mr Watson put to you that it would have been a "bad look," for Mr Spence to be working for Gazcorp when he's a "candidate," in an upcoming election. Do you remember questions along those lines?
---Sure.

And indeed Commissioner put some questions to you, and I think your final position was that it wasn't, "It wouldn't have been the most desirable thing but it wasn't undesirable." That's how you put the position yesterday.
20 Correct?---Yeah.

Now, what I want to suggest to you is there are candidates that work full-time indeed as property developers that are during the period of the candidacy, or have some involvement with them. Do you have knowledge of that?---Ah, not, yeah, I couldn't name one, but yes, there are, yeah.

All right. It's not unusual?---No, I wouldn't think so.

And going to the other side of politics, people in the Union movement are
30 still in the Union movement right up until the day where hopefully they're elected to Parliament as a Member and that's what they do. Correct?
---Yeah, I understand they have to stay a Member of the Union anyway.

All right. So when you said it would not have been the most desirable thing, you were expressing of course a subjective view, that's your own personal opinion, correct?---Yeah, with regard to public perception, yes.

All right. But there was certainly nothing to have – in a legal sense, to have prevented Mr Spence from working directly with Gazcorp during the period
40 of his candidacy, to your knowledge, correct?---Not that I'm aware of but
- - -

And you'd agree with me that there was never any discussion, either between you or Mr Spence or you and Gazcorp to the effect that, well, let's hide the fact that Spence is doing some work for Gazcorp, Spence can work for me, i.e. Eightbyfive. There were never any such discussions. Correct?
---No.

And the arrangement you reached with Mr Spence was that in terms of the terms of the consultancy is that he would be paid the sum of \$9,500 a month?---That sounds right.

And that was his retainer?---That sounds right.

Which wasn't for him to sit at an office 9.00 to 5.00, it was a figure that he would get month in, month out. Correct?---Correct.

10 Ultimately from a business perspective you would assess the quality of what he would be giving you over a period of time?---Sure.

And you could terminate it if you wanted to, that is that consultancy, correct?---Yes.

And the \$9,500 was a figure arrived at whether GST had to be paid or not, correct?---I don't recall the specifics but - - -

20 Well, you had to pay \$9,500 a month and if GST applied, it would include GST, if it GST didn't apply it would still be \$9,500 a month, correct? ---Sure.

And the principal work that Mr Spence did for Eightbyfive was in providing you, not anyone else, you advice?---Yes, in principal, yes.

You said in evidence, and I'm not going to take you to it, but I think under some pressure from Mr Watson you agreed that there may have been some meetings between Mr Spence and Gazcorp?---I - - -

30 And you went on to say I wasn't at the meetings, correct?---Correct.

You don't actually know as a fact that there were any meetings between Mr Spence and Gazcorp?---They had an ongoing personal relationship so I - - -

You're quite right and, and, and I should have put the question a bit more properly. They did meet, they being Mr Spence and the, and the members of the Gazal family, did meet from time to time?---As I understood it.

40 But to your knowledge that was in a social context, correct?---I'm not sure what the context was.

All right. But in any event you have no direct knowledge at all of Mr Spence having any discussion or conversation with the Gazals about the advice he was to provide to you, correct?---Ah, I understand he did but I don't have the specific knowledge of it, that's correct.

Well, when you say you understand he did, Mr Spence never told you oh, I saw so-and-so from the Gazal family last night and I told them about this, he never said anything such thing, correct?---I can't recall a specific instance um - - -

And you can't recall one and again, I'm not meaning to be critical, but you can't recall one because he didn't do it, correct?---I, I'm not sure, as I say.

10 Right. And in terms of following up payment of his money, and I'll come to some specifics in a moment, to your knowledge the only person he followed up about money in the bank so he could be paid was you, correct?---As far as I know.

You have no knowledge, nothing, no - I withdraw that. You have no knowledge of Mr Spence following up or making any contact with the Gazals about paying money into your account so he could be paid, correct?--I wouldn't think he would, no.

20 And I should have asked you this chronologically earlier, I'm sorry, but when Mr Spence left, and indeed Mr Spence left the employ of Mr Hartcher in about May, actually leaving in about May 2010 to work for you, correct?---(No Audible Reply)

Do you have knowledge that Mr Hartcher was ticked off about the fact that Mr Spence was leaving him to work for you, do you have any knowledge about that?---No specific knowledge, no. I, I don't recall having a conversation with Mr Hartcher to that effect.

30 No, well, I'm not saying you, I don't even know if you did but, but did Mr Spence for example or Aaron Henry say to you jeez, Chris Hartcher is ticked off that Chris is leaving him in the lurch, Chris Spence is leaving him in the lurch, do you have any knowledge about that?---Not that I can recall.

And what I want to suggest to you, sorry, I withdraw that. There's an email that you were taken to, I'm not going to take you to any documents as such unless you think it's unfair to you, Mr Koelma, in which case I will. Do you understand that?---Sure.

40 Learned Counsel Assisting took you to an email from to Nicholas Gazal Junior, sorry, Nabil Gazal Junior on 1 June, 2010, it's at page 1034 to 1035 and that was an email where you were advising Nabil Junior about meeting "with one of our people" that week, do you remember that email?---(No Audible Reply)

You have to answer?---Sorry, yes.

Now would you have any recollection that during that week, that is June 2010, 1, 2 and 3 June, 2010 Mr Spence was actually in Parliament on those days, do you know?---Oh, no.

And in any event you met with, with Gazcorp and this was in, you were taken to this in an electronic diary on 9 June, 2010?---Sure.

10 Now what I want to suggest to you is that the first time Mr Spence to your knowledge knew that Gazcorp was a client of Eightbyfive was at or about this time in early June 2010, do you agree with that proposition?---I just have, yeah, I, I have no way of knowing.

All right. And you've certainly agreed with Mr Watson or told the Commission yesterday that you didn't mention any of your other clients to Mr Spence to your knowledge?---To my knowledge.

20 And in terms of when Mr Spence knew that you would be relying on Gazcorp money to pay him I'm going to ask you some questions, you understand?---(No Audible Reply)

There was a text message from you - I withdraw that. A text message from Mr Spence to you on 2 July, 2010 at 1052 in S4 and that's the text message, I'm sure you remember it, where Mr Spence says are there any dollars in the bank. Do you remember that?

MR WATSON: It's up on the screen, that text message?---Yes.

30 MR CONDITSIS: And what I want to suggest to you, it was after that text message of Mr Spence that you communicated to him that in terms of the cashflow of your business you would be relying on Gazcorp money to come in so he could be paid, is that a fair proposition?---I have no way of - - -

You don't dispute what I've just put, correct?---I, I just don't know.

Correct?---I just don't know.

40 You see, I have to ask you this because the text message that I've just taken you to, Mr Spence is asking about dollars in the bank, correct?---(No Audible Reply)

He, he didn't ask you about whether Gazcorp's paid any money, he just wants to know is there any dollars in the bank and that would be meaning Eightbyfive's bank account, correct?---Yes, I suppose so.

And after that point in time, and I can't put a date on it, whether it was that day or the next day or the next week but at some point shortly after that you told Mr Spence that you can't pay him until Gazcorp pay you, correct?---I -

my recollection is that he understood that before that point but, but again that point is - - -

That, that answer I'd suggest, and I'm not meaning to be critical, is in the category, jeez, that's the best I can do at the moment, I'm not sure if that's right, correct?---Absolutely.

And you never told Mr Spence the amount that Gazcorp were paying you, the actual amount, correct?---No, I can't - - -

10

THE COMMISSIONER: You mean over and above the 9,500 he was paying to Mr Spence?

MR CONDITSIS: Well, well, Commissioner, I'd ask the question to remain as I put it, he was never told the amount that he would, you were never told the amount that Gazcorp were paying you?

THE COMMISSIONER: Well, sorry, on a monthly basis or on annual basis or - - -

20

MR CONDITSIS: Yes, thank you, Commissioner, on a monthly basis, you were never told the monthly amount that Gazcorp were paying you, correct? ---I, yeah, I don't recall having a specific discussion about that.

And you were taken by Mr Watson to some text messages between 3 August, 2010, and as I understand it up till 6 August, 2010, whereby Mr Spence was following up payment of his invoices, and I'll be a bit more specific, there was a text message on 4 August, 2010 whereby he asked whether there was "some love" from our friends, correct?---(No Audible Reply)

30

On 6 August you text back to Mr Spence and told him our friends had come through, correct?---(No Audible Reply)

Now what I want to suggest to you is that other than those text messages Mr Spence didn't follow up or wasn't, didn't chase you for payment of any of these invoices thereafter to your knowledge?---Yeah, to my knowledge.

40

When I – I'll just qualify what I've said. On 18 October 2010 you advised Mr Spence via text message, "Yours came through." So other than you saying that to him he never followed you up for payment post August 2010?---I couldn't recall a specific, no.

All right. Now you've given some evidence about what services Mr Spence was providing to you. I don't want to go over that but I want to touch upon one issue and that's this, you said to the Commission yesterday that Mr Spence – sorry, I withdraw that. Do you recall you were taken to an email

by Mr Watson from Nabil Junior to you on 17 November 2010 more or less requesting a meeting with Mr Hazzard?---I think I was, yeah.

And you discussed that with Mr Spence that is whether that would be a good idea for Gazcorp or not for that to occur?---Yeah, I may well have done, yeah.

10 And regardless of what your personal view was Mr Spence took issue about that and suggested that wasn't a good idea and you discussed that at some length together, would that be fair?---I don't – that's possible.

Now I'm almost done, Mr Koelma, just pardon me. During the time that Mr Spence was contracted to you and in particularly during 2010 one of the requirements of him was to attend Parliament House, Parliament House with a view to staying if I could use the expression in the loop. Would you agree with that?---Sure.

20 Why would it be important for a Government relations advisor to attend Parliament House?---Not just specifically Parliament House but to keep those relationships up with - - -

Really what we're talking about is the corridors and the whispers, correct? ---Sure.

The conversations with other staffers and what information can be gleaned from other staffers about what's going on behind closed doors, correct? ---Sure.

30 And that's the reality of it isn't it?---(No Audible Reply)

Answer?---Yes, sorry.

You'd agree with me it's one thing to read Hansard about what happens on the floor of Parliament it's entirely another to hear reasoning behind debates and thought processes of particular Members whether they've been in Government or in Opposition, correct?---Very different, yes.

40 Those sorts of matters are things that are very important to a Government relations advisor, correct?---Correct.

For example if a Minister or a Member of the Government's resigns over whatever particular event or situation might be the whispers in the corridor may well inform people who that, who the replacement of that particular ministerial role might be for example, correct?---Sure.

Now this last topic, Mr Koelma, as I understand it the only reference to the what I think you described as a colloquial term of "friends" is in relation in terms of when you would use it in any document in the brief of relevant to

this Commission is in relation to north being let's call it the Tinkler group, Sydney being Gazcorp and western Sydney being AWH?---I think that's right.

For example in relation to persons referred to your business by Mr Carter did you refer to those individuals as friends?---I might have.

Because having scoured the brief there's reference to any of those individuals I stand to be correct as friends. Would you agree with that?

10 ---That may be the case, I'm - - -

And those entities I've just taken you to the Tinkler group, Gazcorp, AWH they are entities with whom you would say you had a contractual arrangement?---Correct.

The other people you've contacted who you say Ray Carter asked you to contact or to whom Ray Carter, to whom you were referred by Ray Carter is it fair to say as I understand from your evidence that they are more or less one off instances of for whom you may have done work for from time to time?---For the most part, yeah.

20

And please correct me if I've got this wrong but the great majority of those persons referred to by Ray Carter were all from the Central Coast, I'm not saying every one but the great majority and correct me if I've got that wrong?---Yeah, I think you – the majority, yes.

Indeed as you sit here right now other than Mr Merhi can you think of anybody else?

30 MR WATSON: Well Mr Carter didn't refer Mr Merhi.

MR CONDITSIS: Mr Sunito there's two. Can you think of any others outside of the Central Coast?

MR WATSON: Mr Sneddon's on the Central Coast.

MR CONDITSIS: Mr Sneddon's from the – so can you think of any others?---And Mr Merhi's not. Sorry, I'm - - -

40 Can you think of anyone to whom Ray Carter referred you that's not on the Central Coast other than the names that have just been mentioned?

THE COMMISSIONER: Is that what have the Romans ever done for us?

MR CONDITSIS: Well not really, not, not really and Commissioner, I propose to make some submissions about some things I'll need to put.

THE COMMISSIONER: All right.

THE WITNESS: Sitting here now, no. Sorry - - -

MR CONDITSIS: And you see can I just put this to you those referrals that you derived from Ray Carter and whom you followed up and spoke to you say they are of course and were regarded by you as separate and distinct from your agreements with AWH, Gazcorp and the Tinkler group, correct?--Yeah, I would have perhaps seen them as two different categories, yeah.

10 Thank you, Commissioner.

THE COMMISSIONER: Mr Sutherland, do you really need to enter into this fray?

MR SUTHERLAND: Well if Mr Watson makes some undertakings about what he will and won't say about Nabil Gazal Junior probably not but I doubt that that's going to be forthcoming.

20 MR WATSON: We won't be doing that so you better get going with your questions.

THE COMMISSIONER: All right, go on. But I – all right, go on. The only reason that I comment, Mr Sutherland, is I don't understand this witness for most of the day to be positively agreeing or disagreeing with any single proposition that's put to him, it's a case of I don't remember, I don't specifically remember, it could have happened, it was a possibility. I'm just wondering where ultimately it's going to go but you, you see if you can get anything else.

30 MR SUTHERLAND: I did say that I wouldn't say I'm back. I'll be short.

Mr Koelma, can I just see you'll agree with some of these propositions or whether you have no recollection, can I suggest to you that your initial discussions about the prospect of you and your company being retained by Gazcorp were between you and Nabil Gazal Senior?---Correct.

And subject to ultimate agreement with his sons you reached agreement did you not with Nabil Gazal Senior about the duration namely 12 months and the monthly retainer namely \$10,000?---I think that's correct, yes.

40

Now, so far as reaching agreement with his sons are concerned – and I should have told you, my name is Sutherland and I appear, as you would have heard me say, for Nabil Gazal Junior. So far as reaching agreement was concerned, you provided, did you not, to Nabil Junior a draft contract in the form that had been prepared either by you or on your behalf?---By me, yes.

Could Mr Koelma, Your Honour, I'm sorry, Commissioner, be shown S4. And could I invite you to open to page 1235, please. Do you recognise that as the form of document which you provided to Nabil Junior with respect to the type of contract that was being proffered?---That's my template and that's what I would have provided, yes.

Thank you. And can I make this suggestion to you, that you provided that template to him- - -

10 MR WATSON: This evidence was given by Mr Gazal. I didn't challenge it.

THE COMMISSIONER: Yes, I think that's right, Mr Sutherland. I mean this- - -

MR SUTHERLAND: Well, there's one aspect of it that I do want to- - -

THE COMMISSIONER: All right. Well, can we get to that because this is- - -

20

MR SUTHERLAND: - - -place clearly on the record. Well, the question hadn't reached its completion.

THE COMMISSIONER: No, all right, but the history's not in dispute.

MR SUTHERLAND: I want to suggest to you that you- - -

THE COMMISSIONER: Let's just get to the crux.

30 MR SUTHERLAND: Well, what is in dispute I thought from Mr Watson was perhaps its location. I want to put, suggest to you, sir, that you passed across this template at a meeting which took place between you and Nabil Junior at the offices of Gazcorp at Gladesville. Do you agree with that? ---As I recall, yes.

Thank you. And do you agree with the proposition that Nabil Junior indicated that he would want the word "lobbying services" removed- - -

40 MR WATSON: That's common ground, I didn't challenge that.

MR SUTHERLAND: All right. If that's not challenged I'll move past it. Can I suggest that the first meeting at which this contract was handed over or template was handed over was with Nabil Junior alone, not with Nicholas. Do you have any memory of that?---That's possible.

Can I suggest that you subsequently had three other meetings at Gladesville?---Ah, yes, at least, yes.

At which both brothers were present?---That's probably right, yes.

And you travelled down on those occasions, did you not, from the Central Coast to Gladesville for the specific purpose of meeting the Gazals?

---That's right.

Did you travel down from the Central Coast to Gladesville so as to create some sort of a paper trail to cover a sham arrangement?---No, sir.

10 Did you keep detailed documents so that you could produce them to ICAC in the future to show you'd been to Gladesville?---Ah, not detailed documents but there's documentary evidence.

MR WATSON: Where's that?---Ah, sorry?

UNIDENTIFIED SPEAKER: Well, that's a double-edged sword anyway.

THE COMMISSIONER: Anyway, go on, Mr Sutherland. We know we don't have the documents.

20

MR SUTHERLAND: Oh, well, I was, I was going to go further, put a, put a proposition I think more in accord with what Mr Watson's putting. You didn't keep details so you could produce material to show you'd been to Gladesville, did you?---No, I didn't proactively keep them for that purpose, no.

No, you didn't go creating minutes- - -?---No.

- - -to promote this alleged sham, did you?---No, sir.

30

THE COMMISSIONER: Well, there's not even a record of the fact of the meeting so I think that's, that's what Counsel- - -

MR SUTHERLAND: Well, not from Mr Koelma there's not, Your Honour.

THE COMMISSIONER: Exactly.

MR SUTHERLAND: But there is from the Gazals.

40 THE COMMISSIONER: Well, all right, but we're only dealing with Mr Koelma's evidence at the moment.

MR SUTHERLAND: Well, my concern is the Gazals, Your Honour.

THE COMMISSIONER: I know that, but we know that Mr Koelma has not been able to produce any records which evidence any meetings or any discussions so can we move on?

MR SUTHERLAND: That's so, Your Honour.

THE COMMISSIONER: Yes.

MR SUTHERLAND: Well, I'll deal with that in submissions.

THE COMMISSIONER: All right.

10 MR SUTHERLAND: The proposition being that he did go to them, that doesn't seem to be disputed.

THE COMMISSIONER: Right.

MR SUTHERLAND: And he wasn't going there as part of a sham, he was – why did you go down to Gladesville to meet the Gazals?---To provide with advice.

20 Now, can I make a suggestion to you that after the initial arrangement had been terminated there was a meeting in I want to suggest August of 2010 at Silk's Coffee Lounge in Phillip Street. Are you familiar with that establishment?---I, yes, I've been there before, yeah.

And can I make a suggestion to you that there's one occasion that you met Nicholas and Nabil Junior there. Do you have a recollection of meeting them there at any stage?---I- - -

I'm sorry, I do apologise, I said 2010, I should have said 2011?---Look, it's possible, I, I don't recall specifically meeting them there in- - -

30 All right?--- - - -that, at that date or around that date.

Certainly do you agree with this proposition, that at some stage – and I want to suggest in late August of 2011, and just to put a temporal aspect to that, there had been I suggest to you a report from Liverpool Council in relation to that Council's intention to re-introduce a resolution about Orange Grove. Does that prompt your memory temporally?---Yeah, that sounds right, yeah, it was before the- - -

40 And do you recall having a conversation in which you advised the Gazals that Eightbyfive was to be resurrected but under a changed structure? ---Um, I don't recall that specific form of words but I had a conversation with them, yes.

Well, do you remember communicating to them that it would have a new ABN, new directors and a new management team?---Um, again it did have a new structure and um, the directorship had changed um, but the directorship was the management structure so- - -

And do you recall a discussion about a retainer and Nabil Junior I suggest putting to you that they were paying \$2,000 a month for a retainer to Nat Smith's firm and were prepared to take you on at the same rate?---There, look, yeah, again I can't recall a specific – sorry, I'm, I'm just a bit tired, but
- - -

Were you aware that Hugo Halliday was retained by them?---Ah, yes, sir.

10 Do you have a memory of them telling you that the retainer was \$2,000 a month?---Not specifically, no.

All right. All right. Did Nicholas tell you or do you have a recollection of being advised that they're been in contact with the Liverpool Councillors prior to 2010?---Prior to 2010? Sorry, in what context?

I'm not going to pursue that. Pardon me, Commissioner.

Thank you, Commissioner.

20 THE COMMISSIONER: Mr Naylor?

MR NAYLOR: Commissioner, I note the time. I anticipate I might be about 20 minutes.

THE COMMISSIONER: I would rather see we finish with this witness, Mr Naylor. I think, I think we'd better keep going.

30 MR NAYLOR: That would certainly be my preference. I just note the witness has said that he's tired, it's the third day of three long days for him, that's all, it- - -

THE WITNESS: Happy to do another 20 minutes.

MR NAYLOR: Sir, you're currently 30 years of age?---Correct.

Born 25 January, '84?---Correct.

40 In about 2002 at about age 19 you commenced working as a policy advisor in the office of Andrew Humpherson?---Correct.

And he was then the Shadow Minister for Planning?---Ah, yeah.

And in about 2003 was when you commenced working for Mr Hartcher?
---Yes, I moved from one office to the other.

And Mr Hartcher was then the Shadow Attorney-General and Deputy Leader of the Liberal Party?---Ah, yes, he was.

All right. And you worked for him as a research officer?---Correct.

Okay. And what kind of work did you do for Mr Humpherson?---Ah, for Mr Humpherson, a range of research and policy advice, provided a range of research and policy advice into Planning matters, Planning policy and policy development ahead of the 2003 Election.

10 And what kind of work did you do for Mr Hartcher?---Ah, not dissimilar work but I also attended various functions on behalf of Mr Hartcher um, and contributed to then the policy development of the, the Coalition from a legal standpoint.

Did you have any involvement in the drafting of speeches?---I did, yes. Yeah, I drafted speeches, media releases, notices for the Parliamentary notice, paper, questions on notice, occasionally questions without notice.

20 And what kind of meetings did you attend with Mr Hartcher or on his behalf?---Ah, when he was Shadow Attorney General I attended meetings with him with the Law Society, the Bar Association and then when he later became Planning Minister with the Planning, the Property Council and um, UDIA and various other stakeholder groups.

Sir, in 2005 Mr Hartcher became the Shadow Minister for Planning?---Yes.

And did you become a policy advisor to Mr Hartcher in respect of planning matters?---I did.

30 And did you function then as a liaison between Mr Hartcher's office and other Shadow Ministers and Members of Parliament?---That's correct.

And did you do any work while you were in Mr Hartcher's office for the Shadow Cabinet at that time?---Oh, I did. So part of my responsibilities was to produce briefing notes for Shadow Cabinet on various pieces of legislation that had been put by the Government or by members of the Independent crossbenches um, analyse that legislation and provide advice to first him and then to the Shadow Cabinet about ah, whether that should be accepted.

40 And you remained working in Mr Hartcher's office until 2007, that's right? ---That's correct.

There was an election in 2007?---Ah, yes, in March.

Right. And what if any kind of work did you do for Mr Hartcher in the lead up to that election?---Ah, I functioned as a general campaign advisor and effectively ran the public relations and communications elements of his campaign. Um, I prepared media releases and policy announcements, I

organised Ministerial visits and um, arranged stakeholder forums and community forums.

Sir, in March or April 2007 you went to work for Jim Lloyd who was then the Federal Minister for Roads, Territories and Local Government?

---That's correct.

And your position there was as a Ministerial assistant and an assistant press secretary, is that right?---That's right.

10

And you provided policy advice did you to Mr Lloyd in respect of the Territories portfolio?---That's correct.

And can you give the Commissioner a little bit of, a bit more detail about the kind of work that that involved and what you did?---Ah, I was responsible for providing advice with regard to policy for the external, internal and external territories of Australia so the ACT, Northern Territory, Jervis Bay, Norfolk Island and Cocos and Christmas Islands.

20

And were there any particular projects that you worked on, that you recall working on in the provision of advice about the Territories?---Sure. I um, I provided advice specifically with regard to some unsolicited proposals that had been received for Christmas Island in particular and was responsible for conducting a broad feasibility study into the future of the then closed phosphorous mine.

And what were the unsolicited proposals about?---Ah, one was for a casino and the other was for a space port.

30

And do you remember on what subject matters you provided advice in respect of any of the other Territories?---Ah, I provided advice with regard to the Northern Territory's bid for independent statehood um, and with regard to administration of the ACT um, and their efforts to have, to take control of more of their own ah, governance matters.

Did you provide and if - did you provide any advice rather in respect of Norfolk Island?---Um, I did, there was a ongoing question as to the financial viability of the ah, Norfolk Island administration and so I worked closely with the administration and members of the Government to try and determine a framework for their financial viability.

40

What about Christmas Island?---Ah, Christmas Island, again the unsolicited proposals um, and ah, ongoing integration or application of Western Australian law to both Cocos and Christmas Islands which were administered Federally but had State law from WA applied.

Were you involved in administering something called the Regional Partnerships Programme?---I was, ah - - -

What did that involve?---Ah, Minister Lloyd was one of three Ministers on a tripartite sub-Cabinet committee responsible for administering the Regional Partnerships Programme which was 100, a \$100 million grants programme and, and I was responsible for administering Mr Lloyd, Minister Lloyd's portion of that programme.

10 And what does that mean to administer that portion of the programme?---So I would ah, receive proposals from the Department and would provide advice to the Minister about whether or not those proposals should be accepted for grants and would liaise with officers of the other two Ministers, being the Deputy Prime Minister and the Federal Special Minister of State about the administration of that programme.

You mentioned grants. Do I understand you to be saying that the programme was concerned with the, the granting of funds?---Correct. Grants anywhere between \$20,000 and in some cases three to four million.

20 And your involvement was to make some kind of recommendations in respect of that programme?---That's correct, on each project.

In December 2007 you left Mr Lloyd's office and commenced working for the Australian Fisheries Management Authority?---Correct.

Initially a 12 month contract position?---That's right.

30 What kind of work did you do for the AFMA?---I was a senior communications officer so I provided broad communications and public relations advice to the Authority's CEO, chairman and board and senior staff.

And do you remember what subject matter or what particular issues you may have worked on while you were working with the AFMA?---So there were two strands to what the, to what AFMA did. One was ah, to administer Fisheries and the other was to enforce illegal fishing law so it had a role in contributing to border protection, command functions, to send Fisheries officers on to ah, Navy and Customs boats to intercept illegal foreign fishing vessels.

40 After 12 months the contract was renewed?---That's correct.

It was at that time that you were living in Goulburn, is that right?---Yes.

And commuting to Canberra?---Correct.

So can I come in the chronology to your engagement by AWH in early 2009?---Yes.

You've already given evidence about that or about aspects of that, you had a meeting in particular with Mr Di Girolamo in which the prospect of you working for AWH in some capacity was discussed. What if anything did you tell Mr Di Girolamo that you can remember about your work experience?---Ah, so I gave him as I recall a, an overview of what I had done. Um, he knew at that stage that I had worked for Chris Hartcher and for Jim Lloyd um, and for AFMA and ah, was keen to get, he said at the time a reference from me, a verbal reference for me from John Brogden which I understand he did.

10

Did you tell him that you hadn't worked for yourself before?---Ah, I may have mentioned that, yes.

And after the meeting you returned to Goulburn did you?---Ah, that's correct.

20

And at that time, and after returning to Goulburn what did you do in respect of matters on the job front?---Ah, so at the same time I had been applying for public sector positions um, and I continued with that process having had a discussion with Nick um, I understood that I was to go away and develop a, a draft service agreement which might ah, set the framework for the work that I would do and I ah, put that framework to him ah, some time after that.

Sir, at that time you were, you were if I'm not mistaken about 25 years of age?---That'd be right, yes.

You were initially living at Goulburn when you commenced the contract with AWH?---That's right.

30

And about a month later was when you and your wife moved from Goulburn to Wahroonga which is where your parents lived, you lived with your parents for a short period?---For a short period before moving to Terrigal, that's correct.

In fact it was about three months was it not?---It would have been around, yes, give or take.

40

You moved from Wahroonga, sir, to Terrigal which was a home that was owned by your parents?---That's right we rented that and then - - -

And you moved in about a week before your first child your son was born?---That's correct.

Sir, prior to commencing the Eightbyfive business in early 2009 what if any formal training had you had of running a small business?---None.

And at the same time what formal training had you had in respect of financial management?---None at that point.

And again at the same time what if any formal training or instruction had you had in relation to ethics or how to recognise and deal with potential conflicts of interest?---None.

Indeed after March 2009 did you receive any formal training or instruction in respect of ethics or how to manage potential conflicts of interest?
---Formal training, no.

10 THE COMMISSIONER: Mr Naylor, are you, sorry, are you putting as a positive case that Mr Koelma did put himself in a position of conflict of interest but did not recognise them?

MR NAYLOR: No, Commissioner, I'm seeking to understanding what his training and instruction was.

20 THE COMMISSIONER: Well I just – be careful because I construed the question in that way and I don't understand this witness to have ever acknowledge that he thought he was in a position of conflict of interest at any stage.

MR NAYLOR: I'll move on, Commissioner.
Sir, you did voluntary work I think you said for Mr Hartcher?---Yes.

And when did you, were you doing that voluntary work for Mr Hartcher at the time that you started working for AWH?---After that point, yes.

30 Well how long after?---I wouldn't have been able to contribute much to the campaigning role before moving to Terrigal.

Which was August 2009?---That's correct.

And what kind of voluntary work did you do for Mr Hartcher?---Oh I worked on his campaign in the lead up to the 2011 election.

Well what did that involve?---I was managing the, the political functions of his office and generating media content, um content that was supportive of the campaign and campaign material.

40 What about attending functions and events?---Yes, I would have attended at least campaign meetings and some public forums and functions, um with him and on his behalf.

Were there any other volunteers working for Mr Hartcher?---There were many campaign volunteers working for Mr Hartcher over the course of the time that I volunteered on his campaign.

And are you able to tell the Commissioner about how much time you might have been spending on voluntary work for Mr Hartcher say December 2010, January 2011?---It varied from week to week but it might have been a couple of days a week and then weekends which is when most of the Party Members um, the volunteers were able to, to do campaign work.

Sir, after the March 2000 election you were appointed a senior policy advisor for Mr Hartcher?---That's correct.

10 In the portfolio of Resources?---That's correct.

And having been so appointed what if any work did you do after that for Eightbyfive?---Um, none if any.

Sir, you've accepted that you nevertheless received some income through Eightbyfive after your appointment to Mr Hartcher's office, that's correct is it not?---That's correct.

20 Did you make any kind of disclosure about your interest in Eightbyfive at the time of your appointment to Mr Hartcher's office?---I disclosed my interest in the family trust and I had a discussion with our chief of staff about what that trust had done and the fact that it was the entity behind that trading name.

Who was the chief of staff?---Sorry, Andrew Humpherson.

You continue to work for yourself don't you, sir?---Sorry?

You continue to work for yourself now as, as - - -?---Yes.

30 All right. But not through the Eightbyfive entity?---No, that's correct.

All right. Can I move, sir, to AWH. You've already given evidence both in the Credo matter and to some extent in this matter about the work that you've done, I don't want to travel over all of that, you've already given evidence to the effect that you provided research advice to Mr Di Girolamo in respect of the liability of various water related policies, that's correct? ---Correct.

40 You provided some media monitoring services to Mr Di Girolamo in respect of water infrastructure and development in the North West Growth Centre, that's right?---That's correct.

Did you provide any form of public relations advice to Mr Di Girolamo and if so what?---Um, in, in general terms yes, I did. In relation to his company and efforts by him and his company to further their public image or to establish a strong public image specifically in the North West Growth Centre.

Well did you make any particular suggestions to Mr Di Girolamo about how AWH might improve its image?---Sure, we had discussed options for integrating AWH into various community initiatives in that area, um, I think there was a discussion about sporting sponsorship and other, other things specifically in the North West Business Centre where they were based which was at that stage still in development.

10 Sir, if I've missed anything out about the kinds of work that you did for AWH and Mr Di Girolamo?---No, only in the sense that we um, that I provided advice with regard to how they might go about most effectively communicating with Government and indeed the Opposition well mostly the Opposition at that stage um, and that was in general terms related to the most effective way gaining support from a broad range of Members of Parliament for their projects.

20 Sir, in relation to the questions that you've been asked about what I will call the so called anonymous letter that was sent to ICAC in September 2010 Mr McGrath asked you a question earlier on this afternoon um, and I think your answer to that question was um, I didn't have any way of substantiating allegations, these are my notes, sir, they may not be exactly correct, I didn't have any way of substantiating the allegations which were contained in the anonymous letter except for the first part which was substantiated by a journalist?---Sure. So I had um, a number of allegations brought to my attention um, I took those to, I had no independent way of verifying those or indeed investigating those for myself um, I took those to a journalist and the journalist determined having spoken to him about a week later that there was only one portion or what I had given him that he was in any position to investigate given his powers as a journalist um, and he sought approval to travel overseas to investigate that part of the allegations and returned about
30 a week later um, having verified the vast majority of what had been suggested.

Who was that, I'm sorry, I interrupted?---Sorry, Heath Aston, returned to Australian and thereafter published an article which contained details of that first part of the allegation.

The first part of the allegations being about - - -?---About Sydney Water.

40 THE COMMISSIONER: Sorry, we still haven't got to it.

MR NAYLOR: No.

THE COMMISSIONER: I thought you asked him, what was the first part of the allegation that he said was confirmed by the journalists?

MR NAYLOR: I'm trying to get there.

THE COMMISSIONER: I know, can well can we find out what it was?
What was the first part of the allegation?---The first part of the allegation - -
-

Was?---Related to the suggestion that a company had been established in Thailand to do minimal work and allow senior people from Sydney Water to travel overseas, attend perhaps an hour long board meeting and then spend up to two weeks travelling around Thailand.

10 Sounds like something Mr Aston might have done?---Sorry.

Never mind, anyway. That was the first part of the allegation that you say was confirmed by the journalist?---That was the first part of the allegation and that was the part that he was able to confirm, yes.

MR NAYLOR: So if I move to Gazcorp.---Sure.

20 Do you have any memory of ever having met members of the Gazal Family at Parliament House?---Not for a meeting, I think I met Nabil and Nick, sorry Nabil Junior and Nick and their father I think in passing as I was arriving and they were leaving from a meeting.

Do you know when that was?---It would have been, no not specifically, no.

30 You've been asked some questions about the work that Mr Webber did for Eightbyfive, what work did he do?---He was providing me with advice about the general tone of the Election Campaign and specifically with regard to those areas the Central Coast where I had clients and where he had a much better and more specific knowledge than me, he was integrated into the Northern part of the Central Coast, Central Coast he was a member of the branch up there um, and so had a much better understanding of for example, what was happening with Wyong Council and some of the major planning issues that were happening there and so was able to provide advice on that basis.

To you?---To me.

So can I come to the evidence in respect of Matthew Lusted.---Yes.

40 The import of the evidence of Mr Carter was that he had said that Mr Lusted was to make a donation and that it would be done by way of Eightbyfive issuing an invoice to cover the donation. What do you say about that?---That's certainly not my understanding of that referral to me um, I have a very different understanding of Ray's referral of LA Commercial to me.

What do you say about the allegation that the invoice that was issues by Eightbyfive was just a sham for Mr Lusted to make a donation to the Liberal

Party?---That's certainly wasn't my understanding then nor it my understanding now.

And what do you say about the similar allegation made in respect of the payment made by Yeramba, Eric Stammer?---Again my, my understanding was very different, my understanding is that I was invoicing them for work that I had done.

10 Did you have any conversation with Mr Carter during which Mr Carter requested that an Eightbyfive should be issued to cover that payment?
---He may- - -

MR WATSON: I did ask all of these questions, Commissioner, and he was given ample opportunity to explain.

MR NAYLOR: And also, Commissioner, I can't remember any specific conversations being put to Mr Carter on this subject.

20 THE COMMISSIONER: No, no, all right. Anyway, we know what the witness's evidence is on that score. Anything else, Mr Naylor?

MR NAYLOR: Sir, at any time have you had a conversation with Mr Gunasinghe in respect of the Free Enterprise Foundation?---Ah, not that I can recall, no.

At any time did Mr Gunasinghe to your knowledge provide you with a cheque for the Free Enterprise Foundation?---Not that I'm aware of.

30 Sir, what do you say to the allegation that's been propounded in this inquiry that Eightbyfive was just a mechanism for payments to be made for the benefit of Mr Hartcher?---They're incorrect and I think they – there was no benefit that I'm aware of um, financial benefit that was ever given by me to Mr Hartcher in any form um, and so I don't understand the premise of that allegation in the first place. Um, sorry?

Have you finished?---(No Audible Reply)

40 And so what do you say in respect of the allegation that Eightbyfive was just a vehicle or a mechanism for the payment of political donations to Mr Webber and Mr Spence?---I have always and did always um, view Eightbyfive as a legitimate business and the payments made to Mr Webber and Mr Spence were not donations and the payment collected ah, and, and received by Eightbyfive were not donations, as I understood it.

Commissioner, I'd like Counsel Assisting to tender a bundle of documents which comprises mostly personal bank accounts for Mr Koelma and his wife.

MR WATSON: We've checked these, they all seem to be in evidence, but I don't – for my learned friend's purposes I'd be happy to tender them.

MR NAYLOR: What's in evidence, Commissioner, are the Eightbyfive accounts but not the personal accounts.

MR WATSON: Oh, no, there's lots of personal records as well. Anyway, it doesn't matter.

10 THE COMMISSIONER: Is that the folder that you wish to have tendered, Mr Naylor?

MR NAYLOR: Yes, Commissioner.

THE COMMISSIONER: Exhibit S82.

#EXHIBIT S82 - BUNDLE TENDERED BY LEGAL REPRESENTATIVES FOR TIMOTHY KOELMA

20

MR NAYLOR: I have no further questions, thank you, Commissioner.

THE COMMISSIONER: Anything arising, Mr Watson?

MR WATSON: Nothing arising. Commissioner, I know it's late but can we get something teed up. I've heard a little from Mr Conditsis about- - -

30 THE COMMISSIONER: Yes, I think we need to resolve that. So what is the position with respect to whether or not Mr Spence is to be called next?

MR WATSON: I think to kick it off Mr Conditsis would say Mr Spence is entitled to take his position next.

THE COMMISSIONER: Mr- - -

MR WATSON: I'm pretty confident we can finish both tomorrow.

40 MR CONDITSIS: And if Your Honour wants to hear me as to why I'm happy to do that.

THE COMMISSIONER: I'm sorry?

MR CONDITSIS: If Your Honour, sorry, if the Commissioner wants to hear me as to why that should be the case I'm happy to expand on it.

THE COMMISSIONER: Well- - -

MR CONDITSIS: I've given the reasons to my friend.

THE COMMISSIONER: All right. Well, anyway, sorry, Mr Koelma, you can step down, you're excused, if you wouldn't mind just leaving the hearing room.

THE WITNESS EXCUSED

[4.39pm]

10

THE COMMISSIONER: So the current proposal is that we could deal with Mr Spence and Mr Tinkler tomorrow, is it?

MR WATSON: Yes.

THE COMMISSIONER: All right. Well, there doesn't seem to be any reason why Mr Spence shouldn't be called first, given that that's been his expectation.

20

MR KOOPS: Well, I appear for Mr Tinkler.

THE COMMISSIONER: Yes.

MR KOOPS: My client's expectation has been as a consequence of discussions with lawyer for the Commission that he was either going to be called yesterday or today.

THE COMMISSIONER: Well- - -

30

MR KOOPS: And he's flown from Singapore to attend at the Commission and he's now been here, he's been here now for two days.

THE COMMISSIONER: There's been, and there's been a list of witnesses published and pasted to my bench since the start of this week which has had Mr Tinkler listed as a witness for Friday.

40

MR KOOPS: He's been listed on a number of days and discussions with lawyers for the Commission have indicated that there have been changes, that that is not a fixed list, and there was actually as I understood an agreement initially that he attend on the 14th, because going back to 28 April, Commissioner, and then there was a change, Mr Tinkler changed his travelling arrangements to accommodate the Commission. He's now been waiting for two days purely for the purposes of getting- - -

THE COMMISSIONER: Is he in a hurry to go somewhere?

MR KOOPS: Yes, he's in a hurry to go back to where he resides in Singapore.

THE COMMISSIONER: Right. Well, he can do that after tomorrow. We'll get to him tomorrow.

MR KOOPS: Well, my application, Commissioner, with respect, is that he be the next witness. He is the next witness on the list.

10 MR WATSON: Well- - -

THE COMMISSIONER: Well, no he's not, actually. Mr Spence was meant to be called on Wednesday.

UNIDENTIFIED SPEAKER: Tuesday.

THE COMMISSIONER: Well, anyway, look- - -

20 MR KOOPS: Well, the published list to which you refer, Commissioner, has Mr Tinkler as the next witness after Mr Koelma and- - -

THE COMMISSIONER: Mr Conditis, do you want to say anything further?

MR CONDITIS: Yes, Your Honour, Commissioner. Commissioner, Mr Spence has been since last week on the list to appear initially Tuesday over Wednesday then that was adjusted sometime early this week to Wednesday over Thursday. He has been here all of yesterday, all of today and if he's called first he will actually be getting into the box tomorrow morning.
30 There is a – I have a professional difficulty which I've explained to Counsel Assisting, I mean I'm supposed to start a trial on Monday. I would have got out of that if I'd, if I'd been told different things.

THE COMMISSIONER: That fills me with hope, Mr Conditis. Does it mean that we'll finish with Mr Spence reasonably early in the course of tomorrow?

40 MR CONDITIS: Correct. And, and so I don't have any axe to grind with Mr Tinkler's position, to be quite frank I don't care. I do care about my client's position and I care about the professional difficulty I will be in if something happens and Mr Spence is called later in the day and has to flow over till Monday.

THE COMMISSIONER: All right. Well, in any event it seems to suggest that both witnesses would be reasonably short tomorrow. When I say reasonably short, I say that advisedly, but I mean it doesn't seem as though either of those witnesses can't be accommodated in the course of tomorrow's hearings. So we'll leave it as it is and Mr Spence can give

evidence first thing in the morning and everybody can be aware of the need to confine their questions to the most relevant topic that concerns their client and not everybody else's client and then we'll hopefully complete the list of witnesses that was published for the purposes of the week.

Yes, Mr Fernan?

10 MR FERNAN: Commissioner, could I just clarify in relation to Mr Webber, can I tell Mr Webber that he will not be required until Monday?

MR WATSON: Yes.

THE COMMISSIONER: I think that's fair enough, Mr Fernan, so Mr Webber and Mr Hartcher will be the last witnesses next Monday and Tuesday I would anticipate.

MR FERNAN: Thank you, Commissioner.

20 THE COMMISSIONER: All right. 10 o'clock tomorrow. Thank you.

**AT 4.43PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.43PM]**